

HANDLING DOMESTIC ABUSE CASES

A Toolkit to Aid the Development of Specialist
Approaches to Cases of Domestic Abuse
May 2008

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May 2008

The Scottish Government, Edinburgh 2008

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ISBN: 978 0 7559 5808 5

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Government by RR Donnelley B56683 06/08

Published by the Scottish Government, June, 2008

Further copies are available from
Blackwell's Bookshop
53 South Bridge
Edinburgh
EH1 1YS

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1. INTRODUCTION

The National Strategy to Address Domestic Abuse in Scotland has defined domestic abuse as:

“Domestic abuse (as gender-based abuse), can be perpetrated by partners or ex-partners and can include physical abuse (assault and physical attack involving a range of behaviour), sexual abuse (acts which degrade and humiliate women and are perpetrated against their will, including rape) and mental and emotional abuse (such as threats, verbal abuse, racial abuse, withholding money and other types of controlling behaviour such as isolation from family or friends).”¹

The UK Government has defined domestic violence as:

“Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender or sexuality.”²

The incidence of domestic abuse in Scotland has risen steadily since the recording of data began in 1999/2000. In that year the eight police forces in Scotland recorded a total of 33,197 incidents of domestic abuse. By 2005-06 this had increased to 45,796 incidents, of which 23,983 were recorded as a crime or offence. These resulted in 15,134 reports to the Procurator Fiscal, an increase of 67% since 1999-2000. The vast majority of incidents of domestic abuse (88%) are perpetrated against female victims and likewise, the vast majority of perpetrators (87%) are male. Repeat victimisation is common amongst victims of domestic abuse. In 2005-06 just over half (51%) of reported incidents involved known repeat victims.³ No accurate figure exists for the prevalence of domestic abuse in all its forms (physical, psychological, financial etc.) but it is generally regarded as being widely under-reported to authorities such as the police, social services and health services.

Domestic abuse can occur in any type of intimate relationship, in any ethnic group and across the socio-economic spectrum but the evidence suggests that it is more prevalent in areas associated with lower levels of socio-economic status.⁴ Data suggest, however, that almost half of all victims (49%) do not regard the abuse they experience as a crime and sometimes perceive it as ‘just something that happens’.⁵

1 <http://www.scotland.gov.uk/library3/law/stra-01.asp>

2 http://www.womenandequalityunit.gov.uk/domestic_violence/index.htm

3 The Scottish Executive (2006), Domestic Abuse Recorded by the Police in Scotland, 2005-06.

4 British Medical Association, (2007), Domestic Abuse: A Report from the BMA Board of Science.

At: <http://www.bma.org.uk/ap.nsf/Content/domesticabuse?OpenDocument&Highlight=2,domestic,abuse>

5 Home Office, (2006), Domestic Violence, Sexual Assault and Stalking: Findings from the 2004/05 British Crime Survey. Home Office Online Report 12/06.

The impact of domestic abuse on victims and family members varies from person to person but there is increasing evidence to suggest that it can have serious and long-lasting consequences for the health and well-being of victims and their families. Evidence from the British Medical Association indicates that in addition to physical injuries that are frequently suffered, victims of domestic abuse are significantly more likely to suffer from emotional and psychological problems. Likewise, children who witness domestic abuse have an increased risk of experiencing mental health problems, are more likely to develop alcohol problems and are more likely to enter into abusive relationships themselves.⁶

The impact of domestic abuse on the operation of the criminal justice system is significant. The joint protocol between the Association of Chief Police Officers in Scotland (ACPOS) and Crown Office and Procurator Fiscal Service (COPFS),⁷ commits the police to treating all incidents of domestic abuse as high priority. The Protocol sets out a presumption that all cases in which there is sufficient corroborative evidence of a crime will be reported to the Procurator Fiscal and there is also a presumption that, save in exceptional circumstances, alleged offenders will be detained in custody pending appearance at court. Where there is sufficient evidence in cases involving violence against the victim there is a presumption in favour of prosecution and, where a decision is taken to prosecute, these cases will proceed in the Sheriff or High Court.⁸ Each of these presumptions result in a significant investment of police time in investigation, evidence gathering and the production of prosecution reports, procurator fiscal depute time in considering cases for first marking and subsequently prosecuting the offences, and court time in diets. They also result in a substantial number of remands to custody per annum. The cost of domestic abuse, in terms of the criminal justice response to it, its impact on the NHS and its wider effects on victims and their families can be assumed to be significant. In England and Wales domestic abuse is estimated to cost in the region of £5.8 billion per annum, excluding the cost of pain and suffering experienced by victims.⁹ An estimate of the cost of domestic abuse in Scotland was calculated by ASSIST as being £0.57 billion per annum excluding human and emotional costs.¹⁰

1.1 Evaluation of the Pilot Domestic Abuse Court in Glasgow

The evaluation of the Pilot Domestic Abuse Court in Glasgow (the Glasgow pilot court) recorded that there was overwhelming support for a specialist court approach to domestic abuse. Almost all of the stakeholders stated that there was a need for such a specialist approach and one stated there was a very clear advantage rather than a need. The overwhelming majority of victims, perpetrators and witnesses also supported the specialist court approach to domestic abuse.

6 British Medical Association, (2007), Domestic Abuse: A Report from the BMA Board of Science. At: <http://www.bma.org.uk/ap.nsf/Content/domesticabuse?OpenDocument&Highlight=2,domestic,abuse>

7 Crown Office, (2005), In Partnership, Challenging Domestic Abuse: Joint Protocol Between Association of Chief Police Officers in Scotland (ACPOS) and Crown Office and Procurator Fiscal Service (COPFS). Online publication at: <http://www.crownoffice.gov.uk/Resource/Doc/13545/0000143.pdf>

8 *ibid.*

9 Walby, S. (2004), The Cost of Domestic Violence. England, Women and Equality Unit. At: http://www.womenandequalityunit.gov.uk/research/cost_of_dv_keyfindings.pdf

10 This estimate was prepared by Mhairi McGowan of ASSIST in November 2007.

Several stakeholders identified that if the specialist court approach were to be rolled out this might require different models in different areas although all should incorporate the main elements of good practice (these are outlined in Chapter 3). They suggested that Sheriffs Principal and criminal justice stakeholders should consider different means of delivering the specialist approach in each sherrifdom. It was noted that there would need to be consideration of a wide range of issues, the views of local sheriffs would be important and that any development would require the consent of the Sheriff Principal.

1.2 Domestic Abuse Toolkit

This toolkit has been developed to aid Sheriffs Principal and local criminal justice partners in beginning the task of considering a specialist approach to domestic abuse.

The purpose of the toolkit is to support local criminal justice partners in each sherrifdom to identify the most efficient and effective approaches to handling domestic abuse cases in their local area.

2. VALUES AND PRINCIPLES OF A SPECIALIST RESPONSE TO DOMESTIC ABUSE

The core values and principles that should be incorporated into a specialist response to domestic abuse cases¹¹ are:¹²

- **Victim and Child Safety**

An effective domestic abuse court prioritises victim¹³ and child safety by co-ordinating information and services so that judges, prosecutors and victim advocates are aware of both the case history and current safety concerns; by training all personnel to improve expertise and ensure that the dynamics of abuse are understood and appropriately addressed; by linking victims and their children to services while they are participating in the judicial process. Specialist support for victims is integral to a specialist response.

- **Keeping the Victim Informed**

Victims should be kept informed about all aspects of their case including the status of the accused. Complainers should also provide information relating to the case, their safety and concerns to the court. This information should inform decisions made by the court, e.g. in respect of bail decisions.

- **Offender Accountability**

Courts should hold perpetrators accountable for their actions by ensuring that they comply with all court conditions and orders and respond swiftly with certain consequences should they fail to do so.

- **Information Sharing and Informed Decision-Making**

For a specialist court to be effective, all stakeholder partners need current and accurate information. This information should not only relate to aspects of the criminal court, e.g. compliance with court orders but also information from the civil courts regarding applications for civil protection orders or contact and residence applications. Such information is contained within the reports provided by victim advocates to prosecutors. Information is essential in fulfilling the goal of keeping complainers and children safe and holding perpetrators accountable. Information sharing between stakeholders should be governed by consistent procedures and protocols which guarantee appropriate confidentiality and protect both perpetrator's and complainer's rights.

- **Institutionalised Co-ordination of Procedures and Protocols**

Procedures and services must be co-ordinated to ensure an effective multi-agency response to complainers and perpetrators of domestic abuse. The development and establishment of a co-ordinated response should begin first with the key court players (police, prosecutors, clerks, judges and victim advocates) and then reach outward to include social work, housing, Reporter to the Children's Panel, education, health (GP and accident and emergency) and Women's Aid.

11 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

12 The order in which these points are presented is not intended to suggest any prioritisation.

13 In this report the term victim is used to denote those who have been subjected to domestic abuse. It is not intended to convey that a charge has necessarily been proven against those charged with perpetrating such abuse.

- **Training and Education**

All participants who may be involved in a domestic abuse case – including judges, prosecutors, clerks, victim advocates, probation officers, child welfare workers and curators ad litem – must be trained on the dynamics of domestic abuse and effective interventions in order to improve their working practices and response. Separate judicial training may be deemed appropriate although other jurisdictions have reported benefits from judges being included in multi-agency training.¹⁴ Multi-agency training encourages consistency across agencies and also educates about the range of roles and responsibilities. Such training can assist effective multi-agency working. Certain agencies, e.g. victim advocates may need specialised training in addition to multi-agency training.

- **Judicial Leadership**

Judges can help to educate both within the court system and in the wider community by using their authority to show that a court takes domestic abuse seriously.

- **Effective use of the Justice System**

Many victims of domestic abuse suffer for years and tell no one about the abuse. A specialist approach to domestic abuse has the opportunity to act as an access point to services and assistance to complainers and monitor perpetrators to ensure compliance with court orders and impose swift and certain sanctions should they fail to comply.

- **Evaluation of Protocols and Procedures**

The effectiveness of any specialist approach should be evaluated. This evaluation should focus on both the system of specialist provision employed and the performance of key stakeholders in terms of agreed protocols and procedures. System accountability involves an assessment of how the protocols are working along with quantitative analysis of data to measure performance against stated goals. An evaluation should monitor whether key stakeholders are meeting agreed protocols and procedures and identify reasons for any failures. Evaluations of specialist approaches are referred to in Appendix B.

14 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

3. ESSENTIAL ELEMENTS OF A SPECIALISED RESPONSE TO DOMESTIC ABUSE

This chapter will identify the agencies and the working groups that are essential to a specialist approach and the essential elements of a specialist approach.

3.1 Agencies and Working Groups

3.1.1 *Steering and Implementation Group*

A multi-agency partnership should be established amongst statutory and non-statutory bodies under the governance of the Sheriff Principal. The role of the steering and implementation group is to decide on the type of specialist approach to be adopted and to consider strategic issues. This specifically constituted group should have high-level representation and decision-making responsibility, with key leading statutory and non-statutory membership. For example, the steering and implementation group might comprise Police, COPFS, representation from defence agents,¹⁵ Scottish Courts Service, Scottish Legal Aid Board (SLAB), Criminal Justice Social Work, the local authority, independent advocacy for complainers, Women's Aid, Victim Support Scotland, Victim Information and Advice (VIA), Witness Service, local NHS representation including GP and accident and emergency, Reporter to the Children's Panel, a representative from the local education department, sexual assault referral centre (where one exists) and substance misuse services.¹⁶ The role and responsibilities of the steering and implementation group should be clearly specified in protocols.¹⁷ This group should ensure effective co-ordination of partners through regular meetings and joint training.¹⁸ The steering and implementation group will be responsible for drafting operational protocols in respect of the specialist response adopted.¹⁹

3.1.2 *Operation Group*

The operation group will deal with the operational issues arising from the specialist approach chosen by the steering and implementation group. The steering and implementation group should determine a clear division of responsibility between itself and the operation group. This toolkit has been drafted on the assumption that the steering and implementation group would both choose and establish the specialist approach and thereafter, the operation group would oversee the day-to-day running of that specialist approach.

15 USA evaluations refer to the importance of defence agents being involved in the development of a specialist court e.g. Fritzler and Simon (2000) recommend that all participants and service providers are involved in the planning phases of the court particularly defence lawyers, see Fritzler, R.B., and Simon, L.M.J., (2000), *The Development of a Specialized Domestic Violence Court in Vancouver, Washington: Utilizing Innovative Judicial Paradigms*, *University of Missouri Law Review*, vol. 69, part 1, pp. 139-177. A Protocol evaluation in New Zealand also stresses the importance of involving defence agents, see Morgan, M., *et al.*, (2007), *An Evaluation of the Waitakere Family Violence Court Protocols*, (Aotearoa, Massey University and WAVES), p.18.

16 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service).

17 *ibid.*

18 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund). As noted above, although separate judicial training may be deemed appropriate, other jurisdictions have reported the benefits of joint training, namely, to develop consistency in understanding and approach to domestic abuse and also to develop understanding of partner's roles and responsibilities.

19 Morgan, M., *et al.*, (2007), *An Evaluation of the Waitakere Family Violence Court Protocols*, (Aotearoa, Massey University and WAVES), Appendix B, pp. 86-97.

The operation group might comprise all or some of the bodies represented on the steering and implementation group. As this group is responsible for dealing with ‘problems’ or ‘issues’ that may arise with the implementation of the specialist model, it should be clear what the role of the group is²⁰ and how issues raised should be dealt with/meetings called. This is best achieved by drafting protocols and guidance for this group. Tasks (listed below) that have been identified as essential to the development of a specialist approach should be managed either by the steering and implementation group or the operation group. This will be dependent on local decisions and protocols of responsibility.

During the Glasgow pilot the operation group was called the implementation group. It was chaired by a Sheriff. This group dealt with operational issues of the court. During the Glasgow pilot this group met sporadically. Most stakeholders were satisfied with this group and noted that it was particularly useful to those with no other means of accessing some of the bodies represented on it.

3.1.3 *Police, Procurator Fiscal and Victim Advocacy*

Close liaison between these agencies is essential. The joint protocol between ACPOS and COPFS²¹ governs the response to incidents of domestic abuse, investigation, reporting of cases, decision-making and prosecution. A focused message from the police and early involvement of the Family Protection Unit helped to promote consistency of approach during the Glasgow pilot.²² In the Glasgow pilot the Procurator Fiscal Liaison Group involved Advocacy, Support, Safety and Information Services Together (ASSIST) the victim advocacy service used in the Glasgow pilot, the police and the dedicated procurator fiscal depute. This group met every 6-8 weeks which facilitated communication on matters such as evidence gathering, referral to victim advocacy etc. This group was evaluated as having “worked particularly well”.²³

3.1.4 *Advocacy Services*²⁴

The role of a victim advocate varies but essentially the person acts as a ‘liaison, buffer and contact’ between the complainer and the court. The advocate can provide information both from and to the court, report case progress to the complainer, provide support to the complainer, refer the complainer to other services, engage in outreach work in the community and co-ordinate information sharing and the development of protocols amongst stakeholders.²⁵ Protocols must be developed to govern the operation of the advocacy service.²⁶ Factors to be considered when deciding on who should provide independent advocacy in criminal justice settings and what its remit should include:

20 This point and the failure to involve the victim advocacy group at an early stage were noted in the evaluation of the pilot court, see Reid Howie Associates, (2007), Evaluation of the Pilot Domestic Abuse Court, (Edinburgh: Scottish Executive Justice Department), p.10.

21 Crown Office, (2005), In Partnership, Challenging Domestic Abuse: Joint Protocol Between Association of Chief Police Officers in Scotland (ACPOS) and Crown Office and Procurator Fiscal Service (COPFS). Online publication at: <http://www.crownoffice.gov.uk/Resource/Doc/13545/0000143.pdf>

22 Reid Howie Associates, (2007), Evaluation of the Pilot Domestic Abuse Court, (Edinburgh: Scottish Executive Justice Department), p.12.

23 *ibid.* p.16.

24 This section is intended to discuss advocacy and support of victims within the context of the criminal justice process. It is not intended to be a comprehensive overview of all agencies that provide support to victims of domestic abuse and, therefore, agencies such as Women’s Aid, Women’s Support Project and Rape Crisis are not explicitly referred to.

25 Sack, E., (2002), Creating a Domestic Violence Court: Guidelines and Best Practices, (San Francisco, Family Violence Prevention Fund).

26 Sample protocols for victim services can be found in Morgan, M., *et al.*, (2007), An Evaluation of the Waitakere Family Violence Court Protocols, (Aotearoa, Massey University and WAVES), pp. 92 – 94. Practice and protocols from the Glasgow Pilot Court may also be of assistance.

- The role of Victim Information and Advice (VIA). The limitations on it providing independent advocacy, as it is part of Crown Office and information gathered would be governed by the rules on disclosure. Where independent advocacy is to be appointed protocols will require to be drawn up between both agencies;²⁷
- The current role and remit of Victim Support Scotland. Co-ordination of VSS with any independent advocacy service appointed and the development of protocols between both agencies;²⁸
- The service provided by the Witness Service;
- The expertise of these existing providers of support to victims who are part of the criminal justice process and the nature of that support;
- The availability of current providers and the consequences of this for initial contact with victims and provision of information to the custody court and thereafter; and
- The cost of advocacy support and possible sources of funding. Some examples of this are contained in Appendix A.

3.1.5 *Scottish Legal Aid Board (SLAB)*

SLAB was an important partner in the Glasgow pilot court. Special provision at the domestic abuse court ensured that there was a dedicated duty solicitor for domestic abuse cases. In addition to this provision, if an accused's usual solicitor represented them, rather than receiving only 'advice and assistance' legal aid, a system was introduced whereby legal aid was automatically granted on a 'time in line' basis. This meant that the accused's solicitor was paid for consulting with their client, waiting in court for their client's case to call, negotiating any adjusted plea with the procurator fiscal depute and representing the accused when the case called. There were a higher number of guilty pleas at first appearance in the Glasgow pilot court (21%) than in the comparison court (18%).

3.2 **Essential Elements of a Specialist Approach**

3.2.1 *Agreed definition of domestic abuse across all agencies*²⁹

Members of the steering and implementation groups must have a shared definition and understanding of domestic abuse.

3.2.2 *Identification of cases*

Systems must be in place for each agency – police, prosecution, Scottish Courts Service, probation services – to identify domestic abuse cases and to mark electronic and/or hard copy files as domestic abuse cases.³⁰

27 An example of the protocol agreed between VIA and ASSIST (the agency providing advocacy to the Glasgow pilot court) can be found in Robinson, A., (2006), *Advocacy, Support, Safety and Information Services Together (ASSIST): The Benefits of Providing Assistance to Victims of Domestic Abuse in Glasgow*, (Cardiff, Cardiff University), Appendix B.

28 An example of such a protocol can be found in Robinson, A., (2006), *ibid.* p.18.

29 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems*, (London: Crown Prosecution Service).

30 *ibid.* Referrals to victim advocates should be directly from the police, via a 24 hour hotline, following an incident. See Robinson, A., (2006), *Advocacy, Support, Safety and Information Services Together (ASSIST): The Benefits of Providing Assistance to Victims of Domestic Abuse in Glasgow*, (Cardiff, Cardiff University).

3.2.3 *Victim and child-friendly court*

Court security should be reviewed to ensure that victim and witness safety is prioritised, e.g., separate entrances and exits where possible, separate waiting areas should be provided and all staff should be trained in respect of domestic abuse including those staff providing court security. In the absence of such facilities and following a safety audit, the court must be able to demonstrate that systems are in place to ensure victims' safety on arrival at court, during and after the trial or any other diet and on departure. Courts should have 'special facilities' in place such as video links, screens etc. for vulnerable witnesses.³¹ Courts should be sensitive to the cultural diversity of complainers and witnesses. Courts should pay attention as to whether those citing complainers and witnesses have provided suitable resources, e.g. translators. Courts should ideally provide child-care facilities for victims of domestic abuse attending court, although resource constraints may affect levels of provision.³²

3.2.4 *Protocols for risk assessment*

Risk assessment is a means to identify those victims who are most at risk of experiencing domestic abuse in the future. Accurate risk assessments provide important information which can aid the provision of better service to victims because their specific needs are identified; they help identify those victims in particular need of help who require more assistance from police or other agencies, and when embedded within a multi-agency framework, risk assessments help more agencies become aware of the most dangerous offenders, helping to keep their workers safe.³³

Responsibility for the initial risk assessment should be delegated to one agency, e.g. police (as occurs in Cardiff), or the victim advocacy service (as occurs in Glasgow). Risk factors found in past research include; past physical abuse, escalation of abuse, weapons, unemployment, alcohol and/or drug abuse, pregnancy, psychological abuse, separation, threats, sexual abuse, suicidal thoughts and the victim's own fear or concern for her own safety.³⁴ Analysis of the risk assessment data gathered during the Glasgow court pilot found that the three most frequently occurring risk factors were that the perpetrator behaves in a very jealous or controlling way, that there was a pending or on-going relationship separation and that the abuse had become worse or was happening more often.³⁵

31 *ibid.*

32 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

33 Robinson, A., (2004), *Domestic Violence MARACs (Multi-Agency Risk Assessment Conferences) for Very High-Risk Victims in Cardiff, Wales: A Process and Outcome Evaluation* (Cardiff, Cardiff University), pp. 8-9.

34 *ibid.* pp. 10-11. The same risk assessment model was used in Glasgow and Cardiff and was viewed positively.

35 Robinson, A., (2006), *Advocacy, Support, Safety and Information Services Together (ASSIST): The Benefits of Providing Assistance to Victims of Domestic Abuse in Glasgow*, (Cardiff, Cardiff University), p. 7.

The initial risk assessment should be carried out as soon after the domestic abuse incident as possible, ideally within 24 hours, to ensure that this information is available to the court and other agencies. Thereafter all agencies should gather information relevant to risk assessment and this information should be shared.³⁶ It is crucial to have multi-agency risk assessment and risk management procedures in place across statutory and voluntary sector partners (for victims, perpetrators and children). The main aim of risk assessment is to identify serious cases of domestic abuse that can then be addressed through a Multi-Agency Risk Assessment Conference (MARAC)³⁷ or other type of Multi-Agency Public Protection Arrangement (MAPPA). To hold a MARAC requires,³⁸ at a minimum, that:

- The agency which has responsibility for carrying out the initial risk assessment must identify the very high-risk victims;
- This agency must circulate the details of these victims and their children to participating agencies (the MARAC 'list');
- Police/prosecutors bring the files for these victims to the meeting;
- Minutes of the MARAC meeting are taken and circulated to all participating agencies;
- Protocols should be developed which specify which agencies will be invited to a MARAC. These protocols should govern responsibility for arranging and taking minutes of meetings (police in Cardiff, ASSIST in Glasgow) and sharing information between agencies.

Additionally, it is expected that:

- All participating agencies will check the MARAC list against their own agency's records, in order to collate all evidence available for victims, accused and children;
- Some agencies, e.g. victim advocacy, will also bring victims' files to the meeting;
- Representatives will take notes at the MARAC in order to delegate actions to workers;
- Actions agreed at the MARAC will be taken;
- Individual files held at agencies will be updated.

The agencies involved in the Cardiff MARAC included Police, Social Services, Probation, Health and Education (where relevant) and the WSU (who provide victim advocacy in that area). Other statutory or voluntary agencies that may also be invited depending on whether they have involvement with any of the victims or their children include; Youth Offending Teams, Community Psychiatric Nurse, Community Midwifery, child protection representative, NSPCC, and Women's Aid.³⁹

36 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

37 Samples of written protocols for the MARACs used in Cardiff are available in Robinson, A., (2004), *Domestic Violence MARACs (Multi-Agency Risk Assessment Conferences) for Very High-Risk Victims in Cardiff, Wales: A Process and Outcome Evaluation* (Cardiff, Cardiff University), Appendix B.

38 Robinson, A., (2004), *Domestic Violence MARACs (Multi-Agency Risk Assessment Conferences) for Very High-Risk Victims in Cardiff, Wales: A Process and Outcome Evaluation* (Cardiff, Cardiff University), p. 14.

39 *ibid.* p. 14.

In terms of resources, much of the work associated with the Cardiff and Glasgow MARACs is administrative and is performed in addition to individuals' everyday workloads. MARACs were found to encourage and achieve information sharing between agencies, identifying key contacts within agencies and contributed to victim's safety.⁴⁰ An evaluation found that 66% of victims referred to the MARAC in Cardiff did not have any additional police complaints or police call outs according to police records and 63% of victims interviewed reported that they had not experienced any further abuse.⁴¹

3.2.5 *Specialist personnel*

Specialist personnel in the form of trained judges, prosecutors, court administrators, victim advocates and other key personnel e.g., probation services, are essential to a specialist domestic abuse approach.⁴² If there is no dedicated/specialist victim support service in place, existing support services must have referral avenues to specialist services that have the capacity to provide casework-based support to victims.⁴³

3.2.6 *Protocols for inter-agency working*

Protocols outlining the roles and responsibilities of each agency and their inter-relationships are required.⁴⁴ In addition there must be protocols governing information sharing between agencies. All partners must be signed up to this protocol, as it is essential that information is shared.⁴⁵ Increased liaison between agencies may result in an increased workload for the staff involved.

3.2.7 *Attitudes to domestic abuse*

Judges should ensure that the tone of the court underlines that domestic abuse is being treated seriously.⁴⁶

3.2.8 *Court listing*

This involves implementing the types of specialist approach chosen by the steering group. Whether the type of specialist approach chosen is clustering or fast-tracking it is crucial to have a recognisable system in place which demonstrates that domestic abuse cases are being prioritised above other cases.⁴⁷ There must be guidelines in place to prioritise domestic abuse trials when they are listed with other trials.⁴⁸ This may not be possible where statutory time limits apply or other trials involve child or vulnerable witnesses. Court lists should be made available to the victim advocate service.

40 *ibid.* p. 15.

41 *ibid.* p. 27. In addition to improving victim safety, the MARAC system can enhance police intelligence and improve the safety of other agency personnel e.g., health visitors, who may come into contact with perpetrators when carrying out their job.

42 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

43 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service).

44 *ibid.*

45 *ibid.*

46 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

47 This issue does not arise if the model chosen is a dedicated specialist court.

48 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems*, (London: Crown Prosecution Service).

3.2.9 *Integrated information systems*

Protocols and systems should be in place to ensure information sharing between agencies. For example, use of information technology links, or other means of communication, between domestic abuse courts and community based service providers allows judges to more effectively monitor compliance with court orders and allows different users varying levels of access to the information held on the system.⁴⁹

3.2.10 *Links with civil/family courts for intelligence purposes*⁵⁰

While domestic abuse is a criminal matter it has many implications for civil issues such as custody, contact, residence, interdicts. Sheriffs hearing civil matters need to be fully aware of criminal matters and vice versa.⁵¹ A specialist response requires that liaison between the civil and criminal courts takes place to ensure that any court orders, e.g. special bail conditions, do not contradict existing civil orders. In addition, liaison is required to notify the complainer/victim of the end of special bail conditions to allow a civil protection order, e.g. interdict to be applied for. This will reduce the possibility of time periods when complainers/victims are unprotected.

3.2.11 *Evaluation and accountability*

Methods and responsibility for evaluation should be in place from the outset.⁵² Evaluation necessitates tracking of domestic abuse cases from report to the police to final outcome. This should include sentence outcomes.⁵³ This task is best allocated to one agency.⁵⁴ There should also be a monitoring system to monitor gender, ethnicity and disability of victims and accused.⁵⁵ It is also essential for each agency to collect and collate information on their handling of cases dealt with by the specialist approach. There should be responsibility and a system in place for translating monitoring data into performance reports. These should be used to identify trends and gaps to allow performance monitoring by the implementation group.⁵⁶

49 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

50 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service).

51 Reid Howie Associates, (2007), *Evaluation of the Pilot Domestic Abuse Court*, (Edinburgh: Scottish Executive Justice Department), p.18.

52 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

53 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems*, (London: Crown Prosecution Service).

54 *ibid.*

55 *ibid.*

56 *ibid.*

3.2.12 Ongoing training

Training should be ongoing and multi-agency.⁵⁷ Separate judicial training may be deemed appropriate although other jurisdictions have reported benefits from judges being included in multi-agency training.⁵⁸ Specialist dedicated staff should all be appropriately trained. In the absence of specialist dedicated staff, all staff must be trained. Training should also be provided for student police officers, patrol officers, call handlers, control room staff, court officers and security staff. A programme of multi-agency events involving all agencies contributes to the development of consistency in attitudes and approach to domestic abuse. The Glasgow pilot court evaluation noted that almost all of those who undertook preparation for the pilot in the form of discussions, information sharing or specific training found it to be useful.⁵⁹ Essential to the success of specialist service provision and training, is that all participants have a shared understanding of domestic abuse.⁶⁰

3.2.13 Compliance monitoring

Offender compliance with the disposal made by the court should be monitored. The method of doing this is at the discretion of the sentencer but could be achieved by submission of reports to the court or review hearings to monitor defendant's compliance with court orders.⁶¹ Systems should be in place to ensure early identification of breached orders.⁶²

57 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

58 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

59 Reid Howie Associates, (2007), *Evaluation of the Pilot Domestic Abuse Court*, (Edinburgh: Scottish Executive Justice Department).

60 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service), p.12.

61 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

62 Reid Howie Associates, (2007), *Evaluation of the Pilot Domestic Abuse Court*, (Edinburgh: Scottish Executive Justice Department), p. viii.

3.2.14 Sentencing

Sentencing should be consistent and promote accountability.⁶³ Sentencing options should include perpetrator programmes. It is essential to have an established programme, with capacity to take referrals from the court. The evaluation of specialist courts in England and Wales suggested that it is desirable to have non-CJS programmes in place and for these programmes to have partner and children modules in them.⁶⁴ The perpetrator programme used during the Glasgow pilot court, the CHANGE programme, was delivered by social work services.⁶⁵ Waiting times for programmes was found to be an issue in both the English and Welsh and Glasgow pilot court evaluations.⁶⁶ Delivery of perpetrator's programmes to meet demand has been described as requiring access to sustained mainstream funding or at least plans in place for funding beyond initial set-up.⁶⁷ The evaluation of the Glasgow pilot court notes that the cost of a two-year probation order is £3,000-£3,400 and where attendance at a CHANGE programme is a condition of probation, this incurs an additional cost of around £800 per participant. During the Glasgow pilot, men sentenced in the domestic abuse court were prioritised for CHANGE programmes which resulted in greatly increased waiting times for men sentenced in other courts.⁶⁸

63 Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

64 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service).

65 Reid Howie Associates, (2007), *Evaluation of the Pilot Domestic Abuse Court*, (Edinburgh: Scottish Executive Justice Department), p. 6.

66 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service), Reid Howie Associates, (2007), *Evaluation of the Pilot Domestic Abuse Court*, (Edinburgh: Scottish Executive Justice Department).

67 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service).

68 Reid Howie Associates, (2007), *Evaluation of the Pilot Domestic Abuse Court*, (Edinburgh: Scottish Executive Justice Department), Annex F.

4. DOMESTIC ABUSE COURT MODELS

The decision of which type of specialist approach should be adopted will be dependent upon the number of cases processed in each court, the case processing times and attrition rates. Research on specialist approaches to domestic abuse cases report that essential to any specialist approach is support for victims (including risk assessment), highly trained judges and prosecutors and access to suitable disposals. These essential elements are considered in more detail below.

Different models of specialist approach are available including fast-tracking of cases through the main stream courts, clustering of cases in the main stream courts or a dedicated specialist domestic abuse court. These models have been employed in England and Wales to deal with pre-trial hearings in criminal cases in Magistrates courts. In some courts, the fast tracking of cases has been continued into the Crown court. The Glasgow pilot court only dealt with summary criminal cases. In the UK, therefore, specialist provision has, with one exception, only dealt with criminal matters. In the USA and Canada specialist courts have been established which only deal with civil business or are integrated courts which deal with both civil and criminal business. These are referred to briefly below.

Prior to examining the various models of specialist approach to domestic abuse cases, it should be noted that they share many of the features which are essential to a specialist approach, namely: multi-agency partnership approach between police, prosecutors and advocacy support for victims; clear guidelines, policies and protocols; risk assessment of victims and exchange of information between agencies particularly in respect of risk assessment; effective evidence collection by police; assumption of arrest and custody where sufficient evidence exists; either dedicated prosecutors and judges or training provided for all prosecutors and judges who serve in that court; multi-agency steering group; appropriate court facilities for victims and witnesses; provision of pre-sentencing reports and access to perpetrator programmes and integrated data collection on functioning of the court and distribution to all partners.

The different court models are considered below.

4.1 Fast Track System

4.1.1 Key Features:

- Multi-agency partnership approach between police, prosecutor and advocacy support for victims.
- Clear guidelines, policies and protocols.
- Domestic abuse cases identified by attending police officer and sent to prosecutor.
- Risk assessment carried out by either attending officer or advocacy support. High risk cases discussed at MARAC or equivalent.
- Effective evidence collection by police to aid prosecution. Victim's advocacy service may also be involved in collecting evidence for prosecution, e.g. in Cardiff they are trained to take photographs of victims.
- No specialist court or prosecutors.

- Joint Protocol between ACPOS and COPFS presumes that accused in domestic abuse cases will be taken into custody, therefore, most accused will appear from custody. Information provided by police and advocacy service to prosecutor, including risk assessment of victim, should inform bail decision. If bail is granted special conditions should be imposed. Information from advocacy service and results of risk assessment should inform special bail conditions.
- Summary criminal cases are fast tracked, e.g. trials within 7 weeks with fast tracking being achieved by allocation of domestic abuse slots in court programme.
- Time assigned in normal court to deal with cases. This may involve clustering of cases, e.g. intermediate diets all being in one court at one session or alternatively court slots being assigned to hear only domestic abuse cases, e.g. a proportion of all criminal court slots, equivalent to the prevalence of domestic abuse prosecutions, being assigned to deal with cases of domestic abuse.
- All judges and prosecutors must be trained in domestic abuse and the fast track system.
- Information sharing particularly in respect of risk assessment amongst agencies.
- Independent advocacy support provided for victims.
- Multi-agency steering group meets regularly to review matters arising.
- Appropriate court facilities, e.g. separate waiting areas for victims and witnesses, separate entrances, which failing, staggered arrival and departure times. Security staff, where available, should be trained and aware of domestic abuse.
- Judicial monitoring and accountability of offenders.
- Protocols and services in place to enable children's needs to be addressed.
- Protocols and services in place to enable equality and diversity issues to be addressed.
- Timely provision of pre-sentencing reports where requested.
- Appropriate sentencing including access to appropriate perpetrator programmes, e.g. CHANGE.
- Integrated data collection and distribution for evaluation purposes.
- Arrangements with SLAB required to fast track legal aid applications.

4.1.2 Advantages of this Model:

- This model is 'resource neutral' in terms of court provision i.e., the court would be being used for these cases and there would be a prosecutor and a judge present to process these cases. However, the provision of advocacy support for victims is essential and will have resource implications for whoever funds this service.
- Fast-tracked cases have a lower incidence of victim retraction and therefore lower incidences of case attrition. This may be due to the speed of process and also the support provided by the advocacy service.
- The court shares the benefits of the specialised model, namely increased speed and an increase in the number of guilty pleas, which avoids the victim giving evidence at trial.
- When combined with case clustering there is the added advantage that it is seen by perpetrators, victims and witnesses that domestic abuse is taken seriously.

4.1.3 Disadvantages of this Model:

- If fast-tracking is not combined with clustering, the benefits of clustering, i.e. underlining the seriousness of domestic abuse and the message this sends to accused, victims and witnesses, will be lost.
- There are resource implications if all prosecutors and judges are to be trained to deal with domestic abuse and the fast track system. This is an ongoing resource issue as training should be ongoing.
- The absence of one or a few dedicated prosecutors will mirror the normal court process and may make information exchanges with defence agents more difficult. The benefits of having an assigned prosecutor has anecdotally been suggested as contributing to an increase in the number of early guilty pleas in the Glasgow pilot court due to the improved communication between defence agents and the procurator fiscal depute, which allows the former to advise clients.
- For every non-custody domestic abuse case which is fast tracked, waiting periods for other types of prosecution are increased.

A description of the fast-track system used in Cardiff Magistrate's Court is contained in Appendix B.

4.2 The Cluster Court Model

4.2.1 Key Features:

- Multi-agency partnership approach between police, prosecutor and advocacy support for victims.
- Clear guidelines, policies and protocols.
- Identification of domestic abuse cases by police or prosecutor.
- Risk assessment carried out by either attending officer or advocacy support. High risk cases discussed at MARAC or equivalent.
- Effective evidence collection by police to aid prosecution.
- Dedicated listings of domestic abuse cases (i.e. clustering).
- Joint Protocol between ACPOS and COPFS presumes that accused in domestic abuse cases will be taken into custody, therefore, most accused will appear from custody. Information provided by police and advocacy service to prosecutor, including risk assessment of victim, should inform bail decision. If bail is granted special conditions should be imposed. Information from advocacy service and results of risk assessment should inform special bail conditions.
- Cases allocated to trained judge and prosecutor. These may be dedicated to processing the case (e.g. in Brooklyn) or not (e.g. in Leeds).
- Independent advocacy service for victims.
- Presence of victim advocate and police domestic violence officer in court building (this varies between courts).
- Where there are large numbers of domestic abuse cases, multiple courts dealing with domestic abuse cases may sit at the same time.
- Multi-agency steering/implementation group meets regularly to review matters arising.
- All judges and prosecutors must be trained in domestic abuse.
- Information sharing particularly in respect of risk assessment amongst agencies.

- Independent advocacy support provided for victims.
- Appropriate court facilities, e.g. separate waiting areas for victims and witnesses, separate entrances, which failing, staggered arrival and departure times. Security staff, where available should be trained and aware of domestic abuse.
- Judicial monitoring and accountability of offenders.
- Addressing children's needs.
- Addressing equality and diversity issues.
- Timely provision of pre-sentencing reports where requested.
- Appropriate sentencing including access to appropriate perpetrator programmes, e.g. CHANGE.
- Integrated data collection and distribution for evaluation purposes.

4.2.2 *Advantages of this Model:*

- Clustering of cases sends message to accused, victim and witnesses that domestic abuse will be taken seriously.
- Clustering of cases increases likelihood of consistency in approach.
- Where there is a dedicated prosecutor and judge (the Brooklyn Model) who process the whole case, it has the same effect as the case being dealt with by a specialist court. Although this approach avoids the resources required by a dedicated court there remain resource and time tabling issues if this continuity in legal personnel is to be preserved.
- Decrease in time taken to process cases. The evaluation of the Leeds Magistrates Court reported that cases were dealt with more quickly, and whilst this was deemed to have been largely due to the introduction of the Narey measures,⁶⁹ there was a statistically significant reduction in time even before Narey was introduced.⁷⁰ In the Brooklyn court, cases took less time to process because of increased guilty pleas even though there was no fast track system.⁷¹ Case clustering was found to impact positively on case management, as there was a reduction in the number of hearings to finalise a case.
- Victim retraction and case attrition reduced and evidence of greater commitment to prosecution (Brooklyn Court evaluation), however, it is not clear whether this is due to support available to victims from within and out with the criminal justice process rather than clustering of cases.

69 The Narey measures were implemented in response to the Crime and Disorder Act (1998). Criminal Justice Service agencies are now required to speed up the time from charge to the first appearance. Defendants are to be bailed to a court within 24 hours (maximum 72 hours). This came into effect nationally, in England and Wales, in November 1999.

70 Grundy, M. *et al.*, (2000), Leeds Domestic Violence Court Overview Report June 1999-June 2000, p. 20.

71 Newmark, L., *et al.*, (2001) Specialized Felony Domestic Violence Courts: Lessons on Implementation and Impacts from the Kings County Experience (Urban Institute Justice Policy Centre).

4.2.3 Disadvantages of this Model:

- Cases are not fast-tracked and therefore the benefits of so doing may be lost, e.g. reduction of victim retraction and consequent decrease in guilty pleas.
- Loss of ability to prioritise domestic abuse cases at the trial diet.
- There are resource implications if all prosecutors and judges are to be trained to deal with domestic abuse. This is an ongoing resource issue as training should be ongoing.
- The absence of one or a few dedicated prosecutors will mirror the normal court process and may make information exchanges with defence agents more difficult. The benefits of having an assigned prosecutor has anecdotally been suggested as contributing to an increase in the number of early guilty pleas in the Glasgow pilot court due to the improved communication between defence agents and the prosecutor which allows the former to advise clients.

A description of the cluster court systems used in Brooklyn Felony Court and Leeds Domestic Violence Cluster Court is contained in Appendix B.

4.3 Dedicated Specialist Domestic Abuse Court

4.3.1 Key Features:

- Dedicated processing of domestic abuse cases.
- Cases are fast tracked.
- Dedicated prosecutor(s), judge(s), clerk(s).
- Multi-agency partnership between police, prosecutor and victim advocacy workers provides a co-ordinated response.
- Joint Protocol between ACPOS and COPFS presumes that accused in domestic abuse cases will be taken into custody, therefore, most accused will appear from custody. Information provided by police and advocacy service to prosecutor, including risk assessment of victim, should inform bail decision. If bail is granted special conditions should be imposed. Information from advocacy service and results of risk assessment should inform special bail conditions.
- Clear guidelines, policies and protocols.
- Victims have access to independent advocacy services and support.
- Domestic abuse cases identified by attending police officer and notified to prosecutor. Prosecutor may also identify any additional cases.
- Risk assessment and risk management of victims.
- Effective evidence collection by police to aid prosecution.
- Appropriate court facilities, e.g. separate waiting areas for victims and witnesses, separate entrances, which failing, staggered arrival and departure times. Security staff, where available, should be trained and aware of domestic abuse.
- Judicial monitoring and accountability of offenders.
- Protocols and services in place to allow children's needs to be addressed.
- Protocols and services in place to allow equality and diversity issues to be addressed.
- Timely provision of pre-sentencing reports where requested.
- Appropriate sentencing including access to appropriate perpetrator programmes.
- Integrated data collection and distribution.
- Arrangements with SLAB required to fast track legal aid applications.

4.3.2 *Advantages of this Model:*

- Dedicated court deals with all summary criminal cases. It has the benefit of trained prosecutors, judges and clerks who have a shared understanding of the issues surrounding domestic abuse and adopt a consistent approach in dealing with cases.
- Fast tracking of cases and the independent advocacy support provided to women encourages their commitment to support prosecutions and reduces case attrition.
- Clustering of cases sends the message to accused, victims and witnesses that domestic abuse is taken seriously.
- Dedicated prosecutor(s) encourage consistency in prosecution. Defence agents involved in the Glasgow Pilot suggested that the availability of the dedicated prosecutor made it easier to obtain information and therefore enabled them to advise clients quickly which could result in an increase in guilty pleas.
- Dedicated trained judges ensured that a consistent message of the court's intolerance of domestic abuse was sent to offenders. Consistency in sentencing should be more easily achieved where dedicated judges are present.
- Use of protocols to encourage information sharing, action planning, communication and referral, together with good practice guidance for police regarding treatment of alleged offenders and evidence gathering, and marking guidance for procurators fiscal.

4.3.3 *Disadvantages of this Model:*

- Resource intensive requiring dedicated prosecutors, clerks and judges.
- Few court houses have the capacity to accommodate an additional court, with resultant resource implications of out-housing.
- Resource implications would make this model unsuitable where the numbers of cases would not fully utilise the court.

A description of the dedicated specialist domestic abuse courts used in Glasgow Sheriff Court and West London Magistrate's Court is contained in Appendix B.

4.4 **Civil and Combined Specialist Domestic Court Models**

4.4.1 *Civil Domestic Abuse Court Model*

This model, adopted in some areas in the US, is primarily to deal with applications for restraining orders, which the court prioritises over other civil matters.⁷² This model has not been adopted in the UK. A process map is not available for this court.

⁷² An example of this court model is the Quincy District Court, Massachusetts. See Salzman, E., (1994), The Quincy District Court Domestic Violence Prevention Program: A Model Legal Framework for Domestic Violence Intervention, *Boston University Law Review*, 329.

4.4.2 Combined Civil/Criminal Domestic Abuse Court

The limitations of separate civil or criminal models of specialist domestic violence courts resulted in the introduction of integrated courts in some parts of North America.⁷³ One example is the Clark County Domestic Violence Court, Vancouver, Washington. The motivation behind setting up this integrated model was to improve co-ordination of services; reduce conflicting judicial orders (e.g., contact orders and civil protection orders) and to incorporate community input. The Court was established to consolidate all criminal appearances and relevant family court actions. The key benefit of this model is that the victim of domestic abuse can obtain all forms of assistance and relief from a judge who is knowledgeable about domestic violence (a 'one-stop' shop). In addition, community services were better co-ordinated and there was improved communication.⁷⁴ A process map is not available for this court. It is anticipated it would operate in a similar way to the specialised domestic abuse court. An Integrated Domestic Violence Court was piloted in Croydon, England.⁷⁵ The feasibility of an integrated domestic abuse court was considered prior to the Glasgow pilot court being established. It was concluded that this model could not be employed in Scotland without significant legislative change.

73 An example of this court model is the Superior Court of the District of Columbia, Washington DC in the USA. This court was evaluated by Steketee, M. W., *et. al.*, (2000), Implementing an Integrated Domestic Violence Court: Systemic Change in the District of Columbia.

74 Fritzler, R.B., and Simon, L.M.J., (2000), The Development of a Specialized Domestic Violence Court in Vancouver, Washington: Utilizing Innovative Judicial Paradigms, *University of Missouri Law Review*, vol. 69, part 1, pp. 139-177.

75 Cook, D., *et. al.*, (2004b), Evaluation of Domestic Violence Pilot Sites at Gwent and Croydon 2004/05, Interim Report, (Crown Prosecution Service), p. 6.

5. DEVELOPMENT OF A SPECIALIST APPROACH TO DOMESTIC ABUSE CASES

This section of the toolkit provides an ‘action plan’ of detailed steps intended to give guidance on the information required and issues to be considered in deciding on whether to introduce a specialist domestic abuse court and implementing the model chosen. Many of the items in this chapter are essential features discussed in Chapter Three.

5.1 Assessing the Problem at Local Level

Prior to deciding on the approach to be adopted to deal with cases involving domestic abuse a system-wide audit should be conducted to determine needs. The following information should be gathered at a local level, for the sheriffdom as a whole and for each local court:

5.1.1 *Number of domestic abuse cases per annum*

The availability of this data at a local level will be dependent upon existing practices. Where data is not already collated a short period of data collection (e.g. one calendar month) will allow information to be gathered on both the number and nature of domestic abuse cases.

5.1.2 *Length of time taken to reach disposal*

Once again this data may already be available and if not, a short period of data collection will be necessary. The importance of minimising the time taken to deal with domestic abuse has been highlighted in all of the evaluations of specialist domestic abuse courts in the UK. An additional reason for measuring the time taken to reach disposal is to allow monitoring of the success of the chosen model.

5.1.3 *Number of convictions*

Data on the number of convictions secured using the standard criminal justice system should be collated to provide information on the current system and a base line against which to measure the convictions secured under a specialist approach.

5.1.4 *Number of and reasons for case attrition*

Data on case attrition is again required to provide information on impact of current approach and a base line to measure the impact of the specialist approach.

5.1.5 *Plea rates and timing*

The number of guilty pleas and the timing of these pleas should be collated. The usefulness of this data may be compromised by the impact of the recent summary justice reforms, however, other aspects of the specialist approach may speed up the processing of cases.

5.1.6 Availability of support services for victims

An examination of the current support services for victims of domestic abuse is necessary.⁷⁶ In most areas of Scotland this service is currently provided by VIA and VSS. Information on the numbers of victims supported by VIA and VSS, the nature and duration of that support and the resource implications of this is required. In addition, it will be useful to examine whether either agency has capacity to increase the support offered to victims, both the amount and the nature of the support offered. There should also be some assessment of the expertise of the staff of these agencies in dealing with victims of domestic abuse and any obstacles to assistance being offered, e.g., rules on disclosure. Information on any other sources of support, currently being utilised should be collated.

5.2 Identify Key Stakeholders and Develop a Steering and Implementation Group

The membership of this group will vary according to the court and its caseload. It would typically involve representatives of those groups listed on page 6. Senior representatives of key stakeholder organisations should be involved in this group as their authority will help to secure the commitment of their staff and they will be able to make needed protocol changes, identify staff, obtain funding and provide public support for the project.⁷⁷ In some areas, these senior administrators may lead the planning process or may initiate the process and delegate detailed planning to others. The steering and implementation group will be responsible for deciding on the type of specialist approach to be adopted and drafting relevant operational protocols. The steering and implementation group may also be responsible for carrying out all of the tasks listed below, or they may pass some of these tasks onto the operation group.

5.3 Determine Goals and Priorities of the Specialist Domestic Abuse Response

This should be decided by the steering and implementation group and informed by a consideration of the values and principles governing a specialist response to domestic abuse, as detailed in Chapter Two and the essential features of a specialist response to domestic abuse, as detailed in Chapter Three.

5.4 Review Impact of Summary Justice Reforms

This review should consider whether the benefits of ‘fast-tracking’ cases will be achieved as a result of the summary justice reforms and what the impact of these reforms will be on the processing of legal aid applications and provision of legal aid. These factors will be relevant in both considering the model to be adopted and whether the adaptations in processing of cases by SLAB during the Glasgow pilot require to be adopted or modified.

⁷⁶ This section is intended to discuss advocacy and support of victims within the context of the criminal justice process. It is not intended to be a comprehensive overview of all agencies that provide support to victims of domestic abuse and, therefore, agencies such as Women’s Aid, Women’s Support Project and Rape Crisis are not referred to.

⁷⁷ Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

5.5 Resource Implications

Factors that need to be taken into account in considering the resource implications of implementing any particular type of approach include:

1. Physical facilities – provision of court space, separation of accused and victims/witnesses, court safety audit, disabled access, provision of vulnerable witness facilities, e.g. screens, video link etc.
2. Staff resources – each of the key stakeholders should consider the staffing resources required to fulfil their role in the specialist court. In terms of criminal justice personnel this will include sheriffs, court clerks, procurator(s) fiscal depute and police. Staffing requirements will be dependent on the type of specialist model chosen. For other stakeholders, e.g. social work services, the impact of the specialist provision may result in, e.g. greater demand for pre-sentencing reports, more probation orders requiring supervision and increased demand for places on perpetrator programmes.
3. Training of all staff associated with court. This training should ideally be multi-agency to encourage a shared understanding of domestic abuse and knowledge of the role and responsibilities of the key stakeholders. Separate judicial training may be deemed appropriate although other jurisdictions have reported benefits from judges being included in multi-agency training.⁷⁸
4. Scheduling of court business. The type of scheduling required will depend on the model of specialist court chosen. The impact of the introduction of the specialist response to domestic abuse on the scheduling of other court business should be considered.
5. Dedicated support service for victims (costs of this are discussed in Chapter 3).
6. Costs of sentencing. The evaluation of the Glasgow pilot court reported that the most common disposals were probation orders (34%), admonished (28%), imprisonment (18%) and fine (18%). In the comparison court the most common disposals were fines (43%), admonished (25%), imprisonment (17%) and probation orders (16%). The steering group should consider the resource implications should this change in sentencing patterns be repeated, particularly for social work services and the provision of perpetrator programmes and the prison service.

5.6 Identify Obstacles to Implementation

The steering and implementation group should attempt to identify all obstacles to implementation and, where possible, anticipate solutions. Examples of obstacles that may be encountered include:

1. Lack of commitment from all relevant agencies
2. Lack of capacity within existing provision (facilities and staff) to accommodate different handling of domestic abuse cases.
3. Lack of resources to support victims/witnesses.
4. Burnout of dedicated staff.

⁷⁸ Sack, E., (2002), *Creating a Domestic Violence Court: Guidelines and Best Practices*, (San Francisco, Family Violence Prevention Fund).

5.7 Choose Model of Specialist Provision to be Adopted

The options available to the steering group are outlined in Chapter Four.

5.8 Determine Staffing Needs of Court and Agency Partners

The importance of key stakeholders being members of the steering and implementation group is illustrated in the fulfilment of this task. The adoption of a specialist response to domestic abuse will impact on all key stakeholders. However, depending on the model adopted and the protocols developed, this will have varying consequences for staffing levels, responsibilities and training.

After deciding upon a specialist court model, caseload type and volume, the steering and implementation group should determine the number of court and partner staff needed to handle the caseload effectively; the necessary qualifications for such staff; whether existing staff could fill these positions or if new staff require to be recruited.⁷⁹ An assessment of resources as well as caseload will determine whether staff can be totally devoted to the specialist court or if there will be an expectation of additional tasks. Staffing is an ongoing task. In assigning staff, stakeholders should attempt to identify staff interested in the project that are willing to be educated about the subject and prepared to commit to the specialised court for a reasonable period of time. This will help to reduce turn-over of staff and improve the operation of the court. In the Glasgow pilot court, for example, the dedicated procurator fiscal depute, was assigned for a period of approximately one year. This allowed expertise to be built up but also avoided burn-out as a result of having been assigned to the court for too long a period.

5.9 Determine Victim and Witness Needs

Specialised approaches to handling domestic abuse cases all share the need for certain essential services, such as independent victim advocacy.⁸⁰ Identification of the provider of this service and, if a new service, their relationship with existing victim and witness services is essential. As the steering and implementation group will have identified both the court model and the caseload, consideration should be had as to whether the case load includes specific populations that require particular services, e.g. a large elderly population may require home visits from victim advocacy support and a large immigrant population will require culturally specific and linguistically appropriate victim advocacy and perpetrator programmes.⁸¹

⁷⁹ *ibid.*

⁸⁰ The CADD definition of independent domestic abuse advocacy can be found at: http://www.caada.org.uk/library_resources/CRA1.doc

⁸¹ *ibid.* p. 36.

5.10 Access Available Resources and Explore Options for Additional Funding

A highly effective domestic abuse court may be implemented without substantial additional resources or funding. As the same numbers of domestic abuse cases are being processed under the specialist model, rather than being scattered throughout the system, implementation may involve a reorganisation of caseloads rather than additional personnel in some agencies.⁸² The steering and implementation group should be mindful that new services such as victim advocacy may have resource implications depending on the provider and be aware that the pilot project in Glasgow resulted in an increase in probation disposals with a condition of attendance at a perpetrator programme. Both of these may have resource implications. The steering and implementation group should assess the resources available to the court and where relevant, possible sources of additional funding should be identified. Examples of sources of funding for advocacy provision are detailed in Appendix A.

5.11 Review Security at Court Building for Victims and Witnesses

This safety audit should include safety of victims and witnesses when entering and leaving the court, provision of separate waiting facilities when inside the court and training of security staff in respect of domestic abuse. The safety audit should include a walk-through of the route that a victim would take to the court from nearby parking or public transport; the waiting areas; toilet and catering facilities, and the internal route to the court room that will hear domestic abuse cases.⁸³ The steering and implementation group should assess the safety at each of these locales and be mindful of security concerns when victims or witnesses are moving around the court building. If necessary, changes should be made by posting security staff or introducing other means of monitoring, in areas of risk.

5.12 Develop Written Protocols for Court and Multi-agency Co-ordination

The steering and implementation group should work with key stakeholders to draft written protocols that outline:

- the roles, responsibilities and commitments of each partner;
- the means by which each stakeholder will provide information and communicate with the steering and implementation group, the operation group and the court; and
- the standards to which each stakeholder will adhere.⁸⁴

Written protocols governing the operation of the steering and implementation group and the operation group, risk assessment and risk assessment conferences, information sharing amongst key stakeholders, identification and processing of cases, victim advocacy services and the respective roles of this agency with pre-existing victim and witness services should be drafted. Reference to the existing joint protocol between Police and COPFS should be made. When appointed, victim advocates should review all protocols with a view to ensure that they do not compromise victim safety.

⁸² *ibid.* p.36.

⁸³ *ibid.* p.37.

⁸⁴ *ibid.* p.38.

5.13 Identify and Access Information Systems

The steering and implementation group should identify means whereby information can effectively be shared with the specialist court. This applies to the sharing of information between the specialist court and civil courts dealing with related matters, e.g. civil protection orders or child custody or residence. Where possible existing systems should be utilised for this purpose. In the event of electronic systems not being available, an alternative method of information gathering should be developed. This information is particularly useful in ensuring that bail or probation conditions do not contradict existing court orders. Information gathering and monitoring of compliance with court disposals is also essential and systems should be developed to ensure that this information is given to the court to allow appropriate action to be taken against perpetrators.

5.14 Institute a Data Collection/Evaluation Plan

To measure success and make necessary changes, data should be collected from the time the specialist domestic abuse response is launched. There must be protocols for data collection by the court and key stakeholders and an evaluation plan that specifies who will carry out the evaluation, how they will obtain the data and what outcome measurements will inform the evaluation process.⁸⁵ The protocol should also state how and when the evaluation data would be delivered to the key stakeholders and the forum within which it will be discussed, e.g. operation group meetings. The drafting of an evaluation plan should provide a further incentive for the steering and implementation group to clearly articulate the goals of developing a specialist approach to domestic abuse. Outcome measures should be designed to assess the specialist court's progress in meeting these goals.

5.15 Conduct Domestic Abuse Training for All Partners

Training on domestic abuse and the roles of key stakeholders, should be initiated by the steering and implementation group and continue throughout the implementation and life of the court. This training should be multi-agency.⁸⁶

5.16 Develop a Phase-in Plan for Caseload and/or Services

The steering and implementation group should consider whether it is appropriate to develop a phase-in plan for the specialist approach that is adopted. An effective strategy may be to plan a number of phases for project implementation that ensure that each phase is fully implemented before moving on to the next.⁸⁷ The phase-in process allows for the steering and implementation group to test various components and assess effectiveness before expanding. A specialist domestic abuse response cannot begin to operate without the essential services and properly trained personnel being in place, but other aspects of the specialist approach, e.g. additional services for specific victim populations can be introduced at a later stage.

⁸⁵ *ibid.* p. 39.

⁸⁶ As noted elsewhere, separate judicial training may be deemed appropriate although other jurisdictions have reported benefits from judges being included in multi-agency training.

⁸⁷ *ibid.* pp. 39-40.

5.17 Establish an Operation Group

This group will deal with issues that arise once the specialist response to domestic abuse is operational. Membership of the group and written operational protocols should be decided, including regularity of meetings.

Conclusion

As noted at the outset of this report, one of the key reasons for implementing a specialist approach to handling domestic abuse cases is to send a strong message to perpetrators that such offences will be taken very seriously by the Scottish courts and in this way to seek to reduce re-offending. This toolkit, rather than being prescriptive, is designed to aid court practitioners at local level with the process of identifying whether a specialist approach is required within their area and if so, to provide guidance on the selection and establishment of the most appropriate approach for their local circumstances.

APPENDIX A

Advocacy Roles And Costs From UK Specialist Domestic Abuse Courts:

1. Cardiff Women's Safety Unit (WSU) was initially launched having secured 2 years Home Office Funding and it subsequently received Welsh Assembly funding.⁸⁸ An advocate from WSU is present in court to support victims and also attends court on behalf of victims for pre-trial reviews. The WSU costs are estimated at £225,000 per year, which includes court based and outreach advocacy.⁸⁹
2. Leeds Domestic Violence Court advocacy service, Help Advice and the Law Team (HALT, was funded by a Lottery grant.⁹⁰ This source provides short, fixed-term funding. HALT provided advocacy support in the court on Monday afternoons but also ensured an advocate was present at court on other days for trials. This was evaluated as resource intensive as the advocate who attends court is not available to advise victims and track cases back at the office. The overall estimated cost of running this service from April 2004-March 2005, was £138,000.⁹¹
3. The only court in the UK to use volunteer advocates for victims was the Derby Dedicated Domestic Violence Court. The court advocacy workers were recruited from a domestic violence partnership to cover a weekly rota for attending the court. The costs of 26 hours per week of advocacy and co-ordination time equate to around £19,000 including on-costs. The cost of a full-time equivalent service would amount to £26,300. Following the initial 3-month period, it was agreed to retain the dedicated court as a permanent arrangement but to reduce reliance upon volunteer advocates and to address the identified gaps in terms of dedicated advocacy and support.⁹² In a later evaluation, emphasis was again placed on the need to reduce reliance on volunteers and address some of the gaps identified as a result of not having a dedicated advocacy co-ordinator.⁹³
4. In Wolverhampton a Criminal Justice Support Services Co-ordinator (CJSSC) was appointed. She is present in court on Tuesdays and engages in community outreach work for the rest of the week. The cost of this appointment was £30,000 (per annum). This post was evaluated as being a vital but overstretched resource as the appointee has to juggle court support, outreach support and advocacy.⁹⁴ The evaluation of this specialist domestic violence court indicated the pressing need for a further outreach post to supplement the CJSSC post.⁹⁵ This post is funded under the Community Partner Initiative for 3 years. The Haven (an organisation which provides refuge accommodation and resettlement support for women and children affected by domestic violence) provides day to day and line management of the CJSSC post.⁹⁶

88 Cook, D., et al., (2004a), Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems, (London: Crown Prosecution Service). p. 55.

89 *ibid.* p. 92.

90 *ibid.* p. 92.

91 *ibid.* p. 92.

92 Derby CPS (2003), Interim Report May – August 2003.

93 Derby City Partnership (2004) Derby Dedicated Domestic Violence Court, (Derby, Derby City Partnership), p. 1.

94 Cook, D., et al., (2004a), Evaluation of Specialist Domestic Violence Courts/Fast Track Systems, (London: Crown Prosecution Service). p. 93.

95 Cook, D., (2003), Evaluation of Wolverhampton Specialist Domestic Violence Court, RR1, (Wolverhampton, University of Wolverhampton).

96 Cook, D., et al., (2004a), Evaluation of Specialist Domestic Violence Courts/Fast Track Systems, (London: Crown Prosecution Service). pp. 55-56.

5. In West London, ADVANCE Advocates received funding of £30,000 from pump priming money to provide an advocacy service. This service includes the attendance of a representative in court every Thursday. Representatives from Eaves Women's Aid also attend the court but received no dedicated funding. ADVANCE collect results of cases from the borough of Hammersmith and Fulham and Eaves Women's Aid collect results of cases from the borough of Kensington and Chelsea. Advocates do not attend court except on Thursdays unless they are specifically aware of a trial date where they are supporting a woman. A representative from Standing Together⁹⁷ usually attends court to coordinate the victim/witness support network and perform monitoring functions. An estimated 2 days per week are devoted by a Standing Together employee to court-related functions. The salary of this person was £29,487 (per annum) plus on costs.⁹⁸
6. Advocacy, Support, Safety and Information Services Together (ASSIST) provided an independent advocacy service in the Glasgow pilot court. ASSIST provided a service from the point of referral to the end of court proceedings. Short-term, post-court disposal support was also provided. A member of ASSIST was present in the specialist domestic abuse court every day. Staff were generally available in the ASSIST office between the hours of 9am and 5pm, Monday to Friday and an on-call service was available at weekends. The service provided crisis support and information; support and advocacy throughout the court process and short-term post disposal support to facilitate access to other services, e.g. drug or alcohol counselling, therapy, housing, etc.⁹⁹ Where a victim consented, police made a referral to ASSIST, who contacted the victim within 24 hours and in addition to information gathering and giving of advice carried out a risk assessment. This information and any future information was communicated to the court via a daily communication with the procurator fiscal depute. This allowed information on risk assessment, etc. to inform bail decisions and conditions.
- A Children and Young Person's Advocacy worker was available from July 2005.¹⁰⁰ As an enhanced response to very high-risk victims, Multi-Agency Action Planning (MAAP) was introduced as part of the pilot in November 2005 and those participating noted its positive features in terms of improving safety for the most vulnerable victims.¹⁰¹ The initial ASSIST Implementation Group was superseded by a Multi-Agency Advisory Group (MAAG), which had its first meeting in March 2005. The overall purpose of the MAAG was to support the work of ASSIST and develop and promote recommendations for a strategic and co-ordinated approach.¹⁰² Meetings were held on a monthly basis. Members of the MAAG included representatives of ASSIST, Community Safety Partnership, Glasgow City Council Social

97 Standing Together against domestic violence multi-agency partnership co-ordinates the Specialist Domestic Violence Court at West London Magistrates Court. See Cook, D., *et al.*, (2004a), Evaluation of Specialist Domestic Violence Courts/Fast Track Systems, (London: Crown Prosecution Service). p. 62.

98 Cook, D., *et al.*, (2004a), Evaluation of Specialist Domestic Violence Courts/Fast Track Systems, (London: Crown Prosecution Service). p. 92.

99 Robinson, A., (2006), Advocacy, Support, Safety and Information Services Together (ASSIST): The Benefits of Providing Assistance to Victims of Domestic Abuse in Glasgow, (Cardiff, Cardiff University), p. 14.

100 Children referred to this worker were overwhelmingly positive about the service provided. Attendance at sessions was linked to children's improved well-being and performance at school. Robinson, A., (2006), *ibid.* p. 7.

101 *ibid.* p. 7. A MAAP is essentially the same as a MARAC.

102 *ibid.* p. 64.

Work Services, Strathclyde Police, COPFS, Glasgow Violence Against Women Partnership, Women's Support Project, Greater Easterhouse Women's Aid, Glasgow Women's Aid, Scottish Women's Aid, Castlemilk Domestic Violence Project, VIA, VSS, Children's Reporter and Children 1st.¹⁰³ ASSIST was positively evaluated and 3 recommendations were made: consistent provision across Glasgow; additional resources for post-court support and the need for long term strategic direction especially in relation to the role of the MAAG, ASSIST and the domestic abuse court.¹⁰⁴ The direct costs of providing the ASSIST service during the pilot are reported in the Evaluation as being "around £400,000" over two years.¹⁰⁵

103 *ibid.* p. 65.

104 *ibid.* p. 8.

105 Reid Howie Associates, (2007), Evaluation of the Pilot Domestic Abuse Court, (Edinburgh: Scottish Executive Justice Department), p. 53.

APPENDIX B

AN EXAMPLE OF A FAST TRACK SYSTEM¹⁰⁶

Cardiff Magistrate's Court

A fast-track system to deal with criminal pre-trial hearings and trials commenced in January 2002 in Cardiff. This is the sixth largest Magistrate's court in England and Wales. One day per week is designated for pre-trial hearings and thereafter '1 in 4 slots' is assigned for domestic violence hearings. The Women's Safety Unit (WSU) provides advocacy for victims. Amongst the services offered, a representative attends pre-trial hearings as an advocate for victims. Initially the court had a specialist domestic violence prosecutor but this soon became impractical due to the workload involved. All 80 Magistrates and 19 prosecutors are trained in domestic violence and the fast track system. The fast track system protocol extends to the Crown Court. The fast-track system is monitored by the WSU and the Crown Prosecution Service (CPS).

The Process Map for this Court

This is as follows:¹⁰⁷

1. Attending Officer

- Attending police officer completes form, including risk assessment indicator and sends to Domestic Abuse Unit. If appropriate risk assessment results shared with multi-agency partners according to stated protocol and completes a concern for children report.
- This information is faxed to WSU within 48 hours (if victim consents).
- CPS notified of all cases flagged as domestic abuse. Clerk may add additional cases if these have been missed.

2. Advocacy Services – Women's Safety Unit (WSU).

- WSU contacts victim within 24 hours and offers support, intervention and referrals. Liaises with CPS on cases going to initial stage of fast-track system at pre-trial review court.

3. The Fast-Track System:

- Domestic violence cases go to pre-trial review within 4 weeks. The pre-trial reviews (PTR) are all held at a court sitting on Thursday mornings i.e. cases are clustered.
- WSU are present at all PTR
- CPS, defence and WSU must all be present when any subsequent trial/hearing date is set.
- Defence agents are willing to agree changes to court dates to accommodate diary commitments of WSU.
- Parallel listing: 2 listing books used at PTR, one for domestic abuse cases, one for other cases. Domestic abuse cases guaranteed 1 in 4 of all available slots.

106 A 'Fast Track' system was also employed at Gwent. See Cook, D., *et al.*, (2004b), Evaluation of Domestic Violence Pilot Sites at Gwent and Croydon 2004/05, Interim Report, (Crown Prosecution Service). The Family Violence Court in Canberra, ACT, Australia also employs a fast track system, see Urbis Keys Young (2001), Evaluation of the ACT Family Violence Intervention Program Phase II, (Canberra ACT, Department of Justice and Community Safety).

107 Cook, D., *et al.*, (2004a), Evaluation of Specialist Domestic Violence Courts/Fast Track Systems, (London: Crown Prosecution Service). p. 57.

If the case proceeds, in England and Wales, this can involve the case remaining in the Magistrates Court, which dealt with the Pre-trial review, or going to the Crown Court.

4. Magistrates Court:

- Domestic abuse cases are prioritised and fast-tracked.
- Cases are heard in the court next to that dealing with pre-trial reviews.
- 1 in 4 slots for domestic abuse cases, guarantees speed of process.
- WSU in attendance, having liaised closely with CPS over victim attendance, requirements etc.
- WSU and CPS liaise on all cases acquitted.

5. Crown Court:

- Cases listed on Mondays if possible.
- Cases to be heard by experienced and senior judges.
- Special measures and victim liaison.
- Victim personal statements to be invited in all cases.

Independent evaluation of the Cardiff FTS reported:¹⁰⁸

- 1,150 women and their 1,482 children were referred to WSU from December 2001-January 2003.
- Incidents of repeat victimisation decreased by 36%.
- Number of victims refusing to make a complaint decreased by 18%.
- The number of Concern for Children reports completed by attending police officers increased by 139% (from 22 to 55 per month).
- CPS reported that the presence of advocacy services promoted taking domestic abuse more seriously and enabled them to handle cases more effectively and efficiently.
- Fast-track system cases take 7 weeks compared to standard time of 14 weeks to process.

EXAMPLES OF CLUSTER SYSTEMS

Brooklyn Felony Domestic Violence Court, New York

One of the first domestic violence courts to be developed, the Brooklyn Felony Domestic Violence Court in New York was launched in June 1996 and adopted this model.¹⁰⁹ The key elements of this model are dedicated listings of domestic abuse cases (i.e. clustering), and the allocation of cases to a trained and dedicated judge and advocate team for the duration of the case. Victims have access to independent advocacy support. Specialist counselling services located within the prosecutor's office are available to victims. This court did not attempt to fast track cases, but time taken to process cases did reduce because of an increase in the number of accused pleading guilty.

108 Robinson, A., (2003), *The Cardiff Women's Safety Unit : A Multi-agency approach to domestic violence*, (Cardiff: University of Cardiff).

109 *ibid.*

Evaluation Of Brooklyn Felony Domestic Violence Court¹¹⁰

This concluded that:

- Specialist support both within and outside the criminal justice agencies increased victim participation in prosecution and enhanced the amount of information available to prosecutors.
- There was a reduction in time taken to process cases and an increase in the percentage of cases where the accused pled guilty but no increase in the overall conviction rate i.e. there was an increase in the number of individuals who initially pled not guilty but changed their plea before trial.
- The reduced time taken to process cases was deemed to be due to the increase in the number of guilty pleas.
- The change in process in this court did not parallel a change in sentencing practices. Although there was no increase in the use of perpetrator programmes at the sentencing stage, this was speculated to be due to defendants having attended such programmes as a condition of pre-disposition release.

Leeds Domestic Violence Cluster Court (LDVCC)

This court was launched in 1999 and was the first court to adopt the cluster model in England and Wales. This court only deals with pre-trial hearings and the court sits one day per week, although three courts sit concurrently to deal with the volume of cases. A multi-agency approach has been adopted in developing this court. Advocacy support is provided for victims, by Help Advice and the Law Team (HALT) and a representative of this body and a Domestic Violence Police Officer are available at the Court(s).

The Process Map for the LDVCC

This is as follows:¹¹¹

- On arrest, custody sergeant would accept the charge for a domestic violence related offence – the charge sheet is stamped and identified as a domestic abuse case and the completed Victim Form is attached to the file.
- The file including the victim form is seen by the File Manager and then passed to the CPS.
- The Domestic Violence Co-ordinator for each Police Division receives copies of the Victim Form. When completing the Victim Form the police are required to ask if the woman would like help and advice from HALT. If the victim indicated 'yes', the co-ordinator would pass a copy of the Victim Form on to HALT. This system of referring does not preclude women from approaching HALT directly for help and support.
- The Court Listings office at the Magistrate's Court would receive a weekly list of domestic violence cases by fax from West Yorkshire Police.
- For monitoring purposes the Domestic Violence Co-ordinator would also be required to send copies of the Victim Form and the weekly list of cases sent through to Court Listings to the Inspector at Leeds Community Safety Unit (which is part of the working group).

The aims of the project were altered following the Narey measures that were designed to speed up progress through the criminal justice system. This led to the second appearance rather than the first being held in the dedicated court. The working group stipulated that wherever possible, all subsequent appearances should be in the dedicated court.

110 *ibid.*

111 Grundy, M. *et al.*, (2000), Leeds Domestic Violence Court Overview Report June 1999-June 2000, pp. 16-17.

Evaluation Of Leeds Domestic Violence Cluster Court¹¹²

This concluded that:

- It was strongly felt that the establishment of the LDVCC Project recognised the seriousness of domestic violence.
- A clear inconsistency was identified in the area of training and information provision between the initial conception of the project and the project year-end.
- The Victim Form was conceived as central to the project process, but had not been used consistently. The form was intended to perform a number of related tasks including a method of collating key information about the case and a referral tool for support agencies, such as HALT. It has been a successful referral tool (from the police to HALT) but has not been used in the dedicated court to provide additional useful information on behalf of victims. Clerks, Magistrates and Crown Prosecutors reported that they had yet to see this form or the information contained on it used in court, but that the information could be very useful.
- It would appear that the processing of domestic violence cases was speeded up by the introduction of the Leeds Domestic Violence Cluster Court. There was a significant reduction in the delay from charge to first appearance (from an average of 35 days to three days. The main reason for this appeared to be the effect of the Narey measures). There was a statistically significant reduction in the number of days between each subsequent hearing.
- Other objective outcome measures such as the level of charges brought, the nature of bail decisions and sentencing outcomes varied very little between cases heard in the project period and those heard in the comparison period.
- There were a number of ways in which cases could fail to be routed to the dedicated court if the police or the court failed to identify cases or cases could be routed to other courts and fail to be routed back at subsequent appearances. The inconsistent use of the Victim Form and the lack of any other co-ordinated monitoring systems meant that the extent of cases failing to be routed to the dedicated court could not be estimated.
- Women reported varying degrees of satisfaction with the agencies they came into contact with. Interviewees also reported a need for more comprehensive information dissemination in order to clarify the roles and responsibilities of different agencies.
- Interviews with women provided strong evidence that appropriate support, at appropriate times, was important in giving women an increased level of confidence and determination to take a case through the court process.
- Magistrates had not received the training that had been identified as necessary at conception of the LDVCC. It is noted that training of a range of personnel involved at all stages of the process would be beneficial. This training should address both awareness of the nature of domestic abuse and criminal justice responses to it and practical training relating to the process of the LDVCC.
- Where a pre-sentence report is requested, the Probation Service contacts women victims to seek the 'victim perspective'. This information is incorporated into the report prepared for sentencers.
- An ad-hoc working group was focussing on securing on-going funding for the work of HALT on the expiry of the National Lottery Charities Board funding.
- The presence of a police domestic violence co-ordinator at the LDVCC was at an advanced stage of planning.

112 *ibid.*

The launch of the Duluth Domestic Violence Pathfinder Programme by the West Yorkshire Probation Service offered Leeds Magistrates a new offending programme.

EXAMPLES OF A DEDICATED SPECIALIST COURT

Pilot Domestic Abuse Court In Glasgow

An example of this model is found in the pilot domestic abuse court in Glasgow. This court sat daily at 10.00am and 2.00pm when there was summary criminal business but only heard domestic abuse cases perpetrated by men or women against men or women. The court had its own programme including first appearance custody cases, intermediate diets (intended to be four weeks after the initial plea) and trials (intended to be within six weeks of the initial plea), reviews and deferred sentences.

The Process Map for this Court

This is as follows:

- Police officer attends incident and identifies case as domestic abuse. Attending officer asks if woman consents to being referred to ASSIST (advocacy service for victims).
- Police have guidance on enhanced evidence gathering including; tape of 999 call, speaking with neighbours if no witnesses to incident (e.g., will ask if saw woman earlier and if she had injuries etc).
- Police have particular responsibilities when children are present at a domestic abuse incident and must inform the Children's Reporter.
- Attending officer contacts ASSIST (if woman has consented) and the Domestic Abuse Liaison Officer aligned with the Family Protection Unit.
- ASSIST contact the victim within 24 hours by telephone. They provide information about the pending court appearance and carry out a risk assessment.
- Victim may also be contacted by VIA who will provide information about the criminal justice system, outcome of hearings and the roles and responsibilities of the criminal justice personnel.
- Risk assessment and any other relevant information, e.g. in respect of ongoing civil cases, custody of children, is included in a daily report by the advocacy service to the dedicated procurator fiscal depute.
- The case is 'marked', and the accused appears from custody.
- Information from the risk assessment, advocacy service and police will inform the procurator fiscal depute's decision on whether to oppose bail. This information will also inform bail conditions. At the appearance from custody the date of the intermediate diet and the trial diet will be set. The trial diet should be within six weeks.
- In the Glasgow pilot court, cases were clustered on the basis of whether they were appearances from custody, intermediate diets, trial diets or deferred sentences.
- Special provisions were made by SLAB in respect of the representation of accused appearing in this court (detailed in Chapter Three).
- Social enquiry reports were called for in most cases. Such a report is necessary before a probation order with a condition to attend CHANGE is possible.

- The advocacy service informed the dedicated procurator fiscal depute of the victim's attitude regarding reconciliation, custody of children etc. This information was then passed to the court.
- Multi-agency risk assessment (MARAC) conferences, called Multi-Agency Action Planning (MAAP), arranged by ASSIST were attended by police, a solicitor from local law centre and latterly the dedicated procurator fiscal depute.
- Links were maintained with the civil courts to ensure that bail conditions did not clash with civil protection orders or other relevant court orders.

Evaluation of the Glasgow Pilot Domestic Abuse Court

This concluded that:

- Case processing in the specialist court was quicker than in the comparison court. Intermediate diets were held within 29 Days in 76% of cases compared to 20% of cases in the comparison court. Nearly 75% of cases reached a trial diet within six weeks compared to 13% in the comparison courts.
- Guilty Plea at first appearance. Twenty-one percent of accused pled guilty at their first appearance from custody compared with 18% in the comparison courts. The reasons given by offenders for pleading guilty at this stage was recognition that they were guilty; the receipt of legal advice; to prevent a partner or child having to give evidence; to get help; to avoid being remanded or because the solicitor had negotiated reduced charges.
- Deferred sentence for those pleading guilty. Accused who pled guilty were more likely to be remanded in custody pending sentence than those in the comparison courts (22% as compared to 17%). Bail was granted in 66% of cases as opposed to 63% of cases in the comparison courts. In 5% of cases the accused was ordained to appear for sentencing as opposed to 19% in the comparison courts.
- Of those cases where the accused pled not guilty at the first appearance, bail was granted or continued in 81% of cases, refused in 13% of cases, a further 5% were returned to custody and accused were ordained to appear in less than 1% of cases. In the comparison court bail was granted in 83% of cases, refused in 11% of cases, the offender was returned to custody in 1% of cases and ordained to appear in 5% of cases.
- Where bail was granted following a guilty or not guilty plea, special bail conditions were imposed (in 75% of guilty pleas and in the 'large majority' of cases where the accused pled not guilty).¹¹³
- One third of accused in the domestic abuse court changed their plea before or at the intermediate diet, to guilty. This compares favourably to 27% in the comparison courts.¹¹⁴ Reasons given by accused for changed pleas were similar to those given for initial guilty pleas, noted above.
- Case attrition levels were lower than comparison courts.¹¹⁵ It is suggested that this is due to: the increased level of guilty pleas prior to trial; the standard response from the dedicated procurator fiscal depute to requests by the victim that the case be dropped namely, to stress the seriousness of the issue, the public interest involved and to recommend that the victim seek advice from ASSIST or another agency; improved police response and evidence gathering; and the support provided to victims which may make victim retraction less likely.

113 Reid Howie Associates, (2007), Evaluation of the Pilot Domestic Abuse Court, (Edinburgh: Scottish Executive Justice Department), p. 35.

114 *ibid.* p. 35.

115 *ibid.* pp. 47-48.

- 65% of cases which proceeded to trial resulted in the accused being found guilty, as compared to 42% for the comparison court.
- The most common disposal used by the court was a probation order (34%); admonishment (28%), imprisonment (18%), fine (18%) and Community Service Order (4%). In the comparison court the most disposals used were fines (43%), admonishment (25%), imprisonment (17%) and probation orders (16%).¹¹⁶
- The typical length of a probation order was longer, fines tended to be larger and custodial sentences longer in the domestic abuse court than comparison courts.
- Domestic abuse court probation orders were often accompanied by conditions, e.g., attendance at the CHANGE programme (73 cases), alcohol counselling (82 cases) which included 15 specific referrals to ACE (Alcohol, Crime and Education), drug counselling (10 cases), 218 project (five women had attendance at this project as a condition).¹¹⁷
- During the pilot period Glasgow City Council Social Work Department ran eight CHANGE programmes. Six of these accepted offenders from the domestic abuse court.¹¹⁸
- A high level of satisfaction was recorded in respect of police responses to victims and the actions of the Sheriff, the dedicated procurator fiscal depute and the ASSIST service.¹¹⁹
- There was some evidence of variation in response from some police officers and other dedicated staff.¹²⁰
- There was some concern with the actions of some defence agents.
- Some limitations to the use of enhanced evidence, such as photographs, impacted on the work of the court.
- There were some concerns with aspects of victim's and witnesses protection and safety at various stages, which impacted on their experience.
- A range of gaps in the provision of information and support to some victims (particularly those who did not have access to ASSIST) and witnesses, and gaps in provision to some alleged offenders, at various stages, impacted upon their experiences.
- Overall, the operation and outcomes were seen to have been very positive and to have addressed many of the problems identified with the traditional court response to domestic abuse.

West London Magistrates Court (WLMC)

The Specialist Domestic Violence Court (SDVC) at WLMC is co-ordinated by Standing Together against domestic violence multi-agency partnership. The court is the first SDVC in England and Wales to hear pre-trial reviews and trials. The court takes cases from the two London boroughs of Hammersmith and Fulham and Kensington and Chelsea. The court only deals with criminal business. The court sits on Thursdays to hear pre-trial reviews in the morning and trials in the afternoon. Key features of the SDVC arrangements as outlined in the written protocol established by the court are:

- A commitment by police to attend court for bail hearing and trials as well as deal with matters over the telephone.

116 *ibid.* pp.39-40

117 *ibid.* pp.39-40

118 *ibid.* pp.39-40

119 *ibid.* p.43

120 *ibid.* p.44

- The court was set up after many years of addressing co-ordination of response to incidents from police call out onwards.
- Advocacy support is offered by ADVANCE Advocates in Hammersmith and Fulham and Eaves Women's Aid in Kensington and Chelsea who attend court to offer support to victims/witnesses and to collect results in their relevant cases.
- ADVANCE and Eaves take referrals from the police and can offer pre-court support, including pre-court visits if required and they also act as a conduit of information between victims/witnesses and the police, e.g. passing information about civil orders to the police and informing them of any harassment.
- Police, ADVANCE and CPS train agencies together.
- The Witness Service (WS) is committed to providing support to all witnesses and can provide pre-court orientations. It has also agreed to meet victim/witnesses when they attend court and by prior arrangement, to arrange separate entrances. WS also keep victim advocates and police informed of any changes in bail (using specific forms). WS also has an information role in respect of outcomes of completed cases.
- Kensington and Chelsea Victim Support play a pre-court support/information gathering role. While they can attend the court in exceptional circumstances, the normal procedure is to refer to WS.
- WLMC is committed to ensuring that District Judges, Magistrates, legal advisers and staff have received domestic violence training. It is committed to fixing trial dates within 28 days of a not guilty plea and recording reasons when this is not possible.
- The CPS is committed to assigning prosecutors to the SDVC who are appropriately trained and experienced in domestic violence cases.
- Probation is committed to providing a qualified probation officer for the court on Thursday mornings whenever possible.
- A significant feature of the court is the arrangement with Inner London and City Family Proceedings court to obtain information about civil orders. A running log of civil orders is maintained and available to the SDVC for cross checking against defendants who appear in the SDVC.
- One group of participants who were not involved in the setting up of the SDVC were defence lawyers and this was later identified as an issue.

A complete process map for this Court was not available. Cases that fall within the agreed definition of domestic violence, set down in the SDVC protocol, are flagged for inclusion by a 'green sticker' system. The police should put a green sticker on the charge sheet and the CPS should endorse the file jacket and the court place a green sticker on the court file. The CPS and court are proactive in marking cases the police have overlooked. It is clear that cases are clustered into pre-trial hearings on a Thursday morning and trials in the afternoon. There is no mention of cases being fast-tracked. The evaluation of the court after one year noted that interagency working was very beneficial, the partners had developed effective protocols and procedures for monitoring and evaluating the court, the court had reduced delay up to the point of listing for trial through effective case management, the mean number of cases per hearing had been reduced, the court had been effective as part of a package of initiatives to reduce repeat victimisation and the court was generally positively evaluated by survivors of domestic violence, particularly in terms of advocacy support.¹²¹

121 Cook, D., *et al.*, (2004a), *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, (London: Crown Prosecution Service), pp. 61-65.

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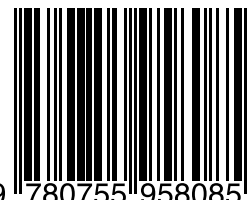
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RR Donnelley B56683 06/08

ISBN 978-0-7559-5808-5



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