



**domestic
abuse
commissioner**

Government’s Consultation on the Statutory Guidance for the Controlling and Coercive Behaviour Offence: Response from the Domestic Abuse Commissioner for England and Wales

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Introduction

About the Domestic Abuse Commissioner

The Domestic Abuse Act establishes in law the Office of the Domestic Abuse Commissioner to provide public leadership on domestic abuse issues and play a key role in overseeing and monitoring the provision of domestic abuse services in England and Wales. The role of the Commissioner is to encourage good practice in preventing domestic abuse; identifying adult and child victims and survivors, as well as perpetrators of domestic abuse; and improving the protection and provision of support to people affected by domestic abuse from agencies and government.

Why it is so important to get the Statutory Guidance for the Controlling and Coercive Behaviour Offence right

The Statutory Guidance will be the primary document that agencies use in order to guide their response to domestic abuse and interpret the new Controlling and Coercive Behaviour (CCB) offence. It aims to provide clear information on what CCB is in order to assist with its identification; provide guidance and support to frontline professionals, who have responsibilities for safeguarding and supporting victims of domestic abuse; and to improve the institutional response to domestic abuse by conveying best practice and standards for commissioning responses.

The Domestic Abuse Commissioner warmly welcomes this consultation stage and commends the excellent starting point for this guidance which has been drafted by the Home Office. However, there is still more work to be done in order for this document to truly meet its objectives and enable a safe and effective response to domestic abuse from agencies.

Most crucially, the guidance must advise that all domestic abuse investigations should include examination of CCB. It must also make clear that CCB behaviours can be perpetrated against children, despite this offence being charged under Section 1 of the Children and Young Persons Act. It must also be clear that police officers should offer victims guidance on the types of protective orders available to them when attending call outs, or when victims and survivors report CCB and other domestic abuse offences. The guidance must also include non-fatal strangulation as an example of physical abuse which could constitute CCB. Finally, The CCB guidance should be inclusive of all different specialist advocacy services, and move away from the 'IDVA only' approach.

Within this consultation response, we have set out our key recommendations at the start, followed by detailed comments on each section of the draft guidance. We have arrived at our recommendations and comments through ongoing engagement with domestic abuse and relevant subject specialists, as well as the many victims and survivors of domestic abuse who continue to bravely share their experiences with us.

Key recommendations

I am making the following recommendations for the proposed revisions to the CCB Guidance. Revised guidance should:

1. Stipulate that all domestic abuse investigations (be they criminal investigations or wider e.g. Family Court Fact Finding) should include examination of CCB as it defines the systemic and ongoing cycle of abuse that victims and survivors face. This would also benefit the upskilling of professionals in the identification and understanding of domestic abuse, as well as increasing the likelihood of CCB convictions.
2. Make clear that CCB behaviours can be perpetrated against children. However, this offence would be charged under Section 1 of the Children and Young Persons Act. It must also make clear that children can be used to exert control over the person experiencing domestic abuse.
3. Require police officers to offer victims guidance on the types of protective orders available to them when attending call outs, or when victims and survivors report CCB and other domestic abuse offences
4. Include the new offence of non-fatal strangulation as an example of physical abuse which could constitute CCB.
5. Include all different specialist advocacy and support services, and move away from the 'IDVA only' approach

Overview of DAC comments

Section 2: Criminal Justice Response

Types of behaviour

(22) We recommend amending the wording to reflect that CCB can happen without any physical or sexual abuse.

(26) We recommend including repeated applications to family courts.

Identifying the offence

(27) We welcome that this paragraph recognises that domestic abuse can impact anyone. However, this paragraph should also reflect that women and girls are at greater risk of experiencing domestic abuse.

(28) We agree with SafeLives recommendation to include a section on the importance of identification of the perpetrator. A perpetrator may represent

themselves as a victim to the police as a tactic of CCB, causing the victim to lose trust with the police and criminal justice system.

Conducting appropriate risk assessments

We agree with the SafeLives recommendation to add reference to formal risk assessment tools, such as DASH-RIC, which draws on research from previous cases and what victims say, to develop a checklist of questions professionals can ask to assess risk.

(37) We recommend strengthening “it is important, therefore, that the offence is considered...” to “CCB must always be considered as part of any investigation into domestic abuse.”

(38) We recommend further information on what a “thorough approach” looks like – we consistently see a lack of consistency to first response and the identification of a pattern of incidents and behaviours.

(39) We recommend adding: “In addition, CCB should be considered in relation to the children directly, but also with regards to the children being used to exert control over the person experiencing domestic abuse.”

(40) We recommend strengthening “officers must be able to recognise controlling or coercive behaviour as it can be a warning sign/risk of future violence towards the victim.” CCB should always be considered in all cases of domestic abuse, as part of the assessment of potential escalation in risk to all impacted parties.

(41) We recommend including an example of repeated applications to the family courts.

(43) We strongly recommend amending “it is also important to consider providing information about support services,” to “support services should always be offered.”

(48) We recommend adding the importance of the victim survivor having access to an independent advocate.

(49) We recommend rewording this paragraph. The guidance should encourage police officers to assess the vulnerability of the victim survivor, and their ability to give an accurate statement.

Types of evidence

(51) We recommend including evidence of protective orders such as a Non-Molestation Order, Prohibited Steps Order, DVPO, etc.

Perpetrator tactics

We support Drive’s recommendation that the guidance reflects that Police-led multi-agency forums should be established to coordinate responses to the most harmful perpetrators. These will be attended by public bodies and will share information to

keep victims safe and seek to assist in recognising behaviour where perpetrators are seeking to manipulate professionals services and agencies as a continuation of their CCB.

(64) We recommend adding that perpetrators can also present themselves as being the 'victim' of domestic abuse. We also recommend adding more emphasis on how these behaviours can themselves amount to CCB, thinking about how the interventions by systems such as social care often cause harm to victims, and malicious reports and allegations exacerbate this.

Furthermore, under 'Threats and Intimidation', we recommend leading with threats of violence and threats to kill.

Under 'manipulation', we would recommend adding regularly breaching family court orders, repeatedly bringing vexatious litigation against the victim, and threatening to or refusing to pay child maintenance.

We would recommend a much stronger approach. All domestic abuse cases should include CCB as part of all investigations, as it defines the systematic and ongoing cycle of abuse. This would also aid the upskilling of officers in identification and understanding of domestic abuse, as well as increasing the likelihood of CCB convictions.

Where the offences do not apply

(74) We would recommend changing the wording to reflect that CCB behaviours can be perpetrated against children, despite the offence being charged under Section 1 of the Children and Young Persons Act as opposed to the Domestic Abuse Act. The current wording insinuates that CCB cannot be perpetrated against children.

Section 4 – Criminal penalties and protection orders

(81) We recommend adding a line to reflect that police officers should offer victims guidance on the types of protective orders available to them when attending call-outs or when victims and survivors report these offences.

Section 5 – Multi-agency response

Before the section on 'how services can assist', we recommend referencing the [Coordinated Community Response to Domestic Abuse](#) as a good practice example. We recommend adding in "To tackle domestic abuse effectively, it is vital that every statutory and voluntary service plays their part in the Coordinated Community Response, working together to keep victim and survivors of domestic abuse safe, prevent harm, and tackle the behaviour of perpetrators of domestic abuse.'

How support services can assist

(87) We would recommend beginning the paragraph with '[As well as the vast array of community and accommodation-based support that specialist services provide], support services can...'

We also suggest adding to the second sentence ‘Providing specialist support can assist in [enabling the victim to feel safe and empowered to continue with criminal proceedings], preventing the victim from...’

(88) We would recommend changing the wording to move away from the ‘IDVA only’ approach, instead should refer to ‘specialist advocacy services’ or ‘specialist DA advocates.’

(88) We would also recommend that this section references the specialist support services that the police can make referrals to (listed in revised Annex F).

(89) We recommend changing the wording to say that ‘The abuse experienced by victims by their abuser sometimes means that they feel unable to end the relationship.’ We would also recommend including a line to reflect that Victims often stay in the relationship as a means of managing their own risk or risk to others, as a result of the increased risk when leaving an abusive relationship.

We recommend removing any reference to ‘abusive relationship’ from the guidance, as this detracts responsibility from the perpetrator,

Furthermore, we recommend including reference to the cycle of the abuse and perpetrator tactics and trauma responses. Victims may be triggered in many ways and return to the relationship to manage their safety.

We would also recommend wording changes to ‘show reluctance’ – by changing this to ‘choose not’ and changing ‘stay’ to ‘remain.’

Finally, on the last bullet, where there is reference to appropriate risk management, we would recommend broadening the language to allow for more circumstances, by referring to risk assessment and safety planning / protective measures instead. This is due to the fact that ‘risk management’ often only happens in the most serious high-risk cases.

How other services and agencies can assist

We would recommend adding another point to this section, which reflects the role that other agencies can play in providing training and guidance to the police on CCB. The Domestic Abuse Commissioner recommends that the police should get as much training as possible on understanding CCB.

(91) The first sentence suggests that agencies should share relevant information with the police. However, we would recommend amending the sentence to bring out that there is also a need for the police to share relevant information with other agencies to facilitate safeguarding.

(92) Recommended wording amends are to include ‘The police, alongside other agencies [such as schools and social care], can play an important role...’

We would also recommend adding examples such as Operation Encompass and Clare's Law.

(93) We would recommend an addition taking into account Josh Macalister's recommendation in the Review into Children's Social Care, to set expectations on multiagency capabilities for child protection and the National Children's Social Care Framework should set out effective practice models for joint working.

Section 6 – Related harms, offences and other subsets of domestic abuse

Harassment or stalking

(95) Through the extension of the offence of CCB to non-cohabiting ex-partners or family members through the Domestic Abuse Act 2021, serious questions have been raised as to how CCB will be differentiated from stalking offences. As a result, there is a severe risk that stalkers could be mischarged with coercive control, which is a lesser offence. This is extremely concerning, given the high risk posed by stalking to victims and survivors. We would recommend strengthening the guidance, to add further details on the differences between the offences of controlling or coercive behaviour and those of harassment and stalking including case study examples. There needs to be stronger emphasis on the differences focusing on the power and control elements of coercive and controlling behaviour and behaviour which extends post separation; recognising that stalking and harassment is a feature within this pattern of behaviour making it clear that both offences can be charged. This should ensure that the police are confident in charging perpetrators with the right offence to better safeguard victims and survivors.

Domestic homicide and suicide

(102) We recommend the addition of risk factors associated with Adult Family Homicide and recognition of the impact CCB can have with regards to adult family violence. Research by [MMU2621-Briefing-paper-Adult-Family-Domestic-Homicide_V5.pdf \(domestichomicide-halt.co.uk\)](#) highlighted the focus on intimate partner violence within current risk assessments. Of 66 cases of AFH analysed within the study 48.5% had a history of criminal offense related to DVA, frequently perpetrated towards and intimate partner. DVA was not always recognised outside of intimate partner relationships. We would welcome inclusion of the need for professional curiosity in assessing concerns and risk factors which may relate to CCB within an adult family context.

(106) We recommend adding a line to reflect that stalking and harassment are a feature of post separation abuse.

(109) We recommend the inclusion of Non-Fatal strangulation in this section, as a well-evidenced tool of controlling and coercive behaviour.

(117) We agree with the recommendation of Surviving Economic Abuse to add in statistics to show the prevalence of economic abuse.

Research carried out by Surviving Economic Abuse (SEA) found that

- 95% of women who experience domestic abuse report experiencing economic abuse
- 60% of domestic abuse victims are in debt as a result of economic abuse
- Those accessing a specialist financial support line for victims of domestic abuse with financial difficulties (run by SEA in partnership with Money Advice Plus) had an average of five creditors

(120) We recommend adding that a further example of where a victim can be prevented from claiming benefits can be where a perpetrator controls claims for child benefit.

Section 7 – Related Considerations

(138) We recommend making access to legal aid a separate point given that it is a barrier for victims and another opportunity for CCB by perpetrators. The Legal Aid Means Test Review provides the crucial opportunity for the Government to implement measures to ensure that all victims and survivors of domestic abuse have access to justice. The Domestic Abuse Commissioner believes that all victims and survivors of domestic abuse should be exempt from being means-tested for legal aid. Rather, where someone has experienced domestic abuse, they should automatically be granted state-funded legal support.

Gender and Sex

(179) We recommend amending this line, the wording is unclear.

Sexual orientation and transgender identity

Transgender victims and survivors should be referenced in the section on gender and sex, as opposed to the section on sexual orientation.

(184) We recommend adding an addition to reflect that where services lack the skills to assess risk referrals, there is an increased risk of uncertainty. In same sex homicides, often victims and perpetrator language has been used interchangeably leading to victims not accessing the appropriate support.

Annex F – Support available for victims

In line with the Domestic Abuse Commissioner's response to the consultation on the statutory guidance for the Domestic Abuse Act 2021, we recommend the following changes on the support available.

We recommend adding Rape Crisis, Rights of Women and lovingme.uk to Annex F

(Freephone 24-hour National Domestic Abuse Helpline) This is the national helpline for England – we recommend that this is stated more clearly.

We also recommend that the WWA helpline should be listed directly below this, rather than in a separate section on Wales as these are the key prominent helplines for adult victims in England and Wales.

(Ask for ANI) We recommend that this is removed as it is an initiative, not a service offering advice.

(IMKAAN) We would recommend removing IMKAAN as they are a membership organisation which represents services for black and minoritized victims and survivors. IMKAAN does not provide a service.

(Men's Advice Line) We recommend crediting the organisation who provides this helpline. We recommend changing the wording to 'RESPECT – Men's Advice line for male victims of domestic abuse.' This is the funded national helpline and should be characterised as the key point of contact.

(National LGBT+ Domestic Abuse Helpline) We recommend crediting the organisation which provides this helpline. In this case it is GALOP.

(National Stalking Helpline) We recommend crediting the organisation which provides this helpline. In this case it is the Suzy Lamplugh Trust.

(Refuge) We recommend taking this out as they are a provider.

(Respect) This should be listed as RESPECT, and as a phonenumber for those who are concerned about their own behaviour.

(Solace Women's Aid) We recommend removing this as they are a provider.

(Surviving Economic Abuse) We recommend using this link: <https://survivingeconomicabuse.org/financial-support-line/>. This is a service which is provided with Money Advice, which is the actual helpline. The original link is to the Surviving Economic Abuse website, who are not a service provider.

(Women's Aid) As Women's Aid is a membership organisation, we recommend highlighting Women's Aid's webchat service, linked here:

https://chat.womensaid.org.uk/?_gl=1*1xtron6*_ga*MTkxNTMwNzE1LjE2NTU5OTU5MzE.*_ga_C8H9JGBD77*MTY1NTk5NTkzMC4xLjEuMTY1NTk5NTk0My4w

as Women's Aid is a membership organisation.

(Welsh Women's Aid) We recommend removing this as they are a membership organisation. However, they provide the Live Fear Free helpline which should be listed in its place.