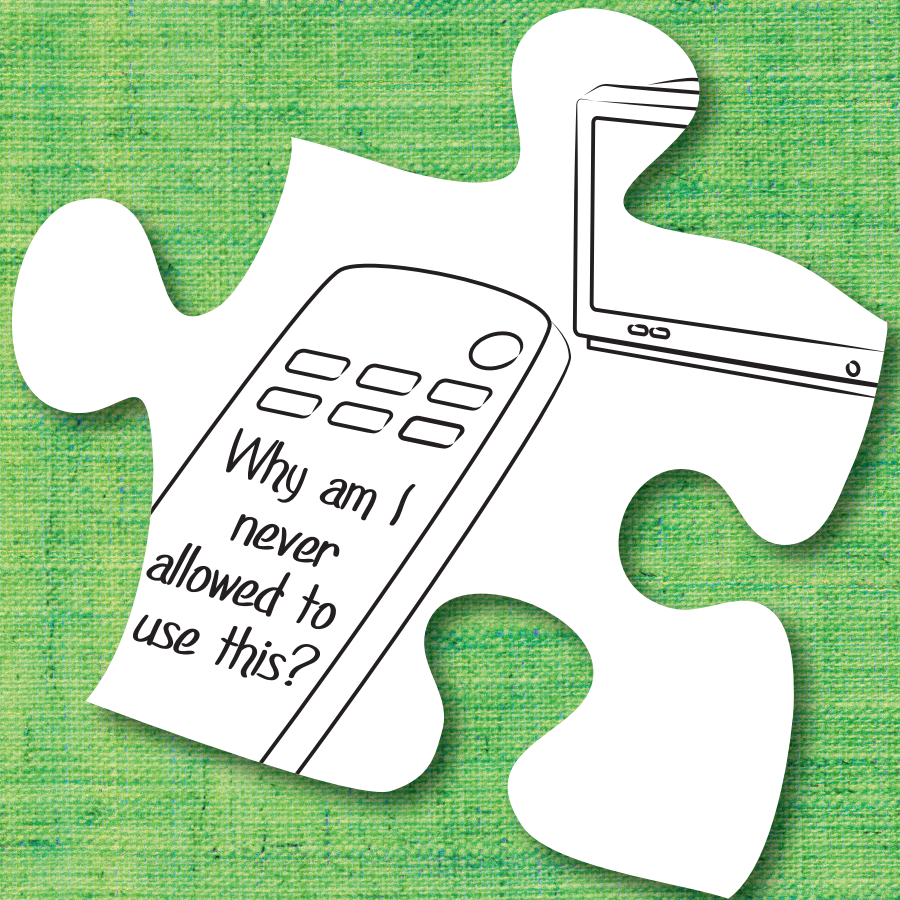


MIND THE GAP!

**IMPROVING
INTERVENTION IN
INTIMATE PARTNER VIOLENCE
AGAINST OLDER WOMEN**

Recommendations for Police and Crown Prosecution Service Guidance



Recommendations for Police and Crown Prosecution Service Guidance

This document contains material recommended for inclusion in police and Crown Prosecution Service guidance and policy documents which are applicable to intervening in intimate partner violence against older women (in England and Wales).

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Introduction

This document contains material which is recommended for inclusion in guidance and policy documents 'owned' by police and CPS. It has been developed by the 'Mind the Gap!' project team in consultation with the Association of Chief Police Officers (ACPO) – Domestic Abuse, Honour Based Violence, Stalking & Harassment Portfolio, ACPO – Violence, Public Protection & Risk Portfolio, the College of Policing (formerly NPIA), the CPS Policy Unit and the CPS Violence Against Women & Girls portfolio.

'Mind the Gap!' is a Europe-wide project involving institutions from Germany, Poland, Hungary, Portugal and Austria as well as the UK, which pursues the following aims:

- Gain further insight into possible efficient, effective and adequate interventions and support by law enforcement agencies in respect of intimate partner violence against older women (IPVOW)
- Raise awareness within law enforcement and social support agencies about older women as victims of intimate partner violence (IPV)
- Encourage agencies to tackle the problem and to improve outreach to this subgroup of victims
- Build the capacity of law enforcement and social support agencies to respond and intervene successfully in cases of IPVOW

It follows on from the 2010 *Intimate Partner Violence Against Older Women (IPVoW)* project¹ which found that the highly complex issue of Intimate Partner Violence (IPV) is often further compounded by the dynamics of ageing - a factor which is frequently not recognised or sufficiently understood by law enforcement and social support practitioners.

For the purpose of this document, the term 'older women' refers to women aged 60 years and over; 'IPV' includes sexual abuse and harassment, emotional, verbal & psychological abuse, financial abuse and exploitation, coercive control, stalking and neglect, as well as physical violence (assault). These definitions were established to ensure a consistent approach to research and common understanding throughout the project.

UK-based research undertaken by the 'Mind the Gap!' project primarily comprised a study of 150 police files; all of them were quantitatively analysed, and 30 were subject to in-depth (qualitative) analysis. This was complemented by national workshops for social support practitioners/specialists and also for law enforcement professionals.

It is recommended that the contents of this document are disseminated for consideration throughout the ACPO portfolios and CPS Policy Unit, with a view to inclusion in the appropriate guidance and policy material.

This paper will therefore not dwell upon existing protocol or on the common features of domestic abuse/violence *per se*, but will instead focus on those concerns which appear specific to older women victims.

¹ Nagele B, Bohn U et al. (2010) *Intimate Partner Violence Against Older Women*. Gottingen: EC

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Understanding Intimate Partner Violence against Older Women (IPVOW)

Incidents of domestic abuse/violence are typically challenging and difficult to resolve, but those which involve older women victims of intimate partner abuse may be further complicated by the accompanying age-related issues.

There is a likelihood that victims and offenders may have had intimate relationships spanning many years; some victims will have experienced abuse over a long period of time and hidden the fact until health and/or social care practitioners become involved in later life. This may be because their ability to withstand such abuse or to recover from incidents is compromised by other co-existing conditions. For other older women, the abuse may be much more recent, perhaps coinciding with caring for (or being cared for by) their intimate partner, or relating to unfulfilled expectations of retirement and later life.

Conversely, the research also revealed many instances where older women in new or relatively short-term relationships had become victims of intimate partner abuse; this was not always related to a prior history of violence or abuse within relationships.

Whatever the circumstances, however, later life may bring intrinsic obstacles to successful intervention, such as reduced resilience to violence, general health issues relating to the wellbeing of victims and offenders, factors affecting the decision making capacity of victims and offenders, and failure by victims to identify mistreatment as abuse. Older women may not be aware of the existence of domestic abuse support services; even the influence of adult children can impact upon the outcome of such a situation.

The significance of tackling offences against (and protecting) vulnerable adults should not be overlooked; local arrangements for adult safeguarding, in particular, can be very relevant to cases of intimate partner abuse against older women. In such circumstances adult safeguarding should be used in conjunction with, rather than as an alternative to, dealing with the incident as domestic abuse within a criminal justice context.

It is recommended that individuals tasked with the management of relevant portfolios, or responsible for the maintenance of such, also consider the following '*Mind the Gap!*' products (available at www.uea.ac.uk/mindthegap):

- Training Material for Police and the Crown Prosecution Service
- UK National Report
- Guidance for Social Support Organisations

Police-Related Guidance Recommendations

The recommendations are presented in role-specific clusters to facilitate consideration for inclusion in the appropriate guidance/policy documents

Advice for call handlers (including crime recording and control room operatives), public enquiry office staff and PCSOs

- Understand that a victim may not be contacting the police to report an incident, but simply to talk to someone or to seek advice (e.g. query whether her partner is eligible or suitably qualified to administer medication). Therefore the onus will be on you to undertake an initial investigation in order to correctly identify risks, any potential offences and to ensure that the appropriate action is taken
- Understand that a victim may not recognise the mistreatment she is experiencing as intimate partner violence (particularly if it does not feature an act of overt physical violence). Once again, the onus is on you to ascertain the full circumstances and to identify any initial risks
- Be wary if the victim's partner intervenes (no matter how convincingly) and attempts to negate any allegations on the grounds that the victim does not have sufficient mental capacity to understand what has occurred. Psychological control is an important contributory factor of intimate partner violence
- A call or other contact from the victim might be the first and only opportunity for intervention; it is therefore necessary to maintain an investigative mindset regardless of the initial nature of the call

Advice for police officers attending the scene or report of an incident

- Recognise the significance of the initial investigation as being possibly the only opportunity for a victim to disclose the extent of abuse, and to be provided with information about support - whether for immediate intervention or leaving the door open for the victim to seek help in the future
- Do not be overly influenced by the age and perceived ill-health of an offender. Apparently frail and confused individuals may nevertheless be capable of extremely violent conduct and manipulative coercive control. It is therefore important to take positive action and investigate the circumstances fully
- Do not be overly influenced by the age and perceived or alleged ill-health of a victim. Even when this is likely to cause numerous barriers to an investigation, alternative lines of enquiry and investigative tactics should be considered, to ensure that the circumstances are fully established and appropriate actions taken
- Be wary if the victim's partner intervenes (no matter how convincingly) and particularly if he/she attempts to negate any allegations on the grounds that the victim does not have sufficient decision-making capacity to understand what has occurred. Psychological control of the victim and situation is often an important contributory factor of much intimate partner violence

- Be prepared to challenge explanations or assumptions regarding the mental capacity or physical incapacity of the victim, particularly if such information is provided by her partner. Consider obtaining specialist advice, assessment or medical evidence before confirming a victim's health status (either physical or mental)
- Be prepared to challenge explanations or assumptions regarding the mental capacity or physical incapacity of the offender, particularly if such information is provided by a victim who is also a carer and may therefore feel very protective. Offenders may believe that it is in their best interests to present themselves as being 'incapable'. Consider obtaining specialist advice, assessment or medical evidence before confirming an offender's health status (either physical or mental)
- Any action should be based on a 'duty of care' to the victim, which might not always be consistent with the victim's apparent wishes (particularly if the victim is also the offender's carer or receiving care from the offender). There is evidence to suggest that older women are sometimes relieved at not being solely responsible for the continuation or outcome of police intervention
- It is likely that many incidents will necessitate use of adult safeguarding protocols and may also classify as potential 'elder abuse'. In such circumstances, it is vital that elements of intimate partner abuse are not overlooked, but remain a significant aspect of any investigation and subsequent crime-recording processes. Safeguarding and the investigation of domestic abuse are complementary actions, not alternative options
- Remain mindful of the range of conduct which amounts to abuse, particularly coercion, financial abuse and neglect, as these appear to be under-reported and/or under-recorded
- Have a working knowledge and understanding of the Mental Capacity Act 2005, particularly the implications of the '*unwise decision*', the key principles of '*presumption of capacity*' and '*support to make decisions*'. Also recognise that the criminal offence regarding '*ill-treatment or wilful neglect by a carer*' (s44) can be applied to perpetrators of IPV
- Be fully conversant with the powers provided by legislation, particularly:
 - Serious Organised Crime and Police Act 2005 (s110)
 - Police and Criminal Evidence Act 1984
- Be careful to use wording which is appropriate for older women, particularly when questioning matters concerning control, coercion, sexual abuse, financial abuse or neglect. The victim's socialisation and life experiences may be such that she perceives her partner's authority as legitimate and 'normal', and she may therefore not recognise such conduct as being abusive
- Do not rely exclusively on information from the victim when completing the risk assessment, particularly if decision-making capacity may be an issue. It may be necessary to seek specialist assistance, or to conduct further enquiries with individuals who have knowledge of the victim and/or offender. In such instances the legal obligations of seeking consent should be considered, prior to any contact with third parties

Advice for detectives and public protection specialist officers

- Be vigilant in identifying and recording any circumstances which amount to intimate partner abuse, particularly those which involve control, coercion and neglect
- Regard adult safeguarding and investigations of IPVOW as complementary actions, not alternative options
- Be wary of any prior assumptions by colleagues regarding the mental capacity or physical disability of victims or offenders. Consider obtaining specialist advice, assessment or medical evidence to support or negate such perceptions and if these prove necessary, access them as soon as practicable so that the investigatory process is not delayed
- Ensure that all possible safeguarding action has been taken (including non-mandatory referral) where incidents are not regarded as high or even medium risk. The likely impact of further incidents should be considered as part of the assessment process
- Always be mindful of the limitations of partner agencies in providing support and services to victims. For example, the eligibility framework/criteria for adult social care may fail to identify a victim as being suitable for social care intervention; likewise, few refuges are suitable to accommodate older women. Nevertheless you should be prepared to offer appropriate or alternative forms of support to victims
- Recognise the potential value of conditional cautions as a means of case disposal
- Recognise the value of restraining orders and 'bind-overs' when presenting cases to CPS
- Have an in-depth knowledge and understanding of the Mental Capacity Act 2005, particularly the implications of the '*unwise decision*', the key principles of '*presumption of capacity*' and '*support to make decisions*' in addition to recognising that the criminal offence regarding '*ill-treatment or wilful neglect by a carer*' (s44) can be applied to perpetrators of IPV
- Consider the relevance of the Criminal Justice Act 2003 (s103) which allows a perpetrator's 'bad character' to be given in evidence, providing it demonstrates a propensity to commit a particular type of offence
- Consider the opportunities provided by the Protection from Harassment Act 1997 (s1) when dealing with some allegations of coercive control

Advice for supervisors, managers and policy owners

- The timely review and scrutiny of risk assessments by specialist officers is an example of good practice, particularly in relation to identifying any oversights in cases involving older women victims
- Removal of 'tick box' sections from risk assessment documentation places the onus on officers to explore all the issues as fully as possible, something which is often essential in cases involving older women victims
- Confidential units have a valuable role to play in processing intelligence regarding intimate partner abuse against older women, bearing in mind the increased likelihood of intervention by other organisations in intimate partnerships involving older women victim

CPS-Related Recommendations

The following recommendations are presented in function-specific clusters to facilitate consideration for inclusion in the appropriate guidance/policy documents

Initial Referral/Consultation with Police

It is likely that the police will have investigated any allegations in addition to tackling the perceived risks to a victim (eg adult safeguarding) during the early stages of an enquiry. Only a proportion of cases are then referred to CPS, primarily when a decision is necessary regarding continuation, discontinuation or other disposal.

Nevertheless, the CPS has a core role to play in advising or challenging police investigations; it is therefore recommended that the following issues are considered by CPS lawyers when a case of intimate partner violence against an older woman is referred to them:

- Not all victims recognise that the mistreatment they are experiencing is intimate partner violence. Consequently one should ensure that all investigations have fully explored coercion, intimidation, financial abuse and neglect, as these appear to be under-reported and/or under-recorded, yet often occur alongside physical or sexual violence
- Be wary of explanations by victims' partners which attempt to negate any allegations on the grounds that the victim does not have sufficient mental capacity to understand what has occurred. Psychological control is an important contributory factor of most intimate partner violence
- Recognise the significance of the initial investigation as being possibly the only opportunity for a victim to disclose the extent of abuse, and to be provided with information about support - whether for immediate intervention or leaving the door open for the victim to seek help in the future
- The need for 'special measures' should be considered at the earliest opportunity. This is particularly relevant in the likelihood of the victim having to attend court to give evidence. It not only provides a framework on which to base a decision regarding continuation of a case, but allows a further opportunity for a victim to express any concerns or highlight any particular needs

Victim Aspects

- Do not be overly influenced by the age and perceived or alleged ill-health of a victim. Even when this is likely to cause numerous barriers to an investigation, alternative lines of enquiry should be considered, to ensure that the circumstances are fully established and appropriate actions taken
- Be prepared to challenge explanations or assumptions by police officers regarding the mental capacity or physical incapacity of the victim, particularly if such information has been provided by her partner. Consider obtaining specialist advice and medical evidence to confirm a victim's health status (either physical and/or mental). Also consider if there is sufficient other evidence to proceed without relying on evidence from the victim

- If an older woman lacks capacity to make a decision in relation to the case, ensure that any appointed representative (or advocate) has been consulted in accordance with the Mental Capacity Act 2005

Offender Aspects

- Do not be overly influenced by the age and perceived ill-health of an offender. Apparently frail and confused individuals may nevertheless be capable of extremely violent conduct and manipulative coercive control. Consider obtaining specialist advice, assessment or medical evidence to confirm an offender's health status (either physical and/or mental)
- Be prepared to challenge explanations or assumptions by police officers regarding the mental capacity or physical incapacity of the offender, particularly if such information is provided by a victim who is also a carer and may therefore act very protectively. Additionally offenders may believe that it is in their best interests to present themselves as being 'incapable'. Consider obtaining specialist advice, assessment or medical evidence to confirm an offender's health status (either physical and/or mental)

Decision-Making

- Ensure that all decisions are based on a 'duty of care' to the victim and acknowledge that this might not always be consistent with the victim's apparent wishes (particularly if the victim is also the offender's carer or receiving care from the offender). There is evidence to suggest that older women are sometimes relieved at not being solely responsible for the prosecution of their partners. This is also relevant to the 'public interest' notion of sending out a clear message that intimate partner violence against older women will not be tolerated
- Recognise that 'access to justice' is an indicator of the status of older women and the regard in which they are held by society
- Have an in-depth knowledge and understanding of the Mental Capacity Act 2005, particularly the implications of the '*unwise decision*', the key principles of '*presumption of capacity*' and '*support to make decisions*'. Also recognise that the criminal offence regarding '*ill-treatment or wilful neglect by a carer*' (s44) can be applied to perpetrators of IPV
- Consider the relevance of the Criminal Justice Act 2003 (s103) which allows a perpetrator's 'bad character' to be given in evidence, providing it demonstrates a propensity to commit a particular type of offence
- Consider the opportunities provided by the Protection from Harassment Act 1997 (s1) when dealing with some allegations of coercive control

Cautions etc

- Explore the advantages and disadvantages of recommending cautions for perpetrators of intimate partner violence against older women and consider risk(s) carefully
- Recognise the potential value of conditional cautions as a means of case disposal

Prosecutions

- Recognise the value of restraining orders and 'bind-overs' when considering whether or not a case should proceed to prosecution
- Be prepared to suggest some civil remedies if a criminal prosecution is not viable or possible at that point in time
- Recognise that a remand in custody or conditional bail pending a perpetrator's trial may be significant, as it often provides a victim with an opportunity to consider her options more fully (eg divorce, separation, reconciliation) without the potential for immediate and ongoing intimidation and/or coercion

Conclusion

It is apparent that although effective intervention depends largely upon individual practitioners' knowledge and understanding of intimate partner violence, law, procedures, protocols, policies and so forth, there is a considerable obligation and need for them to fully discharge their duty of care. This is supported by Rowson and Lindley (2012, p8) who, having researched police practices in general, argued that

*'it is possible police need more tools for self examination rather than more professional training. What is needful may not be instruction in how to do 'the job' as such, but more awareness of how to critically engage with that kind of instruction, and shape their approach to 'the job' accordingly.'*²

There is much to suggest that this could be extended to police support staff and CPS lawyers with resultant improvements in the way they intervene in cases of intimate partner violence against older women.

² Rowson, J. & Lindley, E. (2012). Reflexive Coppers: Adaptive Challenges in Policing. RSA

