



PROCEDURE IDENTIFICATION PAGE

This procedure has been drafted in accordance with the principles of the Human Rights (Jersey) Law 2000 and Discrimination (Jersey) Law 2013.

Is Public disclosure approved Yes No

PROCEDURE TITLE: Domestic Abuse Procedure

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Overarching Policy:

Chief Officer: ██████████

Procedure written by: ██████████

Department responsible: Public Protection Team

Procedure Lead: ██████████

Links to other procedures:

Procedure/s:

PROCEDURAL HEALTH AND SAFETY CONSIDERATIONS



PROCEDURE:

Domestic Abuse

Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.

This can encompass, but is not limited to psychological, physical, sexual, economic¹ and emotional abuse.

There is a requirement for a DA report for any incident described above.

A new DA incident file should always be added for any further incidents. Adding to a previous domestic will not be picked up and not give an accurate picture when determining frequency and escalation. Every attempt should be made to complete a risk assessment.

Where there is a clear perpetrator, a risk assessment should **only** be carried out with the victim.

Responsibility for grading risk sits ultimately with the assessor, but their judgement may be guided by a structured tool that includes relevant risk factors (RIC). This approach combines a degree of accountability with the flexibility to consider the wider context of specific cases.

In all cases officers must take the wider context of the relationship and any history of abuse into account, in addition to the nature of the specific incident. Officer should give justification to their risk assessment and avoid just writing 'high risk based on professional judgement'.

Every effort should be made to see and speak to **both** parties before a domestic log is closed.

¹ Economic is set to replace financial in the new Domestic Abuse bill in the UK and local domestic legislation



Every DA report must have the nominal added of any children under the age of 18, regardless of whether they were involved, witnessed the incident or were even present.

Regardless of whether the children witnessed the matter, were asleep in bed or don't live in the home anymore, adding the nominals on the report allow it to be shared with their respective social workers so that they are able to maintain a good picture of what is happening in the home. Capturing children outside the home and adding them to the domestic is important as it allows services to make an informed decision should that child return to the family home.

Children that are not open to social services will be properly assessed and may be referred in to the Child & Family Hub if it is felt Children Service intervention is required.

Information is also shared with schools to enable them to safeguard and care for the children.

When officers do not see children, they should ask if children are resident at the address and should look for signs of children, such as clothing and toys. They should check bedrooms. Where they are told children are on the premises, officers should ensure they see each child to check that they are safe and well.

Whether officers speak to a child depends on the nature of the incident and likelihood of injury. In some circumstances, it may not be in the best interest of the child for officers to speak to them at the time, eg, if they remained asleep during the incident and were unaware of it. If officers have any immediate concern for the safety of the child, they should speak to the child, reassure them and enquire about their welfare, avoiding any direct questioning or comment about the specific incident. Concerns for their safety should be addressed at the time and if necessary involve the OOH social worker.

Even where it appears the child is already aware of the incident, first response officers should only ask sufficient questions to establish the safety of the child, crime scene location, suspect identity and location, and to ensure the preservation of evidence. They should record all questions and answers for the preparation of any subsequent interview. It is important to allow the child to answer without interruption.

Officers do not need parental consent to speak with the child but, if it is refused, officers should record all requests for consent to interview and should consult and involve children's social services as appropriate.

Children exposed to domestic abuse are subject to harm and risk. Allowing this to happen may amount to an offence of child neglect, which means the child may be a direct victim as well as a witness.

When there is a domestic related incident and an involved party is under 16 years old

This would require a CPN and the domestic abuse checkbox should be ticked. This will ensure the appropriate services are notified.



When there is a domestic related incident and an involved party is under 16 years old and is believed to be perpetrating abuse against one or both parents.

This would require a CPN and the APVA checkbox should be ticked.

APVA is Adolescent to Parent Violence and Abuse. Checking this box will ensure appropriate agency intervention support

Daily Domestic Review

All domestics are reviewed by PPU and JDAS the following morning. Actions may be generated from the domestic meeting that require a follow up by the OIC. In most cases, PPU will take on high risk investigations.

All domestic incident files are closed by PPU. Once initial actions are complete by the OIC, the Masterfile can be closed, leaving the incident file open. You do not need to do any further.

The risk is heightened immediately after a domestic incident. It is for this reason that every effort is made to follow up with the domestic victim, regardless of risk. PPU will not close the incident file until it is satisfied that a follow up has been made to ensure there are no ongoing welfare concerns that would need to be raised. Once contact has been established, the file will be closed and the JDAS service will continue with support.

Positive Action

A lot is discussed around positive action on attendance at a domestic. But what does this mean?

The first priority of the Police is to make people safe. At domestic abuse incidents it is particularly important that Officers take positive action to make the victim and any children safe. This may mean arresting a person suspected of an offence, or taking other positive steps to ensure safety such as alternative accommodation or the refuge.

In other cases where there are no apparent grounds for arrest and there is a clear domestic perpetrator, Officers should consider all options to separate the involved parties to prevent a breach of the peace.

Officers must be able to justify the decision **not** to arrest where grounds exist and it would be a necessary and proportionate response.

Officers should **avoid** dual arrests

Counter-allegations require police officers to evaluate each party's complaint separately and conduct immediate further investigation at the scene (or as soon as is practicable) to determine if there is a primary perpetrator. The primary victim should be treated as a victim first, before addressing any counter allegation matters at a later stage. Primary perpetrator injuries can be recorded by the FME whilst they are in Custody.



Retraction Statements

JDAS should be notified if there is a request for a retraction statement made by the victim. This will assist in identifying the reasons behind a retraction and will allow for appropriate safeguarding to be considered.

The following information should be included in any retraction statement:-

- Does the victim state that the incident did not happen, or that they
- simply do not wish to continue the prosecution?
- Has the victim been pressured in any way?
- Has the victim reconciled with the defendant?
- Are there civil proceedings?
- Would proceedings or discontinuance put the victim (and any children or
- any other person) at risk of further violence?

Special Measures ABE

The police must take all reasonable steps to identify vulnerable or intimidated victims. Where a victim is concerned about giving evidence in Court through fear, distress or intimidation, an ABE account should be considered. An application to the court can then be made to admit this evidence through special measures, where the court is satisfied that the quality of evidence given by the witness is likely to be diminished by reason of fear or distress on the part of the witness in connection with testifying in the proceedings.

Restraining orders

Officers should ask the victim for their views on obtaining a restraining order from the outset, preferably in their witness statement.

A restraining order can regulate contact as well as prohibit it, eg, preventing the defendant from going to the victim's address but still allowing contact, or allowing continued co-habitation but protecting the victim from specific types of behaviour. This should be explained to the victim if they are concerned about child access or wish to stay in contact with the offender, so that they are aware a restraining order may, subject to the views of the court, still offer protection in those circumstances.

Conduct which would otherwise not be arrestable can amount to a breach of a restraining order, which carries a lengthy custodial sentence, so it can be an effective tool for the future protection of the victim.

Evidence-led Prosecutions

These are otherwise known as victimless prosecutions, whereby a charge is considered in the absence of a victim statement. These prosecutions will always be considered by the LOD and require their advice.

Officers should adopt a 5 stage approach to victimless prosecutions that rely on hearsay evidence.



1. Has the victim given an account?

The best account from a victim is a signed formal Article 9 statement, however it could also take the following form:

- a verbal account from the victim to a police officer recorded in the officer's pocket note book, signed or unsigned
- a verbal account from the victim to another witness recorded in a statement provided by that witness
- a verbal account from the victim recorded in a 999 call
- a verbal account from the victim recorded in body-worn video footage.

2. Is the victim unable to give live evidence in court?

There could be a number of reasons for this but the most likely consideration for the purpose of bringing the victims evidence to court is around the fear of the victim.

Fear can come in many forms and include fear of death or injury to oneself or another as well as fear of financial loss. The fear in this circumstance would not include the unpleasantness of giving evidence in Court

Capturing this fear as evidence can come in many forms:

- an Article 9 statement from the victim setting out their fears
- attending officers recording relevant comments or behaviour at the scene in a pocket note book
- body-worn video footage showing victim's fearful demeanour
- statements of third parties with direct knowledge of the victim's fears, eg, friends, parents, neighbours, support workers.
- bad character evidence which might reveal a significant background of domestic violence

Officers should seek to provide evidence of continuing fear through updates on the existence of fear as the trial approaches.

They should also evidence that special measures will not adequately address the victim's fears.

3. Were any comments made at the scene by a child witness from whom a formal statement cannot be obtained?

Such comments could be recorded in an officer's Article 9 statement or pocket note book, the statement of the victim or another witness, or on body-worn video. They may be admissible as hearsay in the Court

4. The investigating officer should identify all information which may potentially have an impact on the credibility of the absent witness and forward this to the LOD.

This could include the witness's previous convictions or cautions, previous complaints made by them or intelligence reports.



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5. The investigating officer should ensure all evidence capable of corroborating the victim's account is identified and forwarded to the LOD.

This includes and is not limited to house to house enquiries and passive data enquiries

For more information see context and dynamics of domestic abuse COP APP

<https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/domestic-abuse/context/>



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APPENDICES (FORMS, FLOWCHARTS ETC)



PROCEDURE CHECKLIST PAGE

DATA PROTECTION

Does the procedure involve the use of personal information?

Yes No

If **Yes** please inform Data Protection Officer

HUMAN RIGHTS CHECKLIST

Auditing for potential interference and discrimination

Q1 What articles of the Human Rights (Jersey) Law 2000 may be engaged?

Q2 Where individuals' rights are engaged, what is the potential to discriminate against the parties involved?

Key human rights principles

Q1 What are the legitimate aims of the procedure?

FREEDOM OF INFORMATION / PUBLISHING RESTRICTIONS

Force policies are available for public disclosure in accordance with Human Rights and Freedom of Information legislation. Policies will be published to the external Force website unless informed otherwise.

In order to comply with the requirements of the Freedom of Information (Jersey) Law 2011; the Force has agreed to publish certain categories of information both on the Force Website and by sending copies to members of the public on request.

Some of our policies and procedures will contain exempt information which, in the public interest, should not be published. Where this occurs, the published policies and procedures must clearly show where information has been withheld and explain what exemption has been applied and why.

Is there any harmful information within the policy and procedure/s which are not suitable for external publication?

Yes No



If **Yes**, please identify the relevant sections here:

PROCEDURE OWNER CHECKLIST

Consultation

- Have all the relevant legal, statutory and external agency consultations been made?
- Have other relevant internal and external consultations been carried out (other people it will affect)?

Considerations

- Human Rights
- Equality Impact Assessment
- Data Protection
- Freedom of Information
- Health, Safety & Welfare

Training

- Is training necessary for users to implement the procedure?
- Is training necessary for users to comply with the procedure?
- Have training issues been discussed with the Training Department?

Costs

- Are there any costs likely to be incurred in implementing of or compliance with the procedure?
- Have these been taken into account?

Monitoring and review

- Date of next review



HEALTH, SAFETY AND WELFARE CHECKLIST

Does the procedure involve risks to the health, safety or welfare of staff, visitors or contractors through:

- The provision of equipment or plant etc.
- The systems of work
- The use, building, storage and transport of substances that are hazardous to health
- The place of work and the working environment

Yes No

If **No**, there is no requirement to go further.

If **Yes**, please answer the following additional questions:

- Have the appropriate risk assessments been developed?
 1. Generic
 2. Specific
 3. Specialist such as Manual Handling, noise, vibration etc.
- Have control measures been identified and implemented?
- Are arrangements in place to cover health and safety through effective planning, organisation, control, monitoring and review of the preventive and protective measures.
- Have safe systems of work been created and documented?
- Do existing procedures need to be modified and disseminated accordingly?
- Are health and safety considerations included in the purchase of equipment, materials etc.?
- Are suitable arrangements in place for the safe, use, handling, storage and transport of substances hazardous to health?
- Is there provision of relevant information, instruction, training and supervision as is necessary to ensure that all officers/staff are competent to be able to work safely, avoid hazards and contribute positively to achieve their own health and safety at work?
- Have maintenance and inspection schedules for equipment and premises been established, including statutory inspections for local exhaust ventilation, or lifting equipment etc.?
- Have considerations been given to the place of work and / or working environment e.g. fire, first aid, allocation of space etc.
- Have health surveillance measures been considered?
- Have welfare considerations been undertaken, such as the provision of toilet and washing facilities, rest rooms, storage for PPE etc.?
- Has consideration been given to the provision of appropriate resources, equipment to undertake duties/roles safely?
- Has advice been obtained from the Health Care and Safety Team?
- Has consultation taken place with the staff / staff associations?



LEGAL VETTING

Only local (SOJP) procedures that have a significant impact need to be legally vetted.

Does this procedure need to be legally vetted?

Yes No

If **Yes**, please specify the sections/s (and page number/s) and an indication of the policy writers' concerns:

I believe the Corporate Development Department should look at this Policy in depth to ensure our process is fair and defensible. I would also like them to consider whether they should be consulted at any stage of the process.

CERTIFICATE OF COMPLIANCE

Consideration has been given to the compatibility of this policy and related procedures with the Human Rights (Jersey) Law 2000; Discrimination (Jersey) Law 2013; Equality; Health and Safety; Freedom of Information; and Data Protection legislation, with particular reference to the legal basis of its precepts; the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision-making processes and outcomes of actions.

Following final authorisation from SMB, this procedure is deemed to be fully compliant with all requirements.

IMPLICATIONS OF THE PROCEDURE

Financial implications / best value

Human resources / training



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Partnership links
Assessed Risks