

## **The impact of victim advocacy on the prosecution of domestic violence offences – lessons from a realistic evaluation.**

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### **Abstract**

*This article explores the impact of a court-based advocacy service on the prosecution of domestic violence offences. The research, conducted as part of a PhD thesis, evaluated a team of Independent Domestic Violence Advisors (IDVAs) based within a Specialist Domestic Violence Court (SDVC). The author adopted the methodology of Realistic Evaluation (Pawson and Tilley, 1997) in order to understand firstly, any impact of the court-based IDVA service on court outcomes, secondly, how any such outcomes were achieved and, finally, in what contexts they occurred. As this article explores, effective victim advocacy has the potential to impact positively on the prosecution of domestic violence offences.*

### **Key Words**

Domestic violence, victim advocacy, specialist courts, realistic evaluation

## **Introduction**

The criminal justice response to domestic violence in England and Wales has drawn intense criticism from academic research and women's advocates since the issue reached the public agenda in the 1970s. Early research focused mainly on police responses, with evidence suggesting a reluctance on the part of officers to intervene in 'domestics' (Edwards, 1986, Faragher, 1985). Prosecutors were criticized on account of the small proportion of offenders prosecuted, whilst magistrates were viewed negatively for the seemingly lenient sentences imposed on the minority of offenders who were convicted (see Cook, Burton, Robinson et al 2004, Cretney and Davis 1996, 1997, 1997a). Explanations for these inadequacies focussed largely on feminist critiques - identifying the gendered nature of this form of abuse existing within a patriarchal society (Dobash and Dobash, 1979, Edwards, 1991). However, the explanation offered by criminal justice agencies themselves, suggested that the most significant factor impacting on a prosecution was the reluctance of the victim to give evidence against the perpetrator. As Robinson and Cook explained: 'Victim retraction is almost universally viewed by criminal justice officials as a problematic outcome in cases of domestic violence' (2006: p. 189).

In an attempt to address both the criticisms of the Criminal Justice System (CJS) and the issue of victim withdrawal associated with the close relationship between victim and offender, the Labour Government introduced two policy initiatives in 2005 with the

specific aim of increasing the successful prosecution of domestic violence offences – Specialist Domestic Violence Courts (SDVCs) and Independent Domestic Violence Advisors (IDVAs) – the two initiatives on which this research focussed.

### **Research Context**

Specialist courts exist in a number of countries including the US, Canada and Australia. In the US in particular, these courts are well established – generally dealing with crimes such as drugs offences and domestic violence – where traditional criminal justice approaches have not necessarily been viewed as effective (Eley, 2005). There are, however, a number of different forms that specialist courts have taken – some courts deal solely with adult criminal cases, some solely with civil (or family) court issues, with others combining both civil and criminal cases. Whilst international approaches to specialist courts have taken various forms, what generally unites them is the improved consistency in decision making and the important role of victim advocacy (Burton, 2006, Dawson and Dinovitzer 2001, Gover, 2003, Plotnikoff and Woolfson, 2005).

In England and Wales, the decision to establish a national network of SDVCs followed the development of several pilot sites. The first began in Leeds in 1999, followed by Cardiff in 2001, Wolverhampton and West London in 2002 and later pilots in Derby, Caerphilly and Croydon in 2004. In 2004 an evaluation was commissioned to bring together learning from five sites of the sites (Leeds, Cardiff, Wolverhampton, West

London and Derby). The findings of which provided confidence for a nationwide roll-out of SDVCs from 2005/6 (Cook, Burton, Robinson et al, 2004, p.4). These courts were to focus solely on adult criminal cases (as opposed to a combination of civil and criminal cases) and importantly, the authors of the 2004 SDVC evaluation made a number of recommendations. These included the need for the police to gather all available evidence, for the CPS to provide trained and dedicated prosecutors to SDVCs, for courts have the necessary facilities for victims (including private waiting areas) and furthermore, that all SDVCs have dedicated advocates to support victims through the criminal justice process (Cook, Burton, Robinson et al, 2004). In 2013, a review by the Centre for Justice Innovation suggested there were 138 SDVCs operating across England and Wales, however, they identified wide variation in how they functioned, suggesting the need to consider the reaccreditation process to improve consistency and performance (Bowen, Qasim and Tetenbaum, 2013).

As a result of recommendations in the 2004 SDVC evaluation regarding victim advocacy, in their subsequent 2005 National Action Plan, the Labour Government introduced the concept of IDVAs: 'Independent Domestic Violence Advisor services are an essential element of the multi-agency approach which culminates in a specialist court' (Home Office, 2005: p.16). Justifying their decision, they explained that: 'The value and significance of IDVAs were reiterated by the evaluation of Specialist Courts which identified the role as being critical to the courts' success' (Home Office, 2005: p.10).

The IDVA role was defined by the Home Office in 2005 according to seven key principles: independence (from statutory services); professionalism achieved through intensive training; a focus on safety options; crisis intervention; supporting victims assessed as high risk; working in partnership with other voluntary and statutory services; and working to measurable outcomes in terms of reducing rates of victim withdrawal (Home Office, 2005, p.10). As part of the intention to professionalise the role, the Government commissioned SafeLives (formerly Co-ordinated Action Against Domestic Abuse CAADA) to develop an accredited training programme for IDVAs. Whilst other courses do exist (such as Women's Aid Federation England accredited courses), SafeLives has provided training to over 1800 IDVAs since their inception in 2005 (SafeLives, 2015)

Yet despite the initial intention of the Labour Government to increase successful prosecutions through the establishment of SDVCs and IDVAs, subsequent years saw a shift in focus for the IDVA role towards a further policy initiative at the time 'Multi-Agency Risk Assessment Conferences' (MARACs). MARACs are a forum where victims who have been assessed as being at 'high risk' of significant harm are discussed by various agencies with the intention of increasing their safety and in 2011, there were estimated to be 250 MARACs in operation across England and Wales (Home Office, 2011).

From the initial pilot of MARACs, the IDVA role was seen as central to their success:

*“In Cardiff, 80% of the actions agreed at MARACs are progressed by IDVAs. In the context of the meeting itself, their role is to keep victim safety and the safety of any children central to the process”* (Home Office, 2006, p.24).

The IDVA, therefore, was now seen as having a dual role – on the one hand supporting victims going through the CJS process, whilst, on the other, supporting those at imminent risk through the MARAC process. The difficulty arises in that these two sets of victims are not necessarily the same – those going through the SDVC will not necessarily be discussed at MARAC (although there will be cross-over). Furthermore, the recommendations of the 2004 SDVC evaluation suggested advocates be dedicated to the court environment (Cook, Burton, Robinson et al, 2004), yet this becomes practically difficult if IDVAs are also expected to take an active role in their local MARAC.

In recent years, the IDVA role has become increasingly synonymous with MARAC and the support of ‘high risk’ victims (Coy and Kelly, 2010) as opposed to the original focus of supporting victims through the SDVC programme. This is reflected in the Government’s guidance for IDVA funding making just one comment regarding their work in SDVCs (Home Office, 2010, p.2):

*“Where a Specialist Domestic Violence Court(s) exists in the area IDVAs will be engaged in the court process to support victims and ensure their safety”* (Home Office, 2010, p.2).

Furthermore, in a 2014 audit of IDVAs nationally, SafeLives only included those working directly with ‘high risk’ victims, and estimated there to be just under 500 in post across England and Wales. (SafeLives, 2015a). As a result of this shift in focus, whilst a handful of IDVA service evaluations exist (Coy and Kelly, 2010, Howarth, Stimpson, Barron et al, 2009, Robinson, 2009), none of them specifically addressed the IDVA role within a SDVC – nor did they establish what it is about how IDVAs work that might impact on prosecution outcomes.

## **Methodology**

The methodological framework guiding this research was Realistic Evaluation as developed by Pawson and Tilley (1997). This approach is not concerned with assessing *overall* policy success or failure; it is about addressing the questions of ‘what works, for whom, in what circumstances and in which respects?’ Realistic Evaluation is a theory-based approach – seeking to move beyond *describing* the connections between variables, and instead seeking to explain *how* they are connected. The main advantage of Realistic Evaluation over other more positivist approaches lies in its ability to understand causation

through a focus on exactly what it is about programmes that make them succeed or fail. This begins with theorizing about the potential mechanisms that are created by the intervention, the possible contexts which will either work for, or against the mechanism, and from there the approach can proceed to test the mechanisms and contexts via empirical research. Causation is thus established by understanding ‘how’ the intervention has led to the observed changes (i.e. how the intervention has enabled actors to make choices within a particular context). As a result, the findings of this research are presented in terms of the outcomes achieved in cases where the IDVA was involved, the ‘mechanisms’ that attempt to explain how they were achieved, and finally, the contexts that were seen to have facilitated the mechanisms in achieving the outcomes.

As discussed above, whilst many IDVA services across England and Wales align closely with MARACs, the service chosen for this study has been providing a court-based support service in their local magistrates’ court since 2005. The remit here is expressly to support women who are the victims of domestic violence offences and who are, as a result, required to attend court. The study area is a large multi-cultural city with a population of over 1 million. The organisation itself employs over 100 staff and provides a range of community-based services as well as refuge accommodation. As the service is based in a women’s organisation then women are the only recipients of the service (male victims would be supported by the national charity Victim Support and its court-based Witness Care Unit). Although based primarily in the magistrates’ court, the IDVAs also provide



support in the Crown Court for victims whose cases are transferred there. In contrast to IDVA services whose focus is supporting victims discussed at MARAC, this IDVA service has maintained its key focus on advocating for victims going through the SDVC and therefore offers support to all women who are required to attend court as a result of a criminal offence (regardless of their level of risk).

The SDVC in the study area operates by ‘clustering’ first appearances into a specific court (as opposed to a ‘fast-track’ system), however as the research identified, there have been a number of changes to the operation of the SDVC in recent years which has impacted on whether trained and dedicated magistrates and CPS staff are available (see Bowen, Qasim and Tetenbaum (2013) regarding similar issues across England and Wales).

The initial stage of the research process consisted of developing a ‘programme theory’ to hypothesise a series of mechanisms and contexts that might result in increased successful prosecutions for domestic violence offences. These initial mechanisms and contexts were identified through a comprehensive review of both academic and policy literature as well as utilising the knowledge and experience of the researcher. Following the collection and analysis of the empirical evidence (detailed below) new mechanisms and contexts emerged whilst existing ones were refined.

The empirical data consisted of an in-depth analysis of IDVA case-files and semi-structured interviews with IDVAs and their managers. In order to build as complete a

picture of the CJS as possible in a timely manner, completed cases were analysed between April 2009 and March 2011. The number of closed files for the two year-long time periods exceeded 500 cases, so it was decided to work with a more manageable sample size of not more than 100 files for the two years (i.e. roughly 50 per year). This amounted to a 15% sample being taken for 2009/10 (with 48 case files) and a 25% sample for 2010/11 (with 47 case files). All files were stored as PDF documents according to their unique reference number (i.e. in numerical order) and by the year they had been closed. The samples were drawn at random by choosing every 7<sup>th</sup> scanned file for 2009/10 and every 4<sup>th</sup> for 2010/11.

An initial sample of case-files were examined to ascertain the type of information provided in each and to establish the broad patterns of data that had typically been recorded by the IDVAs. Whilst the amount and quality of recorded information tended to vary between different IDVAs, there was a clear minimum standard of information on each case-file (covering, for example, details and circumstances of the offence, history of the relationship between victim and perpetrator, the outcome of the case, and with considerably fuller details provided in many of the case-files). To capture the case-file information effectively, a data table was compiled based on common information from each sampled case and organised in relation to the important aspects of the hypothesised mechanisms and contexts. Following transcription from each case file, the information

was transferred onto Excel spreadsheets which enabled data analysis according to the characteristics and outcomes of the cases.

When identifying key personnel to interview, it was intended that both the police and CPS would be approached to participate. However, a formal research request to the police was declined (it was explained because changes in the criminal justice system at the time (both nationally and locally) had impacted on the resources of the police to commit to such requests) and initial contact with the CPS reflected the same position. In addition, the option of interviewing victims themselves was rejected on the grounds that doing so at the time of a court hearing (the obvious contact opportunity) might risk interfering with the judicial process. Even doing so following the outcome of the case was also considered potentially unsatisfactory, not least because of the risks of compromising the victim's safety from the perpetrator.

The interviews were therefore conducted with 5 IDVAs, their manager, the Assistant Chief Executive and the Chief Executive. The interviews were semi-structured in nature, with questions and topic guides being designed to enhance understanding of *how* the mechanisms achieved the outcomes identified from the case-file analysis whilst others were designed to highlight the context issues that either prevented or enabled the programme mechanisms. The interviews were also helpful in clarifying a number of issues and queries arising from the case file analysis, for example, concerning the impact

of the victim attending court on the likelihood of a guilty plea by the defendant (which was not necessarily clear from the case file analysis alone).

It must be recognised at this point, that the data acquired in this research is from the IDVA perspective – both in terms of the information they have presented and recorded in their case-files as well as their responses to interview questions. As a result, the proposed mechanisms and contexts are specific to the views of the IDVA service. Whilst this does limit the research in terms of generalising from the findings, there is nonetheless value in understanding what IDVAs in this particular service do in supporting victims at court, how they operate and how they consider their role to impact on victims and court outcomes.

## **Findings**

There were a number of positive outcomes to emerge from the case-file analysis. These findings related specifically to a high level of victim participation, which the IDVAs felt then had a positive impact on court outcomes.

### *Victim participation*

As discussed earlier, criminal justice agencies have long cited the rate of victim withdrawal as a key impediment to successful outcomes. Indeed, the CPS in their policy for prosecuting domestic violence specifically referred to the often ‘reluctant victim’ (CPS, 2009). To begin, it is helpful to compare the levels of victim participation in this

research to existing studies. When SDVCs were evaluated as part of the pilot phase in 2004 (prior to the Government formally introducing the role of IDVAs) the retraction rate was 50% (Cook, Burton, Robinson et al, 2004). Nationally, in 2009/10, 50% of unsuccessful cases were due to ‘victim issues’ (CPS, 2010, p.26) whilst in 2010/11, 33% of cases that failed were due to victims either retracting their statements or failing to attend court (CPS, 2012, p. 19).

In this respect, the findings of this research are particularly revealing. Of all cases to reach the prosecution stage (n=87) only 10 victims (11%) formally withdrew their statement, slightly lower than the national average of 14% (CPS, 2014) and significantly lower than the 2004 SDVC evaluation (Cook, Burton, Robinson et al, 2004). A further indicator of victim participation can be seen in the numbers of victims who attended court and gave evidence. As shown in Table 1, of the 76 cases to make it to trial, 71 victims (93%) attended court – this is compared to a national attendance rate of 88% (CPS, 2012).

**Table 1 – Victim attendance at court 2009-2011**

	Number	% of cases
<b>Victim required to attend court</b>	76	80%
<b>Victim attends court voluntarily</b>	71	93%

Interestingly, however, of the 10 victims who formally withdrew their statement, eight still attended court on the day of the trial, and furthermore, of those who attended the trial (n=71), 57 (80%) gave their evidence. These findings present a different view of victim participation from that usually portrayed in domestic violence cases; in particular, demonstrating that victims supported by IDVAs may be more likely to continue with the criminal justice process.

#### *Court outcomes*

In addition to high levels of victim participation in the case-files, two further positive outcomes were identified. These were: the proportion of guilty pleas on the day of the trial, and; the percentage of offenders found guilty by the courts (compared to national and local data).

Overall, the percentage of successful outcomes for the samples were respectively 56% in 2009/10 and 70% in 2010/11 (averaging out at 63% over the two years) – the 2009-10 figure being somewhat below the national average for domestic violence prosecutions, which has remained at or above 72% since 2009/10. Interestingly, however, the successful prosecution rate (for all domestic violence offences) heard at the magistrates' court in the study area has persistently remained lower than both the national and local area average. For example, between April and December of 2010/11, the successful prosecution rate in the study area was only 59%, suggesting firstly, some problems in

achieving successful outcomes here, and secondly, that the particular sample drawn from the IDVA files for this research, contained a much higher than expected proportion of successful cases (70% compared to 59%). This suggests that in those cases where an IDVA was supporting the victim, the chance of a successful prosecution was greater than the average prosecution rate for domestic violence offences locally. It is therefore important to explore the nature of successful prosecutions in the samples in order to identify the potential impact of the IDVA service in their achievement.

#### *Guilty pleas at trial stage*

As Table 2 presents, perhaps not surprisingly, 95% of defendants initially pleaded not guilty to their charge(s). Here it is pertinent to bear in mind that, under the officially-approved magistrates' courts sentencing guidelines, perpetrators who plead guilty at their first appearance receive a 1/3<sup>rd</sup> discount on their sentence (the maximum possible), although if they plead guilty on the day of the trial they are less likely to receive such a reduction (though they might still receive a lesser sentence than had there been a trial and their guilt proved). Of all cases prosecuted, 67% were the result of guilty pleas, with 88% of those being a change of plea on the day of the trial. As will be explored subsequently, the IDVAs associated the high rates of victim participation discussed above, with the decision of defendants to change their plea to guilty.

**Table 2 – Guilty Pleas 2009 – 2011**

	<b>N=60</b>	<b>% of cases</b>
<b>Initial plea – not guilty</b>	57	95%
<b>Final outcome – guilty plea</b>	40	67%
	<b>N=40</b>	<b>% of cases</b>
<b>Guilty plea at trial stage</b>	35	88%

*Offenders ‘found’ guilty*

The second issue to highlight, as presented in Table 3, is the percentage of defendants found guilty after trial by the magistrates’ court in the study area - this averaging out at 33% for the two years.

**Table 3 – Offenders found guilty 2009-2011**

<b>2009/10</b>	<b>N=27</b>	<b>2010/11</b>	<b>N=33</b>
<b>8 found guilty at trial</b>	30%	<b>12 found guilty at trial</b>	36%
<b>19 pleaded guilty.</b>	70%	<b>21 pleaded guilty</b>	64%

This figure is particularly revealing when compared to both national and local data. For example, in the study area’s magistrates’ court between April-December 2010/11, the



percentage of successful prosecutions that resulted from a conviction after trial (as opposed to a guilty plea) was just 13%. However, nationally, this figure is consistently under 10% (including during 2009/10 and 2010/11). Whilst it may be argued that guilty pleas are better for the CJS (due to saving time and money) and better for the victim (as they do not have to give evidence), the counter argument to this is that many offences are downgraded in order to secure a guilty plea, and as the above data on victim participation has shown, 80% of victims in this research who attended court chose to give their evidence.

#### **Achieving the outcomes – identifying ‘mechanisms’**

Whilst identifying the above outcomes would be interesting in itself, this research also sought to understand *how* they were being achieved through analysis of case-files and interviews with IDVAs. The methodological approach adopted in this research required the outcomes to be explained by a series of ‘mechanisms’ – these ‘mechanisms’ explain what it is about *how* the court-based IDVA service worked that may have led to the particular outcomes discussed above. There were three such mechanisms identified – and were respectively labelled ‘Supported Victims’, ‘Specialist Delivery of Justice’ and ‘Coordinating the CJS’ and are discussed more fully in the succeeding paragraphs.

### *Mechanism A 'Supported Victims'*

It was clear from both the case-file analysis and the interviews with service providers and their managers, that the fundamental aim of the IDVA service is to make women and children safe. Furthermore, IDVA safety planning does not stop at the trial, the work with victim's aims to address their long term safety, recognising that many victims feel less safe after the court case when bail conditions will have ended and statutory agencies are no longer involved. In addition, IDVAs were expected to be clear with victims that their support was not contingent on their proceeding with the prosecution. As will be seen in the subsequent discussion, the emotional and other practical support provided by IDVAs, and the encouragement for victims to make their own choices (including withdrawing their support for the prosecution), were all identified in the interviews as potentially contributing to the levels of participation noted above.

*Emotional support.* Probably one of the most important aspects of the IDVA service is the emotional support they provide to victims to enable them to go through the court process. Interviews with the IDVAs highlighted the time they spent with victims exploring the considerable range of concerns and barriers they faced. These included:

- Fear of repercussions should the offender be sent to prison;
- Pressure from children not to go to court;
- Concerns about mental strength for the process (perhaps especially for victims with mental health issues);

- Concerns that aspects from their past will be used against them;
- Worries about what the defendant may say about her in open court, given that he knows her intimately;
- Concern about feeling exposed;
- Worries about repercussions from the community;
- Fears of interrogation;
- Fear of being made out to be lying, exaggerating or malicious;
- Concerns regarding the impact on the children;
- Concerns about bringing shame on the family;
- Fear their children will be taken away.

Allowing victims the time and space to explore their concerns was considered vital to supporting them emotionally. However, the interviews also highlighted that IDVAs felt it was *how* they responded to these concerns and fears that had the potential to impact positively on their feelings towards attending court. The principles for practice which underlay their response to victims included to: ‘support’, ‘believe’, ‘validate’, ‘be non-judgemental’, give ‘choice’, ‘confidence’, ‘time’, ‘space’ and ‘options’. As IDVA 3 explains:

*“Knowing that I’m there...that they can say anything to me and I’m not going to judge them. I’m not going to be telling their business to everybody and*

*actually what is said between me and her is confidential, unless of Child Protection. And I guess it's just her knowing that she can rely on me and that I will give her that support, I will validate her experiences".*

*Addressing victim's wider needs.* The case studies highlighted the fact that victims were dealing with a range of issues, not just criminal proceedings. In this respect, it has long been recognised that many victims who call the police do not do so because they particularly intend or want to prosecute the offender (see Cretney and Davis 1997, Ford, 2003). Dialling 999 is not necessarily an indication that a victim is ready to leave an abusive relationship and the support provided by IDVAs should take account of the victim's entire situation and assist in relation to all possible issues and associated options. Some such issues that were prevalent amongst the samples of cases analysed in this research included a perpetrator pursuing child contact, and the involvement of children's services. These additional issues were described by the IDVAs as being important for them to try and address in order that victims did not feel overwhelmed and therefore unable to continue with the court process.

*Child contact.* Child contact was certainly a significant issue for victims, with 35% going through this process at the time they were accessing the IDVA service. Indeed, it is frequently the case that, despite involvement in criminal proceedings, defendants continue to apply for child contact, whether with the intention either to intimidate the

victim or to prove they are a good father, in so doing adding pressure to the victim not to pursue the case. IDVAs therefore discussed how they could support victims in obtaining a solicitor to address the issue of contact.

*Children's Services involvement.* A significant number of the victims who were supported by IDVAs were also involved with children's services (37%). This reflects the fact that every incident of domestic violence reported to the police is automatically screened by children's services who, in conjunction with the police and health services, have to decide whether or not to undertake an initial assessment of the family. This can easily translate into situations where victims are told they must continue with the prosecution or risk losing their children because they are deemed unable to protect them if they resume their relationship with the perpetrator. Consequently, IDVAs described how victims who are involved with children's services often feel under added pressure and may therefore require intense support not only to deal with the criminal case but also to reassure and satisfy social services as to the level of protection they are able to provide for their children. As a result, the safeguarding policy of the IDVA organisation requires them to make contact whenever there is an allocated social worker and act as a liaison for the victim.

*Support regardless of prosecution.* At this point, it is pertinent also to consider the IDVAs' approach to retractions of statements of evidence. All of the IDVAs acknowledged being candid with victims that a retraction of their statement did not

necessarily mean the end of the process. They would explain to them the possibility of still being summonsed by the court and that, if this happened, they could expect the support to continue. Due to their commitment to the principle of a non-judgemental and client-led approach, the IDVAs were very clear that they would support victims in retracting their statements if this was clearly what they wanted. As a senior manager explained:

*“...A woman might decide at some point to retract and not engage. And it’s not our role to persuade her not to do so. I think it is our role to say what the options are if she does, what could happen etc; but what we fundamentally recognise is that if we have a non-judgemental approach and leave our doors open to victims then they will come back to us...”*

Considering this approach, it was particularly noteworthy that so few victims did in fact choose to withdraw their statements, however, it must be recognised that the sample used in this research consisted of women who were already engaged with the IDVAs, and may therefore have been less likely to withdraw from the criminal justice process.

*Summary of mechanism A ‘Supported Victims’.* The ‘Supported Victim’s Mechanism’ could be seen to have impacted on the level of victim participation by addressing not only the immediate safety of victims but also their wider needs. IDVAs articulated that by supporting victims regardless of their intention to attend court, this created the potential

for victims to feel their safety was the priority, rather than simply the securing of a conviction. Furthermore, by addressing the wider issues for victims being supported, IDVAs were able to engender a level of trust in which a number of victims were prepared at least to consider an appearance at court, rather than disregard it as impossible.

*Mechanism B: 'Specialist Delivery of Justice'*

The 'specialist delivery of justice' mechanism could be seen to have impacted positively on court outcomes in two main ways. Firstly, by facilitating the support provided by IDVAs in addressing victim safety – for example, allowing the victim to use the side entrance on the day of the trial; provision of a private room in which to wait before being called into the courtroom, and the availability of 'special measures' (e.g. screens to the victim being seen/seeing the defendant or defence witnesses in the courtroom, or provision of evidence via a video link to the courtroom). Secondly, through greater expertise on the part of prosecutors and magistrates through specialist training in dealing with domestic violence cases.

*Enhancing safety at court.* As the earlier discussion identified, the decision by female victims to attend court and give evidence is one frequently fraught with concerns. Many worry about seeing the perpetrator in court, about seeing their friends and relatives before or after the trial, about having to answer intimate questions in an open court and so forth. IDVAs expressed their attempt to address these concerns in a number of ways, such as

arranging a pre-court visit, using the side entrance on the day of the trial and arranging for special measures in the court room.

*Use of Special Measures.* In addressing the concerns of victims particularly around giving evidence, the most widely used option is agreement to a request for ‘special measures’ made available by the Youth Justice and Criminal Evidence Act 1999 (YJCEA). These measures are intended to make the process of giving evidence less traumatic for the victim as they enable the victim to avoid facing the defendant in court. The most common is the provision of screens that shield the victim so that only the judiciary and clerk can see them, however, an alternative is the facility to give evidence via video link. IDVAs in this research were expected to discuss special measures at the earliest opportunity and then liaise with the Officer in Charge or the Witness Care Unit (who must take a statement and submit it to the CPS who formally make the application to the court). Encouragingly, the majority of applications for special measures were granted (93%), suggesting that CJS practitioners were generally understanding of the concerns of victims, of the potential importance of special measures in affecting their decision to give evidence and, indeed, in facilitating the giving of evidence when the time comes. This is a particularly significant finding considering the difficulty that domestic violence victims usually encounter when requesting special measures (Burton, Rogers and Sanders, 2006, CAADA 2012).



*Support at court.* In addition to special measures to protect the victim from seeing the defendant in court, other elements of support provided by the IDVAs in relation to court appearances also aim to make the experience less intimidating. The IDVAs supported all victims who attended court on the day of their trials. Many victims also took up the option offered by IDVAs of a pre-court visit; this usually being arranged some weeks before the trial to enable them to acquaint themselves with the court environment, to see the layout of a courtroom, have the opportunity to familiarise themselves with the process and to ask questions. IDVAs also offer victims the use of a side or back entrance door to the courthouse on the day of the trial to facilitate their safety and to avoid contact with the perpetrator or his associates (subject to arrangement with the Court Security Service). Importantly, moreover, whilst making such arrangements, the IDVAs would typically talk through the way in which proceedings will be conducted in court - who will be able to see them, in what order different parties will speak, what they should do if they do not understand something, and what practicalities to plan for, such as the journey to and from court and any childcare arrangements to be made.

The first aspect of the 'Specialist Delivery of Justice' mechanism could thus be seen to have impacted on the level of victim participation as a result of addressing victims' particular concerns around attending court and giving evidence. The fact that IDVAs were able to use a private waiting room, to arrange for victims to use a separate entrance, to request special measures and to arrange pre-court visits, meant that some of the more

fearful aspects of giving evidence were addressed, possibly accounting for the high proportion of victims who felt able to continue with the process.

*Developing and utilising experience.* That said, the mechanism of the ‘Specialist Delivery of Justice’ extends beyond the practical facilities of special measures, separate entrances at court and private waiting rooms, and also includes the less tangible (but no less important) elements of specialist expertise and experience within the CJS for domestic violence casework and which would similarly impact upon court outcomes.

*Expertise of prosecutors.* Many perpetrators of domestic violence, when charged with the offence, tend to believe that the victim will withdraw their support for the prosecution because they will be too scared to give evidence against them. Interestingly, however, both the case-file analysis and interviews suggested that, if the victim attended court, the perpetrator was more likely to plead guilty for fear that the victim would indeed give evidence and that the sentence imposed if found guilty would be more severe. Having seen this happen all too often, IDVAs would normally make it clear to victims that, simply by attending court, the perpetrator might well be persuaded to admit guilt, albeit for a lesser sentence. One IDVA described her experiences in this respect as follows:

*“...If you have got a woman that is focused about giving evidence and has turned up a prosecutor can relay that to that defence and say “We have good evidence and a good case otherwise we wouldn’t have charged him. Our victim is here and*

*is ready to go. This will be an effective trial.” Often defence solicitors will then say “I will have another talk to my client. As she has now turned up that puts another slant on it. We didn’t think she was coming” ...”*

IDVAs commented in their interviews that such knowledge of how defence solicitors are likely to advise their clients following a victim’s attendance at court, is regularly used by prosecutors as a bargaining tool, irrespective of whether or not the victim is willing to give evidence. With an attendance rate for victims in this sample being close to 100%, it could be inferred that this tactic had become well established and with a positive impact on the plea decisions of perpetrators (with 88% of guilty pleas being offered on the day of the trial).

*Summary of mechanism B ‘Specialist Delivery of Justice’.* As the above discussion shows, in addition to facilitating the safety of victims at court, the ‘Specialist Delivery of Justice’ mechanism was also mobilised by a range of actors within the CJS, notably by IDVAs, police officers, the Witness Care Unit, prosecutors, and magistrates. For example, an application for special measures would normally involve the IDVA in discussing the option with the victim, with a Witness Care Unit (WCU) officer to make a note on the file and request the statement from the officer, the officer in the case to take the statement, the prosecutor to make the application to the court and finally the magistrate who would decide whether or not to accept the application. When these procedures are followed and the responses of parties mutually supportive, the outcomes,

as suggested by IDVAs, were more likely to include special measures being granted, increased victim participation, more defendants pleading guilty as a result of victims attending court, including many on the day of the hearing when the CPS prosecutors make it known to the defence that the victim is indeed in the building and ready to give evidence. Similarly, as the case-file analysis indicated, more defendants are found guilty in the IDVA sample (compared to national and local data) and this is potentially the result of better supported victims who feel confident to give evidence.

#### *Mechanism C 'Co-ordinating the CJS'*

This research found that not only do IDVAs support victims to provide for their safety and a wide range of other needs, and make the most of improvement measures introduced as part of the 'Specialist Delivery of Justice', but they also support the criminal justice system by taking on a coordinating role to ensure that victims' needs are met and the process works effectively with their interests at heart.

*Taking care of practicalities.* In this respect, IDVAs carry out a number of roles that seek to improve the functioning of the CJS. The first of these is to ensure that practical issues such as statements requesting special measures and Victim Personal Statements have been taken, and, if required, ensuring that interpreters have been booked. As a result of their understanding of the importance of special measures to a victims' decision to give evidence, the IDVA service has also made it a priority to check that police officers and

the Witness Care Unit have indeed taken statements for special measures. If, for example, a statement is not taken on time, the CPS may be unable to make a further request until the day of the trial. This may then impact on victim's decision to attend court as their concerns about seeing the defendant might seem to have been inadequately addressed.

*Developing and applying experience.* Within the context of the mechanism of 'Coordinating the CJS', IDVAs use their knowledge and experience (gained from their court-based position) to advise victims about the possible outcomes of court hearings. For example, because IDVAs regularly observe defendants pleading guilty when they see the victim at court on the day of the trial, they are able to apply such experience and knowledge to encourage other victims to attend court. Possibly, this accounts for the 93% attendance rate in the case study sample data. Their knowledge and experience of sentencing practices is also important as they endeavour to provide victims with realistic expectations about the final outcome of their cases so that there is neither reluctance to continue for fear the offender will receive a lengthy prison sentence, nor surprise or disappointment if the sentence is a community order following a first offence.

Furthermore, it was evident from the interviews with IDVAs just how much understanding of the criminal justice process they have typically amassed, particularly as a result of being based within the court, and how this was likely to impact on the nature of support they provided to victims. For example, one IDVA explained the types of evidence required to support a conviction, as well as her understanding of how the victim

physically attending court can impact on the likelihood of a guilty plea. Another IDVA described her understanding of possible sentences in domestic violence cases, and how the circumstances of the assault, combined with any previous convictions, would have the most significant impact on sentencing – again underlining the IDVA’s desire to give victims as much information as possible about the process so that informed decisions can be taken.

*Facilitating communication and improving coordination.* As a result of being physically located in the magistrates’ court, the SDVC is able to utilise IDVAs as a means to improve coordination and communication between agencies. From interviews with IDVAs it was suggested they had developed a significant role in the coordination of agents within the CJS (and in particular facilitating communication between victims and prosecutors). This was both to ensure the process ran smoothly for the victim, and also that their voice was being heard. Particularly highlighted in all of the interviews, was the role IDVAs play in assisting the CPS on the day of the trial. It was suggested in the interviews, for instance, that some prosecutors did not always have sufficient time to sit down with the victim to discuss the process. Accordingly, the IDVAs had taken on the role of communicating between prosecutors and the victim where there had been a basis of plea, explaining to victims what this meant, and then relaying the wishes of the victim to the prosecutor.

*Summary of mechanism C ‘Co-ordinating the Criminal Justice System’.* The ‘Coordinating the Criminal Justice System’ mechanism is mobilised primarily by the

IDVA, yet impacts on a number of actors within the SDVC. This mechanism has the potential to increase guilty pleas from defendants through IDVAs using their knowledge and experience to encourage attendance at court by victims if only to start negotiation for a plea. The IDVAs can then liaise with the CPS who may advise the defence solicitor of the victim's appearance. Furthermore, IDVAs address practical issues (including special measures) and use their knowledge and experience of the CJS to better inform victims – possibly resulting in the significant proportion of victims who are willing to give evidence on the day of the trial.

#### *The importance of context*

The Realistic Evaluation framework not only sought to understand more precisely how IDVAs perceived the outcomes were achieved (the mechanisms) but also the contexts that had enabled those mechanisms to produce the identified outcomes. Four enabling contexts were identified during the interview stage of this research, these being: a woman-centred context, an adaptable service context, a multi-agency context, and an accreditation context.

*A woman-centred context.* It was evident from the interviews that there is a clear ethos and value base to the IDVA organisation. All of the respondents were clear that their foremost role was to support victims, to listen and to believe them. As an independent women's organisation, the staff took pride in their focus on providing a safe and

confidential service, working to empower victims to regain the control that had been taken from them. They worked to a holistic support model, meaning they assessed all of the needs victims might have in relation to domestic violence, including housing, safety planning, child contact, children's services involvement, access to benefits, debt management, and much else besides. The IDVAs did not see their role as being to increase the level of successful prosecutions – this, they saw only as a by-product. Instead, they viewed their main priority and purpose as being to make women and children safe. If a victim they were supporting wanted to retract their statement, the expectation was that the IDVA would fully support their decision – having discussed all of the implications, in particular around their future safety.

In order for the 'Supported Victims' mechanism to achieve its potential, the findings of this research suggested that the IDVA service should be based in a safe, confidential, non-judgemental organisation whose principal purpose would be to ensure the safety of victims and their children, rather than focusing on encouraging victims to remain engaged in the CJS.

*Adaptable service context.* The second context identified related to the IDVA service and was similarly material to the effectiveness of the mechanisms. This concerned the organisation's ability to adapt to a changing environment within the SDVC. When the SDVC was first established, the IDVA service needed to win acceptance from the established professional groups for its role and to become a recognised additional



component of the court system. In the early stages of the SDVC, IDVAs worked closely with police Domestic Violence Officers (DVOs) who had also been present at court to support the CPS – for example, by identifying suitable bail addresses. However, when attendance by DVOs ceased (in a major reorganisation of the force), the IDVA service adapted its role to fill the gap and, as a result, ensured that its service became more embedded in the court system.

*Multi-agency context.* A third distinct context which was particularly identified through the interviews and that could be seen to enable both the ‘supported victims mechanism’ and the ‘specialist delivery of justice’ mechanism, was the existence of multi-agency fora in the study area and the role played by the IDVA organisation within these. By sitting on strategic fora, the CEO of the organisation sought to ensure that the needs of women and children experiencing domestic violence were being heard by the most senior professionals of statutory organisations. Furthermore, close working at the strategic level was felt to assist the IDVAs at an operational level as problems or concerns could be fed-back to the appropriate department.

*Accreditation context.* The fourth context identified as important in enabling the mechanisms to operate was the acquisition at the study area’s magistrates’ court of SDVC status. In this respect, in 2007, the court had undergone an audit by the, then, Her Majesty’s Court Service (HMCS) and, as a result, was accorded official status as a SDVC. Recalling the process leading up to this, Manager 1 spoke of the willingness to cooperate

with the IDVA service of all parts of the CJS (from police officers and prosecutors, to ushers and court administrators) and of this being seen as fundamental to the principle of an SDVC according to HMCS. In turn, such accredited status played its part in facilitating the outcomes achieved by the ‘specialist delivery of justice’ mechanism, as well as helping to embed the IDVA service into the operation of the court and improving the impact of the ‘supported victims’ mechanism.

## **Conclusion**

This research has provided the first known account of the impact of an IDVA service based in a SDVC on the prosecution of domestic violence offences. Whilst this research is based on a single case-study, and exclusively from the IDVA perspective, the use of Realistic Evaluation has facilitated a detailed exploration into how outcomes were achieved and the contexts in which they occurred. As this article has discussed, the rates of victim participation identified in this research suggest a higher level of engagement for victims working with IDVAs compared to both local and national data and previous research. Importantly, these rates of participation could be inferred as having had a direct impact on court outcomes, both in terms of helping to secure a number of guilty pleas on the day of the trial, but also in securing a much higher proportion of effective trials resulting in a conviction (compared to national and local data). The real value of Realistic Evaluation however, comes in the identification of programme mechanisms and the contexts that facilitate them. These mechanisms and contexts provide learning for policy

makers and practitioners at a number of levels. Firstly, they provide valuable insights for existing IDVA services and SDVCs which can build on the identified elements of good practice and establish more nuanced performance frameworks against which services in other localities can be evaluated. Secondly, they provide a framework for sponsors and commissioners of criminal justice services, notably the recently introduced Police and Crime Commissioners. In this respect, the fact that the IDVAs were based in an independent organisation, where victim safety was the priority, could be inferred as a key factor in ensuring high quality support. Much in line with the conclusions of some of the previous research both on victim support and prisoner resettlement (Robinson 2009, Vallely, Robinson, Burton et al, 2005, Cook, Burton, Robinson et al, 2004, Hucklesby and Worrall, 2007) a conclusion from this research is that the independence of IDVAs is a major strength in that it enables them to engage with victims in a way that statutory services have always found difficult, whilst also allowing them to challenge the response of statutory services if necessary.

Finally, the research has provided a framework of thinking and a strong evidence-base that should inform Government of the changes that it could now make to improve the situation further and particularly increase the probability of victims of domestic violence participating in the criminal justice process. One obvious example here would be the automatic granting and default provision of special measures for domestic violence victims (who can then 'opt-out' if they so wish). Importantly, this research has shown

the potential value of specialist victim advocacy for victims of domestic violence and raises the question of whether the IDVA role in SDVCs needs to be re-examined.

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