



Sentencing Guidelines Council

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**Overarching Principles: Domestic Violence**

**And**

**Breach of a Protective Order**

***Response to Consultation***

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**December 2006**

## Foreword

On 07 December 2006, the Sentencing Guidelines Council published two guidelines; *Overarching Principles: Domestic Violence* and *Breach of a Protective Order*. By law, courts are required to have regard to these guidelines in a relevant case.

The guidelines have been agreed by the Council after careful consideration of advice from the Sentencing Advisory Panel, and of responses to its consultation guidelines which were published together on 11<sup>th</sup> April 2006.

The Council is grateful for the comments received. There has been considerable support in the responses for the general approach taken both in relation to the sentencing of cases involving violence that occurred in a domestic context and when dealing with breaches of protective orders.

Preparation of the guidelines was initiated following concerns that offences committed in a domestic context were being treated as less serious than equivalent offences committed in other contexts. These guidelines affirm the principle that such offences are no less serious. Indeed, because an offence has been committed in a domestic context, there are likely to be aggravating factors present that make it more serious.

The guidelines also recognise that there are a very wide range of circumstances in which domestic violence occurs. In many situations, the circumstances require the sentence to demonstrate clearly that the conduct is unacceptable. However, there will be some situations where all parties genuinely and realistically wish the relationship to continue as long as the violence stops. In those situations, and where the violence is towards the lower end of the scale of seriousness, it is likely to be appropriate for the court to impose a sentence that provides the support necessary.

This general approach was welcomed by those who responded to the consultation.

This document sets out the main issues raised in the responses, the conclusions of the Council and the reasoning behind the conclusions.

The definitive guidelines can be found at [www.sentencing-guidelines.gov.uk](http://www.sentencing-guidelines.gov.uk) or can be obtained from the Sentencing Guidelines Secretariat, 4<sup>th</sup> floor, 8-10 Great George Street, London SW1P 3AE.

Chairman  
Sentencing Guidelines Council  
December 2006

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## 1. Background

1.1 The consultation guidelines were published on 11<sup>th</sup> April 2006. Those invited to respond were:

- Home Secretary
- Lord Chancellor
- Attorney General
- Home Affairs Committee
- Party Leaders and the Convenor of the Crossbench Peers in the House of Lords

1.2 A detailed and helpful response was received from the Home Affairs Committee, which included 11 conclusions and recommendations for consideration by the Council and others. Twenty five additional responses were received from people and organisations not specifically consulted by the Council and they are listed at [Annex 1](#).

1.3 A response was received from the Minister of State (Baroness Scotland) on behalf of the Home Secretary which incorporated the comments of the Lord Chancellor and the Attorney General. In this paper it is referred to as the “Ministers’ response”. This was received at a very late stage in the Council’s considerations and was considered separately from other responses.

1.4 As two guidelines were published and consulted upon simultaneously, this summary comprises separate parts; [Part A](#) sets out the issues raised in responses relating to the guideline *Overarching Principles: Domestic Violence* and responses relating to *Breach of a Protective Order* are dealt with in [Part B](#).

1.5 The Council is required to enable Ministers and Parliament to contribute to the development of guidelines. This takes place after the Council has considered the advice of the Sentencing Advisory Panel and developed a draft guideline. The Council consults at this stage with those listed in 1.1 above – this is a more limited consultation than that undertaken by the Panel on the basis of a far more detailed consultation paper setting out and examining all relevant issues. It is not intended to repeat that wider, external, consultation. However, as part of the Council’s commitment to openness, the consultation guideline is published on the Council’s website and, on this occasion, a larger number of additional responses was received.

1.6 The Council has taken every response into account but has been concerned to ensure that a balance is struck between the need to accommodate helpful and important suggestions and the need to ensure that the results of the full public consultation (which have been fully discussed by the Council when considering the Panel’s advice) are not overridden by unsolicited responses to this more limited consultation.

## **Part A      Overarching Principles: Domestic Violence**

### ***2. Definition of Domestic Violence***

2.1 When the Panel was originally invited to consider sentencing issues in cases where offences were committed in a context of domestic violence, it was suggested in the reference that the CPS definition should be adopted to define domestic violence for these purposes. The Panel and, subsequently, the Council agreed.

2.2 In six responses it was submitted that domestic violence should be seen as a gender-based crime that is committed against women and that this should be reflected in the definition. One recommended to the Government that it should enact a statutory definition of domestic violence which adopts the United Nations definition of “violence against women” or alternatively is based on the definition of domestic violence in the New Zealand Domestic Violence Act 1995. It was not suggested that the Council consider adopting either of these definitions for the purposes of the guideline.

2.3 It would be sensible to continue to use the definition that has been used consistently throughout the development of the guideline and by the Government and the CPS. While this does not limit the definition to cases of violence against women in the way that a number of responses would wish, it does ensure that the guideline has a wide application and encompasses a wider range of circumstances.

**The Council determined to retain the use of the CPS definition of Domestic Violence for the purposes of the guideline. It appreciated the importance of the guideline making clear that it is the relationship rather than the location that determines whether the offence is committed in a domestic context and agreed to amend the explanatory paragraph before the definition to achieve this.**

2.4 A number of responses suggested that specific types of offences be noted in the guideline to make clear that they should be considered as domestic violence. Suggestions included adding reference to violence against children, acknowledgement that stalking and harassment often have roots in a domestic violence situation, and a statement that the definition includes same-sex partners, female genital mutilation and ‘honour’ crimes. Two responses also suggested that the guideline make clear that ‘domestic context’ refers to the nature of the relationship and not the location.

2.5 The Council considered the need to emphasise the breadth of the definition during the development of the consultation guideline and text was included explaining the wide range of circumstances that could be covered by the definition.

2.6 Paragraph 1.3 of the consultation guideline noted that the domestic context ‘includes relationships involving intimate partners who are living

together, intimate partners who do not live together and former intimate partners' which makes clear that the location is not an essential element of domestic violence.

2.7 In addition, the paragraph explained that the definition 'is wide enough to include relationships between family members, for example 'two brothers.' One respondent objected to this example on the basis that it did not reflect the reality of domestic violence, which they believe to be a gender-based crime.

2.8 The original example was chosen deliberately to reflect the fact that the Government definition on which the guideline is based included non-intimate relationships between persons of the same gender.

**The Council was satisfied that the broad nature of the definition is clear and that it is not possible or appropriate to include every possible circumstance to which the definition could apply.**

**The Council agreed to use a different example of a relationship between family members.**

### ***3. General principles***

3.1 The majority of those who responded endorsed the general approach and welcomed in particular the explicit recognition that courts should treat violence committed in a domestic context no less seriously than other cases of violent crime.

3.2 However, it was suggested in one response that, if anything, domestic violence is more serious because of the number of murders that have occurred because no intervention has taken place.

3.3 The guideline makes it clear (Part B, page 3) that there are likely to be factors present where violence occurs in a domestic context that actually makes the offence more serious.

**The Council decided that no further emphasis was required and there was no need to revise the guideline.**

3.4 A recommendation was made that a comprehensive judicial education programme should be established to accompany the implementation of the guidelines. It is understood that there are training programmes operating across England and Wales for prosecution advocates and others which link with a number of current criminal justice initiatives and that training in dealing with domestic violence is already undertaken within the training for both full time and part time members of the judiciary.

**This suggestion is beyond the Council's remit but may be something for the Judicial Studies Board to consider.**

## 4. Aggravating factors

### **Abuse of trust and abuse of power**

4.1 The Council accepted the Panel's view that, given the breadth of the definition of domestic violence, abuse of trust and abuse of power were not inherent in all cases of domestic violence. The consultation guideline provided (in paragraph **C(i)**) a description of the types of circumstances that could amount to each of these aggravating factors.

4.2 The validity of this statement was questioned by a number of those who responded. It was argued that an element of trust always exists and that victims frequently continued to be at risk from elements of controlling behaviour even when they had separated. The advice from the Panel did not exclude that possibility and drew attention to situations where the abuse of trust/power was either less than it had been or had disappeared altogether. Parties being separated was given as an example where that might be the case.

**The Council considered that the paragraph was clear and that the issue was properly left to the judgement and discretion of the sentencer.**

### **Victim is particularly vulnerable**

4.3 The consultation guideline identified specific factors that may make a victim particularly vulnerable and indicated that these could aggravate an offence. The Minister's response considered that the guideline failed to emphasise sufficiently the special needs and vulnerability of black and ethnic minority victims, suggesting that they are under increased pressure where English is not their first language, they fear deportation or there are questions of honour. Another response proposed additional factors including the fact that the victim was disabled, putting pressure on victims not to report, interfering with victims or witnesses after reports have been made, and the humiliation of victims.

**The Council agreed to revise the relevant section of the guideline to include reference to a victim being particularly vulnerable due to a disability, and to add an additional aggravating factor of interfering with the victim's ability to report the incident or seek help. However, it considered that there was no need to expand the section providing more explicit detail about the categories of vulnerable victim identified as each had its own features and issues which would be apparent in individual cases.**

4.4 It was suggested in one response that the Council should reverse the order of the first two paragraphs of **Section C (ii) victim is particularly vulnerable**. The aim of this passage was, first, to highlight the different types of factors that can increase the vulnerability of the victim and then to state emphatically that exploitation of any of these factors will warrant a higher penalty.

**The Council decided that reversing the order of these paragraphs would disrupt the logical sequence and that no amendment should be made.**

### **Impact on children**

4.5 The inclusion of this aggravating factor was welcomed in most of the responses. The Minister's response stated that the presence of children in the home when an offence occurs should be aggravating in itself, regardless of whether it was witnessed or the child was aware that it was occurring. In other responses, concern was expressed in relation to the ability of courts to assess the impact of domestic violence on children and one response considered that the guideline did not consider the harm caused to children in enough detail. A number of responses suggested that reference be made in the guideline to particular circumstances in which children could be affected, for example by threats to children, or encouragement of a child to humiliate the victim.

4.6 The aim of the guideline is to provide guidance on the principles relevant to domestic violence in order to allow enough flexibility for the facts of each case to be properly assessed. Clearly a guideline cannot be expected to cover every specific circumstance.

4.7 The Council decided that the inclusion of the impact on children as an aggravating factor allows sufficient flexibility to sentencers to give proper weight to the circumstances that arise in a particular case and that it is not necessary to make specific reference to the circumstances suggested in the guideline.

**The Council decided that no change to the guideline was required.**

4.8 One response suggested that the Council reverse the order of the first two paragraphs of **(iii) Impact on Children** so that the passage begins with the key point that exposure of children to an offence is an aggravating factor which would then be followed by the more explanatory paragraph.

**The Council agreed to the proposed amendment.**

4.9 In two responses it was recommended that the guideline make reference to the definition of "harm" in Section 31(9) of the Children Act 1989 as amended by Section 120 of the Adoption and Children Act 2002.

**The Council agreed that this information would be helpful and to include it in a footnote.**

### **Using contact arrangements with a child to instigate an offence**

4.10 The inclusion of this aggravating factor was welcomed but it was suggested that guideline should state that an offence is more serious when it is premeditated.

4.11 The Council decided that planning/premeditation is a general sentencing principle and does not need specific mention in relation to this particular aggravating factor.

**The Council decided that no change to the guideline was required.**

**A proven history of violence or threats by the offender in a domestic setting**

4.12 The inclusion of this as an aggravating factor was specifically welcomed by two of the responses and one suggested that evidence of previous offending from women's groups and agencies should be admissible in assessing whether this aggravating factor is present.

4.13 The guideline makes clear that this factor relates to the statutory requirement that previous convictions be treated as aggravating factors, having regard to their nature and relevance to the current offence, and to the time that has elapsed since conviction. The Council determined that it would not be helpful or appropriate to allow this to be confused with untested evidence from a potentially wide range of sources.

**The Council decided that no change to the guideline was required.**

**Victim is forced to leave home**

4.14 In four responses it was suggested that the guideline should state that an offence would be aggravated where a victim has been forced to make use of a sanctuary scheme or have recourse to civil remedies.

4.15 The Council considered that whether a victim had to take these measures rather than relying on friends or relatives makes an offence more serious is likely to depend on the specific circumstances of the offence. While no specific reference was made to this situation in the guideline, courts would not be precluded from taking this particular feature into account.

**The Council decided that no change to the guideline was required.**

**5. Mitigating factors**

**Positive good character**

5.1 A number of concerns were expressed in relation to the section of the guideline relating to positive good character being considered as mitigation. Responses endorsed the principle outlined under the heading 'Positive Good Character' that in domestic violence cases good character does not have the same level of relevance as it does to other offences. However, the Ministers' response submitted that an offender should not be allowed to use as mitigation good behaviour outside the home, as opposed to it being of no

more than minor relevance where there is a proven pattern of behaviour.

5.2 Concern was expressed by many of those who responded about the inclusion of the sentence “positive good character is of greater relevance where the court is satisfied that the offence was an isolated incident”. It was submitted that, since there is evidence which suggests that victims will have been assaulted many times before they report domestic violence to the authorities, to include such a sentence may send the wrong message to the courts. It was proposed that the sentence should be deleted.

5.3 The issue of whether positive good character should influence the sentence in cases of domestic violence was raised by the Panel as a specific question in its consultation paper. Having considered the responses to its consultation, the Panel advised that *“An offender’s good character in relation to conduct outside the home should be of no more than minor relevance in respect of an offence of violence in a domestic context.”*

5.4 The Council largely adopted this but decided to make a distinction between offences demonstrating a pattern of behaviour and those involving isolated incidents. To the Panel’s wording it added the qualifying statement “where there is a proven pattern of behaviour.” This was followed by the statement that *“Positive good character is of greater relevance where the court is satisfied that the offence was an isolated incident.”*

5.5 The Council saw no reason to remove consideration of positive good character based upon conduct outside the home from all cases involving violence in a domestic context. It did consider that such conduct should have no relevance where there is a proven pattern of behaviour and agreed to amend the guideline accordingly. It also accepted the general thrust of the responses but considered that the issue of good character in relation to isolated incidents of violence could be better dealt with by amendment to the guideline rather than by removal of the sentence.

**The Council determined to amend the guideline to delete “more than minor” in the first paragraph of the relevant section and to read “Positive good character is of greater relevance in the rare case where the court is satisfied that the offence was an isolated incident” in the second paragraph.**

### **History of the relationship**

5.6 The inclusion of this element of mitigation was broadly welcomed in relation to assessing the gravity of offences. However, it was recommended that the guideline should contain more specific guidance on how courts might establish facts about the history of the relationship and warnings as to the weight that such information should be given.

5.7 The final paragraph on page 6 of the consultation guideline stated that “It may be asserted that the offence, at least in part, has been provoked by the

conduct of the victim. Such assertions need to be treated with great care, both in determining whether they have a factual basis and in considering whether in the circumstances the alleged conduct amounts to provocation sufficient to mitigate the seriousness of the offence”.

5.8 In one response it was suggested that the Panel’s original wording on this point in its advice gave clearer and more specific guidance to the courts on this sensitive issue. The Panel’s advice to the Council stated that “*for provocation to be a mitigating factor, it will need to involve actual or anticipated violence including psychological bullying. Provocation is likely to have more of an effect as mitigation if it has taken place over a significant period of time.*”

5.9 The Council considered this part of the guideline in detail and decided to modify the wording proposed by the Panel to reflect the fact that conduct constituting ‘provocation’ could vary widely depending on the nature of the relationship and that it was important to consider the history and context of the relationship.

**The Council was of the view that the wording used in the consultation guideline provided sufficient guidance whilst allowing the court to properly exercise judgement and discretion in relation to the existence of provocation and the weight to attach to it.**

5.10 A number of the responses commented that it was confusing to have paragraphs dealing with the history of the relationship in general and assertions of provocation together in the section about mitigating factors.

5.11 Having reviewed sections C and D of the guideline, the Council decided that provocation as a mitigating factor should remain in section C alone and that the heading of the second mitigating factor be changed accordingly. The Council considered that the history of a relationship will be considered when considering the wishes of the victim.

**The Council decided that provocation should be considered as a mitigating factor in Section C and that the heading be amended accordingly, while issues concerned with the history of the relationship should be considered within section D.**

5.12 In relation to the history of the relationship, another recommendation was made as to how domestic and non-domestic crimes might be differentiated in statistics. This was directed to the Government rather than to the Council and has no effect on the guideline.

## **6. Other factors influencing sentencing**

### **Wishes of the victim**

6.1 There was general support for the approach taken in the guideline in

relation to the situation where a victim indicates a wish for the relationship with the offender to continue and how that may amount to a mitigating factor. The guideline stressed the importance of a court having up to date information in order both to determine whether the wish is genuine and to assess the risk of further harm.

6.2 A proposal was made to ensure that such information would be made available through the provision (by the Government) of facilities to give victims the opportunity of consulting privately with a support worker or advocate in a safe environment, so that the genuineness of their expressed wishes may be more securely assessed. It was suggested that this was particularly important for victims from minority ethnic communities, some of whom may feel additional cultural pressure to continue relationships. This went beyond the remit of the guideline.

6.3 The consultation guideline provided a detailed explanation of the factors a court needs to take into account when considering whether the wishes of the victim to continue a relationship should have an influence on the sentence passed. Responses on this aspect of the guideline made the point that victim's wishes would not influence the sentence passed for other types of offence. It was also indicated that the wishes of the victim could be induced by threats or pressure from family, that the victim's interests rather than wishes should be considered and this approach should often result in a sentence that ensures the protection of the victim from further risk of harm rather than the continuation of the relationship.

6.4 Violence in a domestic context occurs in many different ways and many different contexts. The guidelines state clearly that such violence is to be treated seriously but it also recognises that there will be situations where the victim and the offender genuinely and realistically wish the relationship to continue. In considering whether to impose one sentence rather than another, the guidelines require that a court must consider carefully the whole circumstances including the nature of the violence, the risk of further harm and the extent to which the victim has been put under pressure.

**The Council gave further careful consideration to the responses to this consultation and continues to be satisfied that the guidance properly balances the issues. No amendment of the guideline was necessary in terms of the general approach but every effort would be made to ensure that that approach was clearly set out.**

### **Interests of children**

6.5 Some responses suggested that it was not for the courts to take on responsibility for maintaining a relationship and that it was inappropriate for criminal courts to be considering the interests of children because there were a number of complex decisions concerning risk of future harm to be made. It was also suggested that referring to the possibility of the relationship being disrupted by an offender being sent to custody was misleading as the relationship would have already been disrupted by violence.

6.6 The Council was of the view that such matters were likely to be raised during sentencing hearings (by either party) and that it would be necessary to provide guidance for such cases.

**Having considered section D as a whole, the Council decided that the paragraphs relating to the interests of children should be condensed and combined with the earlier paragraphs to be considered in relation to the effect of the sentence.**

## **7. Factors to take into consideration – Domestic Violence Programmes**

7.1 The consultation guideline proposed (in section E) that, in certain circumstances, a court may consider it appropriate to impose a suspended sentence order or community order with a requirement to undertake a domestic violence programme, even though the offence had crossed the custody threshold. This was the subject of much comment in the responses and by the press and media when the consultation guideline was published.

7.2 Recommendations were made that a cautious approach be taken to domestic violence perpetrators' programmes until more evidence is available as to their effectiveness, and that accredited perpetrators' programmes should be an additional sentencing option for both custodial and non-custodial sentences, rather than form part of an alternative sentence to a custodial sentence where the latter would otherwise be justified.

7.3 The approach taken in the consultation guideline was based on a specific recommendation in the Panel's advice which the Council largely adopted and added to in order to clarify the circumstances in which an alternative to custody might be used. The point raised in relation to evidence of the effectiveness of perpetrator programmes was acknowledged in the Panel's advice and carefully considered by the Council. The Council is aware of initiatives to increase training in domestic violence issues across the criminal justice system, to create more specialist domestic violence courts and an even supply of advocates and perpetrator programmes. One response suggested that work should proceed on adapting the programmes to ensure that they are suitable for minority ethnic and learning disabled defendants.

**The Council decided that the guideline required no amendment but accepted that the issue of programmes should be kept under review and further information about their effectiveness and availability should be considered when it becomes available.**

7.4 The Minister's response submitted that as currently drafted the guideline could result in sentencers giving inappropriate weight to expressions of remorse. In addition, a number of respondents expressed concern about the ability of courts to assess remorse and did not support this element as showing that a particular offender might merit a non-custodial sentence. It was pointed out that remorse is impossible to measure, particularly in light of the recognised domestic violence cycle of violence followed by remorse, and that

reference to remorse should be deleted. However, this type of judgement is a common element of sentencing in domestic violence and other cases, and the guideline must properly allow courts to exercise discretion and to make such judgements.

7.5 Another recommendation was made that the guideline should recognise the possibility of an offender embarking upon a programme voluntarily ahead of court proceedings and entering an early guilty plea at court. Under these circumstances it was suggested that courts should be allowed to take progress on such a programme into account in sentencing.

**In light of the comments and suggestions made, the Council agreed to amend the guideline to make the paragraphs relating to the imposition of a non-custodial sentence clearer, removing reference to remorse.**

**The Council did not consider it necessary or appropriate to refer specifically to voluntary activity by an offender as it was for the court to consider such behaviour in the context of individual cases.**

## **Part B - Breach of a Protective Order**

### **8. Sentencing for breach**

8.1 The general approach as set out in the guideline was generally welcomed. A number of responses suggested that, where the breach amounts to a substantive offence, this should always be charged and consecutive sentences imposed.

**The Council considered that no change was necessary because the guideline cannot influence charging decisions. The approach to different outcomes is clear and the guideline already makes the point that consecutive sentences should be considered where necessary.**

### **9. Factors influencing sentencing**

9.1 One respondent was concerned that the guideline stated that the main aim of sentencing for breach is to achieve future compliance with an order. It was suggested that this could result in conditions being weakened and therefore the statement should be clarified. This principle in relation to breaches is a well-understood aspect of sentencing and is specifically included in the New Sentences guideline published in December 2004.

**The Council determined that re-affirming the principle in this guideline was important and considered that no clarification was necessary.**

#### **The nature and context of the conduct that caused the breach**

9.2 In one response it was suggested that the guideline should state that its

main aim is to achieve compliance in order to protect victim and public safety. The consultation guideline contained a statement that “the protective orders are designed to protect a victim. When dealing with a breach, a court will need to consider the extent to which the conduct amounting to breach put the victim at risk of harm”.

**The Council agreed to highlight this aim in the guideline.**

9.3 A number of responses suggested that it is not appropriate for the court to consider reconciliation but only rehabilitation and that the paragraph which refers to this possibility should not be included. The paragraph referred to stated *“A court dealing with a breach is unlikely to consider a rehabilitative sentence for the purpose of facilitating reconciliation between offender and victim, as it might in some cases of domestic violence. If a protective order was considered necessary to protect a specific victim as a result of a domestic incident, the prospect of reconciliation is likely to have been discounted. If an order is imposed in non-domestic circumstances, reconciliation is not likely to be relevant.”*

**The paragraph was included to explain why reconciliation was not a relevant factor. Because of its explanatory nature, and to avoid confusion, the Council agreed that the paragraph need not be included in the definitive guideline.**

A number of responses were concerned about the ability of a court to make judgements about an offender’s level of remorse. This has been considered above (paragraph 7.4) in relation to the overarching principles guideline and the Council determined that decisions made should be carried across to the breach of protective order guideline.

## **10. Aggravating factors**

### **Victim is particularly vulnerable**

**In order that this guideline is consistent with the domestic violence guideline (see paragraph 4.4 above) the Council agreed to add the following to section D(i): *“Age, disability and the fact that the victim was pregnant or had recently given birth at the time of the offence may also make a victim particularly vulnerable.”***

## **11. Mitigating factors**

### **Breach was committed after a long period of compliance**

11.1 A number of responses suggested that, because incidents amounting to breach often go unreported, a court should be wary in determining that the offender had complied with the order. One suggested that compliance may only have been because the victim was in hiding.

11.2 Allowing compliance to mitigate sanction for a breach is an established sentencing principle and the Council considered that it should be included in the guideline. However, it was agreed that the wording of the paragraphs should be revised taking account of the concerns raised.

**The Council agreed to amend the text to read “If the court is satisfied that the offender has complied with a protective order for a substantial period before a breach is committed, the court should take this into account when imposing sentence for the breach. The history of the relationship and the specific nature of the contact will be relevant in determining its significance as a mitigating factor.”**

### **Victim initiated contact**

11.3 Many of the responses objected to the inclusion of this as a mitigating factor. It was argued that the order is for the offender and not the victim, and that the courts should resist the encouragement of victim-blaming.

11.4 The Council's view was that the wording did not prevent the offender from being sanctioned but allowed for the possibility of a reduction in sentence to reflect particular circumstances that may warrant it. It did accept the point that responsibility lies primarily with the offender to ensure that the order is complied with and agreed to clarify this in the text.

**The Council agreed to amend the guideline to include the following: “Nonetheless it is important for the court to make clear that it is the responsibility of the offender and not the victim to ensure that the order is complied with.”**

## **12. Starting Points**

12.1 The Ministers' response considered that the starting points had been pitched at the right level. However, a number of the responses were concerned that the table of starting points did not adequately reflect the harm that non-physical contact can have on a victim.

12.2 The starting points were based on those in the Panel's advice. The Council gave detailed consideration to the issue of how to reflect the psychological harm that non-physical acts can cause. Two of the suggested starting points are for activity “involving some violence and/or significant physical or psychological harm to the victim”. The Council considered that this is the best way to reflect the point that some offences will not involve violence but still cause significant harm.

**The Council decided that no change to the guideline was required.**

**Additional Responses to the Consultation Guidelines on  
Domestic Violence and Breach of a Protective order**

1. Justice for Women
2. The Children's Advocacy Consortium
3. Council of HM Circuit Judges
4. Standing Together Against Domestic Violence
5. Salford City Council Multi-Agency Domestic Abuse Implementation Group
6. The British Psychological Society
7. Rights of Women
8. Westminster Domestic Violence Forum
9. Women's Aid
10. NSPCC
11. National Centre for Policing Excellence
12. Penny Beale Memorial Fund
13. Roger Moore, Lewes District Council
14. Katriel Costello
15. Welsh Women's Aid
16. Rotherham Domestic Violence forum
17. Cafcass
18. Wearside Women in Need
19. Swindon Women's Refuge
20. Barnet Domestic Violence Forum
21. ACPO
22. Mayor of London
23. Metropolitan Police Authority Race and Diversity Unit
24. Sussex Family Services Manager, HMCS
25. Staffordshire Domestic Violence Co-ordinators