

Examining the Utilisation and Efficacy of Non-Molestation Orders across Northern Ireland

Qualitative Study Findings

Client: CVOCNI

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Executive Summary

The picture behind the reported decline in people applying for NMOs and *ex parte* NMOs, despite increases in reported domestic abuse crimes, and an associated reduction in the numbers of breaches and convictions for breaches of NMOs, is complex and interconnected. Analysis of feedback from the relevant stakeholders working in this area including Women's Aid, the PSNI, solicitors, the judiciary, together with comments provided by those with direct lived experience of domestic abuse and the process of applying for a NMO, provides some insight into the current situation in Northern Ireland in relation to Protective Orders. **This shows a system which evidence suggests is at worst broken, or at best, cumbersome and not fit for purpose.**

Applications for and granting of NMOs

Two main themes were highlighted in relation to the quantitative figures – that is that fewer people are applying for NMOs on an annual basis, and that fewer NMOs are being granted year on year. This qualitative research aimed to identify and explore these declining figures. Firstly, respondents noted structural/process-based issues in making an application for an NMO.

Factors negatively impacting the application process and resulting in a decline in the overall number of applications, and in time a reduction in the numbers being granted included:

- Inefficient application process with long wait times for both the applicant and the solicitor;
- Lack of information or ways into the system, and incorrect information being provided by different stakeholders;
- Lack of effective coordination and communication between the various agencies and services involved in supporting victims of domestic abuse, including the police, legal professionals and support organisations, leading to a barrier in terms of fragmentation of support services, and difficulties for stakeholders to obtain the necessary information e.g. police reports;
- Victim led requirement – the onus is on the victim – from finding a solicitor to making the application;
- A system which contributes to the re-traumatisation of victims;
- Lack of clarity and consistency on evidential thresholds for both *ex parte* and NMOs;
- Lack of resources for all professional stakeholders including police and solicitors;
- Cost as a barrier for solicitors and for applicants. Legal aid and remuneration for NMO cases was largely viewed as being inadequate, negatively impacting the number and range of family solicitors doing this type of work. Reference was also made to the domestic abuse waiver, with clients often being just over the threshold and having to pay significant contributions, thus creating a financial barrier.

Those with lived experience voiced concerns that NMOs are ineffective whilst solicitors highlighted their increasing reluctance to apply for them, because they are concerned that they will not be granted. There were also mixed views on the wording of NMOs; some made a case from broad and generic wording, whereas others said this was so wide that it was difficult to confirm when a breach had occurred. The need for more clarity in terms of wording on Orders and when they were breached was noted by all respondents; particular reference was made to a changing landscape with social media forming part of the domestic abuse behaviour and therefore the need to be included in the Order. The usefulness of Protective Orders, was further complicated if the perpetrator was not inclined to abide by the Order, thus feeding into a cycle of lack of faith in the system.

A further recorded reason for reducing numbers of NMO applications was the increasing number of cases where there are more serious charges, which take precedent in court, charging and in bail conditions.

A strong theme emerged around the need for training of professions involved with domestic abuse and NMO applications. It was suggested that this should be across all of the stakeholder groups.

Secondly, respondents pointed to individual victim-based issues, as being a critical factor in contributing to fewer applications. These included the vulnerability of the victim, the individual's knowledge of the system and how to obtain that knowledge, the cost to the individual and eligibility for legal aid, lack of confidence in the system and fear as a barrier to applying for an NMO. This latter barrier was noted by those with lived experience. They noted fear of the consequences of making an application, firstly from the perpetrator and their family and secondly in relation to potential Social Services involvement. Respondents talked about weighing up the need for protection, against a fear of what might happen if they applied for and/or were awarded an NMO.

This theme of difficulties in the application process for a NMO, and fewer NMOs being granted is worrying. At the very time when a victim needs support and protection, there appears to be a multitude of factors that firstly might put them off from applying and secondly, may make the application process difficult.

Breaches of NMOs and how these are dealt with

Concerns were raised about current responses by the relevant agencies to a breach of an NMO.

Feedback included (a) how the generic wording of NMOs means that in some cases it is difficult to evidence or prove that a breach has taken place and (b) an inconsistent approach by relevant parties in interpreting behaviours and responding to/enforcing breaches. Respondents noted that this was further complicated by the use of telecommunications and social media as a means to intimidate, harass or pester victims, in particular then posing evidential difficulties if a breach is reported.

Stakeholders placed the issue of non-enforcement at different doors. For example, solicitors suggested that the police are often reluctant to act on reported breaches of NMOs, whereas PSNI respondents suggested that there is inconsistency in how NMOs are viewed and enforced by the judiciary. Women's Aid representatives suggested that the police and courts often do not take breaches seriously or document them properly, resulting in no action or follow-up for the victim when an NMO is breached. A further critical factor noted by those with lived experience was the exhaustion and retraumatisation from the process of reporting breaches.

Overall, concern was voiced that breaches are not taken seriously and that the system was not holding perpetrators accountable. Stakeholder views noted that without enforcement and accountability, the system of Protective Orders is ineffective.

Alternative Protective Order options and/or improving the current system

Stakeholders suggested that action should be a priority – and that alternative options (such as DAPOs) should be looked at for Northern Ireland, and/or that the current system of NMOs should be reviewed and improved, based on the feedback from all respondents. Possible concerns about resources and the balance of decision-making, shifting from the courts to the PSNI, were noted as potential negative factors for the use of DAPOs. Improving and strengthening the current system was favoured by most respondents. Suggestions are outlined in Section 5 including streamlining the current application system and re-introducing some of the processes used during the COVID pandemic, including making the court environment more comfortable and/or enabling victims to give evidence from a solicitors office or other approved venue. Other suggestions covered providing non-means tested legal aid, improving coordination between agencies, improve training for all stakeholders and look at the provision of guidance to encourage a mutual understanding of the system and evidential thresholds. The provision of advocacy and support to victims throughout the process was emphasised, as was the consequences if a perpetrator did not abide by the Order. A number of stakeholders advocated to have a more specialised, well-resourced domestic abuse team in the PSNI. In addition, the need to track and monitor repeat perpetrators, rather than just victims and that there should be better communication, documentation and follow-up on reported breaches was noted.

Overall the level of domestic abuse incidents and crimes are at an all-time high. The evidence of difficulties with the system suggests that this is the time for a full-scale overhaul of the current system, or the point at which alternative options should be introduced.

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Section 1 Background

This research was commissioned by the Commissioner Designate for Victims of Crime in Northern Ireland (CVOONI) in response to concerns raised by both domestic abuse victims and voluntary sector organisations about the effectiveness of protection orders in enhancing victim safety. The main quantitative study, completed in April 2025, aimed to examine the utilisation and efficacy of Non-Molestation Orders (NMOs) and Occupation Orders (OOs) across Northern Ireland from 2016 to 2024.

The quantitative element of the research highlighted a 42% increase in reported domestic abuse crimes since 2015-16, and alongside that a 28% decrease in people applying for NMOs, and a 39% decrease in *ex parte* NMOs which are typically used as a temporary measure in emergency situations. In addition, the research reported significant regional disparities and granting rates across court areas with an overall regional decrease of 8% in NMOs granted and 9% of *ex parte* NMOs granted.

An initial qualitative element of the main project involved seeking feedback from victims and support organisations. They reported inconsistent and, at times, inadequate police responses to alleged breaches of NMOs, and a perception of police reluctance to take action. Furthermore it was noted that the associated numbers of cases being sent to the Public Prosecution Service (PPS) are also reducing, but that the percentage of cases being prosecuted remains broadly similar. Respondents noted concerns that despite the falling numbers of cases being prosecuted over the time period, the proportion of acquittals has increased from 15% in 2016 to 20% in 2024.

Section 2 Research Aims and Objectives

The overarching aim of this follow-on qualitative study was to further examine, through discussion and interaction with key respondents, the changing landscape and usage of NMOs across Northern Ireland. The need for this qualitative study was identified in the quantitative study which looked at patterns and trends in applications for Protective Orders, and changes in the number of breaches being recorded and the number of convictions.

Recommendation 2 in the quantitative study recommended the following:

Further research should be carried out to ascertain why numbers of applications, numbers of recorded breaches, and numbers of convictions for breaches of NMOs have decreased in spite of reports of domestic abuse incidents and crimes to police having risen over the same time period. This research should establish the wider context in which domestic abuse victims in NI seek support and the interplay between NMOs and the usage of other Protective Orders, the availability of legal aid, the accessibility of appropriate expert legal services, and the provision of advocacy and support for victims. The aim of a further qualitative study should include to seek viable solutions to ensure NMOs are an effective tool in safeguarding victims of domestic abuse in Northern Ireland.

This report provides an analysis of findings from a series of Workshops and interviews. Research themes and questions were developed for the Workshops covering three main topics – applications for and the use of NMOs, breaches of NMOs and how these are dealt with, and alternative Protective Order options.

A range of stakeholder groups were identified with a direct interest in and relationship with the administration of NMOs and breaches of Orders. This included groups and individuals who provided feedback either as an individual/victim of domestic abuse, those responding to domestic abuse in the community (PSNI, Women's Aid and support agencies) those assisting with applications for NMOs and the legal process (solicitors) and those responsible for the judicial process (Judges):

Workshop with Police Service Northern Ireland (PSNI) representatives

Workshop with solicitors/legal representatives

Workshop with victims of domestic violence, via Women's Aid

Interview with Women's Aid Manager

Interviews with two District Judges (Magistrates' Courts)

Names are not included in order to preserve respondents' anonymity. Lived experience was viewed as being critical to developing understanding of the NMO journey from the perspective of an individual who has experienced domestic abuse/violence. The notes from the interviews and workshops were transcribed and thematic analysis was undertaken to produce qualitative findings. Quotes from respondents are in *italics*.

Section 3 Findings: Applications for and the use of NMOs

This section explores the trend identified in the quantitative study; that fewer people are applying for NMOs on an annual basis, and that fewer NMOs are being granted year on year. Respondents suggested that there were two main underlying reasons for these changes in application and granting levels, as follows:

- (1) Structural/process-based issues
- (2) Individual victim-based issues

There is significant overlap between what were viewed as structural or process-based issues and individual or victim-based issues.

1 Structural/process-based issues

All respondents noted structural and process-based issues which they suggested impact the number/level of NMO applications and the process for taking these forward beyond application stage, including the perceived and actual usefulness of having an NMO. These are outlined below.

1.1 System and procedural factors impact the application and serving process

Solicitors noted procedural factors as one reason for the decline in applications for NMOs. They suggested that the court process for applying for NMOs and *ex parte* orders is seen as inefficient, with long wait times and solicitors having to drop other work to attend court. They noted that the process was more streamlined during COVID-19, with the ability to email applications, but this has reverted back to what they perceive to be the previous inefficient system.

Solicitors also suggested that the point of entry, when a victim applies for an NMO is reliant on them being informed of or knowing that this is an option. Respondents described instances where the police provided incorrect advice to victims, telling them to seek a NMO when they were not eligible and do not qualify as 'associated persons' under the legislation, leading to frustration and wasted effort. Solicitors noted that this results in them having to explain to the clients that they are not eligible for an NMO, leading to frustration for the victim and wasted effort for the solicitor. They said that many victims who come to them are unaware of the new "Assist NI" service, which is meant to advocate for victims of domestic violence or Victim Support, and that this suggests a lack of effective signposting and communication from the police and other agencies about the available support services. They further noted that this creates an additional burden on them to provide victims with information about the various support services and options available, in addition to handling the legal aspects of the NMO application; and that this took time away from their core legal work. This reference to the entry point was highlighted against what solicitors suggested was a lack of effective coordination and communication between the various agencies and services involved in supporting victims of domestic abuse, including the police, legal professionals and support organisations, leading to a barrier in terms of fragmentation of support services.

In contrast PSNI respondents, talking about their response, said that they did provide clear information on NMOs. They provided background around the way in which they deal with reports of domestic abuse/violence in the community. One PSNI respondent outlined what information they provide to the victim on NMOs: *"And speaking about protective orders such as NMOs would be one of the ones that we do. And we really ensure compliance with that because there's a safeguarding template that goes on our investigative record."*

A further barrier noted was that victims have to proactively find a solicitor and then apply themselves for a NMO. Whilst the PSNI may provide advice and signposting, the onus is on the victim to research and find a solicitor who does this area of work and who is willing to take on their application/case. Given the level of trauma experienced by the victim, this process may be a barrier in itself. Solicitor respondents did highlight the importance of victims having the freedom to choose their own solicitor, rather than being directed to a specific solicitor or service. This was seen as crucial for building trust and ensuring the victim feels comfortable with the legal representation.

Solicitors also noted that the current system results in the re-traumatisation of victims. They said that victims are subjected to further trauma and abuse when their applications are refused or when they have to attend court and face the perpetrator. This was also highlighted by victims who had applied for NMOs, with one saying: *"I don't see any value in the judicial system"* noting that the system had been *"re-traumatising"* for her.

Victims of domestic abuse said that another factor for victims in the application process related to past experience. They referenced negative past experiences where protective orders were not granted or were easily breached with limited consequences, and noted that this made them less inclined to go through the process again.

A further procedural factor noted by solicitors related to the information they can obtain in order to support a client's application for an NMO. They highlighted challenges in getting access to police reports and records that could support their clients' NMO applications, due to data protection concerns, noting that this can hinder the solicitors' ability to make a strong case for the NMO.

A final procedural or system factor noted by solicitors related to what they perceived as an increased judicial threshold for the award of an NMO. They reported that there has been a 'sea change' in how judges are approaching NMO applications, with a higher threshold being applied compared to the past. They suggested evidence for this from Judicial Review challenges, where solicitors suggested that judges were conflating the legal test of "significant harm" with a higher bar of "serious harm". Overall they said that some judges are applying the legal test for NMOs in a more restrictive manner, making it more difficult for applicants to meet the threshold, and leading to more NMO applications being refused. This is connected to confidence/faith in the system as discussed below.

There was some divergence in views between legal and judicial interviewees as to what the evidential thresholds are for different kinds of protective orders, with contrasts highlighted between *ex parte* orders and full orders. While solicitors felt that the evidential bar had become too high to put any Protective Orders in place to the detriment of victims, engagement with the judiciary indicated that *ex parte* Orders are required by law to have a higher threshold and require imminent threat but that the bar for full Orders was much lower. This may indicate inconsistency in legal practice across the courts in how both *ex parte* and full NMOs are being considered and granted, particularly regarding the levels of evidence required for each, whether it is necessary for a victim to apply for an *ex parte* order before a full order, and how quickly full orders might be granted if the criteria for an *ex parte* order are not met in the eyes of a presiding judge. Such uncertainty and

potential inconsistency may be a contributory factor to the decline in the application for, and granting of, NMOs.

PSNI respondents highlighted resource constraints for police in serving and following up on NMOs. They noted challenges in finding and serving NMOs on perpetrators who may actively avoid the police, and difficulties in keeping NMO cases "live" in police systems to ensure timely follow-up.

1.2 Cost as a barrier: for solicitors and for applicants

This was noted by solicitors and Judges interviewed, and acknowledged by victims:

"it should be easy to apply for, streamlined, simple for people – and doesn't require lots of hurdles. And solicitors should be paid well to do it." (Judge)

Solicitors voiced their opinion that there is inadequate legal aid and remuneration. They noted concerns that the legal aid fees for NMO applications are insufficient (the current composite fee of £352 being seen as disproportionately low for the amount of work involved), leading some solicitors to refuse to take on this work, as it is not financially viable for their practices. They highlighted that the time and effort required for these cases is seen as disproportionate to the legal aid fees received, noting significant time gathering extensive financial information and documentation from clients, including in relation to the domestic abuse waiver. Overall solicitor respondents said that the legal aid fees for NMO applications have not been updated for a significant period of time, noting that the rates have remained stagnant since the 1990s or early 2000s. They suggested that this results in a system which is failing to keep pace with the increasing complexity and time demands of this area of law.

Reference was made to the domestic abuse waiver, with clients often being just over the threshold and having to pay significant contributions, thus creating a financial barrier. In addition, solicitors viewed the administrative process relating to the legal aid waiver as very onerous: *"the requirements by Legal Aid for providing evidence of their financial circumstances are, I mean, it's just absolutely ridiculous....and the amount of time and energy spent with a victim who is going through a very traumatic period in their lives. I'm going back asking about certain outgoings on bank statements or that bank statement doesn't have your name and address on the top. And it's much more tricky in waiver cases because the client is over the limit of normal legal aid, so they're like, we have more bank statements and more. So even though the amount that you contribute towards legal aid is £100, no matter what your capital, they will still come back with 10, 15 questions in relation to capital. You answer those, provide more statements, they then come back. They also won't grant it unless you have dealt with, you have seven days in which to deal with this."*

This point was noted against concerns about a lack of parity with perpetrators. Respondents suggested that perpetrators of domestic abuse are often able to access free legal aid to defend themselves, including when accused of breach of a NMO, while victims have to navigate the complex civil legal aid system. They concluded that this is seen as an imbalance that undermines the ability of victims to access justice, and results in victims not applying for a protective order. One solicitor noted: *And, you know, what concerns me is that we have in the criminal courts perpetrators getting free legal aid, no contribution, no evidence to be found and getting free legal aid for defending these*

applications, but when we have a victim who is trying to get protection for themselves, they aren't afforded that.

Solicitors also noted a concern that non-specialist solicitors taking on this work may not have the necessary skills and empathy to effectively represent victims.

1.3 NMOs are viewed as being ineffective: this impacts the level of applications

This theme was put forward by a number of respondents, as a factor which is putting victims off in terms of applying for NMOs. Solicitor respondents suggested that the main reason for the decline in the number of applications for NMOs is that they are more hesitant to apply for them, on behalf of clients, advising them (their client) that there is a strong possibility their NMO full application will be refused, as they feel the threshold for granting them has increased, with judges being more reluctant to grant them, and noting a higher threshold being applied compared to the past. They evidenced this by referring to the recent judicial review challenges that found judges were conflating the legal test of "significant harm" with a higher bar of "serious harm". Solicitors suggested that this was a more restrictive manner of applying the legal test for NMOs which in turn makes it more difficult for applicants to meet the threshold and increases the number of NMO applications being refused, which consequently then has a direct impact on the number of applications. Whilst some solicitors stressed that they would still encourage victims to apply for an NMO, they conceded that they no longer had confidence regarding what would or wouldn't meet the evidential threshold: *"I have been quite surprised in the last number of weeks that one or two applications that I have made have passed the judge's threshold, though I couldn't tell you what that threshold is these days."* They noted that this was resulting in a lack of faith in the system for clients, which was further interconnected to eligibility for legal aid as noted above. In addition, lack of faith in the system is interconnected to inactivity in response to breaches of Protective Orders which is examined in Section 4.

Overall solicitors noted that they are advising clients that there is a strong possibility their NMO application will be refused, leading some clients to decide not to pursue the application at all, and that this "lack of faith" in the system is contributing to fewer NMO applications being made.

In addition, PSNI representatives and solicitors pointed to the wording of NMOs, which is generic, and cases which are difficult to prove that a breach has taken place. Opinions varied across respondent groups as to the level of specificity which is included in the order and how any breaches can then be evidenced, and how Orders should be worded to be most effective. This is discussed further in Section 4.

Victims also highlighted situations in their own experience of an NMO, in which the wording meant that a breach could not be confirmed. One respondent said that they felt the wording of the NMO was "very vague" and that the perpetrator could still do things like sit near her house without technically breaching the order. She felt the NMO was not protecting her at all.

In addition, responses from the judiciary noted changes in the type of breach which may be more difficult to evidence and have different boundaries as to whether a breach has taken place – this was

specifically in relation to the use of telecommunications by a perpetrator. One Judge noted that this can make the assessment and judgement of whether a breach has occurred very difficult as it involved print-outs of what was posted online, getting access to these and that the evidence has to be put in front of the perpetrator. They suggested that in some cases it is better to go in the direction of harassment and improper use of social media offences which are clearer and more specific. PSNI respondents also pointed to the difficulties in assessing whether a breach had taken place if it involved social media. This was summed up by one respondent: *"I think probably when these offences were introduced, these were quite quick investigations. It was really easy for us to evidence a breach, arrest the person and move on. I think increasingly it comes down to social media and how the offending and the breaches are enabled. There's quite a lot of these now for ourselves that are becoming quite protracted investigations with either phone examination or telecoms inquiries. So they're not the quick wins that they maybe once were. That might tie back into how satisfied victims are with them and how they view them as being valuable as well."*

In addition judicial respondents referenced *low level* stuff coming forward that people think is domestic abuse but it does not meet the evidential threshold. They mentioned low level contact and that harassment needs to have crossed a threshold, in order to be viewed as a breach.

In terms of social media judicial respondents suggested that more thought needs to be given to how social media/text/phone contact is regarded by police vis a vis breaches of orders. Judicial respondents noted that where appropriate they do sometimes include specifics into their Orders about social media and digital contact as this could be considered an act of molestation.

PSNI and judicial respondents suggested that the effectiveness of NMOs depends on the perpetrator. They noted that NMOs can be effective for some perpetrators who will abide by the conditions, but not for others who will continue to breach the order. In addition, PSNI representatives said that the effectiveness of NMOs links directly to enforcement and sentencing for breaches, and they expressed a concern that when perpetrators breach NMOs, the consequences and sentencing handed down by the courts are not taken seriously enough. In their opinion, this undermines the effectiveness of the orders.

Women's Aid noted that many women feel the orders are not effective in keeping them safe, with frequent breaches that have no consequences, and that as a result there is a lack of faith in the system and the outcomes of having an order. They pointed to the high level of applications being turned down in court, noting: *"It takes a lot for a woman to apply for an order. An awful lot. So by the time she gets there, it would be lovely if the court was able to explain why it wasn't granted."*

Victims of domestic abuse had mixed views on the effectiveness of NMOs. Some felt the NMOs provided little real protection or value, while others saw them as having some utility, even if the perpetrators continued to violate the orders with limited consequences. The overall sentiment was that the NMOs were not as effective as the respondents had hoped in keeping them safe from the perpetrators. This was emphasised by one respondent: *"It's not worth the paper it's written on. It's never followed through. There's no consequence to breach in the day where you don't feel protected."* Others suggested that in the longer run it was important to have an NMO in place. *"See going forward, because it's the compound effect, it all adds up, if you get the non-mol and it's*

breached, and breached in the legal aspects of things, I have to believe eventually that it's worth it." Victims suggested that the value of NMOs could be enhanced, noting: *"I believe it's still a good thing to go for if we're able to put forward any suggestions as to why they might be more protective and effective."*

1.4 NMO applications are superseded by more serious charges

One of the Judges pointed to a number of factors including the scenario that there are more serious charges (alongside the domestic abuse charges) against the individual which take precedent in court/charging and in bail conditions, and increased use of Restraining Orders (RO's) in relation to the wider theme of public safety. They suggested that it may be useful to look at numbers and trends in the award of RO's, as a comparator to the trends in NMO applications. This Judge suggested that *"it is easier for the victim if the police arrest them (perpetrator) and put bail conditions on."* Conditions could include 'no alcohol, no further criminal activity, exclusion areas including victim's home and street etc. They also linked this to the perceived value of NMOs in comparison to Restraining Orders and/or bail conditions. They said: *"Bail conditions work very well – people make an automatic relationship in their minds between conditions and freedom – that if they breach these they will be put into jail. The NMO message is not getting through. It is lighter in weight and it is served without criminal charges."*

PSNI respondents also noted that the level of NMOs granted may be impacted by the level of domestic abuse incidents and crimes where bail conditions are in place. One respondent noted: *"I think it's sort of fairly well known or believed that if bail conditions are going to be put in place, that NMOs aren't going to be granted."* Another said: *"I think that is an increasing trend that we're having where we're not getting NMOs granted where there's bail conditions in place and it causes the issues that were mentioned. But I think there's inconsistency with it. There are NMOs being granted where bail conditions are in place, and then there's others that aren't. And unfortunately, I don't have any data for the feedback that I'm getting from the officers in the team. But it certainly is an issue because when bail conditions then are withdrawn, which can be for a variety of reasons, then we're leaving our victims more vulnerable."* However, PSNI respondents noted that when bail conditions are withdrawn, this leaves the victim vulnerable.

1.5 Training of professionals impacts how domestic abuse and NMO applications are dealt with

There were differing views on whether the various players were adequately trained to deal with domestic abuse/violence incidents/crimes, whether PSNI were providing the necessary information to victims, whether there was sufficient information more broadly for victims on the need for and relevance to them of applying for a NMO, and whether there is sufficient training and knowledge base across the judiciary.

The PSNI respondents suggested that there may be potential gaps in legal representation and understanding. They noted concerns that some solicitors may not have the same level of training and awareness around domestic abuse dynamics as the police. Respondents suggested that more training may be necessary for the legal profession, especially the judiciary, and that this could improve how NMOs are viewed and enforced. One PSNI respondent said: *"So there's definitely something there around, you know, training, especially around language and understanding the dynamics of domestic abuse coercive control."*

In contrast solicitors called for more specialised training for both the police and judiciary in handling domestic abuse cases and understanding the importance of NMOs. They suggested that police officers sometimes downplay the seriousness of domestic abuse incidents when victims come to them, discouraging them from pursuing NMO applications. In addition, they pointed to a perception that the police do not provide the right advice or have the specialised skills to properly handle domestic abuse cases. Solicitors noted that in the past, there were specialised domestic abuse police officers who would work closely with them on NMO cases, but this dedicated resource has been lost. This was seen as a significant gap in the system, which was also highlighted by Women's Aid personnel.

Judicial respondents did feel that *"the PSNI are better trained. They suggested that they are so well trained that if they go out to a domestic call – they don't want to leave without doing something."*

Judicial respondents also felt that Judges have a good knowledge base across this subject, referencing the role of the Lady Chief Justice (The Right Honourable Dame Siobhan Keegan) on this theme and a range of training events organised by the Judicial Studies Board with a particular focus on Family law. Changes in terms of the Domestic Abuse court, Live links, the Reporting officer, the specialised rooms/centres, victim impact statements etc were also highlighted. In addition, in 2022 paperwork was changed to just note that it is domestic abuse – no other backup documents are required.

There were differing practice on the part of solicitors which at times resulted in them advising clients to apply for an Order when they do not meet the criteria, and that training in this area would be helpful. *"Solicitors shouldn't bring these women to the court – they get disappointed or tearful that they have been refused. And then this lady has been needlessly put through a process."* As noted earlier this contributes to lack of confidence and trust in the system. In addition, the differing opinions from the judiciary on what the threshold is and when applications should or should not be made, and solicitors interpretation of this, points to the need for clarity on thresholds and training in this area.

Discussion with judicial respondents this Judge included looking at the new coercive control provisions and whether this has altered judicial practice, with reference to the granting of Orders. This respondent said that whilst new vocabulary was now being referenced by solicitors, consideration of emotional abuse and mental oppression had been included since the legislation was brought in, and that the grounds for granting an *ex parte* NMO remain as imminent risk.

Women's Aid representatives noted that in their opinion Judges and police sometimes have poor understanding of coercive control and the context around abuse, and that this then impacts decision-making around providing information, supporting NMO applications and NMO outcomes in court, as well as how breaches are dealt with.

The different perspectives and viewpoints of all parties suggests that it may be useful to recommend a workshop, outside of the court environment, where police, solicitors and Judges could have exploratory discussions about how the system can work best to ensure NMOs are working for victims while staying within the constraints of the law, and that there is uniformity and certainty in terms of the level of evidence required for each type of Order. In particular, this may provide a forum for

discussion on terminology and evidence levels, for example, in relation to serious harm and significant harm.

2 Individual victim-based issues

All respondents noted potential and actual individual difficulties and factors for victims who wish to apply for NMOs.

2.1 Vulnerability of the victim

The vulnerability of the victim was noted by all types of respondent. PSNI respondents referenced victim vulnerability and chaotic lives. They said that for some victims, particularly those with chaotic lives or vulnerabilities, the process of gathering evidence and going through the NMO application can be very challenging, and that follow-up of breaches may be difficult. They suggested that the onus being on the victim to apply for the NMO and then report breaches is seen as a significant barrier. They noted that victims may need more support to navigate the system.

Individual vulnerabilities on account of a victim's learning difficulty, autism, complex health factors were also acknowledged by respondents, and the subsequent difficulties in explaining the outcome to individuals. Victims themselves highlighted their vulnerability which was exacerbated by not knowing the system, being in fear of the perpetrator, and having limited support (see these items below). This was summed up by one victim: *"This is why I'm so disillusioned with the whole thing. It doesn't even make sense....this is why women don't go ahead."*

2.2 Individual knowledge of the process

PSNI respondents made comments about the cost and lack of knowledge of the process, indicating that victims may be deterred from applying due to the costs involved, not knowing how to access legal aid, and not knowing how to go about getting an NMO through a solicitor.

Feedback from Women's Aid representatives suggested that there is a lack of understanding of NMOs and Protective Orders by victims. They noted that they often do not fully understand their rights and options around protective orders, and that there is a perception that undertakings are "just as good" as orders, which is not the case. Judicial respondents questioned the effectiveness of undertakings as they have no legal basis in Northern Ireland and can result in victims having to return to court to seek an NMO once the undertaking has not been abided by. *"How does a woman feel if she goes months through court, adjourned, adjourned, adjourned, and then he (the Judge) offers give an undertaking. And many women feel that this is the best thing to do. And next month she is asking for an NMO because he (the perpetrator) is back to his old ways."* Judicial respondents noted that the granting of undertakings are a frequent reason for the withdrawal of applications.

Respondents who were victims of domestic abuse noted that their lack of understanding of NMOs had been an off-putting factor for them in making an application. They described the terminology around orders as "huge" and containing "scary words", and that there was some confusion around the differences between an "ex-parte" order and a "full" NMO. One victim said: *"the terminology is a big thing around people. They're scary words. It's hard to think this person that you're in a relationship with, maybe a children, how are you going to manage that?"*

Victims of domestic abuse talked about how they had first heard about an NMO. Some respondents said that they had heard about NMOs from the police, some via Women's Aid, and some through a solicitor when a specific incident had occurred. Victims noted that lack of information had initially been a barrier for them, but that once they got to a source of information the process had started from there.

2.3 Cost and Eligibility criteria for legal aid

Solicitor respondents suggested that the eligibility criteria for legal aid, including the domestic abuse waiver, are too restrictive, with clients often being just over the threshold and having to pay significant contributions. They noted that this can act as a barrier to victims accessing the legal representation they need; in particular stating that the waiver is so bureaucratically onerous that they rarely use it. In addition, responses from the PSNI indicated that they were either unaware of the waiver or had limited knowledge on this topic, and comments by the Judiciary which noted difficulties in relation to the use of the waiver.

Victims cited the cost of applying for the orders as a deterrent, noting that victims were often already in financially precarious situations because of the domestic abuse situation. One victim summarised this noting: *"if somebody wants to get... assistance, there should be no barriers and no cost."*

2.4 Reducing and lack of faith/confidence in the system

PSNI respondents said that a lack of faith in the system may be resulting in a decline in NMO applications. They said that some victims feel that NMOs are not valued or taken seriously enough, especially when it comes to breaches being prosecuted. This can make them less inclined to go through the process.

A further theme, linked to lack of faith in the system, identified by PSNI respondents was a perceived inconsistency in granting NMOs between different courts/judges in terms of whether NMOs are granted, especially when there are existing bail conditions in place. They suggested that this creates uncertainty for victims.

Victims of domestic abuse also talked about needing to have the confidence in the process, and the likely outcome of an application for an NMO. One victim said: *"I needed someone to confidently say it to me. I'm a confident person, but I needed someone to confidently say to me, we're going to get a non-molestation order. Because I just thought, no, I'm not walking into court looking for that. It's the confidence behind the conversation."*

2.5 Fear as a barrier

Feedback from Women's Aid representatives indicated that one of the biggest barriers for victims in applying for an NMO is fear. Respondents noted the fear of the consequences, firstly from the perpetrator and their family and secondly that women are worried about social services involvement and potentially losing their children if they apply for an order. Fear was also noted as being associated with a lack of faith in the system, and that any breaches would be acted upon appropriately.

Fear was associated with a range of factors including fear of retaliation from the abuser, experience of frequent breaches with no consequences and police often minimising or not documenting breaches properly, and fears around delays in serving orders, leaving victims at high risk in the interim period.

A key part of the discussion with victims of domestic abuse centred around their emphasis on the need to feel safe and protected, and linking that to having some sort of legal protection in place. They noted that their journey towards an NMO came from ongoing harassment and abuse, that they had been "terrified" and wanted to protect their kids, and that the perpetrator had already breached other bail conditions multiple times.

Respondents talked about weighing up the need for protection, against a fear of what might happen if they applied for and/or were awarded an NMO. They talked about the fear of going into the court and also noted that they felt like a *"sitting duck"* and were afraid of what the perpetrator might do. One victim talked about her fear of the courtroom noting: *"the biggest fear of going forward to apply for a non-mol? Yes. So I think it's not maybe understanding what that entails. Certainly for me one of the factors was having to go into the court."*

In addition, victims said the biggest fear in calling the police and/or applying for an NMO was the fear that they would not be believed. One victim suggested that there should be an overarching approach of belief in the victim, noting: *"Believe what people tell you. So, the fundamental concept of belief. They're not there for the love of it. They don't want to be there. Is that within the police? Is that within the society? ...Act on it."*

Furthermore, based on their lived experience victims said that in cases where the NMOs were not granted or were overturned on appeal, this left them feeling even more unprotected and vulnerable. Overall victims said that the process of getting the NMO and then reporting breaches was *"relentless"* and *"draining"* for them as victims.

Section 4 Findings: Breaches of NMOs and how breaches are dealt with

The discussions with the range of respondents centred on how breaches of NMOs are dealt with, and whether this has any impact on the effectiveness of the orders. Two sub-themes were identified in this discussion, and these are outlined below:

- (1) The wording of NMOs is too generic – impacting the ability to evidence a breach
- (2) There is an inconsistent approach to NMO breaches by a number of parties

1 Wording on NMOs

PSNI respondents suggested that the wording of NMOs is sometimes seen as too generic, making it hard to definitively prove a breach has occurred. They also referenced difficulties in obtaining digital evidence from platforms like Facebook and that this can hamper prosecuting breaches. PSNI respondents suggested that there should be more specific, tailored conditions in NMOs (rather than generic "no contact" orders) and that this may make them more effective and easier to evidence breaches.

There were mixed views amongst solicitors and judicial respondents with some suggesting that it is better to retain broad, generic wording that can cover all incidents and situations. The solicitors argue that the wording of NMOs is intentionally broad and generic, using terms like "molest, harass or pester", in order to cover a wide range of potential abusive behaviours. They noted that this broad wording is seen as necessary to ensure the orders can be effectively applied to different situations and prevent perpetrators from finding loopholes.

On the other hand having noted the need for generic wording solicitors also raised concerns that the broad wording of NMOs, intended to cover a range of behaviours, saying that it is being interpreted too narrowly by the police, who in their opinion are reluctant to enforce breaches. They suggested that the PSNI want more specific wording, but the solicitors argued the broad wording is necessary to protect victims. Overall they noted that the wording and scope of the protective orders is appropriate, but the problem lies more with the enforcement and response from the police when breaches occur. One solicitor summed up the situation as follows: *"You'll have a breach. You'll say at the time, you need to report that to the police, and the police will say, well, we don't see this breach of the NMO. And you're saying, you know, it's really obvious things like, The partner turned up at the house and was screaming at the front door. Well, because you didn't have an exclusion zone.... Or he didn't go into the curtilage of the property, so it's perfectly fine. And having these arguments with the police, which we don't really get paid for, to say that is a very explicit breach of the NMO.... And I spend so much time threateningthe police because I'm saying, my client has an order and you're not enforcing it."*

Another solicitor highlighted what they noted were changes over the last 20 years in terms of how breaches of NMOs are responded to by the police. They said: *"I remember whenever there was a breach of a NMO, the police would drive out, arrest the perpetrator and they would be produced at the next court as soon as possible. Now, I haven't heard of that being done in a very long time, probably in the last decade, unless someone has ended up in hospital or something like that."*

In addition, the changing nature of abuse was raised by participants as a challenge for the operation of NMOs. Participants noted that there has been a significant increase in the use of telecommunications and social media as a means to intimidate, harass or pester victims, and several respondents queried whether the NMO regime in its current form was adequately equipped to protect victims from such abuse. PSNI colleagues pointed to the difficulties in assessing whether a breach had taken place if it involved social media. This was summed up by one respondent: *“I think probably when these offences were introduced, these were quite quick investigations. It was really easy for us to evidence a breach, arrest the person and move on. I think increasingly it comes down to social media and how the offending and the breaches are enabled. There's quite a lot of these now for ourselves that are becoming quite protracted investigations with either phone examination or telecoms inquiries. So they're not the quick wins that they maybe once were. That might tie back into how satisfied victims are with them and how they view them as being valuable as well.”*

Judicial interviewees also noted that this kind of abuse may also pose evidential difficulties, whether that is such abuse meeting the threshold of being an act of molestation, or more logistical challenges like getting copies of evidence of online messages from the accused to present in court. It was argued by some that due to these difficulties it was often easier to pursue harassment or improper use of social media offences instead of NMO breaches. It was also suggested that more thought needs to be given to how social media/text/phone contact is regarded by police vis a vis breaches of orders.

There was also debate amongst police, solicitors and judges about how NMOs should be worded to be most effective. Whilst solicitors stressed the need for generic wording such as “not to intimidate, harass or pester” to cover all potential scenarios, police felt that generic wording did not give them sufficient specificity to conclude that a breach had occurred, making it difficult for them to take action. Interestingly, judicial opinion was also split on whether orders should be written in a generic or specific. This diverging opinion and practice appears to have created significant uncertainty about whether an NMO will be effective even if granted, with feedback indicating that victims who have previously applied for an Order are less likely to apply again if the previous Order was not effectively enforced in their eyes. Victims highlighted situations in their own experience of an NMO, in which the wording meant that a breach could not be confirmed. One respondent said that they felt the wording of the NMO was “very vague” and that the perpetrator could still do things like loiter near the victim’s house without technically breaching the order. She felt the NMO was not protecting her at all.

2 Inconsistent approach to NMO breaches

Solicitors suggested that the police are often reluctant to act on reported breaches of NMOs, with the orders seen as not being worth the *“paper they're written on.”* Solicitor respondents highlighted difficulties in getting the police and Public Prosecution Service to take breaches seriously and pursue prosecutions. One solicitor highlighted this by referencing clients that come to them before reporting a breach to the police: *“Whenever there is a breach and the client goes into the police, they often come to us first and we say that's a breach; go to the police, then the police say no, we're not acting on it; they come back to us again and we say, what's going on here?”*

PSNI respondents suggested that there is inconsistency in how NMOs are viewed and enforced by the judiciary. They noted that some judges are seen as more proactive and understanding of

domestic abuse dynamics, while others may be more lenient on breaches. In addition, they suggested that there is a perception that NMO breaches are not always taken as seriously as they should be by the courts. PSNI respondents noted that outcomes can vary depending on which judge is presiding, leading to a *"postcode lottery"* in how effective NMOs are. One PSNI respondent gave the following example: *"...Effectively thrown out of court because judge will say that the victim was complicit in the breach, which is you know it's fairly problematic because victims aren't complicit in breaches; victims are doing what they feel they need to do to keep themselves safe."*

Women's Aid representatives suggested that the police and courts often do not take breaches seriously or document them properly, resulting in no action or follow-up for the victim when an NMO is breached.

Victims of domestic abuse talked about the exhaustion and retraumatisation from the process of reporting breaches. One respondent said she was *"physically drained"* from repeatedly going to the police station and making statements. Victims noted their experience of limited responses to their reporting of breaches, and that this was often dependent on who the police officer was. They noted instances where the police did not take breaches seriously or failed to properly document and investigate them. In addition, they voiced concerns that the court system was not holding perpetrators accountable, with *"slap on the wrist"* sentences that did not deter further abuse, and indeed were cited as emboldening perpetrators because they knew there would be no significant consequences. One victim said: *"Slap on the wrist, basically. He got four months suspended from prison, suspended for two...And he's been around with a smile on his face as if nothing has happened, but still breaking the non-moll."* Another victim noted: *"the reality of it again is because it's not being upheld because obviously people talk and whether it is across social media platforms, podcasts, people talk about their lived experience as to what's the point. It's only worth it. It's not worth the paper it's written on. It's never followed through. There's no consequence to breach in the day where you don't feel protected."* Victims emphasised that in their opinion the current system places them in increased danger at specific junctures, i.e. when they apply for a NMO, when there is a breach of the NMO but no action taken.

Another key theme from victims in a rural setting, was the impact of rurality on both their thought patterns about making an application for an NMO, and reporting of breaches. They talked about the fact that people know each other, and this can lead to different perceptions and levels of follow up. One victim said: *"This is where I think we're going to find a huge difference. Because we live so rural, and I know I'm bringing this back up again, there's so many other elements. People know each other, the backhandedness... Rurality is a huge issue here... My ex and the sergeant were friends. So I had no confidence in the police whatsoever. So I just soldiered on."*

Section 5 Findings: Alternative Protective Order options and/or improving the current system

Respondents were asked what alternatives to NMOs could be developed and put in place in Northern Ireland.

PSNI respondents said that it would be helpful to explore alternative protective order options, such as Domestic Abuse Protection Orders (DAPOs), in order to improve the effectiveness of orders, but that within this resource implications would need to be considered. They noted that such a scheme would not be feasible on current PSNI staffing levels. One of the Judges interviewed also thought there was merit in looking at this option.

In contrast, solicitors expressed some concerns about the potential introduction of DAPOs. In particular one respondent expressed concern that with DAPOs, *"it will be up to the police to determine whether a victim gets the protection that they need."* There were concerns that this would be problematic given the perceived issues with the police's current approach to enforcing breaches of protective orders. In addition, it was felt that if DAPOs were introduced, there was a risk that Judges may be less inclined to grant protective orders, thinking *"well, it mustn't be that bad because the police haven't applied for a DAPO."* Overall, solicitor respondents viewed the DAPO model with some scepticism. There were concerns that it would further shift power and discretion away from the courts and towards the police. The participants felt this could undermine the effectiveness of protective orders as a tool for keeping victims safe.

A number of respondents/groupings suggested that the current system could be improved to assist the victim from the application process onwards, and in streamlining the granting of Orders and how breaches are dealt with.

Solicitors noted that the current system could be significantly improved, noting that with some changes through a combination of procedural, resourcing, and cultural changes across the different agencies involved it could be more accessible, efficient and responsive to the needs of victims. They suggested a range of factors that could lead to improvements as follows:

- Streamline the application process, potentially reverting to the more efficient remote/email-based process used during COVID. This could encourage more solicitors to take on this work.
- Provide non-means tested legal aid for protective order applications to ensure victims can access legal representation. The current legal aid system was seen as a barrier.
- Consider expanding the definition of "associated persons" to cover more types of relationships where domestic abuse can occur, beyond just intimate partners.
- Improve coordination and communication between different agencies like the police, courts, and support services like Women's Aid to provide a more joined-up approach for victims.
- Improve police training and response to breaches of protective orders. The participants noted a shift in police attitudes and willingness to enforce breaches, which has undermined the effectiveness of the orders, and suggested that this needed immediate review and reform. This was also linked to the need to review the wording and scope of protective orders to ensure they are fit for purpose for the clear identification of a breach and follow up action.

- Ensure judges are properly trained on the purpose and importance of protective orders, and address any issues with inconsistent application of the legal test by different judges, thus ensuring that threshold levels and interpretation is consistent.
- Explore the potential benefits of having dedicated domestic abuse officers or a one-stop support model like the legal clinic in the Derry area, while ensuring victims still have choice of legal representation.

Judicial respondents also pointed to a number of changes that might make the process more accessible to victims, including by changing the court environment to protect victims safety and to also enable them to actively engage in the system and process. One suggestion was to enable victims to give evidence from a solicitors office or other approved venue, in particular to enable victims to feel more comfortable with the process and to minimise the impact of retraumatisation linked to appearing in court. It was also recognised by a number of respondents, including solicitors working in this area. That this approach would significantly lower the amount of time they spend waiting around in court for a hearing, and that they could continue with office work whilst waiting for court appearances happening remotely from their office.

PSNI respondents suggested that the current system of NMOs is effective for some perpetrators who will abide by the conditions, but not for others who will continue to breach the order. On this point respondents highlighted a concern that when perpetrators breach NMOs, the consequences and sentencing handed down by the courts are not, in their opinion, taken seriously enough. As a result this undermines the effectiveness of the orders. Furthermore PSNI respondents commented that the effectiveness of NMOs seems to vary depending on which court/judge is handling the case. They said that some are more proactive in enforcing the orders than others. Overall, PSNI respondents made a number of suggestions on how to improve the current system including:

- Ensure specific conditions rather than generic wording in the Order; with respondents suggesting that more specific, tailored conditions in NMOs, rather than generic “no contact” orders, would make them more effective and easier to evidence breaches.
- Provision of advocacy and support to victims throughout the process, as well as ensuring they understand the Orders. Respondents suggested that this might be most effective through one-stop shops.
- More training for all parties involved in the delivery and follow-up of NMOs from the judiciary to solicitors to other legal professionals.

Similar to comments from solicitors, Women’s Aid representatives suggested that there should be a more specialised, well-resourced domestic abuse police team. In addition, they highlighted the need to track and monitor repeat perpetrators, rather than just victims and that there should be better communication, documentation and follow-up on reported breaches.

Victims made a number of suggestions around alternative options and also how NMOs could be strengthened as follows:

- More robust and individualised wording for protective orders: respondents felt the wording of the NMOs was too generic and vague, suggesting a need for more tailored and specific orders.
- Removal of any financial barriers: respondents said there should be no financial costs for victims applying for protective orders.

- Improved police training and response: Respondents highlighted inconsistencies in how the police handled reports of breaches, with some officers being more responsive than others. There were calls for better training and a more standardised, proactive approach from the police in enforcing protective orders. In addition, victims noted the need for a dedicated domestic violence teams within the PSNI
- Recording of information: Respondents said that all information should be recorded, even if the incident is not deemed by police to be a breach of the NMO. They also commented on response times coming out to incidents including answering the call promptly.
- Greater continuity and accountability in the justice system: Victims expressed frustration at the lack of consistency, from the police to the judges, in how protective orders were handled. There were suggestions that the system needed more accountability and less of a "*postcode lottery*" in terms of outcomes. One victim said: "*It shouldn't make a difference who your police officer is or your solicitor or your judge. It should not be a postcode lottery. It all should be the law.*"
- Victims called for stronger responses to breaches. One participant stated, "*When somebody breaks a non-molestation order, there should be stronger consequences than walking away with a slap on the wrist.*"
- Alternatives to the criminal justice system: Respondents suggested a need to explore alternative, non-judicial avenues for protecting victims, such as through social services or community-based support.