



Changes in the DV Branch

DV Branch in Family Law & Justice would like to welcome Jodie Smith and Janice Stevenson.

Jodie Smith has replaced Terry Hunter as the Head of Domestic Violence Branch. Jodie has returned from secondment at CAF/CASS where she was working with the Chief Executive as Change Manager. Prior to this she was working on the implementation of the Public Law Outline in Family Law & Justice. Terry Hunter has moved to be Head of Magistrates' Training at the Judicial Studies Board.

Janice Stevenson joined the Branch in December 2008. Prior to this Janice worked on the implementation of the Forced Marriage (Civil Protection) Act 2007 and she will continue to take work on Forced Marriage forward within the team.

Jodie Smith, Jan Salihi, Brett Gable, Janice Stevenson and Bola Aggrey-Finn

Recent Developments

- **Eighteen new Specialist Domestic Violence Courts (SDVC) announced on 26 March 2009:** the inclusion of these new systems brings the number of SDVCs to 122, which puts the programme well on the way to achieving 128 systems by 2011. Click [here](#) for the press release, and for more information on the SDVC Programme click [here](#).
- **SDVC Programme – Update on the Local Criminal Justice Board (LCJB) Consultation and next steps:** for more information click [here](#)
- **Consultation -Together We Can End Violence Against Women and Girls Strategy:** The consultation sets out the action that Government has taken to tackle all forms of violence against women and girls. The consultation aims to look at what more can be done to challenge the attitudes that may uphold it in order for them to feel safer. **The consultation closes on 29 May 2009.** To access the consultation click [here](#).
- **23 Forced Marriage Protection Orders made to date since implementation of the Forced Marriage (Civil Protection) Act 2007:** for more information click [here](#)
- **New Domestic Violence Leaflet ‘Supporting a friend or relative’:** this [leaflet](#) was launched by the Home Secretary on 10 February 2009, for information click [here](#)

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Specialist Domestic Violence Courts (SDVC) Programme

SDVC systems, so called because, although it has court processes at its heart, it relates to a broader process, including the early identification of DV incidents particularly policing, health and social care interventions, through to specialist support for victims and the management of offenders.

On 26 March 2009 the Government increased the number of SDVC systems in England and Wales to 122.

Press release can be accessed at: <http://www.justice.gov.uk/news/newsrelease260309a.htm>

Under the violent crime action plan, we are committed to a target of 128 SDVCs by 2011 which we are well on the way to achieving.

The SDVC Review *Justice with Safety* was published in March 2008. The report outlines the findings of a review of the first 23 Specialist Domestic Violence Courts. It is clear that SDVCs have contributed to improvements in both justice and safety for domestic violence victims. Out of the SDVC systems reviewed 10 achieved a successful prosecution rate of over 70%, with one reaching 80% and the remaining 12 achieving an average rate of 66%. Other key findings from the review are:

- An improvement in the responses of individual agencies: in relation to the police, a high level of domestic violence crimes being arrested (an average of over 80%);
- Just under 6,000 victim referrals were made to Independent Domestic Violence Advisers – an average of 269 referrals per IDVA service; and, around three-quarters (74%) of clients involved in the court process were supported by Independent Domestic Violence Advisers at court.

The full report can be accessed at: <http://www.crimereduction.homeoffice.gov.uk/dv/dv018.htm>

The National SDVC Resource Manual is a reference tool for areas that are planning or already embarked on developing a SDVC system. First Published in 2006, the manual has been revised to reflect best practice highlighted by the above mentioned review.

The Resource Manual can be accessed at:

<http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence059a.pdf>

Data collection templates can also be accessed at:

<http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence59.htm>

SDVC Programme – Update on the Local Criminal Justice Board (LCJB) Consultation and next steps

In October 2008 the National SDVC Steering Group sought the views of LCJBs on the reassignment of some or all responsibility for the development and operation of the SDVC Programme through LCJBs. The level of response was relatively good with 29 Boards submitting a response (69% - 60% response rate is considered statistically viable). 13 Board made no response at all.

As a very brief overview, out of the 29 Boards that replied:

- 90% (n=26) favoured LCJB governance of SDVCs;
- 90% (n=26) favoured performance management of SDVCs by LCJB;
- 41% (n=12) favoured the National Group handling everything on accreditation;
- 45% (n=14) favoured National Group lead on accreditation with GO and LCJB contribution; and
- 14% (n=4) favoured LCJB handling everything on accreditation.

The outcome of the consultation was that LCJBs were in favour of taking on the governance and performance management of SDVCs. This was in recognition of PSA 24 (Deliver a more effective, transparent and responsive Criminal Justice System for victims and the public) and development of broader partnership working. A national workshop took place on 12 May 2009 to explore some of the issues involved in the transition of responsibility. The workshops aim was to support the LCJBs in developing procedures to be in place from 2010-11 in order to carry out these functions effectively.

All LCJBs have been asked to include their proposals and timetables into their 2009-10 delivery plans to take on responsibility for the governance and performance management of SDVCs.

Forced Marriage (Civil Protection) Act 2007

http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga_2007_20_en.pdf

Since the The Forced Marriage (Civil Protection) Act 2007 came into force on the 25 November 2008 there have been 23 Forced Marriage Protection Orders made. This Act enables courts to prevent forced marriages and order the perpetrators to change their behaviour or face jail. It also provides recourse for those already forced into marriage.

Under the Act, a court may make a Forced Marriage Protection Order to prevent a forced marriage from occurring, by requiring the person responsible to:

- Hand over passports
- Stop intimidation and violence
- Reveal the whereabouts of a person or
- Stop someone from being taken abroad.

The press release can be accessed at: <http://libra-efonet.lcd.gsi.gov.uk/justice/news-media/index.htm>.

The launch is in conjunction with White Ribbon Day, more information on this initiative can be found at: <http://www.whiteribboncampaign.co.uk/>

On 13 November 2008 Justice Minister Bridget Prentice made a statement on the Government's response to a consultation on third party applications on behalf of victims of forced marriage. The statement and the Government response can be accessed on the Ministry of Justice web-site at:

<http://www.justice.gov.uk/news/announcement131108a.htm>

Work is in progress to establish safeguards and guidance for Local Authorities to act as Relevant Third Parties, and to identify site(s) to pilot IDVA support for Forced Marriage Protection Orders applicants.

New Domestic Violence Leaflet 'Supporting a friend or relative'

On 10 February, the Home Secretary launched a new leaflet with information on how to support a friend or relative who is in a violent relationship. The Supporting a Friend or Relative leaflet explains how you can recognise if someone you know is suffering from domestic violence, and what practical support is available in order to help them.

The Home Office has been working with the British Banker's Association and the leaflet provides information about additional banking support for victims. The new measures will allow victims to open an independent account without the usual requirements for multiple proof of identity or address.

It is hoped that the new information about how the banks can support victims, even if it's just by offering to discuss personal and sensitive financial matters privately or explaining that they will accept non-traditional forms of ID when you need to open a new account, will enable more women to feel they can take their first step towards breaking away from their abusers.

Ensuring Safe Contact between Children and non-resident Parent

Work to simplify the C1A form continues. DV Branch has been working with stakeholders to look at ways to make it easier for a judge to make findings of fact.

Further revisions have now been made to the form and have been sent to stakeholders for comment. The plan is to implement the revised form later in 2009

The Domestic Violence, Crime and Victims Act 2004

<http://www.opsi.gov.uk/acts/acts2004/20040028.htm>

Explanatory Notes: http://www.opsi.gov.uk/acts/acts2004/en/ukpgaen_20040028_en.pdf

Commencement Order No.9 lists the provisions in force http://www.opsi.gov.uk/si/si2007/uksi_20071845_en_1

Measures impacting directly on the Ministry of Justice include: -

- s1: makes breach of a non-molestation order (Part IV of the Family Law Act 1996) a criminal offence. Breach is punishable by up to five years imprisonment on indictment.
[1st July 2007] Add something about this measure giving the victim two options.
- s3: amends the Family Law Act definition of 'cohabitant' to include same-sex couples making it explicit that same-sex couples can apply for non-molestation order as an 'associated person'.
[5th December 2005]
- s4: extends availability of Part IV orders to those persons that are not cohabiting i.e. *"they have or have had an intimate personal relationship with each other which is or was of significant duration."*
[1st July 2007]
- s10: (common assault an arrestable offence) was superseded by amendment to the list of arrestable offences under s24 of PACE so that a police officer may arrest without a warrant.
[1st January 2006]

s12 will be implemented from September 2009. This extends powers on restraining orders on conviction or acquittal under the Protection from Harassment Act 1997 to cover all violent offences in England and Wales. Section 12:

- Enables courts to impose restraining orders when sentencing for any offence.
- Gives any person mentioned in a restraining order a right to make representations in court if an application is made to vary or terminate the orders.

Issues raised on the provision of legal aid for breach of non-molestation orders

Since the implementation of s1 of the DVCV Act 2004 some confusion has arisen on the provision of legal aid the interpretation of the Legal Services Commission (LSC) guidance *Domestic Abuse, Civil Remedies & Legal Aid*: http://www.legalservices.gov.uk/civil/family/domestic_abuse.asp

On breach of a non-molestation order the victim has 2 options, these are:

1. The applicant/victim can contact the police – the respondent may be arrested to be taken to a magistrates' court for enforcement. The Crown Prosecution Service should be notified by the police and they will decide how the case should proceed.
2. The applicant/victim can apply for the issue of a warrant in the county court for the arrest of the respondent under section 47(8). The application must be substantiated on oath (section 47(9)). Once the respondent has been arrested they will be brought to court and dealt with in exactly the same way as if they had been arrested under a power of arrest.

Difficulty has arisen where the victim/applicant has been denied legal aid to pursue committal proceedings in the family-civil court because the decision as to whether or not to charge and proceed with a criminal case is yet to be made. The LSC guidance on provision of legal aid for non-molestation orders is as follows:

- Legal aid is still available to allow committal proceedings to be taken against a partner or ex-partner if they breach a court order or undertaking. However, under the Domestic Violence, Crime and Victims Act 2004, breaching a non-molestation order is a criminal offence and if a person has been charged by the police and convicted of a criminal offence then committal proceedings cannot be taken for the same incident. If criminal proceedings had been started by the police it is therefore unlikely that legal aid would be granted to take committal proceedings as well. However, where there has been a breach and the police are not taking criminal proceedings legal aid may be granted for a committal application.
- In addition where the police are taking criminal proceedings but bail conditions are likely to finish shortly but incidents are likely to continue then legal aid may be granted for an injunction to protect the victim.
- In this situation, victims should explain to their solicitor what contact they have had with the police so that they can talk to them about the best course of action.

If a respondent has been convicted of the breach then there should be no need for the victim/applicant to return to the civil courts unless the circumstances outlined in the second bullet point apply. The provisions provide the victim with the choice as to which route they wish to take. There may of course be occasions when the CPS will decide that the offence is serious enough to prosecute and proceed without the victim/applicants support.

Family Criminal Interface Committee (FCIC)

The Family-Criminal Interface Steering Committee was established in 2004, and is currently chaired by Mr Justice Hedley. The Committee's remit is to take an 'overview' role in co-ordinating all work currently being undertaken in England and Wales to improve the interface between the family and the criminal jurisdictions. The Committee identifies issues that have not yet been addressed to meet the need to enable all stakeholders to respond more effectively to child protection, domestic violence and private and public family law issues within the forensic area.

The Committee current work includes:

- looking at the issues surrounding the implementation of s1 of the Domestic Violence, Crime and Victims Act 2004
- a working party looking to scope the level of vulnerable parties being cross-examined by litigants in person in the family courts and what measures are used to prevent this happening.

The next committee meeting is scheduled to take place in the middle of October 2009.

Children and Adoption Act 2006

http://www.hmcourts-service.gov.uk/infoabout/children/child_adopt_act.htm

The remaining provisions of Part 1 of the Children and Adoption Act 2006 came into force in December 2008. These provisions give the courts more flexible powers to facilitate child contact and enforce contact orders made under the Children Act 1989.

New facilitative measures in the Act include giving courts the power to require parents to undertake a "contact activity" such as attending relevant parenting programmes or classes, or information sessions, before a contact order is made.

The Act also provides the courts with the power to attach conditions to contact orders, which may require a parent to undertake a "contact activity" and to require a Cafcass or CAF/CASS CYMRU officer to monitor contact.

Vulnerable Witnesses Working Party

The Family Criminal Interface Committee (FCIC) set up a Cross-Examination by Litigants in Person Working Party. The Vulnerable Witnesses Working Party (VWWP) has been established to scope the issues surrounding vulnerable witnesses in the family courts and present practical solutions and possible recommendations for change.

A wider Vulnerable Witnesses Project looking at family law as a whole was being scoped by Family Law and Justice Division in the Ministry of Justice. It was agreed that due to the similar nature of the outcome of both projects that these work-streams be merged into an overall Vulnerable Witnesses/Parties Working Party

The primary objectives of the Working Party are:

1. Agree what constitutes a vulnerable party and the proceedings that this applies to and in those proceedings the inequality between criminal and family law;
2. Scope when and how often Litigants in Person are cross-examining vulnerable witnesses;
3. Look at the provision of services for vulnerable parties within the courtroom in family law as a whole; and
4. Provide recommendations for FCIC and Family Law and Justice Division and other bodies (where appropriate) on options

The work of the working party has been set out in the short, medium and long term as below:

- Short term - a business note will be sent to courts to raise awareness on this issue
- Medium term – opportunities will be sought to link with practice directions to further clarify the issue
- Long term – provide recommendation for legislative change and how this could look to FCIC and Family Law and Justice Division

The working party met on 15 May 2009 to discuss the definition of vulnerable witnesses and set out the work-plan in line with the options above. The working party will meet again in September 2009 and report back to the FCIC meeting in October.

Availability of Special Facilities and Protection of Vulnerable Parties in Family Courts.

In December 2004, a special facilities [poster](#) was distributed to all county court managers as part of an exercise to map the availability of public information about special facilities and to promote their provision in family courts where possible. [The report of the 2007 mapping exercise](#)

To follow, this Branch carried out a recognition survey of the Special Facilities poster in May 2008. Unfortunately the response rate was too low to report on. Since then work has been undertaken to look at ways to assess the impact and obtain more responses.

In line with the work of the Vulnerable Witnesses Working Party the scope of the survey was widened to include questions on the prevalence of cases where vulnerable parties (victim-applicants) are being cross-examined by a litigant in person (respondent/alleged perpetrator of abuse).

A pilot took place in three family courts: Inner London, Medway, Croydon early in 2009 where court staff will target practitioners at the public counter to complete and return the survey. The initial findings appear to show that the instance of litigants in person cross-examining vulnerable witnesses is quite high with the responses from one court showing that 7 out of 15 practitioners had come across this issue.

Twenty further courts have now been identified to run the survey across England and Wales both in rural and urban settings. Resolution and the Family Law Bar Association will also be encouraging their members to complete the survey. This will run from the beginning of June to the middle of July and a final report will be provided in the middle of August. The outcomes will be considered by a Family Criminal Interface Committee working party and Family Law and Justice Division.

Useful Publications

Domestic Violence – A National Report

2007/2008: <http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence069.htm>

Annual Progress Reports have been published since 2005,

2006/2007: <http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence066.pdf>

2005/2006: <http://www.crimereduction.gov.uk/domesticviolence/domesticviolence61.pdf>

2004/2005: <http://www.crimereduction.gov.uk/domesticviolence/domesticviolence51.pdf>.

Useful Publications – continued

Saving Lives. Reducing Harm. Protecting the Public: An action plan for tackling violence 2008-11

The cross-government Violent Crime Action Plan published in February 2008. This plan features innovative new methods for stopping violent crime. The report can be accessed at: <http://www.homeoffice.gov.uk/about-us/news/violent-crime-action-plan>

DV Guide

In February 2003 we published “[Domestic Violence: A Guide to Civil Remedies and Criminal Sanctions](#)” available in English, Welsh, Arabic, Polish, Gujarati, Punjabi, Urdu, Bengali, Cantonese and Somali. The guide has been well received and is still in demand for multi-agency training events as well as individual interest. The Guide and translations can be accessed at: <http://www.family-justice-council.org.uk/603.htm>

As part of their 2009/10 work-plan the Family Justice Council’s Domestic Violence Working Group will be looking at raising awareness of documents such as the guide to civil remedies and criminal sanctions to ensure they reach the widest audience possible and are available when victims of domestic violence most need them.

Family Process DVD “You Don’t Have to Live in Fear”

Victims of domestic violence are given an insight into the family court process through the DVD. The DVD was produced with the support of the Family Justice Council and the Family Law Bar Association in response to the HMICA report on how domestic violence is handled in the family courts and following the success of a similar production in Northern Ireland.

Copies of the DVD are available from Home Office Publications: telephone 0870 241 4680, reference DVL-DVD. Due to demand a second print of a further 20,000 copies was made. There is an option to view the film with Welsh subtitles and the leaflet has also been produced in Welsh, reference DVL-DVD-W.

Early evaluation of the Domestic Violence, Crime and Victims Act 2004

<http://www.justice.gov.uk/docs/domestic-violence-report-2004.pdf>

This study was commissioned to provide an early evaluation of some of the measures of the Domestic Violence, Crime and Victims Act 2004.

Croydon Integrated DV Court – Pilot

The pilot has been evaluated and the report can be accessed on the Ministry of Justice web-site at:

<http://www.justice.gov.uk/publications/domestic-violence-crime-victims-act-2004.htm>

The Croydon Local Management Group agreed last October to cease operation of the IDVC.

Legal Services Commission – Domestic Abuse

Information on provision of legal aid for victims of domestic violence can be accessed at:

http://www.legalservices.gov.uk/civil/family/domestic_abuse.asp

Guidance and information that can be found on this site includes:

- Domestic Abuse: Literature Review – Jan 09
- Domestic Abuse: fact sheet – Nov 08
- Domestic Abuse: eligibility waiver guidance – Aug 08
- Decision making guidance – Aug 08

Home Affairs Committee on Domestic Violence, Forced Marriage and “Honour” Based Violence

On 26 July 2007 the Home Affairs Select Committee announced their intention to conduct a broad-ranging inquiry into domestic violence, including so-called “honour” killings and forced marriage. They decided to focus on:

The Committee published the report of their findings on the 13 June 2008 and Volumes 1 and 2 can be accessed at:

Volume 1 <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmhaff/263/263i.pdf>

Volume 2 <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmhaff/263/263ii.pdf>

The Government response to the report was published on 23 July 2008 and can be accessed at:

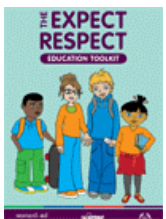
<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmhaff/1165/1165.pdf>

The Government published a further response to the report on 30 September 2008, which can be accessed at: <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmhaff/1165/1165.pdf>

External Publications*



Power to Change is a new European resource produced by the organisations participating in the Daphne project. The resource aims to help victims of domestic violence. It is a practical guide to running support services and self-help groups with victims and survivors of domestic violence.



The Women's Aid Expect Respect educational toolkit consists of one easy to use 'Core' lesson for each year group from reception to year 13 and is based on themes that have been found to be effective in tackling DV.



13 November 2008 - Refuge published research and launched a guide on the issue of financial abuse of women experiencing domestic violence.



August 2008 – Refuge launched the Early Warning Signs Campaign

*Any questions on these publications should be directed to the organisations responsible.

Useful Links

National Domestic Violence Helpline – 0808 2000 247 – Free phone 24 hour helpline

Forced Marriage Unit, Foreign and Commonwealth Office - <http://www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/>

Women's Aid UK – <http://www.womensaid.org.uk/>
Women's Aid is the key national charity working to end domestic violence against women and children. We support a network of over 500 domestic and sexual violence services across the UK.

Refuge - <http://www.refuge.org.uk/homepage.html>
Every woman and child experiencing domestic violence has different needs - there is no single package of services to meet those needs, no 'one size fits all'. Instead Refuge offers a range of services which increases women's choices and gives them access to professional support whatever their situation.

Respect - <http://www.respect.uk.net/>
Respect is the UK membership association for domestic violence perpetrator programmes and associated support services. Our key focus is on increasing the safety of those experiencing domestic violence through promoting effective interventions with perpetrators. Respect is a UK registered charity, number 1083968

Men's Advice Line - <http://www.mensadvice.org.uk/>
The Men's Advice Line is a confidential helpline for men who experience violence from their partners or ex-partners.

Common Definition of Domestic Violence 1

The Definition [agreed by IMG] follows that used by the Association of Chief Police Officers, and is:

'Any incident of threatening behaviour violence or abuse (psychological, physical, sexual, financial or emotional) between adults² who are or have been intimate partners or family members³, regardless of gender or sexuality.'

1. The definition has been widened to incorporate violence by family members as well as between adults who are, or were, intimate partners. This was done to ensure that those issues of chief concern to BME communities, such as so-called 'honour crimes' are properly reflected.

2. An adult is defined as any person aged 18 years and over.

3. Family members are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family.

Key Facts

- Sixteen per cent of violent incidents were incidents of domestic violence⁴;
- Long term trends in violent crime, as measured by the annual sweep of the British Survey (BCS), have shown a significant decline; between 1995 and 2007/08 there was a 65 per cent decrease in the number of incidents of domestic violence⁵;
- Findings from the BCS self-completion Inter-Personal Violence (IPV) module suggest that the estimates of prevalence of domestic from 2004/05 IPV are in the same order of magnitude as those from the 2001 IPV⁶;
- The 2004/05 IPV suggests that about 1 in 4 women and 1 in 6 men had been a victim of domestic violence (partner/ex-partner) since the age of 16 and about one in twenty women (6%) and men (4%) had experienced domestic violence (current/ex-partner) in the last year⁷ though women were likely to suffer greater injury and be classed as chronic victims⁸;
- 89% of those suffering 4 or more attacks are women⁹;
- On average 2 women a week are killed by a partner or former partner: in 2004/05 45% of all female homicide victims were killed by their current or ex-partner compared with 6% of male homicide victims¹⁰;
- One incident is reported to the police every minute¹¹;
- Among women, risks of domestic violence do not differ significantly by ethnic origin¹²;
- People in lesbian, gay, bisexual and transgender communities experience domestic violence in a similar proportion to the rest of the population¹³;
- Between 2003 and 2005 an average of just over 24,000 civil injunctions a year were made under Part IV of the Family Law Act 2006¹⁴.

⁴ Walker, A., Kershaw, C. and Nicholas, S. (2006) Crime in England and Wales 2007/08. Home Office Statistical Bulletin. London: Home Office.

⁵ Walker, A., Kershaw, C. and Nicholas, S. (2006) Crime in England and Wales 2007/08. Home Office Statistical Bulletin. London: Home Office.

⁶ Finney, A. Domestic Violence, sexual assault and stalking: findings from the 2004/05 British Crime Survey. Home Office Online Report 12/06. London: Home Office.

⁷ Finney, A. Domestic Violence, sexual assault and stalking: findings from the 2004/05 British Crime Survey. Home Office Online Report 12/06. London: Home Office.

⁸ Walby, S. and Allen, J. (2004) Domestic Violence, sexual assault and stalking: Findings from the British Crime Survey. Home Office Research Study No. 276. London: Home Office.

⁹ Walby, S. and Allen, J. (2004) Domestic Violence, sexual assault and stalking: Findings from the British Crime Survey. Home Office Research Study No. 276. London: Home Office.

¹⁰ Coleman, K., Hird, C., and Povey, D. (2006) Violent Crime Overview, Homicide and Gun Crime 2004/05 (Supplementary Volume to Crime in England and Wales 2004/05). Home Office Statistical Bulletin 02/06.

¹¹ Stanko, E. (2000) The Day to Count: A snapshot of the Impact of Domestic Violence in the UK. Criminal Justice 1:2.#;

¹² Walby, S. and Allen, J. (2004) Domestic Violence, sexual assault and stalking Findings from the British Crime Survey. Home Office Research Study No. 276. London: Home Office.;

¹³ Henderson, L. (2003) Prevalence of Domestic Violence among Lesbians and Gay Men. Sigma Research. London: Sigma Research.

¹⁴ HMCS Management Information System.