

Children and Social Work Bill

Women's Aid Written Evidence to the Public Bill Committee

12 December 2016

Introduction and summary

1. The Children and Social Work Bill aims to *"tackle state failure and transform the outcomes of children in care"*. Women's Aid welcomes the Bill's focus on improving child protection, and enabling improvements for child safeguarding and welfare at local and national levels.
2. Women's Aid seeks to strengthen the Bill to ensure that child protection agencies better respond the safeguarding concerns arising from child contact in families where there is a perpetrator of domestic abuse, and enable lessons to be shared more effectively by the Child Safeguarding Practice Review Panel in this regard.
3. Women's Aid's Nineteen Child Homicides Report, launched as part of the *Child First: Safe Child Contact Saves Lives* campaign, has revealed the scale of the challenge for child protection in families where one parent is abusive. Child contact arrangements should always be made in best interests of the child, and to protect the safety and wellbeing of the child and the parent with care. However, there are significant concerns that the current system managing child contact decisions is not consistently upholding this principle, resulting in significant child protection concerns within families where there is a perpetrator of domestic abuse.
4. Women's Aid consider that the Children and Social Work Bill is a critical opportunity to improve current child safeguarding practice, and help prevent avoidable child deaths and harm as a result of unsafe child contact with dangerous perpetrators of domestic abuse.
5. Women's Aid do share widespread concerns that the Bill's reforms to social work risk fragmenting a sector already facing significant challenges. We join a wide range of children's organisations, experts, social work academics and professionals in the Together for Children Campaign to oppose any exemptions for local authorities from legal child protection duties, and call on Members of Parliament to protect universal children's social care duties.
6. Women's Aid's evidence sets out why, to improve current child safeguarding practice, the Bill must drive improvements in the handling of child contact arrangements in families where there is a perpetrator of domestic abuse. In order to deliver this, Women's Aid propose that the:
 - a. The Child Safeguarding Practice Review Panel has a specific function to consider concerns resulting from child contact arrangements where there is domestic abuse – and the implementation of Practice Direction 12J –, which are national safeguarding issues of current concern.
 - b. The Child Safeguarding Practice Review Panel is notified when a child is killed or seriously harmed by a perpetrator of domestic abuse in circumstances related to child contact, and has oversight of future such cases.

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Proposed Amendments

7. Women's Aid seeks to strengthen the Bill to improve current child safeguarding practice, and prevent further avoidable child deaths and harm as a result of unsafe child contact with dangerous perpetrators of domestic abuse.
8. The Bill establishes a 'Child Safeguarding Practice Review Panel', which will identify serious child safeguarding cases in England which raise issues that are complex, or of national importance. Where appropriate, the Panel will arrange for these cases to be reviewed under their supervision – in order to identify what improvements are needed to safeguard and promote the welfare of children.
9. Women's Aid's research, outlined further in the 'supporting accommodation' section below, has highlighted concerns with the existing Serious Case Review (SCR) process in identifying domestic abuse and coercive control as a significant welfare concern. Further, we have found that there has been sharing and dissemination of safeguarding lessons from cases featuring unsafe child contact arrangements and domestic abuse over the past decade.
10. Women's Aid therefore supports the introduction of the Review Panel, which we consider requires a specific function to have oversight of, develop expertise on, and improve the dissemination of lessons learnt from, safeguarding practice in relation to child contact and domestic abuse.

Clause 13: Functions of the Child Safeguarding Practice Review Panel

11. This Clause outlines the functions of the Child Safeguarding Practice Review Panel, which will have a mandate to review serious cases on complex child safeguarding issues of national importance, and disseminate lessons to the sector.

Proposed amendment -

Clause 13, Page 12, Line 31

- Add in subsection

(8) The Panel must have regard to:

- (a) Concerns related to child safeguarding resulting from contact arrangements in families where there is a parent who has perpetrated domestic abuse;*
- (b) The implementation of Practice Direction 12J in child contact arrangements.*

Explanatory statement:

This amendment would ensure the national Child Safeguarding Practice Review Panel has a specific function to have oversight of, develop further expertise on, and disseminate lessons learnt from, safeguarding practice in relation to the issues surrounding child contact and domestic abuse.

The Panel must also assess the implementation of established legal guidance in this area – Practice Direction 12J: Child Arrangements And Contact Orders: Domestic Violence And Harm – which aims to ensure that contact ordered with a parent who has perpetrated violence or abuse is safe and in the best interests of the child.

Clause 14: Events to be notified to the Panel

12. Subsection (1) requires local authorities in England to notify the Child Safeguarding Practice Review Panel of certain events relating to children which occur in their area. These events relate to circumstances where a local authority in England knows or suspects that a child has been abused or neglected, and the child: a) dies or is seriously harmed in the local authority's area; or b) dies or is seriously harmed outside England but while normally resident in the local authority's area.

Proposed amendment:

Clause 14, Page 13, line 14

- Add in subsection
(c) *the child dies or is seriously harmed by a perpetrator of domestic abuse in circumstances related to child contact.*

Explanatory statement:

This amendment would ensure that local authorities in England have a duty to notify the Child Safeguarding Practice Review Panel when a child dies or is seriously harmed by a perpetrator of domestic abuse in circumstances related to child contact. This would ensure the Panel has oversight of any future case in which a child dies or is seriously harmed as a result of unsafe child contact by a perpetrator of domestic abuse.

Supporting explanation

Child contact, domestic abuse and safeguarding concerns

13. Existing research provides strong evidence that in making arrangements for child contact when there is a history of domestic violence, the current workings of the family justice system support a “pro-contact” approach – which can undermine the best interests of child, and the safety and wellbeing of children and the parent with care. This frequently exposes children and women to further violence, causes them significant harm, and prevents their recovery.ⁱ The impact of witnessing previous or continuing domestic abuse, which is in itself a form of child abuse, on children is often minimised by the family court system.
14. On average, only 1% of applications for contact (under the Children Act 1989) are refused.ⁱⁱ However, domestic abuse is identified as an issue in up to 70% of family proceedings cases – and these are only the cases where the domestic violence is disclosed.ⁱⁱⁱ In three quarters of cases where courts have ordered contact with an abusive parent the children suffered further abuse. Some children have even been ordered to have contact with a parent who has committed offences against children – and in some cases, children have been killed as a result of contact or residence arrangements.^{iv}
15. There are clearly significant safeguarding concerns resulting from the management of current child contact arrangements which should be considered in efforts to improve current child safeguarding practice.

Nineteen Child Homicides

16. In January 2016, Women's Aid launched the *Child First: Safe Contact Saves Lives* campaign to stop avoidable child deaths as a result of unsafe child contact with dangerous perpetrators of domestic abuse.
17. The campaign was launched alongside the *Nineteen Child Homicides* report, which highlights the cases of 19 children and two women in twelve families who were killed by perpetrators of domestic abuse in circumstances related to unsafe child contact. These homicides took place in England and Wales, and were outlined Serious Case Review (SCR) reports published between 2005 and 2015. All of the perpetrators were men and fathers to the children they killed.¹

The Minister for Family Justice, Dr Phillip Lee MP:

"The Women's Aid report makes for harrowing reading. No child should ever die or live in such dreadful circumstances, and it is incumbent on all of us to consider whether more can be done to prevent such tragedies. The report underlines the need to prioritise the child's best interest in child contact cases involving domestic abuse, and to make sure that known risks are properly considered. The law is clear on that: the family courts' overriding duty is the welfare of the child."

18. The report examines the circumstances in which abusive fathers had contact with their children (whether through informal arrangements or those made in court) and investigates what lessons can be learned for government policy and for agencies working with families where one parent is abusive. The key findings of the report included:
- There were 28 deaths in 12 families; 19 children and two mothers were killed, and 7 fathers committed suicide.
 - 19 children, ranging from 1-14 years old, were intentionally killed by perpetrators of domestic abuse, who had access to their children through formal or informal child contact arrangements.
 - All 12 fathers were known to statutory agencies as perpetrators of domestic abuse. 11 of the 12 fathers were known to the police as perpetrators of domestic abuse – in one case, the report is not clear about whether the police had been involved.
 - For 12 children (in 7 families) of the 19 children killed, contact with the perpetrator (their father) was arranged in court. For 6 families, this contact was arranged in family court hearings (2 of these were interim orders) and for one family, contact was decided as part of the arrangements for a Non-Molestation Order and Occupation Order.
 - In 2 families the father was granted overnight contact, and in an additional two families the father was granted a Residence Order (one of these was an interim order). All of these fathers were known perpetrators of domestic abuse.
 - 9 of the 12 perpetrators are known to have committed domestic abuse after separation from the children's mother – including: attempted strangulation; sexual assault; harassment and threats via letter, telephone and text message; threats to abduct children and actual abduction, which are indicators of high-risk perpetrator behaviour. In one case, the father had made threats by telephone while in prison for offences that included violence against the mother; he was subsequently granted a Residence Order concerning his children by the court.

¹ Women's Aid did not use any exclusion criteria regarding the gender of the perpetrator of domestic abuse for the research contributing to the report, but in all cases the perpetrator was male.

19. Responsibility for the deaths of the 19 children and two women identified in *Nineteen Child Homicides* lies squarely with the abusive fathers who killed their children. However, the research identifies a range of key lessons for the child protection system in relation to child contact in families where one parent is abusive. These lessons (outlined A – E below) are of critical importance to the Bill's aim to improve local safeguarding.

A. The importance of recognising domestic abuse as harm to children

20. The perpetration of domestic abuse in families where there are children constitutes harm to children, even when the children are not directly physically harmed by the perpetrator. The serious case reviews analysed for the research highlighted a lack of consideration of how domestic abuse could pose a specific safeguarding risk. Abuse towards the mother was often seen as a separate issue from the child's safety and wellbeing – rather than the two being intrinsically linked.

21. In some cases, an abusive father – even those with criminal sanctions or ongoing criminal proceedings for violence – was able to successfully present himself to the court or to children's social work professionals as a good father, and be granted unsupervised access to his children or even be granted a residence order. This happened even when he had made threats to kill the children in the past.

22. The report recommends a culture change within the family court system to ensure that children's experiences of domestic abuse and its impact on them are fully considered, and that Practice Direction 12J – which instructs courts to ensure that, where domestic abuse has occurred, any child arrangements ordered protect the safety and wellbeing of the child and the parent with care and are in the best interests of the child – is consistently implemented.

B. Professional understanding of the power and control dynamics of domestic abuse

23. Coercive control² was a dominant feature in many of the cases, but the report found a significant lack of professional understanding within statutory agencies and the family courts about how power and control manifest in abusive relationships. There was a dominant focus by statutory agencies on individual incidents, rather than a recognition of patterns of abusive and controlling behaviour, and a failure to understand domestic abuse as gendered power imbalance.

24. Many of the SCRs analysed domestic abuse as 'parental disharmony' or a 'tempestuous relationship', which was a major barrier in assessing and addressing the safety of the child(ren) and non-abusive parent. The report recommends that the family judiciary, Cafcass and child protection agencies should have specialist training to understand the dynamics of domestic abuse and coercive control.

C. Understanding parental separation as a risk factor

25. The point at which a survivor leaves an abusive partner is well recognised as a highly dangerous time for her and her children. But in the cases reviewed, parental separation was often mistook as equating to an end of the abuse and a reduction in risk for the mother and children – when the risk had, in fact, intensified.

² The Government introduced a new offence of 'controlling or coercive behaviour in an intimate or family relationship' within the Serious Crime Act 2015, which came into force in December 2015.

26. The report recommends that specialist training for the family judiciary, Cafcass and child protection agencies needs to cover post-separation abuse, and the tactics used by abusive fathers to use child contact as a means to further abuse their ex-partner.

D. Statutory agencies and domestic abuse

27. A statutory agency was aware of the abuse being perpetrated in all of the 12 families. In eleven of the twelve families the police knew about the domestic abuse, sometimes responding to multiple incidents. In six families it was clear that health services (including GP practices, Accident and Emergency services, midwives and health visitors) knew about or had seen evidence of the abuse. However, healthcare professionals did not always share this with other agencies (such as the police or social care), enquire about suspicious injuries, or instigate relevant child protection procedures.

28. The research highlights that poor information sharing led to Cafcass and the family courts not having the full picture of the domestic abuse within a family. It also details deficient information sharing between statutory agencies such as the police, social care, school and health professionals, and across local authority boundaries.

29. The report recommends improved communication and information sharing between the family courts and all relevant statutory agencies – including the police, health services, social care and schools, specifically focusing on:

- Better information sharing about domestic abuse, which includes a focus on risks to children;
- Enquiring about children affected by domestic abuse when they receive a disclosure or evidence of abuse, and sharing information with relevant child protection agencies;
- Specialist training and ongoing professional development in domestic abuse for statutory agency professionals, such as social workers, police officers, GPs, nurses and teachers.

E. Supporting non-abusive parents and challenging abusive parents

30. In many of the SCRs reviewed it was unclear whether the mother had been offered or referred to any specialist support, even when the abuse was known to the police or social care. Often statutory agencies put the onus on the non-abusive parent to protect their children and/or end the relationship – rather than holding the perpetrator accountable. In several cases complex needs, including substance misuse and mental health issues co-existed with domestic abuse, posing particular dangers to children.

31. The report recommends that communication between the family and criminal courts improves, and a safeguard that no unsupervised contact be granted to a parent awaiting trial, or in ongoing criminal proceedings, for domestic abuse related offences.

Concerns with exemption clauses

32. Clause 29 of the original Bill would have enabled local authorities to “develop and trial more effective ways of delivering children’s social care”. The measure – which would have enabled local authorities to opt-out of their statutory child protection duties, and transfer them to other organisations, for up to six years – was introduced without any prior consultation and was strongly opposed to by children’s organisations, social care professionals, academics, unions and charities – including Women’s Aid – who criticised the reform as fundamentally undermining the child protection framework. There were strong concerns that the measure would enable the outsourcing of children’s services to independent organisations. Clause 29 was defeated by Peers by 32 votes at Report Stage on November 8 2016.
33. The reintroduction of the new clauses on the “power to test different ways of working” remain a serious concern. The purpose of the amendments are to enable local authorities “to test changes to the legislative framework to achieve better outcomes for children.” When it already possible to test different ways of working within the current legislative framework, it is not clear why new powers to enable local authorities to be exempt from current duties are required. Although six parts of two Acts of Parliament could not be included in the exemption, the amendments still leave many other legal protections for vulnerable children at risk.
34. Women’s Aid supports the Together for Children campaign in opposing reforms that could undermine the equal application of children’s rights and child protection law across England. We call on Members of Parliament to protect universal children’s social care statutory duties as the Bill proceeds through the House of Commons.

For more information please contact:

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ⁱ Dr Ravi Thiara and Dr Christine Harrison, *Safe Not Sorry: Key Issues Raised by Research on Child Contact and Domestic Violence* (Centre for the Study of Safety and Wellbeing University of Warwick: January 2016 ([accessed online](#)))

ⁱⁱ Aris, R. & Harrison, C. (2007) Domestic Violence and the Supplemental Information Form C1A and Giovanni, E. (2011) Outcomes of Family Justice Children’s Proceedings – a Review of the Evidence

ⁱⁱⁱ Her Majesty’s Inspectorate of Court Administration, *Domestic Violence, Safety and Family Proceedings: a Thematic Review of the Handling of Domestic Violence Issues By the Children and Family Court Advisory and Support Service (Cafcass) and the Administration of Family Courts in Her Majesty’s Courts Service (Hmcs)* (2005)

^{iv} Women’s Aid Survivors Handbook: <http://www.womensaid.org.uk/domestic-violence-survivors-handbook.asp?section=000100010008000100380002#refs>