



safe child contact **saves lives**

CHILD
FIRST

· a call to
· action one
· year on

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women's aid
until women & children are safe

Women's Aid is the national charity working to end domestic abuse against women and children.

Over the past 40 years, Women's Aid has been at the forefront of shaping and coordinating responses to domestic violence and abuse through practice. We empower survivors by keeping their voices at the heart of our work, working with and for women and children by listening to them and responding to their needs. We are a federation of over 220 organisations who provide more than 300 local lifesaving services to women and children across the country.

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Introduction

“Child First has meant the world to me. After the boys died, I didn’t want to be here anymore. I only stayed on the earth to put right what has been put wrong. So many children are let down by a system that should protect them. Child First is a star in the darkness, giving me a chance to help bring about this change.”

Claire Throssell, Child First spokeswoman

In January 2016, Women’s Aid launched the **Child First: Safe Child Contact Saves Lives** campaign, to end avoidable child deaths as a result of unsafe child contact with perpetrators of domestic abuse. Survivors of domestic abuse tell us that child contact is one of their utmost concerns and an ongoing source of distress. Frequently, they are re-victimised and traumatised by their abusers through the family court process. Additionally, children are subjected to unsafe contact arrangements, which in the most extreme cases, cost lives.

The campaign began with our report, *Nineteen Child Homicides*¹, which highlights the tragic stories of 19 children and two women in 12 families who were killed by perpetrators of domestic abuse in circumstances related to unsafe child contact within a 10-year period. The report examines the circumstances in which abusive fathers were given access to their children (whether through informal arrangements or those made in the family court) and investigates what lessons can be learned for government policy and for agencies working with families where one parent is abusive.

One year on, the Child First campaign has driven the issue of safe child contact onto the political agenda. This briefing charts our progress over the last year, considers successes to date, and highlights the challenges that remain. We have been encouraged by the engagement we have had with the family judiciary over the last 12 months, and are delighted that just before the Child First campaign anniversary the government announced an emergency review to find the quickest way to ban abusive ex-partners from cross-examining their victims in the family courts². We are also extremely pleased that on 19th January 2017 Mr Justice Cobb recommended, as part of his review of Practice Direction 12J, a number of revisions to the practice

direction. These changes are intended to improve its implementation and help ensure safety is at the heart of decisions made on child contact in the family courts. Both of these developments come in direct response to the demands of the courageous survivors who have spoken out for the Child First campaign.

However, there is still much work to be done to make the courts safer for children and non-abusive parents. If the report had been written in January 2017, the title would be *Twenty Child Homicides*. In the last year, at least one further case has come to light, involving a child killed by their father: a man who had a long history of domestic abuse, and had been allowed residential contact by the courts. In this briefing we set out the action that needs to be taken if further deaths as a result of unsafe child contact are to be avoided. As the Child First campaign continues, Women's Aid will:

- call for safer arrangements in family courts for survivors of domestic abuse, including working with the government to ensure their review and its outcome effectively puts an end to perpetrators of domestic abuse cross-examining their victims;
- push for the revisions to Practice Direction 12J recommended by Justice Cobb's review to be implemented at the earliest opportunity by the family procedure rule committee and the lord chancellor and secretary of state for justice, Liz Truss MP;
- engage with parliamentarians in order to drive change;
- work with relevant agencies to develop and promote better training in domestic abuse, including coercive control, for judges and court staff; and
- conduct research to examine in more detail how the relationship between domestic abuse and children's welfare is understood by the family judiciary and agencies, and what support is offered by the family courts and broader agencies to non-abusive parents trying to negotiate safe child contact arrangements.

Summary of findings and recommendations in *Nineteen Child Homicides*

12 families:

- 19 children killed.
- Two women killed.
- Two children seriously harmed through attempted murder.
- Seven men dead by suicide after committing child homicide.

Nineteen Child Homicides tells the stories of 19 children who were killed by a parent who was also a perpetrator of domestic abuse, in circumstances relating to child contact (formally or informally arranged). Two mothers were also killed. The report, which was informed by an analysis of serious case reviews from England and Wales published between January 2005 and August 2015³, makes it clear that the blame for these killings lies with the perpetrators. However, it also concludes that the cases demonstrate failings that need to be addressed to ensure that the family courts, Child and Family Courts Advisory and Support Service (Cafcass), children's social work and other bodies actively minimise the possibility of further harm to women and children. The key recommendations in the report are as follows:

- Further avoidable child deaths must be prevented by putting children first in the family courts – as the legal framework and guidance states.
- There is an urgent need for independent, national oversight into the implementation of *Practice Direction 12J – Child Arrangements and Contact Order: Domestic Violence and Harm*⁴.

Analysis of the serious case reviews that informed the *Nineteen Child Homicides* highlighted five key themes. The report includes recommendations on each of these themes.

The importance of recognising domestic abuse as harm to children

The serious case reviews analysed for *Nineteen Child Homicides* highlighted a lack of consideration of how domestic abuse could pose a specific risk to children. 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.

Professional understanding of the power and control dynamics of domestic abuse

In many of the serious case reviews examined, there were examples of efforts by perpetrators to control and coerce the mother, both before and after separation. However, there often seemed to be a dominant focus by statutory agencies on individual incidents, rather than a recognition of patterns of abusive and controlling behaviour.

Understanding parental separation as a risk factor

The point at which a survivor leaves an abusive partner is a significantly dangerous time for her and her children, but in the cases reviewed for *Nineteen Child Homicides*, agencies often mistook parental separation as equating to an end of the abuse and a reduction in risk for the mother and child(ren).

The way in which statutory agencies interact with families where there is domestic abuse

In all of the twelve families discussed in *Nineteen Child Homicides*, some statutory agencies were aware of the abuse being perpetrated. However, professionals did not always share this with other agencies, or ask about the impact on the children in the family, or instigate child protection procedures. Because of this, Cafcass and the family courts often did not have the full picture of the domestic abuse.

Supporting non-abusive parents and challenging abusive parents

In many of the serious case reviews it was unclear whether the mother had been offered or referred to any specialist support. Often statutory agencies put the onus on the non-abusive parent to protect their children, rather than focusing on the actions of the abusive parent and holding them to account. Several of the cases involved the 'toxic trio'; domestic abuse co-existing with alcohol/drug abuse and mental health problems. This poses a particular danger for children.

One year on: the campaign's progress

The campaign has had a number of successes during its first year, most notably the government's emergency review to ban cross-examination by perpetrators of domestic abuse in the family courts, and the recommended changes to Practice Direction 12J that, if implemented effectively, will improve safety in the family courts. The successes can be broadly categorised into: political and parliamentary action, increasing public awareness, and working with the family judiciary.

Political and parliamentary action

***Nineteen Child Homicides* report**

Nineteen Child Homicides was launched on 20th January 2016, and disseminated to key ministers and MPs, civil servants and sector stakeholders, Women's Aid members, board members, and academics. It is also available to download from the Women's Aid website. As of December 2016, the report had been downloaded over 2,300 times.

The report was welcomed by Sir James Munby, the president of the family division of the high court, who stated:

"I welcome the publication of the *Nineteen Child Homicides* report by Women's Aid. This is a valuable report on an important issue which I take very seriously. I will consider the report with the care it deserves and identify the lessons that the judiciary can learn from it. I believe that other agencies in the family justice system may also benefit from the report and I look forward to discussing its conclusions with them and to taking joint action to address the findings of the report."

Nineteen Child Homicides was also welcomed by parliamentarians from all main parties, with the former minister responsible for victims and family justice within the Ministry of Justice, Dr Phillip Lee MP, stating that the 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.”⁵

The shadow justice secretary Richard Burgon MP commented:

“I congratulate Women’s Aid on publishing its urgent and important work, *Nineteen Child Homicides* (...) the cases to which the Women’s Aid report refer tend to show a deeply worrying pattern in which the fathers involved are actually known to agencies as perpetrators of domestic abuse. The report’s findings show that a culture of ‘contact at all costs’ has unfortunately arisen in our family courts.”⁶

The report secured significant media coverage (further detail on p.12). A letter, signed by 33 eminent academics and practitioners, including the chief executives of the NSPCC and Barnardos, was published in *The Telegraph* in support of the report’s findings.

All Party Parliamentary Group (APPG) on Domestic Violence hearing

The APPG on Domestic Violence hosted a hearing on domestic abuse, child contact and the family courts on 27th January 2016 to support the Child First campaign. Delegates heard from expert witnesses, including domestic abuse practitioners, academics and survivors, who gave evidence on how the family courts deal with domestic abuse, what is working well and what needs to improve. This evidence highlighted a number of key areas where further work is needed, including: access to legal aid and the cross-examination of domestic abuse survivors by their abusive ex-partners; improving understanding of the impact of domestic abuse on children; and implementing Practice Direction 12J.

The hearing’s report, published in April 2016⁷, argued that there should not be an assumption of shared parenting in child contact cases where domestic abuse is a feature, and child contact should be decided based on an informed judgement of the best interests of the child. Other recommendations included:

- put an immediate end to survivors of domestic abuse being cross-examined by, or having to cross-examine, their abuser in the family court;
- ensure that special measures, such as dedicated safe waiting rooms for vulnerable witnesses and separate entrance and exit times, are available throughout family court proceedings; and

- ensure judges and court staff in the family court, Cafcass officers, and other frontline staff in other related agencies receive specialist face-to-face training on all aspects of domestic abuse — particularly coercive and controlling behaviour, the frequency and nature of post-separation abuse, and the impact of domestic abuse on children, on parenting, and on the mother-child relationship.

Parliamentary debate

Since its launch, the campaign has attracted significant interest from parliamentarians, with MPs asking a number of parliamentary questions relating to the report's findings. On 15th September 2016, a backbench business debate on domestic abuse victims in family law courts was held, during which Women's Aid had over 50 mentions. The story of Claire Throssell, the Women's Aid campaigner whose two sons, Jack and Paul, were killed by their abusive father during an unsupervised contact visit ordered by the family court, was told for the first time in parliament by Claire's MP, Angela Smith. During the debate, Angela Smith made the following points:

“Why is it so hard to put children first? I suggest that there are two major reasons. First, there is the ongoing assumption that men who are abusive towards women can nevertheless still be good fathers. That belief—that myth—is unbelievably enduring and flies in the face of the available evidence (...) Secondly, there is an ongoing failure on the part of the statutory agencies and the family court judiciary to understand that domestic abuse frequently involves coercive control; abuse is about power and control. That is why it is not surprising that fathers who beat up women can also abuse children.”

MPs from all political parties were united in pressing the government to transform the family court system and ensure that perpetrators can no longer use family courts to continue abusing women and children. They called on the Ministry of Justice to urgently implement the recommendations of *Nineteen Child Homicides* and the APPG on Domestic Violence⁸. The minister for victims and family justice at the time of the debate, Dr Phillip Lee MP, committed the Ministry of Justice to considering what additional protections are needed for vulnerable victims, and to working with Women's Aid to review both the implementation of Practice Direction 12J and the training provided to judges, court staff and Cafcass officials in domestic abuse.

Engagement with key stakeholders

Over the last 12 months, Women's Aid has met with a range of key parliamentary stakeholders to garner their support for the campaign. These include Caroline Dinenage MP, the under-secretary of state for women, equalities and early years; Dr Phillip Lee MP, former minister of family justice; and Sarah Newton MP, minister for vulnerability, safeguarding and counter-terrorism. We engaged with the shadow ministers for women and equalities, children and families, and education, as well as various other MPs from the major parties and civil servants in the Ministry of Justice and HM Courts and Tribunal Service. The chair of the Association of Police and Crime Commissioners, Dame Vera Baird, expressed her support for the Child First campaign in the following statement:

"Child First and its accompanying report have provided myself and fellow Police and Crime Commissioners in the APCC Standing Group on Victims with invaluable guidance on the urgent action that is needed in our family courts, to protect children from the perpetrators of domestic violence, and save lives.

"Moving forward, I hope to see the campaign continue its vital work of pushing for a deeper understanding amongst family courts' judiciary and associated child protection services on the nature of domestic violence, to ensure that the safety of every child is put first."

Increasing public awareness

The Child First campaign petition

Hosted by 38 Degrees, the Child First petition⁹, addressed to the secretaries of state for justice and education and district judges, calls on the government and family courts to ensure there are no further avoidable child deaths as a result of unsafe child contact with a perpetrator of domestic abuse. It was handed in to the government on 24th January 2017, with over 42,000 signatures.

Media coverage

The Child First campaign has received significant media interest, with particularly high-profile coverage on BBC Breakfast, the Victoria Derbyshire Show, Woman's Hour, and BBC Radio 5 Live. It has had extensive online and

print coverage across broadsheet and tabloid media outlets throughout the year, and was also covered by specialist publications such as *The Law Society Gazette*, *Family Law Week* and *Community Care*.

A central figure in media coverage for the campaign is Claire Throssell, whose two sons, Jack and Paul, were killed by their abusive father during an unsupervised contact visit ordered by the family court. Over the past 12 months Claire has worked tirelessly to raise awareness of the issues highlighted by the Child First campaign. In October 2016, she was named one of *Red* magazine's Women of the Year 2016, in the category of 'Difference Maker'. The judges commented that:

"Claire is a hugely deserved winner. Her loss is unimaginable but she has shown incredible strength by dedicating her life to selfless, active campaigning. Her actions will make a difference to others – truly humbling and inspiring."¹⁰

Women's Aid contributed to a *Guardian* investigation, published in December 2016: 'Revealed: How family courts allow abusers to torment their victims'¹¹. The results of the investigation, which encompassed ongoing and completed cases, interviews with participants, lawyers and court officials, showed that the family court is failing to keep non-abusive parents and children safe, and allows fathers, no matter how violent or abusive, to repeatedly pursue contact with children and their mothers.

Campaign Champions

Women's Aid Campaign Champions support national campaigns on a local level. As part of the Child First campaign, champions contacted their MPs asking them to call for separate waiting rooms and exit times for survivors and perpetrators in the family courts - two simple interim measures that could make a real difference to survivors going through the family courts.

Speaking at conferences and events

Women's Aid has spoken about the Child First campaign at numerous events and conferences, including NAPO Family Court Conference and AGM, the APPG on Domestic Violence inquiry into domestic abuse, the Conservative Women's Conference, Nottinghamshire Police and Crime Commissioners' Chance for Change conference, Warwick University's Centre for the Study of Safety and Well-Being annual seminar, and the Cafcass Annual Conference. We hosted fringe events on the subject of child contact and domestic abuse at both Labour and Conservative Party Conferences in 2015.

Working with the family judiciary

Women's Aid has been encouraged by the engagement of family judiciary representatives around the Child First campaign. Productive meetings have taken place, including with Sir James Munby, president of the family division; Mr Justice Cobb; Anthony Douglas, chief executive of Cafcass; and representatives of the Magistrates Association.

In October 2016, Women's Aid attended the Family Justice Council's roundtable on Litigants in Person (LIPs), in order to promote the importance of making the family courts work for LIPs who are survivors of domestic abuse. We also provided critical evidence and survivors' testimonies for the *Guardian* investigation into this area (as detailed above). Sir James Munby responded to the findings of the investigation with a statement in January 2017, in which he called for a ban on domestic abuse victims being cross-examined by their abusers in court, saying:

"I have expressed particular concern about the fact that alleged perpetrators are able to cross-examine their alleged victims, something that, as family judges have been pointing out for many years, would not be permitted in a criminal court. Reform is required as a matter of priority. I would welcome a bar... I am disappointed by how slow the response to these issues has been and welcome the continuing efforts by Women's Aid to bring these important matters to wider public attention."¹²

Just before the Child First campaign anniversary, the government announced an emergency review to find the quickest way to ban abusive ex-partners from cross-examining their victims in the family courts¹³. In parliament on 9th January 2017, Oliver Heald QC MP, minister of state for courts and justice, stated that: "Cross-examination is illegal in the criminal courts and I am determined to see it banned in the family courts too." This marks a huge step forward for the campaign. Women's Aid will contribute to this review, the findings of which will be published in April 2017, and ensure that survivors' voices are heard by officials working on it.

Our other key points of engagement in the area of the family judiciary are set out below.

Women's Aid's input into Justice Cobb's review of Practice Direction 12J

In summer 2016, the president of the family division, Sir James Munby, requested that Mr Justice Cobb undertake a review of Practice Direction 12J (PD12J), in light of the findings from the Child First campaign and the APPG on Domestic Violence's report on domestic abuse and the family courts. Our submission to this review was informed by our Child First Expert Advisory Group (EAG) and campaign development panel, which includes representatives from academia, family law, specialist practitioners and support services, and survivors of domestic abuse. The submission recommended that:

- PD12J is accompanied by robust, independent national oversight and accountability arrangements to ensure implementation; and
- PD12J is supported by discussion with the Judicial College on the requirements for the family court judiciary to receive specialist face-to-face training and ongoing professional development on all aspects of domestic abuse.

On 19th January 2017, the review's findings were published. Justice Cobb acknowledged the submissions made to the review by Women's Aid and other organisations working with survivors of domestic abuse, and taking into account our recommendations, advised that a number of revisions should be made to PD12J, including:

- rewording of text to remove any presumption of 'contact at all costs' without proper evaluation of the risk of harm from domestic abuse;
- adding a requirement for the court to ensure that the court process is not being used as a means in itself to perpetuate coercion, control or harassment by an abusive parent;
- adding a proposal for the courts to consider more carefully the waiting arrangements at court prior to the hearing, and arrangements for entering and exiting the court building;
- recommending that in cases where domestic abuse has been proved, courts should obtain a safety and risk assessment conducted by a specialist domestic abuse practitioner working for an appropriately accredited agency; and
- adding a specific definition of 'harm' within the practice direction.

Justice Cobb also makes the following points relating to cross examination in the family courts and raising awareness of PD12J among those working there:

"I hope that positive steps can now be taken to address in the Family Court the problem, long-since addressed in the criminal court, of the alleged victims of domestic abuse being directly questioned by their unrepresented alleged abusers. I also consider that it would be helpful and reassuring if the Course Directors of the Judicial College could reassess the content of the training programmes for Family Judges on domestic abuse to take specific account of the issues highlighted by the Women's Aid, APPG and other reports."¹⁴

Sir James Munby, president of the family division, published his view at the same time as the review. He commented that the review "must be read, in full, by everyone involved in the family justice system."¹⁵ Women's Aid believes the revisions, when adopted, will create a robust and comprehensive framework for what judges and magistrates must do when overseeing child contact cases where domestic abuse has been present. We urge the family procedure rule committee and the lord chancellor to sign off the revised practice direction at the earliest opportunity.

Training for the family judiciary and court staff

In January 2017, Women's Aid was a contributor to a training session 'The Family Judge'; aimed at improving the confidence and experiences of district judges dealing with family law cases. Our session 'Domestic abuse, coercive control and child contact arrangements' provided participants with an introduction to the nature and impact of domestic abuse, its power and control dynamics, and how coercive and controlling behaviour can be manifested in the context of child contact arrangements and the family court. We also gave an overview of the *Nineteen Child Homicides* report, which was included on the reading list for this training, and the Child First campaign.

Women's Aid also began a desk-based review and report of the HM Courts and Tribunal Service's current package of training materials on domestic abuse and vulnerable witnesses for court ushers. We are in discussions with HMCTS about the possibility of work to develop training for court and tribunal staff so that they can recognise and respond effectively to domestic abuse and controlling and coercive behaviours.

Children and Social Work Bill

The Children and Social Work Bill, currently under consideration in the House of Commons, aims to improve child protection and enable improvements for

child safeguarding and welfare at local and national levels. The bill attracted significant criticism in the House of Lords, largely due to the proposals to test 'new ways of working', which would enable local authorities to apply for exemptions from statutory child protection duties¹⁶. Women's Aid also supports the Together for Children campaign¹⁷, which seeks to defeat these clauses and protect universal children's social care statutory duties. Women's Aid is working to ensure the bill drives improvements in the handling of child contact arrangements in families where there is domestic abuse. We recommend that:

- the Child Safeguarding Practice Review Panel has a domestic abuse specialist and specific regard to child contact arrangements where there is domestic abuse – and the implementation of Practice Direction 12J; and
- 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.

Inputting into Cafcass research

Women's Aid is pleased to be working with Cafcass on a research project to better understand what is happening where domestic abuse is alleged in family court cases about child contact. The research will consider over 200 applications for child contact, to gain a better understanding of the prevalence of domestic abuse allegations in these cases and the nature of the dispute. We are undertaking quantitative and qualitative analysis to understand the complexities of allegations in these cases, and the final outcome in court. The findings of the research will be published in 2017.

Remaining challenges and next steps

The Child First campaign has made a significant impact, provoking strong debate, raising public awareness and securing commitments to change. The government's recent commitment to end cross-examination of domestic abuse survivors by ex-partners in the family courts was a major win, as was the recommended changes to Practice Direction 12J.

However, many challenges remain. If *Nineteen Child Homicides* had been written in January 2017, the title would have been *Twenty Child Homicides*. One year on, Women's Aid analysed all serious case reviews published in the last seventeen months¹⁸. These contain at least one further case involving a child killed by their father, who had a long history of domestic abuse, and had been allowed residential contact by the courts.

Therefore the Child First campaign will continue, and we will focus our efforts on the following areas:

- making the family courts safer for survivors of domestic abuse and their children; and
- influencing statutory agencies and supporting non-abusive parents.

Making the family courts safer for survivors of domestic abuse and their children

Much work remains to be done to make the family courts a safe environment for survivors of domestic abuse and their children. We have found our attempts to bring about change in this area challenging, because of the secrecy of the family court system and because of existing public and media perceptions of child contact. We are aware of the arguments for opening up the family courts to make them more transparent, but Women's Aid has concerns about the impacts of such changes on women and children who have experienced domestic abuse. Therefore, we are keen to be involved in discussions on this area going forward.

In the next stage of the Child First campaign, Women's Aid's work will address the following challenging areas.

The practical workings of the family courts

As set out above, survivors of domestic abuse face a number of barriers when trying to arrange safe child contact in the family courts. Cuts to legal aid have led to an increase in Litigants in Person, which often results in survivors being cross-examined by their abusers in child contact hearings. In 2015, a Women's Aid survey of 91 women found that a quarter of respondents had been directly questioned by perpetrators in court. Women's Aid welcomes the recommendation of the Vulnerable Witnesses and Children Working Group for a new practice direction on children and vulnerable witnesses, but much more needs to be done to ensure survivors' safety in the family courts. While some courts have special provisions in place to keep survivors of domestic abuse safe, in others they are forced to share waiting areas, or even sit next to their abusers in court. There is a lack of consistency across the family court estates in terms of the support and facilities for survivors.

Practice Direction 12J, if correctly implemented, is an important tool to ensure that the experiences and needs of women and children survivors of domestic abuse are recognised in child contact proceedings, and that ultimately they are not put in danger by court decisions. However, PD12J is not always being implemented effectively or consistently, and is being routinely undermined by the Children and Families Act 2014 – which enshrines the presumption of contact with both parents. Women's Aid welcomes the findings and recommendations of Justice Cobb's recently published review of PD12J, and urges the family procedure rule committee and the lord chancellor to sign off the revised practice direction at the earliest opportunity. We are committed to supporting awareness-raising work for the revised practice direction.

The culture of the family courts

“What are the challenges? Keeping the pressure up to make the changes happen – but cultural change within the family courts will take a long time. And making sure that the family courts and all agencies involved really understand domestic abuse and coercive control. This is essential to keep children safe.”

Claire Throssell, Child First spokeswoman

Nineteen Child Homicides highlighted the importance of professional understanding of the power and control dynamics of domestic abuse, and of parental separation as a risk factor. In many cases, this understanding is missing among professionals advising on, and making decisions about, child contact and child welfare in situations where domestic abuse is a factor. This was recognised by MPs in a recent debate on the Children and Social Work Bill. Edward Timpson, minister of state for vulnerable children and families at the Department for Education, stated that:

“We can have the best system, regulations and laws in place, but if beneath them there is a reluctance to engage with the reality of domestic violence — both its prevalence and the devastating impact it has on the victims — we are never going to be able to tackle it and prevent it from being a feature of so many people’s lives in the future.”

Emma Lewell-Buck, the shadow minister for children and families, noted that:

“We need to understand that domestic abuse is harmful to children, even when they have not been directly physically harmed. There needs to be 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 orders protect the safety and wellbeing of the child and the parent with care, and are always completely in the best interests of the child.”

Evidence recently provided by the Child First Advisory Group to inform Women’s Aid’s submission to Justice Cobb’s review of Practice Direction 12J powerfully illustrates this lack of understanding, and the need for further training and awareness. The example of Christine below is just one of many similar in nature.

Christine's story

Following domestic abuse from her husband that included physical violence, coercive control and manipulation, Christine and her two young children left him. They did not hear from him for a year, but he then filed for child contact. The case has been ongoing for the past two years because the children do not want to see their father.

Christine's ex-husband had full legal aid, but she did not, and she represented herself. There was going to be a fact-finding hearing, but her ex-husband's solicitor persuaded her to come to an agreement instead. Her husband admitted to being violent on only three occasions. Supervised contact at a contact centre was arranged following Cafcass reports. However, Christine's daughter, aged eight, refused to go in to the centre. The family court then ordered unsupervised contact in the community, but the daughter continued to refuse to go. Contact was increased further to take place at her father's house, although the daughter continued to refuse:

"She refused to go there, I had to drop her off and she'd sit in the car screaming and fighting for hours each week. If I managed to get her out of the car, she'd run away down the street and we'd have to bring her back."

The hearings continued, and Christine was told by the judge that if she did not get her daughter to attend contact with her father, she would be in contempt of court. But her daughter continued to refuse, and further court hearings continued to increase the contact. This eventually resulted in a shared care order, where both children were with their father every other weekend, one night a week in term-time, and 60% of the holidays.

"The children have still been physically assaulted while they've been there. They've come back with various bruises and my son once came home with scratches across his chest. I said, 'What happened?' and he said, 'Daddy held me against a wall and shouted at me' - so I phoned the police. The police took it to MASH [*Multi-Agency Safeguarding Hub*] and they said suspend contact. So I suspended it for one day, and took it back to court, and court said, 'You've no right to take the children to the police, you've no right to stop contact, we're the only ones that can, you're in contempt of court, you need to reinstate it immediately'.

Christine's daughter is now threatening suicide rather than having to see her father. Her son's behaviour has also deteriorated, and he is exhibiting behavioural problems and aggression¹⁹.

Next steps for the Child First campaign around the family courts

As we work to raise awareness of and tackle these challenging areas, Women's Aid will take the following next steps:

- We will continue to call for safer arrangements in family courts for survivors of domestic abuse. We will engage with the government review on banning perpetrators of domestic abuse cross-examining their victims in family courts, to ensure survivors' voice are heard.
- We will push for the revisions to Practice Direction 12J recommended by Justice Cobb's review to be implemented at the earliest opportunity by the family procedure rule committee and the lord chancellor and secretary of state for justice, Liz Truss MP.
- We will continue to engage with government and parliamentarians in order to drive change forward in this area. On 24th January 2017, Women's Aid handed in the Child First petition to government. It has been signed by over 42,000 people.
- We will consider how to strengthen the role of McKenzie Friends²⁰, as they can provide critical support to Litigants in Person who have experienced domestic abuse.
- We will continue to work with relevant agencies to develop and promote better training in domestic abuse, including coercive control, for judges and court staff.

Influencing statutory agencies and supporting non-abusive parents

"We have made a fantastic start, and I am so proud. Now I want to see a focus on multi-agency collaboration; all involved agencies must share information with the family courts if there is a history of violence and abuse."

Claire Throssell, Child First spokeswoman

Nineteen Child Homicides highlighted the importance of statutory agencies' interactions with families where there is domestic abuse, and the importance of supporting non-abusive parents. In many cases, agencies were aware that domestic abuse had occurred, and was ongoing. However, poor information sharing between professionals, a tendency to deal with domestic abuse as isolated incidents unrelated to the welfare of children, and a tendency to put the onus onto the non-abusive parent to protect their children, meant that

Cafcass and the family courts often did not have the full picture of the abuse. This meant the non-abusive parent did not receive support, and children were put in danger.

Women's Aid's subsequent analysis of serious case reviews published during the last seventeen months, up to January 2017, found that several children have been killed or injured by a parent who was also a perpetrator of domestic abuse. While child contact was a factor in only one of these cases, in general they highlight the gaps and weaknesses within statutory authorities' interactions with children and non-abusive parents in families affected by domestic abuse. Connections were not made, red flags went unnoticed, and children lost their lives.

Next steps for the Child First campaign around supporting non-abusive parents

As the Child First campaign continues, Women's Aid will broaden its focus to look at how non-abusive parents could be better supported, both within and alongside the family court setting. Working closely with survivors of domestic abuse, we will conduct research to look more closely at:

- how the relationship between domestic abuse and children's welfare is understood by the family judiciary, broader agencies and authorities working with families where abuse is a factor;
- what support is offered by the family courts and broader agencies to non-abusive parents trying to negotiate safe child contact arrangements;
- what action is taken to hold perpetrators of domestic abuse to account for their abusive behaviour and the impact it has on the non-abusive parent and children, and how these actions relate to perpetrators' contact with their children.

Endnotes

1 Women's Aid (2016) *Nineteen Child Homicides: What must change so children are put first in child contact arrangements and the family courts*. Available at: www.womensaid.org.uk/childfirst

2 *The Guardian* (2017): www.theguardian.com/society/2017/jan/04/truss-orders-review-to-ban-abusers-tormenting-victims-in-family-courts?CMP=Share_iOSApp_Other

3 When developing *Nineteen Child Homicides*, Women's Aid aimed to identify those cases where a child had been killed by a perpetrator of domestic abuse in circumstances relating to child contact (formally or informally arranged). Serious case reviews were identified via the NSPCC National Case Review Repository; the review period was January 2005 until August 2015 (inclusive). No exclusion criteria regarding the gender of the perpetrator of domestic abuse were applied. However, in all of the relevant cases (12 families) it was the father who was the perpetrator. Limitations to this methodology are that Women's Aid only had access to public, redacted documents, and in eight cases, only had access to executive summaries. It should also be noted that serious case review panels do not have access to family court records and it is not their role to review court proceedings, although they do work with and receive information from Cafcass where the family courts are involved.

4 Practice Direction 12J (PD12J) 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. It was developed following the publication of Women's Aid *Twenty-nine Child Homicides* report in 2004, which detailed the killings of 29 children in 13 families over a 10 year period in England and Wales by perpetrators of domestic abuse, in circumstances relating to child contact.

5 Speaking at the backbench business debate on domestic abuse victims in family law courts in September 2016.

6 Ibid.

7 APPG on Domestic Violence (2016) *Domestic violence, child contact and the family courts*, Available at www.womensaid.org.uk/research-and-publications/

8 *The Guardian* (2016): www.theguardian.com/society/2016/sep/15/mps-call-for-end-to-abusive-men-using-courts-against-families?CMP=share_btn_tw

9 <https://you.38degrees.org.uk/petitions/child-first-safe-child-contact-saves-lives>

10 *Red online* (2016): *The women making your world a better place*, www.redonline.co.uk/red-women/red-women-of-the-year/red-women-of-the-year-winners-2016

11 *The Guardian* (2016): www.theguardian.com/society/2016/dec/22/revealed-how-family-courts-allow-abusers-to-torment-their-victims#img-1

12 *The Telegraph* (2016): www.telegraph.co.uk/news/2016/12/30/top-family-judge-calls-ban-domestic-violence-victims-cross-examined/
The Guardian (2016): www.theguardian.com/society/2016/dec/30/family-courts-sir-james-munby-domestic-abuse-victims?utm_source=dlvr.it&utm_medium=twitter

13 *The Guardian* (2017): www.theguardian.com/society/2017/jan/04/truss-orders-review-to-ban-abusers-tormenting-victims-in-family-courts?CMP=Share_iOSApp_Other

14 <https://www.judiciary.gov.uk/publications/review-of-practice-direction-12j-fpr-2010-child-arrangement-and-contact-orders-domestic-violence-and-harm/>

15 <https://www.judiciary.gov.uk/wp-content/uploads/2014/08/view-from-the-president-of-family-division-16-jan-17.pdf>

16 <http://services.parliament.uk/bills/2016-17/childrenandsocialwork.html>

17 <https://togetherforchildren.wordpress.com/latest/>

18 All serious case reviews published between August 2015 (the date of the last cases considered for the Nineteen Child Homicides report) and December 2016 on the NSPCC National Case Review repository were included in this analysis.

19 Hester et al and Women's Aid (ongoing): Justice, Inequality and GBV project

20 Mckenzie Friends accompany Litigants in Person to court and offer advice and support. See www.mckenzie-friend.org.uk/

Child First: A Call to Action One Year On

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