

Temporary practice guidance for staff, in the absence of Cafcass commissioned Domestic Abuse Perpetrator Programmes

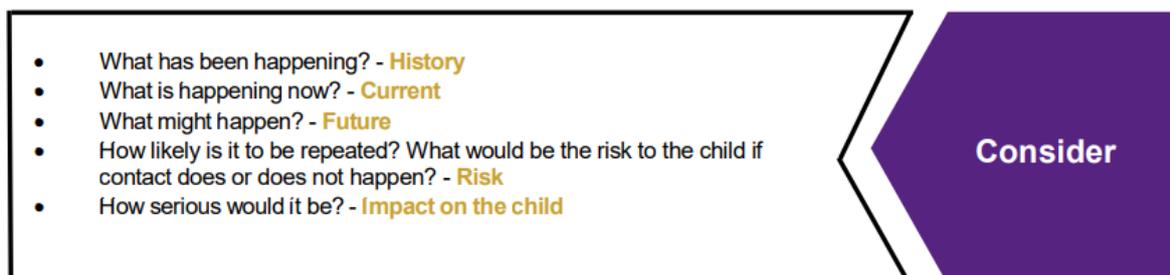
The ability of Cafcass commissioned providers to deliver Domestic Abuse Perpetrator Programmes (DAPPs) has been severely compromised by the pandemic – with approximately 700 parents currently awaiting the offer of a programme to support them, with many children having disrupted or stalled arrangements in respect of contact with the parent waiting for the support programme for prolonged periods. Whilst careful thought has been given to whether remote DAPPs (via Skype, Zoom) may provide a positive alternative, the research base does not currently exist to support its effectiveness. A remote version of DAPP is being developed with RESPECT, but this is not yet ready for release.

In this circumstance, this guidance has been developed for FCAs in making their assessments when a DAPP is being considered. The guidance will be made available to courts and families. This guidance adds greater detail and clarity to existing guidance, with an effective start date of 1 May 2021.

It is worthy of note that DAPP provision has never been available in Wales and that FCAs in Cafcass Cymru have conducted their risk assessments in the absence of this provision throughout.

Risk assessment in the absence of DAPP

The limited availability or absence of timely DAPP provision heightens the need for clear, well-reasoned risk analysis, on behalf of the children with whom we work. The Cafcass Domestic Abuse Practice Pathway sets out the steps to be followed when assessing alleged or known domestic abuse, including coercive control.



The reality is, depending on the risks present, that there will be some cases where it becomes impossible to progress safe and beneficial ‘spending time’ arrangements in the absence of a DAPP. In these circumstances we need to be explicit about why we are recommending no ‘spending time’ arrangements – in terms that can be understood by the child (either now or if they access their files in future) taking into account their views and wishes.

Whilst the affected parents are likely to be distressed and concerned by this recommendation, we owe it to them and their children to make sure our thinking is clear and well-reasoned and that we are clear about the judgement we have made about the risk of harm to them if there is contact with the parent alleged or known to have been violent or controlling, starting with **Section 37 of Practice Direction 12J:**

‘In every case where a finding or admission of domestic abuse is made, or where domestic abuse is otherwise established, the court should consider the conduct of both parents towards each other and towards the child and the impact of the same. In particular, the court should consider –

(a) the effect of the domestic abuse on the child and on the arrangements for where the child is living;

(b) the effect of the domestic abuse on the child and its effect on the child’s relationship with the parents;

(c) whether the parent is motivated by a desire to promote the best interests of the child or is using the process to continue a form of domestic abuse against the other parent;

(d) the likely behaviour during contact of the parent against whom findings are made and its effect on the child; and

(e) the capacity of the parents to appreciate the effect of past domestic abuse and the potential for future domestic abuse

Where the FCA’s risk analysis indicates that the severity and likelihood of current or future harm is manageable, and a DAPP would have been a desirable rather than an essential safeguard (a ‘belt and braces’ approach)¹ – it may still be defensible to progress without a DAPP. However, our recommendations in these circumstances must be very carefully risk assessed, being clear about the alleged perpetrator’s

¹It is likely that these cases will be few in number, as the reality on the ground is that most Cafcass regions were already reserving DAPPs for use in children’s cases where nothing but a DAPP would do.

level of motivation and victim empathy (see appendix 1 for a new practice tool that will support you in assessing this), and ensure that any ‘spending time’ arrangements are supported with robust safety planning.

All reports to court should clarify the context in which recommendations are being made. The following standard text has been provided to assist practitioners in this task but please ensure that this is tailored to the local situation with respect to availability of provision, as well as the individual circumstances of the child and family.

“The need for xxx to attend a DAPP has been considered. Cafcass commissioned Domestic Abuse Perpetrator Programmes (DAPPs) have been severely delayed by the pandemic. It is therefore important to make the court aware that if a DAPP is ordered there will be a significant delay in the referral being made to the provider of the programme and the programme commencing if assessed as suitable. This will inevitably impact on arrangements for the child. It is not possible to say with certainty how long this delay will be, but it will be in the order of a number of months.

In these circumstances, careful consideration has been given to

- a) whether any alternative recommendation to a DAPP could meet the children’s needs*
- b) whether DAPP is the only available option to provide the opportunity for safe and beneficial time with the parent/ carer attending the course, for the children”*

The recommendations should then set out one of four potential outcomes from the assessment:

1. The family’s circumstances do not meet threshold for suitability for DAPP referral – no referral recommended
2. The circumstances do meet the threshold and there is sufficient Cafcass commissioned provision – recommend referral
3. The threshold is met, but there is no DAPP availability and the assessment concludes that alternative arrangements are considered suitable² – recommend an alternative plan that might involve a final order of no contact; a final order with contact and a safety plan, or an interim order for a step-by-step approach to the progression of contact arrangements.
4. The threshold is met, but there is no DAPP availability and no safe and beneficial arrangements for time with child are possible without it – recommend the order for a DAPP is made but clarify that the referral will be added to the waiting list. The case remains allocated in Cafcass with

² This option should be used with caution as there will be very few cases where it is safe to proceed with spending time arrangements, where the threshold for DAPP is also met. Please seek situational supervision with your Service Manager and ensure your risk analysis is clearly recorded on the child’s case file.

appropriate oversight including a monthly review to assess any changes in circumstances.

The report and recommendations should also clarify the arrangements for ensuring the children and family members understand what is happening and - where a DAPP is ordered but not yet available - how they will be kept updated about when the programme might start, and arrangements for a review of their circumstances.

Safety planning

The Cafcass Domestic Abuse Practice Pathway is being updated and will be published this summer. Guidance on planning for safety and all aspects of risk assessment is being updated as part of this.

The summary of key points are as follows:

- Wherever possible include the child in the safety planning process, explore what they would need to see in order to feel secure and comfortable in their parent's care (this should only be done after your own risk assessment has concluded there is strong potential for safe and beneficial contact);
- Consider the use of the new Improving Child and Family Arrangements (ICFA) interventions³ as a bridging intervention to reintroduce 'spending time' arrangements at the child's pace. From 1 May 2021, the ICFA service replaces the previous Child Contact Interventions and provide a more tailored and less prescriptive model for meeting the individual needs of children and their families;
- If 'spending time' arrangements are likely to be in the community, consider the use of a trusted third party to facilitate the handover; or
- If the arrangements are on a week-day consider the child being collected from school to minimise the non-abusing parent's exposure to the other parent (even if the risk of abusive behaviour is low we must be mindful of the non-abusing parent's healing and recovery);
- Should arrangements take place at a structured event e.g. football/swimming?

Safety planning should be driven by the needs of the child and non-abusing parent, as such it is crucial that both are included in the safety planning process. It is also

³ More information on the ICFA services is available to Cafcass practitioners on the internal [NCT intranet pages](#).

crucial that the child should be able to contact the parent they live with at any point during contact with the other parent. Thinking about how this can be appropriately facilitated e.g. by the child having access to their own mobile phone, must be considered in making these child arrangements.

It might also be appropriate to explore with the parent who caused the harm, what behaviours and measures they plan to put in place to reassure the child and non-abusing parent that they are ready to parent safely and responsibly. Are they agreeable to the child ending the session early should they wish? If they are not able to share power and control in this way, or can't be trusted not to exploit the child's mobile phone then we need to reconsider our risk assessment – these contradict safe and beneficial spending time arrangements and could re-traumatise the child.

Use of letterbox, digital and telephone arrangements

In the absence of a DAPP, and where it is not possible to progress 'spending time' arrangements in person, it is important that we do not 'default' to other forms of contact without also giving careful thought as to whether these are likely to cause harm.

Technological innovation means that the traditional lines between 'direct' and 'indirect' have become blurred, so instead of using these terms – make sure you have risk assessed the *specific* format you are considering and be explicit about this in your advice to court. Simply recommending 'indirect contact' can be left open to interpretation and, additionally, expose the non-abusing parent to intrusion and digital surveillance.

Self-funded programmes

Whilst some parents may be able to self-fund their own DAPP provision, Cafcass cannot recommend or endorse those programmes and it is a matter for the court whether to direct attendance. Inequality of access to service is clearly an unresolved issue in this regard.

FCAs may feel able to comment on any reports prepared by the particular programme but since we do not commission these programmes and have no influence or oversight of their quality or effectiveness, it is recommended that FCAs are cautious about providing advice on the suitability of a particular programme – particularly where the programme does not include support with the victim (programmes that do not support the victim would not meet the minimum standards used in Cafcass contracts).

Where a parent files with court a mid-way or final report from a self-funded DAPP provider we must be clear with the court that it may not be possible to provide a detailed assessment of this report. This is because we cannot be confident that the

service providing the report complies with the same stringent standards that we required of our previously contracted providers. In the event a parent self-funds a DAPP with one of our previously contracted providers we may not be in a position to comment in detail on those reports as we will no longer be able to confirm that standards have been maintained at the previous level.

If ordered to undertake an assessment in these circumstances the report should refer to the guidance and the constraints on any assessment of the provision. FCA assessments in these circumstances will focus on the needs of the child and their best interests as far as we are able to ascertain, in the usual way.

Resumption of DAPP delivery

Where the current Cafcass contracted DAPP providers can progress or resume their delivery of the in-person programme, **this capacity will be made available in the first instance to families where orders have already been made.** It is not possible to specify a timescale for returning to the position of being able to recommend DAPP in 'new' cases, as this will depend on factors outside of our control.

However, we are committed to a formal review of the position set out in the guidance and in respect of the availability of DAPP provision in three months from the publication of this guidance.

Where in-person provision becomes available, local priority will be given to families where orders have already been made, before starting to make new referral recommendations in reports to court. The National Commissioning Team will provide service areas with monthly updates on availability of provision.

We are committed to working with the Ministry of Justice (MoJ) and others on reviewing the DAPP provision as recommended by the MoJ's Expert Panel on Harm in the Family Courts in June 2020. The MoJ is the lead agency charged with this review and we are keen that it is re-established as soon as possible.

Appendix 1: Motivation and indicators regarding victim empathy, based on Sturge and Glaser

It is important when considering whether *any* version of time spent with a parent is safe, to continue to refer to the Sturge and Glaser criteria and to use the indicators as reference points to establish how the perpetrator views their accountability for the abuse. It should not be used as a checklist or standalone tool but as a supplemental guide to explore motivation and victim empathy within a holistic assessment alongside the static and dynamic risk factors. The criteria are written in gender specific language relating to male to female abuse, however the principles would apply across all relational dynamics. The Sturge and Glaser expert report stated that there should be evidence within the assessment of an awareness of each point in order that contact could be considered beneficial for the child.

The assessor may also wish to consider the Transtheoretical Model of Change - Prochaska and Di Clemente. Further information can be found here

<http://www.socialworkerstoolbox.com/the-cycle-of-change/>

<i>Sturge and Glaser criteria</i>	<i>Examples of themes to explore</i>
<i>Some (preferably full) acknowledgment of the violence;</i>	<ul style="list-style-type: none"> • <i>Do they accept that domestic abuse took place?</i> • <i>If there has been a FFH do they accept any findings made by a court about their abusive behaviour and, if not, why not?</i> • <i>If there has been a criminal trial, do they accept a conviction for a relevant offence and, if not, why not?</i> • <i>How would they describe the nature of the abusive behaviour, when do they think it started and how long did it continue?</i> • <i>What understanding do they have regarding why the abuse happened?</i> • <i>What is their role in the abuse and do they recognise triggers or catalysts?</i>
<i>Some acceptance (preferably full if appropriate, i.e. the sole instigator of violence) of responsibility for that violence;</i>	<ul style="list-style-type: none"> • <i>Is there denial of responsibility or some acceptance of their role as primary perpetrator (FCA to challenge this using supporting evidence)?</i> • <i>Who are they blaming?</i> • <i>What is the nature of the abuse? Do they recognise any</i>

	<p><i>controlling behaviours or, where relevant, can they describe their role in any mutually abusive behaviours (coercive controlling abusers may minimise, deny, transfer blame, attribute mental health issues to the victim or place themselves in the role of victim)?</i></p>
<p><i>Full acceptance of the inappropriateness of the violence particularly in respect of the domestic and parenting context and of the likely ill-effects on the child;</i></p>	<ul style="list-style-type: none"> • <i>Do they accept the abuse as a failure of parenting?</i> • <i>Do they recognise harm to the child of living with domestic abuse?</i> • <i>Can they describe being in the child's shoes during an abusive incident, can they describe the child's experience?</i> • <i>Do they have any childhood history of abuse to frame the experience?</i>
<p><i>A genuine interest in the child's welfare and full commitment to the child, ie a wish for contact in which he is not making the conditions;</i></p>	<ul style="list-style-type: none"> • <i>Why is the application being made now?</i> • <i>Can they empathise with the child's wishes and feelings?</i> • <i>Can they empathise with the adult parent victim?</i> • <i>Are there any adult focussed conditions they would set around contact?</i> • <i>Does motivation appear genuine and not part of a continuing pattern of control?</i>
<p><i>A wish to make reparation to the child and work towards the child recognising the inappropriateness of the violence and the attitude to and treatment of the mother and helping the child to develop appropriate values and attitudes</i></p>	<ul style="list-style-type: none"> • <i>How could reparation be made to the child regarding the impact of the harm they have experienced?</i> • <i>What do they see as being of most importance to the child?</i>
<p><i>An expression of regret and the showing of some understanding of the impact of their behaviour on their ex-partner in the past and currently;</i></p>	<ul style="list-style-type: none"> • <i>Can they describe what damage has been done to the child's sense of safety and security?</i> • <i>Can they articulate remorse?</i> • <i>What impact has the abuse had on their own sense of self and role as a parent?</i> • <i>What do they think the impact of the abuse has been on the adult victim and on their parenting capacity?</i>
<p><i>Indications that the parent seeking contact can reliably sustain contact in all senses.</i></p>	<ul style="list-style-type: none"> • <i>Will they be emotionally and physically available to the child on the child's terms?</i> • <i>Can they agree to a safety plan</i>

Version: 1



Author: Cafcass Principal Social Worker, Sarah Parsons

Review date: 7 June 2021

	<p><i>which prioritises the child?</i></p> <ul style="list-style-type: none">• <i>Will they work towards supporting the child arrangements at the child's pace?</i>• <i>Do they accept that the adult victim should have input into the contact arrangements?</i>• <i>Do they have family who can support them or are they willing to have contact alongside anyone with whom the child feels safe?</i>
--	---