

## **Cafcass response to the Home Office's Domestic Abuse Draft Statutory Guidance Framework consultation**

Cafcass (the Children and Family Court Advisory and Support Service) is a non-departmental public body sponsored by the Ministry of Justice. Cafcass represents children in family court cases in England and supports over 140,000 children every year. We make sure that their wishes and feelings are heard and that decisions are made in their best interests. Cafcass is the largest employer of qualified social workers in England with at least three years' post qualifying experience before working at Cafcass. We are independent of the courts, children's services, education and health authorities.

### **Context**

Cafcass welcomes the Domestic Abuse Act 2021 as a huge step forward in raising awareness, protecting and supporting victims, and seeking to transform the justice response by driving consistency and better performance in response to domestic abuse. It is a key issue in the family courts and Cafcass' small-scale study with Women's Aid in 2017 found that domestic abuse allegations featured in 62% of a sample of private law cases.<sup>1</sup>

Cafcass is committed to improving our practice in response to domestic abuse and to that end we established a Learning and Improvement Board in September 2020. This was in response to the Ministry of Justice's Expert Panel report on Harm in the Family Courts, which raised serious concerns about the way the family justice system and professionals working in it respond to domestic abuse. The Learning and Improvement Board is co-chaired by Cathy Ashley (Chief Executive of Family Rights Group) and Angela Frazer-Wicks (Trustee of Family Rights Group and founding member of Family Rights Group's Parents' Panel). Board members include: family justice partners, domestic abuse voluntary sector organisations, people with lived experience and the Family Justice Young People's Board. The Learning and Improvement Board has developed a Cafcass [Learning and Improvement Plan](#) to improve our social work practice in relation to domestic abuse.

An action in the Learning and Improvement Plan is the development of a Domestic Abuse Learning and Development programme. The programme is mandatory for frontline staff and does not just involve a one-off training event, but training through a variety of methods over a number of months to embed learning. The programme implements our recently updated [Domestic abuse practice pathway and guidance](#), which sits within the Cafcass [Child Impact Assessment Framework \(CIAF\)](#).

### **Chapter 2 - Recognising domestic abuse**

Having a statutory definition of domestic abuse with accompanying guidance that recognises the many forms it can take will enable greater consistency in professionals' assessment of domestic abuse. This is especially important in the context of those who may experience additional barriers in accessing help and reporting domestic abuse such as those from marginalised communities, Black, Asian and minority ethnic groups, LGBT+ people, older people and victims with complex needs.

The Cafcass definition of domestic abuse is in line with the draft statutory guidance, where we currently use the government cross-departmental definition as well as referring practitioners to the definition within Practice Direction 12J which includes culturally specific

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<sup>1</sup> [Allegations of domestic abuse in child contact cases 2017](#)

forms of abuse. We welcome the guidance highlighting that domestic abuse does not always happen in isolation. In our small-scale study with Women's Aid in 2017 we found that 89% of cases with domestic abuse allegations featured other concerns such as allegations of substance abuse or concerns about parental mental health.

### **Chapter 3 - Impact on victims**

Cafcass welcomes the detail in the draft guidance on the impact on children of domestic abuse and we are pleased that the Domestic Abuse Act 2021 explicitly recognises children as victims if they see, hear or experience the effects of it. This is consistent with what we know about children who live with domestic abuse where we have long been aware that they are not just passive witnesses to it, and instead experience it directly as victims.

The guidance notes that children and young people of different ages may respond to domestic abuse in different ways, with some examples for professionals to look out for. The example behaviours listed are mostly visible, externalised behaviours and it is Cafcass' view that this section would benefit from including some of the subtle, more withdrawn and internalised ways children deal with domestic abuse, and in particular coercive control. We highlight this in our [Impact on children of experiencing domestic abuse](#) tool and give some examples of the ways children modify their behaviour in controlling homes in our Domestic Abuse Learning and Development programme, such as:

- Adjusting their behaviour to please the abusive parent, for example by being overly compliant at home and/or striving to be high achievers at school. These children often do not display outward signs of trauma.
- Using appeasement or deflection strategies to mitigate the abuse to the victim.
- Manging their space within the home so they are not visible.
- Hypervigilance reading body language or changes in mood and atmosphere.
- Making up a different reality outside the home to friends and family.

We welcome the guidance exploring the impact of domestic abuse on children with special educational needs and disabilities. These are elements that are explored in our [Domestic abuse practice pathway and guidance](#).

### **Chapter 4 – Agency response to domestic abuse**

It is key for the guidance to note the unique position of Cafcass' agency response to domestic abuse. Our role is not that of the local authority social worker, and we do not have a statutory function with respect to adult victims of domestic abuse. Cafcass' statutory duty is to safeguard and promote the welfare of children going through the family justice system, by understanding their experiences and speaking up for them when the family court makes critical decisions about their futures. It may be helpful to refer to Cafcass' [Domestic abuse practice pathway and guidance](#) as a useful reference for other family justice professionals.

Cafcass supports the section of the guidance listing what employers can do to help victims of domestic abuse, and we currently employ many of the suggestions. Cafcass also has Domestic Abuse Support Colleagues who have been trained to recognise signs of domestic abuse and respond and refer affected colleagues. They strengthen the support available for staff and it may be helpful to reference this form of support in the guidance for others to consider adopting. The availability of apps in response to domestic abuse may also be helpful to reference in this section. Cafcass has raised awareness for staff of apps such as [Bright Sky](#) and have enabled this to be installed on work phones, recognising that the individual may not want to install it on their personal phone.

## Chapter 5 – Working together to tackle domestic abuse

As set out above, Cafcass does not have a statutory function with respect to adult victims of domestic abuse, where our role is to assess the impact on the child, as part of our advice to the court. When it comes to multi-agency information sharing the Family Procedure Rules (2010) restrict the sharing of information derived from proceedings without the permission of the court, other than where information is shared in furtherance of the protection of children. It would be helpful for this to be set out in chapter 5 so professionals understand the context in which Cafcass is able to share information. For example, Domestic Homicide Reviews (DHRs) do not meet this criterion and Cafcass is only able to share information with the court's permission.

An action in the Learning and Improvement Plan is for Cafcass and SafeLives to produce guidance to strengthen the relationship between Cafcass Family Court Advisers and Independent Domestic Violence Advisors, to include stipulations around information sharing.

## Chapter 6 – Commissioning response to domestic abuse

Consideration could be given to the following observations:

- Paragraph 433 lists numerous sector standards under which commissioners can be accredited, however it would be helpful for there to be some analysis of them to help a commissioner decide which quality standards to apply. It also does not set out if the quality standards specified have costs attached to them and if so, consideration to what extent this might act as a barrier to the marketplace for small providers. It leads to a larger question of whether it would be helpful for commissioners to have a set of national standards for commissioning like Wales has, which may be something the Ministry of Justice review of Domestic Abuse Perpetrator Programmes (DAPPs) could consider.<sup>2</sup>
- Paragraph 437 refers to DAPPs as an example of 'early intervention programmes' – we would advise against referring to them as this and instead referring to them as a **behaviour change intervention** for those who have been abusive towards their partners or ex-partner, with the aim of changing their behaviour and developing respectful relationships.
- Some of the terms used in chapter 6 could be clearer, for example 'local authorities' and 'local areas' are used interchangeably where it would be best to refer to one consistently so it is clear where the duty sits. It would be helpful for the guidance to make clear the duty for local authorities and the role of the Local Partnership Board which appears conflated at times throughout the chapter. The term 'pooling budgets' is outdated, and we suggest instead referring to joint commissioning.

As a general observation, this section does not recognise the current commissioning landscape and that the marketplace of providers across the country is underdeveloped and fragile, with inconsistent availability across the country.

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<sup>2</sup> [Statutory Guidance for the commissioning of VAWDASV services in Wales](#)