

Press release: Spotlight on child protection in family courts



A panel of experts will review how the family courts protect children and parents in cases of domestic abuse and other serious offences, Ministers announced today (Tuesday 21 May).

- Panel to make recommendations and report back in three months
- Public 'Call for Evidence' to gather views on how the current system can be improved
- Focus on ensuring the family court works in the explicit interests of the child

The three-month project aims to ensure that the family court works first and foremost in the explicit interests of the child, such as their safety, health and well-being. The MOJ-chaired panel will consist of a range of experts including senior members of the judiciary, leading academics and charities.

A public call for evidence will also be launched imminently and will look to those with direct involvement to share their experiences.

The move follows responses received through the government's domestic abuse consultation in which concerns were raised around the family courts' response to potential harm to children and victims. In addition to calls for better protections for children, some claim that domestic abusers are using the court system to re-traumatise their victims.

Every day family court judges do outstanding work making difficult decisions in highly emotive cases where the paramount consideration is the welfare of the child. Ministers now want to take a closer look at how existing safeguards in the court process are working in practice and, if necessary, strengthen them.

Justice Minister Paul Maynard said:

Some of the most vulnerable in our society come before the family courts, and I am absolutely determined that we offer them every protection.

This review will help us better understand victims' experiences of the system, and make sure the family court is never used to coerce or re-traumatise those who have been abused.

Its findings will be used to inform next steps so we can build on the raft of measures we have already introduced to protect victims of domestic abuse.

Specifically, the work will:

- examine the courts' application of Practice Direction 12J – this relates to child arrangement cases where domestic abuse is a factor
- examine the courts' application of 'barring orders' which prevent further applications being made without leave of the court under the Children Act 1989
- gather evidence of the impact on the child and victim where child contact is sought by someone alleged to have, or who has, committed domestic abuse or other relevant offences

The panel will consider how the family courts handle a range of offences including rape, child abuse, assault, sexual assault, murder and other violent crime, with the government committed to ensuring the right protections are in place for victims and their children.

This will build on the draft Domestic Abuse Bill, published in January, which includes measures to ban abusers from directly cross-examining their victims in family courts, on top of the £8 million of funding announced to support children affected by domestic abuse.

Last year, we made changes to make it easier for victims of domestic abuse to obtain and provide the evidence required to access legal aid, including removing the time limit from all forms of evidence for domestic violence. And we have allocated £900k in funding for organisations to providing specially trained staff to offer dedicated emotional and practical support to domestic abuse victims before, during and after hearings in the family court. Further details on the review, the composition of the panel and the call for evidence will be announced in due course.

Notes to editors:

- The Children Act 1989 states that the welfare of the child must be the court's paramount consideration when making any decision about their upbringing, including with whom the child is to live or spend time, and there is no automatic right to parental involvement.

- In circumstances where there is evidence of domestic abuse, the courts are bound by law to consider potential harm to the child and parent.
- The court also has a duty to consider a range of factors, such as the wishes and feelings of the child (including instances where a child wishes to see a parent) and any evidence of risk of harm to the child and to the other parent, and has a wide discretion to conclude what is in the best interests of the child.
- Practice Direction 12J sets out what the court is required to do in any case where domestic abuse is alleged or admitted, and applies to any application relating to children where there are allegations that a party or child has experienced domestic abuse.
- Practice Direction 12J was revised in October 2017 to place greater emphasis on both the indirect harm that domestic abuse can cause to a child and parent, and the impact of non-physical forms of abusive behaviour. The Children Act also makes clear that the presumption of parental involvement will not apply where there is evidence that the involvement of that parent in the child's life would put the child at risk of suffering harm.
- Section 91 (14) of the Children Act 1989 empowers the court, when disposing of an application under the Act, to make an order that prevents future applications without leave of the court. This review will explore how the court handles multiple and repeat applications and whether this is used to coerce and frustrate victims.