

Children and contact with parents who are domestic abusers

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It was announced on 15 May 2019 that “*more than 120 MPs have written to the government asking for an inquiry into how family courts in England and Wales treat victims of domestic violence.*” This arises from concerns that abusive parents have been allowed unsupervised contact with their children which has resulted in physical violence, emotional abuse and even death.

These concerns are not new. In 2016, Women’s Aid published their report, ‘Nineteen Child Homicides.’ This report highlighted the risks of allowing contact between children and fathers who have a history of domestic abuse. As a result of this report, the then President of the Family Court, Sir James Munby, commissioned a review of the law, namely Practice Direction 12J of the Family Procedure Rules. This resulted in a report in 2017, ‘Child Arrangement and Contact Orders: Domestic Violence and Harm,’ prepared by Mr Justice Cobb.

The following recommendations were felt to be key:

- The Government and senior leaders in the Family Courts and Cafcass need to take action to bring about cultural change within the Family Court system to ensure that the safety and well-being of child(ren) and non-abusive parents are understood and consistently prioritised;
- Children should always be listened to, and their safety must always be at the heart of any child contact decision made by the family court judges;
- Children’s experiences of domestic abuse and its impact on them should always be fully considered by the family court judiciary with an acknowledgement that post-separation abuse is commonly experienced by non-abusive parents.
- The Ministry of Justice, and the President of the Family Division, must clarify that there must 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 what is in the best interests of the child;
- The President of the Family Division must ensure family court judges never order child contact in supported contact centres where a risk assessment has found that the abusive parent still poses a risk to the child or non-abusive parent.

Revisions were subsequently made to Practice Direction 12J with the major change being that the presumption in the family court that there should be contact between children and both their parents at all costs should be scrapped. Cobb J’s view was that contact should be excluded in cases where there has been domestic violence and the parent would place the child or other parent at risk of harm.

Today’s call for an inquiry shows us that little has changed since the reforms introduced in 2017. It is imperative that those involved with Children’s Services are aware of the law, make sure that there are thorough risk assessments completed and work to reduce the number of children abused or killed during contact with a parent to zero. Hopefully, the Domestic Abuse Bill which is undergoing consultation will assist with putting the right support framework into place.

Browne Jacobson deal with the cases which arise out of concerns relating to the alleged failures of Local Authorities and can provide support and advice to help address patterns of concerns.

We would anticipate that this news will be of concern to Children's Services and those working with parents who are the victims of domestic abuse. Social Services are often called in to prepare risk assessments within private family proceedings as well as within the context of care proceedings. [Practice Direction 12J](#) provides guidance on dealing with contact and issues relating to domestic violence. The power is there to make recommendations against contact.

Local Authorities should also be aware that on 13 May 2019 a consultation on the '[future delivery of support to victims and their children in accommodation-based domestic services in England](#)' was launched. This will place a statutory duty upon Councils to deliver support to the victims of domestic abuse. The consultation closes at 11.45pm on 2 August 2019.

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