**What procedural and/or legal issues may prevent victims of domestic abuse from successfully obtaining an enforceable Family Court Order to protect them from future abuse?**

**Student Law Office, Policy Clinic, Northumbria University, Law School**

***Research report for Northumbria University and the Office for Northumbria Police and Crime Commissioner undertaken by Leah Nicholls, Parmdeep Kaur, Saima Miah and Sarah Picken***

***August 2019***

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# Introduction

This research was undertaken by the Student Law Office, Policy Clinic, Northumbria Law School. The Student Law Office provides free legal advice to members or the public in a variety of legal areas. In 2018 the Student Law Office established the Policy Clinic, to undertake research on behalf of organisations and charities. The purpose of the Policy Clinic is to provide research and evidence, aiming to influence policy and law reform. All work in the Policy Clinic is overseen by experienced research members of staff at Northumbria University. The students taking part work in the Student Law Office are in the third year of their law degree.

This research was undertaken for Northumbria University and the Office for Northumbria Police and Crime Commissioner. Their main aims focus on improving the experience of domestic abuse survivors when using the Family Courts by gaining knowledge from stakeholders working closely with survivors to gain a perceptive of the barriers survivors face when obtaining Family Court Protection Orders (e.g. non-molestation and occupation orders). Further, we wished to understand how certain barriers limit survivors from seeking protection, when stakeholders encourage protection orders, and how they perceive what obstructions exist.

We used qualitative research methods to obtain empirical data by conducting group interviews and thematically analysing the data collected. The results indicate there is a lack of understanding of coercive and controlling behaviour due to the lack of training some of the participants received. We also found there is a benefit in Court Liaison Officer’s being accessible to survivors both before and during proceedings and encourage their role within the Family Courts. Finally, the impact of cuts to legal aid and the strain this puts on other stakeholders working with domestic abuse victims is discussed in detail.

Survivors will benefit from the research conducted by recognising the barriers they face and providing recommendations of how to improve the support they provide. This study can potentially impact the participants themselves, by encouraging an improvement of the advice and safeguarding they provide to survivors and increase awareness of the existing barriers within their field. The research is necessary to raise awareness of the problems with non-physical types of abuse that exist within a relationship, for example coercive and controlling behaviour. Furthermore, the research is necessary to raise awareness of the various victim characteristics and move away from the stigma attached to the notion of the stereotypical domestic abuse situation.

***We would like to thank Kayliegh Richardson, Claire Bessant and Alexander Maine for working with us on this research.***

*Parmdeep Kaur, Sarah Picken, Saima Miah, Leah Nicholls.*

*Work supervised by Dr Rachel Dunn.*

# Background to the Study

Domestic abuse is now viewed by many as a global epidemic, with the World Heath Organisation estimating that almost one third of women have experienced either physical or sexual intimate partner violence.[[1]](#footnote-1) In England and Wales alone last year, an estimated 1.23 million women and 695,000 men are said to have experienced some form of domestic abuse.[[2]](#footnote-2) The reality however is likely to be much higher. Despite being a signatory to international legislation such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and increased domestic criminal sanctions available through the introduction of the Serious Crime Act 2015, it is clear from those statistics that we are not doing enough in this country to protect victims of domestic abuse.

In England and Wales, victims of domestic abuse have a supposed ‘choice’ of protection. They can either seek to rely on the criminal justice system by supporting a conviction of the perpetrator of the abuse, thereby ensuring that the abuse is punished and simultaneously opening the door to the possibility of a restraining order. Alternatively, or in addition, they can seek their own private law protection through the civil/Family Courts. The second option can be costly if they are not eligible for legal aid. Legal aid is available to victims of domestic abuse but only where they can provide actual evidence of the abuse and where they meet strict financial eligibility criteria. However, there are many reasons why a survivor of domestic abuse may wish to pursue a private law option of this type, despite the potential costs involved. These reasons range from a mistrust of the criminal justice system and the agencies that work within it to financial reasons why they may not wish the perpetrator to face a prison sentence and the loss of income that is likely to come with it (for example, if they are in receipt of child maintenance or if they share a mortgage). In addition, the Family Courts have a broader range of orders available to them that may be better suited to the complexities of a domestic abuse case. For example, a victim of domestic abuse may need, not only a protective injunction such as a non-molestation order, but also an occupation order to allow them to remain within the family home; proceedings to regulate the contact that the perpetrator has with any children; and possibly divorce and financial relief proceedings if they are married. The Family Procedure Rules provide guidance as to the procedure that should be followed in cases where allegations of domestic abuse are raised. In particular, Practice Direction 12J (PD12J) provides guidance as to the procedure that should be followed in private law children cases involving such allegations and has been used to develop the flow chart set out in appendix 7.

However, all is not always smooth sailing in the Family Courts and academics such as Richardson and Speed (2019)[[3]](#footnote-3) and Bishop and Bettinson (2018)[[4]](#footnote-4) have raised concerns that the procedures set out in PD12J are not always being followed and about the possibility of the proceedings themselves being used as a mode of continued abuse. This project has therefore been commissioned as part of Stream 2 of the Whole System Approach Police Transformation Fund Project, to seek further information from stakeholders about the specific barriers faced by victims of domestic abuse when seeking protection through the Family Courts in the Newcastle Upon Tyne area and recommendations for what can be done to remove those barriers.

It should be acknowledged that this report is being written at the same time as the Domestic Abuse Bill is being introduced into Parliament. It is hoped that the Bill can go some way to alleviating some of the concerns raised within this report. However, many of the concerns highlighted are resource based and therefore are unlikely to be resolved by legislation alone.

For the purpose of this project, the proposed statutory definition of ‘domestic abuse’ set out within the Domestic Abuse Bill has been adopted. Whether this definition is adequate is discussed in the ‘Results and Discussion’ section of this report. For the avoidance of doubt that definition is as follows:

*Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse”   
if—*

*(a)A and B are each aged 16 or over and are personally connected to each   
other, and*

*(b)the behaviour is abusive.*

*Behaviour is “abusive” if it consists of any of the following—*

*(a)physical or sexual abuse;*

*(b)violent or threatening behaviour;*

*(c)controlling or coercive behaviour;*

*(d)economic abuse;*

*(e)psychological, emotional or other abuse;*

It should be noted from this definition that domestic abuse is not limited to abuse between intimate partners and is not restricted to any particular gender, race or sexuality. It is however limited in law to an age-group, namely those over the age of 16. This will be discussed in more detail later in this report.

# Research Methodology

The research method employed was qualitative, using semi-structured interviews. We used this method for a deep exploration of the research area, due to smaller sample sizes, which was more suitable for the research. Further, as we wanted to explore in depth the barriers faced by victims of domestic abuse survivors when attempting to obtain a Family Court Order, quantitative data would not have allowed for this. As students conducting the research, our positionality is that of an outsider acting as academic researchers, and we are not specifically a part of the research community nor those who work in the field of domestic abuse.

**Ethics**

Ethics was granted by Northumbria University’s Ethics Committee. All participants were sent a consent form prior to the interview taking place, which contained information about the study and how the data is managed.[[5]](#footnote-5) If they had any questions prior to the interview, they could contact the research team and to answer any queries. All participants who were interviewed in person were asked to sign a consent form, which the research team retained. One participant did their interview over the phone and consent was gained orally and recorded on a Dictaphone and transcribed for evidence of consent.

We were aware during the data collection process of ethical issues which could arise. To maintain client confidentiality, ensuring that no client details were revealed and to protect our participants, the findings have been anonymised. We understood that participants may feel uncomfortable criticising their workplace and the legal systems within which they work. We have striven to ensure that all participants were protected during this process, but feel as though some of the data may have been affected with this consideration in their mind.

**Interviews**

The interviews we conducted were focused on finding the main barriers that prevent victims from obtaining Family Court Orders. The method was semi-structured interviews[[6]](#footnote-6) which is an informal style of interviewing, allowing us to keep a balance between control of the group interview and free-flowing speech from participants. It also gave us the opportunity to ask probing questions in order to gather the maximum amount of data from our participants. Each interview lasted between 1-2 hours and was recorded using a Dictaphone.

The interviews with the practitioners started by providing them with timelines of the procedures of obtaining a non-molestation order, both as a stand-alone application and during child care proceedings.[[7]](#footnote-7) These timelines replicated the theoretically correct procedures, and we asked the practitioners to go through the stages of each timeline and point out where the procedure differed in practice. We encouraged participants to write on the timelines and talk us through whether they thought the procedure was followed this way in practice. This enabled us to collect data in a way which would have been difficult by conversation alone, using visual means. We retained these timelines with any written comments on them.

**Recruitment and sample**

The local practitioners were recruited via email by the project supervisor, Dr Rachel Dunn. Northumbria University has a contact within Northumbria Police, who arranged interviews with police officers and a Court Liaison Officer (CLO). A local Family Court Judge contacted members of the judiciary on our behalf. All participants voluntarily participated in this research study with the option of withdrawing at any time, but the research team did not have full control over the participant selection process.

The participants interviewed all work in the North East of England and primarily within the Newcastle Upon Tyne area. We interviewed:

* Two frontline police officers, who deal with the initial response of domestic abuse calls
* Two disclosure police officers, who deal with disclosure requests for the Family Court process
* Two solicitors, working in a legal aid firm. One solicitor works in domestic family law and the other in international family law
* One barrister, who works mainly in children proceedings
* One Court Liaison Officer (CLO). The main role of this officer is to liaise with multi-agencies to offer support and guidance to victims of domestic abuse, particularly victims of sexual abuse as this is the main focus of the organisation that the participant works for.

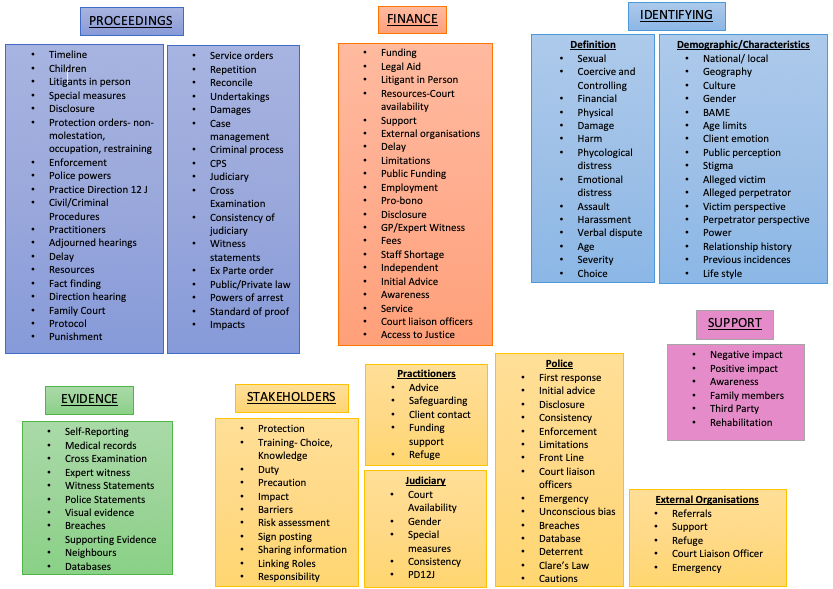
Unfortunately, interviews with the judiciary and CAFCASS were not possible, as ethical approval from each body was not granted.

**Analysis**

When analysing the data, we used thematic analysis to code the transcriptions of the interviews. All of the research team participated in the analysis stage, including Alexander Maine (research assistant), individually. After coding the data, we met as a group and categorised the codes into six themes which included sub themes originating from the coded data. Some of the codes and themes were extracted from NVivo, computer analysis software, to ensure reliability and consistency of the data analysis. However, the students used hard copies of the transcriptions to code the data and this was compared to the themes found using NVivo. We excluded some parts of the data due to irrelevance in answering the research question.

**Themes created**

The codes were separated into six themes, which are used to guide our discussion in the next section. The organisation of the codes is shown in Diagram 1 below:



*Diagram 1 – Codes Organised into Themes and Sub-Themes*

**Limitations of the study**

We had some issues with participants during the data collection stage. Originally three disclosure police officers were scheduled to be in attendance of the interview, however on arrival only one officer was present and another turned up 40 minutes into the interview. The third officer was not in attendance due to having other commitments, however this was not communicated to the research team. Having all three participants in attendance could have enriched the data collected due to having more findings to analyse and discussion between them. Further, there was disruption during this interview, due to phone calls being made and the participants swapping over. This prolonged the interview, increasing the interview time, as we ultimately interviewed each participant separately. Due to swapping over, the participants were not able to converse and interact in the way they would be able to during a group interview, which limited the data we could have obtained had the participants conversed their views.

Face-to-face interviews were arranged with the CLOs, however, due to problems with availability and funding cuts, we were only able to interview one CLO via telephone. This affected the questioning, as we were not able to show the CLO the timelines prepared for the interview.

The main limitation of the research study is the refusal of CAFCASS to be interviewed and the Ministry of Justice (MOJ) not providing consent for the judiciary to participate. This limited the data we could have received from their perspective and, ultimately the findings obtained.

Finally, we appreciate that this is a small study, with a small selection of participants in one geographical area. It may seem as though there are not enough views to enable us to make reliable claims, but the participants we interviewed were experienced in their field of work and provided us with the insight and depth we required. We are not claiming that this data can be generalised to each area of England and Wales, but would like to continue this study in other areas for a comparative study.

# Results and Discussion

Each theme will be discussed below. Not all codes within a theme are presented in this report, rather only those that the research team viewed answered the research questions and met the aims of the project. The themes of support and stakeholders are discussed together, as there was significant overlap between the two.

**Identifying Domestic Abuse**

Definition of domestic abuse

Both police participant groups believe the scope of domestic abuse to be broad, covering ‘*a wide range of things*’, mainly specifying physical, emotional and financial abuse. When asked if there is anything that they believe should be amended in the proposed statutory definition (set out in the earlier background section), they described the current definition as a ‘*catch all*’. The frontline officers explained that if a couple are having ‘*a little bit of an argument’* or voices are raised and consequently the neighbours call the police, they have to attend the incident merely because it fits within the ‘*catch all’* definition, and a report will be carried out, regardless that it may not have much ‘*substance*’ to it. This was consistent with the solicitors, who agreed with the definition and did not think anything was missing, since the introduction of controlling and coercive behaviour.

Until probed, the frontline officers did not include coercive and controlling behaviour in their definition or mention it at all. They were asked whether they were aware what coercive or controlling behaviour is, they replied labelling it as ‘*subjective*’ and explained that there are different severities. Some of the more ‘*high risk sorts’* can involve the complete control of someone’s life, controlling their actions, who they can socialise with, what they wear, their finances etc. Both solicitors agreed that the definition of domestic abuse needs to be under regular scrutiny, due to constant changes in society.

The solicitors highlighted that the judiciary still seem to take physical abuse more seriously than coercive or controlling behaviour, stating that physical abuse, “*in my experience, that carries a lot of weight compared to being controlled and not being allowed to leave the house and you’ve just left the house you know a week ago.”* The solicitor specialising in international family law found that judges in cases involving international family law issues (examples include forced marriage, FGM and “honour-based” violence) are more likely to grant a non-molestation order for coercive or controlling behaviour alone, without evidence of physical abuse, than in domestic family law cases:

*“A lot of the behaviour stems from just controlling behaviour. A lot of my non-mol that I issue sometimes there isn’t physical violence and it’s purely just control, emotional, verbal, some of my victims don’t even leave the house. They get controlled on what they eat, who they talk to, some of them don’t have mobile phones up until they actually flee, so yeah some of mine are just based on controlling behaviour.”*

For the domestic family law solicitor, it is consistent with the experience, and opinion, of the barrister, who explained that they rarely have a case of coercive or controlling behaviour alone and, it usually ‘*goes hand in hand*’ with other aspects of domestic abuse, especially physical, economic and emotional abuse. Additionally, clarifying that the courts will usually focus on whether the victim is at immediate risk from their abuser, often front-loading the case with more physical aspects of domestic abuse and other aspects of domestic abuse will be considered later on as the case progresses. This issue is not only with the judiciary, as a disclosure officer highlighted that the CPS also prefer to pursue convictions based on physical violence, stating the “*majority of cases always went for a more traditional, substantive offence, than coercive control, even if there was evidence of coercive control there, and on top of that they would tend to go for a more physical violence type of offence rather than try to evidence emotional harm.”*

As well as the judiciary, the solicitors expressed that they do not feel CAFCASS appreciate the seriousness of coercive or controlling behaviour, depending on the CAFCASS officer and the relationship they have with a client. They went on further to explain that the effects of not having evidence for a more serious offence could lessen the severity of controlling or coercive behaviour and “*you can really see how minimised you know if they’re alleging domestic abuse, if they don’t have any evidence for obvious reasons then you know professionals can then just minimise it, well you’ve not got any evidence so how can we agree with it and I think that is really hard to deal with”.*

The CLO emphasised that the organisation they work for is trying hard to create more awareness of coercive and controlling behaviour. They are trying to encourage a “*bigger picture*”, that domestic abuse is not simply being physically or sexually assaulted, but it can also be controlling behaviour. Interestingly the CLO and all police officers referred to coercive or controlling behaviour as “*coercive control”,* rather than two separate offences. This suggests that some of the key participants working with victims of domestic abuse do not fully understand that it is two separate offences.

Age

Under the new Domestic Abuse Bill, the definition of domestic abuse now includes young people under 18 but over the age of 16. Abuse of individuals under the age of 16 will be classified as child abuse rather than domestic abuse. The change in the official definition aims to protect all those who may be victims of domestic abuse and increase awareness that young people in the age-group do experience domestic violence and abuse.

In the interview conducted with the disclosure police officers, an officer defined domestic abuse as: *“for domestic abuse is any person, aged 16 or over, who has suffered either physical, emotional, financial abuse…”* The age gap remains an issue, as the officer stated in the interview that it’s a difficult situation where there is a couple who may be aged 15/16 and there is abuse in the relationship, *“because it’s not officially recognised”.*

The disclosure police officer stated that the issue with the definition is that *“…at [police force]…we do not recognise under 16’s as domestic abuse and I presume that will have some kind of impact on some of the work that is done in the Family Courts, because there are perpetrators of abuse who are children…”* There is a gap in the law where the statutory definition of domestic abuse does not include abuse such as parental violence. In terms of the actual Family Court there may *“remain a gap and where that fits in is when children are actually perpetrating the abuse”.* A disclosure officer did highlight that they have a process designed to fill this gap, waiting implementation, which will be a welcome addition to the protection for victims. This means for the police, they will be able to “*capture how many incidents there are, which obviously gives us the evidence for then what we need to do about that*” in terms child perpetrators. They highlighted, however, that *“in terms of the actual Family Courts, that’s probably going to actually remain a gap for a while, and where that fits in when children are actually perpetrating the abuse.”*

In this interview we discussed the procedures they follow when it comes to assessing a domestic situation. They have to analyse the situation and see *“if it fits the definition”*, however the issue is that, when it comes to an individual under 16 *“the process would not be triggered, the only thing the Police Officers would do is complete a child notification, so they would still say, are there any offences, but the procedures don’t force them down the route that you would get if you were aged 16 or above.”*

In the interview, the police officer noted that, *“officially, there is no upper age limit, so if you were 83 and reporting an incident of domestic abuse, or whether you’re 25, the response should be what is required for that individual – regardless of age, regardless of gender…status…”* This may demonstrate the significance of expanding definitions of domestic abuse, taking into account the intersecting characteristics of victims.

It was also highlighted by a solicitor that the age of a victim of domestic abuse can also influence whether they report the abuse, as the older generation may not seek support because they are ‘*used*’ to the abuse. On the contrary, the younger generations are aware that abuse within a relationship is not appropriate and shouldn’t be classified as the ‘*norm*’; therefore, they are more likely to speak out about their experience. Both solicitor’s clients tend not to be over the age of 30, usually between the ages of 20-30 years old and rarely being over the age of 40. Additionally, quite a lot of the clients who approach them for advice have children, which is usually an influential factor when determining the age groups of the people who request their services. This is consistent with the CLO, who mainly deals with women in their 20’s and late teens, having not personally dealt with any victims aged under 16 or over 59 years old. Those who are under 16 and have made allegations of domestic abuse are dealt with by the children’s team.

This supports the idea that those who do not fit within the age bracket provided in the domestic abuse definition, are possibly not considered to be victims of domestic abuse, rather this will be considered elder abuse or child abuse. However, in cases that involve children, the parents are often in their late 20s and 30s, sometimes in their 40s, and mainly because their case surrounds child contact.

Gender

The international family law solicitor stated that around 90% of their clients are referred from the Angelou Centre. The Angelou Centre is a black-led women’s centre based in Newcastle Upon Tyne and has recently opened two more refuge centres within the North East. Many of the other referrals also come from other centres in the North East, which are independent agencies. The solicitors also noted that the majority of their clients are female, having personally only had one male client who had made serious allegations. This comment is consistent with previous research, which suggests that men are not likely to seek support due to the stigma behind male- abuse.[[8]](#footnote-8) Specifically, this participant stated:

*“and that’s the thing I think a lot of the time, every one presumes it’s women but there are actual male victims and it’s really hard because I think actually his allegations were quite serious and I’m not sure how serious they were actually taken by professionals, because he was male and trying to get support for a male as well is really difficult, because a lot of the services just support women and so there’s not many services available for men as well.”*

The CLO also stated that the majority of the people they worked with are female, and had only liaised with one male client who had suffered abuse within a relationship. Similarly, the majority of the victims that the barrister represents are female, as “*they express themselves more as victims of domestic abuse”* than males. However, the barrister expressed that, although it is more common to see female clients, they are unaware whether this an accurate representation to ‘*real life’*, stating that there is a greater focus on the resources available for women.

The solicitors were asked whether they have advised members of the LGBTQ community. Previously they did have a specific department which specialised in family matters in relation to those in the LGBTQ community, however the member of staff who was running the department has left the firm and unfortunately, as a result of this, the department had dissolved. Now, another available member of staff will represent victims of domestic abuse who are from the LGBTQ community. The solicitors interviewed told us that they had only had a two to three LGBTQ clients since their time at the firm, and these cases *“just tend to go to whoever [in the firm] really. We don’t really see it as an issue, so it would just go to whatever solicitor is available.”* This further demonstrates the universal nature of domestic abuse, and the potential need to provide specialist service to victims, irrespective of gender or sexuality.

**Proceedings**

The role of the police

A substantial theme was the court proceedings involved in gaining a Family Court Order for protection against Domestic Abuse. Each participant discussed the procedure for obtaining a Family Court Order in detail and some groups highlighted several difficulties, dependant on their level of involvement in the process.

The frontline police officers did not have involvement with the Family Court proceedings, as their work focused mainly on the criminal aspects of domestic abuse. The officers considered their roles as “*completely separate*” but being available to provide evidence in court if it if needed. The officers gave examples of evidence they would provide if they were to attend court, mainly including statements and videos from the body worn cameras.

The frontline officers knew of non-molestation orders and describe them as “*quite handy… because it’s good power, it comes with the power of arrest… we can do our job, protect the person.”* However, occupation orders have not been recommended by the officers interviewed and they did not have knowledge of them. When the officers safeguard the victim, they said they always mention non-molestation orders and provide the victim with contact numbers of support groups where they can get advice on non-molestation orders. One participant mentioned they advise victims that they can contact certain solicitors and receive a free hour of advice about the possibility of a non-molestation order. When asked how they would explain a non-molestation order to a person who was not aware of them, one of the participants said: “*I’d explain they’re like restraining orders except they’re not provided by the court, you’d have to go civilly to the civil court and get one and most people sort of understand that*.” Explaining a non-molestation order as a restraining order can be confusing for a victim, especially if they seek advice from a solicitor after seeing the police officer, as they may ask the solicitor for advice on restraining orders rather than non-molestation orders. As mentioned by the participant “*most people sort of understand that*” suggests there are victims seeking help are more aware of the criminal protections. The officers highlighted that those who have had instances of domestic abuse before are more *“clued up”* about non-molestation orders, and it is those who are affected for the first time they have to advise and signpost services to.

Sharing data

We discussed with both frontline and disclosure police officers whether the force recognises Family Court Protection Orders from other areas of England and Wales, with the use of databases. Frontline officers confirmed that any outstanding non-molestation orders show on the Police National Computer (PNC), as well as local databases. It was highlighted, however, that the PNC, “*tends to focus on the perpetrators rather than the victims*.” This means that the perpetrator will be on the register, but a victim will not be. A disclosure officer stated that this is not logged on a national register, but if a victim were to move outside of a force area, they would share any information with the new force area for them to be able to safeguard a victim.

This information is congruous with that of the frontline officers, however the lack of focus on victims can pose issues for a victim and the police forces. For instance. If the victim moves but the police were not aware of where the victim was residing, and the perpetrator followed, this could endanger the victim if the police are unaware of the two parties being in close proximity. It also means the police would be unable to inform other forces, to be able to protect the victim if they were unaware of their location.

Victim protection seems to only be assured if the case is under current investigation by the police,

which was illustrated by a disclosure officer:

“*if they are a current victim, in terms of, I know that doesn’t seem right but you’re not always a victim, but if we are investigating a case, there will be an officer in charge of the case, there will be the victim care unit involved, there will, potentially*

*be if they are of high risk, a safety planner involved and it’s their role to make sure that they are constantly in touch with the victim… if the victim did move, it might actually be as a result of the safety planner arranging that move, and they would automatically update our systems*.”

This is not the case, however, if an investigation is closed, and that is supported by the officer stating that if, *“there was a case that went to court it was dealt with and that was a year ago, if that victim moved we wouldn’t necessarily know about that because they wouldn’t be live to us at that time.”* This suggests victim protection ends with the investigation, despite the victim potentially still being in danger, as they are not a “*current victim.”*

Requesting disclosure

In terms of providing disclosure for Family Court proceedings, a disclosure officer gave some insight into the procedure when both parties have a solicitor and when child care proceeding involve allegations of domestic abuse. If this is the case the solicitors get in touch with the disclosure officers to advise them of the case and the individuals themselves, as well as the children involved. The officer mentioned that they would be contacted in situation where “*there has been low level domestic violence in the past, which doesn’t warrant the involvement of social services, or it could just be that there’s previous partners that have been problematic from either one of the parties*.” The officer went on to explain that when they search their system for prior incidents, and information is gathered, they “*assess it for relevance because it could be information that is completely irrelevant.”* The relevant information is then sent to the solicitor. This information does not show all the incidents involving the respondent, only incidents the disclosure officers deem necessary and connected to domestic abuse are disclosed, such as “*evidence of violence, drugs, sexual offences, coercive control, threats to harm, harassment… so the only information that we don’t really disclose is what I would call frivolous information, which is low level offences*.” Further, if the court has ordered the disclosure, then the court has considered what is relevant, and they will disclose what a judge has deemed as relevant. The disclosure officer stated a request coming from the court is easier than from an individual, apart from the time allowed by a court, which is “*not a lot”.*

If the request comes from an individual, specifically a litigant in person, officers will provide them with more support when they are requesting disclosure, as “*they’ll expect far more than they’ll actually get*.” It was not clear how they would know to contact the police for disclosure, and a disclosure officer stated:

“*they don’t and that’s one of the gaps, that’s one of the issues I think is blatantly apparent that at the start of the process I don’t think there is a lot of information out there for people to access… it’s very difficult for the lay man, the normal person to understand… I think I would struggle, or any of my friends would struggle… I know friends who have gone through the process and they’ve found it a complete and utter mine field.”*

This suggests the systems and court procedures for disclosure is not friendly to the layperson and there is a lack of support for litigants in person, as well ask a lack of understanding and knowledge for a layperson. Due to this lack of understanding, the disclosure officer expressed the “*judiciary are much more supportive to litigants in person and that’s how it should be to be fair, a lot of people are in that position because they have no control of being in that position and they can’t afford legal representation.”*

In terms of asking the police for disclosure, the barrister said, “*lots of victims of domestic abuse are also known to police and don’t always have a positive relationship with the police, so to expect them to go and have that discussion, they might not be equipped to do it and, even if they are equipped, they might not want to.”* A relationship between the police and the victim may be important in terms of receiving disclosure, and this could create a barrier to gaining a Family Court Order. The barrister expanded on the thought process of victims not going to the police for disclosure by adding “*victims often worry if they ask for police disclosure then everything comes out not just the bits that they would necessarily want the courts to see and it’s very sad that sometimes that dissuades them from getting that disclosure*.” Therefore, a barrier may be created for victims because of their fear of negative information coming out to the courts, however, this impression is inconsistent with what actually results from a disclosure request, as the police will only disclose information which is necessary. It is possible victims are not aware of the fact police only disclose what is relevant and more education is needed for victims without representation to understand this process.

The solicitors highlighted some difficulties with police disclosure, naming evidence as one of the main barriers to obtaining a non-molestation order. If disclosure is requested and no police statement is taken, they will receive the summary detailed above. This can cause issues, particularly if the client’s instructions differ to the summary, and their evidence is weighed against that of professionals.

Court procedure and delays

When conducting the focus group with the practitioners, they were presented with non-molestation and childcare proceeding timelines.[[9]](#footnote-9) We found, although the timelines created were correct, in practice some things were different with one solicitor saying, “*I think the timeline is right, like this is what the stages you should follow, that’s what should happen.”* One issue pointed out by the practitioners was the lack of availability of judges between 12 and 1pm, and a practitioner said, “*if there’s no availability of a judge then they’ll have their lunch and then you’ll just be put in the afternoon list. So that’s one of the issues that sometimes you are sat at court for hours and hours.”* This is something which the solicitors expressed is becoming an increasing reoccurrence and they gave the reasoning of the:

*“business of the courts, so whilst there’s an allocated judge for ex parte, then sometimes if their list is particularly busy, then it would get moved to another judge … or if there’s a lot of ex parte applications in the hour and they can’t get through them all, if you’re last in the queue, it’s dependent upon who gets the court to issue first. If you’re last then you have to sit and wait till the afternoon*.”

Waiting to see the judge could create a barrier for victims due to the lack of availability, especially if that person has other commitments, for example picking their children up from school or having to go to work. The practitioner said their biggest issues are delays within the court, due to “*not enough court staff*”. This is very similar to a finding from the barrister:

*“sometimes you do encounter problems, because if the judge hasn’t been able to see you before lunch time and you’re pushing in to a later afternoon slot. What will happen is the court office closes at 4 o’clock and what happens is you can’t physically get the order typed up and that can be a real practical problem for people. People don’t always become victims of domestic abuse before twelve noon on a week day.”*

This shows the court timing and judge availability is a problem for those victims needing immediate protection, due to the delays caused.

Another difference in the timelines pointed out by the solicitors was in relation to the First Hearing Dispute Resolution Appointment (FHDRA) having a 5 to 6 week wait, noted on the childcare timeline. In practice, however, when experiencing this, the wait has been a lot longer, with the practitioners stating the wait is more around 8 weeks. They gave the reason of “*delays and how busy the courts are,”* and because “*everything is electronic, so I don’t know if they’re adjusting to that and that’s adding to some delay.*” Another finding in terms of FHDRAs was “*CAFCASS is supposed to attend or do a safeguarding letter but there’s a number of occasions where… you’ve got nothing from CAFCASS, they’re not even in attendance so that causes further delay ‘cause then you have to adjourn*.” The solicitors further highlighted that the adjustment to issuing electronically could also be causing delays, creating *“a level of uncertainty”.*

In terms of the non-molestation timeline, the solicitors pointed out what they would do if the process server could not locate the respondent, which was not considered in the timeline. The practitioners said they would:

“*put the court on notice and ask for an earlier hearing or at the return hearing ask for an alternative service method… sometimes the process server will file a statement of their attempts, it might be that they can see the respondent is in the property but they’re just refusing to answer the door or something like that. So, you can ask for a letter box service or service via Facebook or text message*.”

This would add to the length of the case, supported by a solicitor saying, “*you then have an ineffective return hearing so then you have to… list it for another return hearing,”* and this could take them an extra 7 to 14 days between the ineffective hearing and the next listing. Whilst this delay is not caused by the court, it is something that is having an impact on timely successful Family Court Orders for victims of domestic abuse.

There can also be an overlap between the Family Court and any potential criminal trials, because judges are awaiting the criminal trial outcome. One solicitor provided:

*“I’ve had for a FHDRA that’s been adjourned four times and the judge will just refuse to list it for a fact find because he wanted to wait for the outcome of the criminal proceedings, because what the judge is saying is, he doesn’t want to list for a fact find if he is found guilty of the criminal proceedings. So, we’ve had about 4 ineffective hearings so far and I’ve got another one coming up in March and there’s still no update on the criminal proceedings.”*

This was then declared unfair by the other solicitor, because the “*standard of proof is different,”*, so it shouldn’t have that drastic of an effect on the Family Court proceedings. This finding, however, contradicted that to the barrister who reported no difficulties with a concurrent criminal trial, stating, *“No, because criminal trials very rarely get off the ground when they ought to, so I think what we tend to do as practitioners we just disregard that all together*.” It is unclear from this data the impact of two separate cases running adjacent to each other, and further research may be needed to provide more robust conclusions.

The effect of delays during Family Court proceedings was declared as:

*“massive. So, I’ve got a final hearing on Thursday and… the respondent is a litigant in person… he’s caused the delay a lot and she’s a victim of DV (domestic violence) and she literally said to me… I keep having to go over and over it, it’s gone on now like 7 years or something stupid like that and I think any delay does that, it’s worse for the victim because they have to relive everything, especially waiting for a fact find hearing, because they’re gonna have to give evidence of what*

*they’ve been through.”*

This process of reliving events would be a traumatic experience for any victim and may prevent a victim from gaining protection orders and moving onto a life without the perpetrator. The delays in court and judges prolonging the process have a drastic effect on victims as it keeps them in the cycle of trauma. Although they are away from the perpetrator they are still being kept in some kind of contact, due to are being made to relive their abuse because of this delay. The solicitors mentioned that delay is not only caused by the judiciary but also by CAFCASS, as, “*they sometimes sit on the fence whether a fact find hearings necessary and they will say… we’ll await the outcome of the criminal [trial] because if there’s any, you know, conviction or if he accepts anything … the court are quite minded to follow their recommendations.”* This suggests the judiciary can be more influenced by CAFCASS, rather than the needs of the victims.

In line with the childcare timeline, we found the solicitors have never seen a parenting plan, although it is advised. When asked why they have never seen a parenting plan, one solicitor said, *“I just advise my clients to not complete them because the courts pay absolutely zero attention to them so it’s just a waste of time.*” This participant expanded on this point, saying, “*I’ve never ever had a hearing where the judge has ever mentioned a parenting plan, I’m confident if you asked a judge what a parenting plan was they wouldn’t know… especially the deputies.”* Despite never seeing a parent plan being used and advising their clients against using them, the solicitors said they would assist the outcome of the case because:

“*it’d be clearer from earlier on what the party’s positions are… you think a party may want one thing and they go in change their mind, for example they might say first of all they just want contact and they change their mind and say no I want residence now. Whereas if you completed a parenting plan from the outset you know you’re a bit more mindful of what the other person is after because… we might act for someone who might be really worried.”*

When looking through the childcare timeline the solicitors said the structure was correct but *“it’s very rare that it would actually follow that”* because there many hearings between the process. This would create many delays within the process of child arrangement, affecting victims but, crucially, also the children involved who would be reliving events through the hearings.

Judge allocation is another issue which can cause a negative effect for victim within trials. When judges are changed throughout the trial process because of the availability within court, it can make the court process difficult for the victim, because they have to:

“…*repeat the full case again to the judges because they don’t have time to read the full papers before hearing… it’s hard especially when you take your client and your clients in attendance but then to hear everything again and to think the judge doesn’t really know what the case is about, so it doesn’t make it easier.”*

Having to repeat the case again to different judges, who may have not read the case papers, could make the victim doubt the judge and the ability to obtain an order. For further research, it would be beneficial to speak to victims who have gone through this process and their experiences of issues such as this.

Within the childcare timeline, it noted that an interim order should not be granted where there are undetermined allegations of domestic abuse, which is in line with the PD12J. However, although the solicitors said this is correct *“if the court feels that there’s appropriate safeguards can be put in place regardless of the undetermined allegations, there could still be an interim order.”* This is an example of practice differing from the theoretically correct timeline procedure, and how the courts have adapted a new process, which differs from PD12J.

From the barrister’s experience as a former solicitor said, “*over 90% of non-molestation applications are ex parte*.” When asked why they think most applications are *ex parte*, the barrister said:

*“I suspect that if a victim is seeking legal aid then they are going to have to satisfy quite a high merits test and the likelihood is for a solicitor to feel that they are comfortable to be able to say that this case warrants emergency legal aid… it’s an allegation of domestic violence then the application really should be made ex parte because the victim would be looking for immediate protection of the court.”*

This shows how often *ex parte* orders are made and how serious the victim’s protection is taken by the judiciary. Following from *ex parte* order, respondents still need to be served, because, as the barrister said, a “*non-molestation order doesn’t actually activate until the respondent is served, so that is the difficulty sometimes, relying on the court bailiff to do it because they’re not as speedy as the process server would be and… nor are they as experienced at being able to track people down.”* This coincides with what the solicitors had mentioned about the delivery of service orders and highlights the difficulties serving an order can cause for both process servers and the court bailiff.

Breaches and enforcement of a Family Court Order

When dealing with breaches of non-molestation orders, police officers expressed how the power of arrest attached makes their life easier because it is “*straight forward*.” It should be noted however, that there is no longer a formal “power of arrest” that is “attached” or written into a non-molestation order, rather breach of any non-molestation order is now a criminal offence and should be dealt with as such. It may be that this was just a misuse of terminology by the police officers or it may be that further training is needed to ensure that officers are aware of the up to date position.

When asked whether there are any problems enforcing orders or preventing breaches, one officer said there is “*difficulty whether we know if the order has been served on the person because sometimes the paperwork can get lost… then we don’t know if it’s been served on them*.” Disorganised paperwork can have a negative and detrimental effect for victims, especially if non-molestation orders have been breached and the police are unaware of the fact there was even a non-molestation order in place in order for the breach to occur. This may result in the police being unable to help the victim and the perpetrator could possibly harm the victim as a result, as, *“how can they be in sort of breach if we don’t know.”* This could instil a lack of faith and belief in the victim towards the support the police can offer, after going through the Family Court process.

We asked how they would deal with that situation and what measures they would take to find out whether a non-molestation order was enforced by the courts. The frontline officers stated: *“it’s difficult it… depends on what time of day it is, if the court’s open… if it’s not open we may be left hanging… we might just have to leave it at that point come back the following day, arrange them to come in as a voluntary attender or something or they might just be locked up on suspicion*.” Clearly the officers have protocols in place for when a breach occurs and an order is lost in paperwork, but a part of the plan relies on the victim and perpetrator being willing to comply, particularly by the perpetrator attending the station as a ‘voluntary’ attender, who can decide not to attend the station to answer any queries the officers may have. If a perpetrator decides to not voluntarily attend, then the victim will still be in potential danger of the perpetrator. This has the capability of creating a barrier between the victim and the Family Court Order because if the victim requires an order in the future, they may decide against pursuing it due to lack of faith. There can be occasions where, even when they think they are protected, the non-molestation order in place is not providing full protection, due to procedural errors.

When discussing the frontline officer’s role when they encounter domestic abuse situations, the officers said they act to assist with bringing criminal proceedings, deter perpetrators, protect the victim and prevent immediate harm, but they do not look to punish anyone. They prevent further

harm by “*locking”* a perpetrator up, providing safeguarding advice to the victim, take the victim to emergency housing or a relative’s address, and then the officers would investigate the events because the officers acknowledged *“a guilty party may not be guilty.”* This reinforces the awareness of the legal principle of innocent until proven guilty, however it also shows the police reinforcing the principle of the public have the right to protection. The police have reflected the victim’s protection in domestic abuse situations is their main priority and this is supported by the officer saying “*we wanna protect someone that’s our initial concern, make sure that no one gets hurt or worse*.”

In relation to the effectiveness of the civil protection orders, the solicitors argued that a non-molestation order is “*only as good as the paper it’s written on*”, as it is a self-reporting protection order, to put the “*onus*” on the victim you are relying on them to protect themselves. This may affect victims’ perceptions of the effectiveness of the order particularly as the most common resolution of a breach of a non-molestation order is for the police to come and check on the victim rather than enforcing the order’s maximum consequences.

Repetition

The frontline officers mentioned they have a lot of “*repeat victims*”, and one of the officers said some victims do not seek help because “*it’s better to be in a bad relationship than no relationship*.” One of the officers gave an example of an incident they experienced where they have had a victim saying she “*no longer wishes to go to court*,” the officer added “*we go back and ask them questions why, is there anything we can do… has the decision been your own, has anyone forced you into this decision?*” The officers believe if a victim withdraws, it may have been because “*they’ve been swoon around… they might be like oh I’m really sorry, it won’t happen again and obviously we know sometimes it does happen again*.” This may indicate a barrier to victims accessing support, as they may be become influenced by the alleged perpetrator to remain in the relationship. This may lead to the victim avoiding attending court and receiving a protection order. Such factors interlink with the background information on non-molestation orders and why *ex parte* orders are ordered by the courts due reasons of victims being stopped by the perpetrator from obtaining an order. This may demonstrate the effects of coercive or controlling behaviour and why it is so significant to recognise such behaviour as abuse.

In relation to repeat victims, the officers gave another example of a job they recently had where “*over the last 18 months there is 23 domestic violence recorded*” for the same couple. The officer then went on to express the incidents reported, “*generally it’s a load of rubbish the type of jobs we go to, last week it’s just been about arguing over a dog*.” During the explaining of the events, both officers realised they both experienced incidents with the same people and went on to saying, “*it’s frustrating cause we’ve had the same conversation with them… sometimes the offender’s the victim and sometimes the victim’s the offender*.” One of the officers expressed they feel they are “*used as a weapon*” with the repeat victims. The barrister highlighted that the resources and education for victims, discussed in more detail below, and the prospect of gaining a Family Court Ordering being “*gruelling”,* could cause them to remain in a cycle of abuse. After all, “*the non-molestation order is only as effective as the person who prepared to enforce it*”.

**Finance**

Legal Aid

One of the biggest issues facing victims of domestic abuse gaining protection through the Family Courts is the lack of legal aid now available and, where they are eligible, the delays in receiving this financial aid. We found, though, that the financial situation of a victim can affect other aspects of the proceedings.

The frontline police officers made no reference to the financial aspects of Family Court Orders for

domestic abuse cases. This is most likely because, as stated above, they see their role as “*completely separate*” from the Family Court and its proceedings, such as legal aid and disclosure. Whilst they may alert victims of Family Court Orders and where they can get more advice, their involvement stops there.

The disclosure officers, however, discussed the financial issues of obtaining Family Court Orders in much more detail. The issues begin with the charges for initial disclosure requests, at the time of the research, amounting to £87.50 for the first two hours of work on the first disclosure. This can have two implications. Firstly, if victims are subjected to coercive or controlling behaviour and do not have access to their own finances, they will not be able to pay for this fee. Secondly, if the victim is a litigant in person and does not have legal aid, this can be a substantial amount of money, deterring them from pursuing a Family Court Order. A disclosure officer noted that “*nine times out of ten they are a litigant in person because their financial situation deems that that is the only way that they can deal with it… a lot of people are in that position because they have no control of being in that position and they can’t afford legal representation”.* As a result, a disclosure officer will “*nearly always waive the charge”* for a litigant in person. However, this is not a reliable approach and not every individual will be offered the same treatment, as it “*depends on their circumstances*” and whether the officer dealing with the request “*thinks it is appropriate*”. It appears that there is no consistent approach when deciding who will be charged or when the fee will be waived, and the disclosure officer will only consider it should the applicant themselves mention difficulties with the fee. There is no national protocol it seems to be decisions are weighted on the officer’s own morals and understanding of the individual’s circumstances, it being “*open to interpretation*”.

The solicitors also discussed the difficulties and limitations in child proceedings, mainly if an applicant has suffered domestic abuse, and has obtained evidence of this, but the perpetrator poses no risk of significant harm to the child, then that will not be included in the letter during child proceedings. Without professional support it is hard to prove evidence of domestic abuse and it is hard to gain professional support without the funding of legal aid. The domestic family law solicitor also gave us an example of submitting evidence for legal aid of risk of significant harm to a child. A letter was submitted supporting that there was a risk and this letter was accepted as evidence in the first application and then in the second application it was rejected despite the circumstances being the same. This shows how the requirements are so “*case specific and it just depends on what case worker from the legal aid agency*” reviews the evidence. When asked what effect this has on victims seeking protection from themselves and their children, it was met with an answer of “*well they can’t do it essentially…they can’t get legal aid they have to represent themselves…it puts a big massive strain on them…and I don’t think it makes it beneficial to anybody”*. Without sufficient evidence, it is impossible to get legal aid, but without legal aid it is impossible to get sufficient evidence, especially if you are a person with insufficient funding to get legal representation. It is a losing battle for the victims involved, and quite obviously one of the biggest barriers they face when trying to get protection from the courts.

Furthermore, there can be costs of obtaining evidence from a victim’s GP. The solicitors highlighted that many victims are too embarrassed to approach their GP with injuries resulting from their abuse. They also expressed the difficulty in obtaining medical reports and police disclosure. The main difficulty is that the clients have to ask for the records themselves, because the solicitors are unable to access this until a file is open, and they can’t do this until there is evidence of domestic abuse for legal aid. Additionally, there is a charge for GP letters, which may ultimately discourage victims from obtaining these records due to a fear of facing costs, and many victims may not be aware that these costs can be covered by their legal aid funding, if they receive it. The barrister mentioned that “*GP’s are obsessive about getting money”* as they are under their own financial pressures. Further, they had “*never ever encountered a GP prepared to release without having funds to do so”.*

Similarly, there is often a long delay period between the information being requested and it being provided to the individual. However, these delays can be ultimately reduced by obtaining a third-party disclosure order from the court, which “*prompt”*’ whoever is providing the disclosure to release the information within 7 days. Unlike obtaining medical records, it is much easier to access

information from support workers who “*come back quite quickly*.” The family law solicitor explained that victims who have a support worker are actually more likely to have access to GP records and letters, than those who do not have access to one.

Also explored was the possibility of legal aid being granted when the victim has fled a property that is in their own name or under a joint name, “*because you can only have one property under the legal aid agency’s rules…if you’re living somewhere then you don’t get the disregard for having another property and so that property essentially will take up all of your means and so the legal aid agency will say no”*. This then causes an argument which delays further the application for legal aid, where you have to prove that you have fled the property and have no access to it. For victims trying to escape an abusive relationship this could be a huge barrier if they are forced to remain in the same household in order to obtain legal aid.

The lack of consistency and availability from the legal aid agency’s approach makes it increasingly difficult for any victim to obtain funding. It is undeniable that “t*he sooner a victim of domestic abuse gets legal aid the better”*, and their absence of knowledge and understanding in this legal area can “*jeopardise their own case”*. One solicitor gave an example where their client “*was speaking to the other side’s barrister and she disclosed her address thinking that’s what she was supposed to do”*. Legal aid allows victims, and alleged perpetrators, the right to fair trial, to protect themselves in court by being equipped with a legal advisor or representative, and help them to apply for disclosure and evidence, to maximise their chances of a successful case. Without legal aid, victims continue to be vulnerable, and a lack of financial support often leads to a victim being defenceless. This is a huge barrier victims face when seeking protection.

Legal aid has been an apparent focus throughout most of our interviews and appears to be a continuous issue surrounding the theme of finance. The barrister spoke in depth about the barriers victims face when attempting to obtain legal aid, and stated that “*cynically I suspect that if a victim is seeking legal aid then they are going to have to satisfy quite a high merits test”.* Alongside this they will also have to consider whether “*legal aid is continuing…so that’s really a live issue, it isn’t that it’s granted and that’s the end of it”*. These were both issues discussed in the solicitor interview and shows consistency with the downfalls of the legal aid agency. However, obtaining legal aid isn’t the only setback individuals face, as many victims of domestic abuse don’t even realise that they are still entitled to legal aid. Since the 2012 LASPO changes it is become a more complex area to understand, and many victims believed that “*legal aid just didn’t exist anymore*” and often awareness isn’t raised for people that aren’t educated in this area of law. Legal aid needs to be made more accessible for those seeking protection from the courts.

Where victims have not been granted legal aid, a CLO can become imperative to a successful outcome when obtaining a Family Court Order. The CLO we interviewed said that, whilst they never advise on eligibility for legal aid, referring a victim to their solicitor should they have one, they do help in other ways. For example, signposting to law firms where they can get limited free advice or liaise on their behalf for special measures. Whilst a CLO cannot replace legal representation and financial aid, their help can become vital for those who do not have it. This is consistent with the practitioner’s account that these roles can provide more than in court support and can play vital role in helping a victim gain legal aid.

Resources

Another issue raised surrounding financial struggles was the lack of resources available to the organisations and the limitations this has caused as a result. In particular the legal aid cuts have had a huge impact on the disclosure department, and a participant stated that “*litigants in person are a much bigger drain on our resources*” because they do not understand the proceedings. This has caused a “*knock on effect”* for the judiciary, as the hearings are being delayed and orders are being forced by judges to gain disclosure evidence and it is left to the disclosure officers to “*hand hold them [litigant in person] through that process*”. To help with the vast number of litigants in person

needing advise, the police did have “*funding for some court liaison officers”,* however, “*that funding has gone now”* and it is proving to put bigger strain on their department. The CLO also highlighted that disclosure procedures can be very confusing for a litigant in person, stating that they knew the price is around “*100 something pounds”* for disclosure and if the individual is unable to obtain legal aid this can be a big obstacle and cause significant delays in proceedings.

Often victims are signposted to organisations such as Victims First, as they do offer support to victims in proceedings, but occasionally “*there’s a limitation to what Victims First can do for them*” as they have so many applications and they are also understaffed. When we were discussing referrals from refuges with the solicitors, one mentioned a refuge in the North East which had approximately 10 beds where women can stay for up to 18 months. They highlighted that means they do not get a high number of referrals from refuges like this, but it also means that if there is no space available victims also will not receive the support these services can provide. This can include providing evidence for legal aid, helping to enforce non-molestation orders and with disclosure and GP letter evidence requests. The solicitors stated that having a support worker in a refuge can often be “*the best way”* for help with legal aid evidence. Further, there seems to a be a gender disadvantage for these services, with more services available to women. The barrister stated that they didn’t know of any male refuges in the North East, with the focus very much being on female victims. As highlighted above, participants have had experience, albeit limited, of working for male victims, but there does not seem to be refuge support for them. It may be that men would be more likely to come forward and obtain Family Court Orders if there were more resources focused toward them.

A disclosure officer believed the main issues for victims seeking protection is:

*“the resource issue that we’ve got within our organisation and I know that is replicated right across forces across the country…I appreciate that social services have the same issues around resourcing that we do, they’re pressed. CAFCASS are absolutely pressed, you know Victims First are, everybody is in the same boat and the judiciary more than any of us really.”*

It is evident that the lack of resources available to these organisations pose a huge threat to the success of their roles, especially when protecting victims of domestic abuse. Funding and awareness need to be raised to combat these issues otherwise “*if we haven’t got the resources in place…we will miss them, and that would be a great shame really not to assist these individuals*.”

**Evidence**

Emerging from the data was the importance of identifying and utilising evidence relating to domestic abuse, which often demonstrated the difficulties in proving coercive or controlling behaviour and securing Family Court Orders for victims.

Assessing domestic abuse

Though the police officers who participated in this interview were not directly involved with Family Court proceedings, they are required to have knowledge of the area to ensure that they are able to assess the scene of a domestic abuse incident efficiently and effectively and direct potential victims to relevant services. As discussed in the earlier ‘Identifying Domestic Abuse’ section, both police participant groups recognise using a national database: the PNC. This database allows officers to identify individuals who have orders put in place for their protection to ensure both the victim and any children involved are safe from their abuser. The PNC also allows officers to see if any perpetrators have breached the order in place, which is a criminal offence, and this can be dealt with accordingly.

The disclosure police officers were asked whether they were able to identify coercive and controlling behaviour over the phone. The police officer stated that:

*“it completely depends on the information the caller provides us with… in this particular case the caller was a male, the perpetrator was a female, reported assault*

*by partner, and then the caller didn’t know he was declaring he was coercively controlled… the words were described as ‘I have suffered abuse repeatedly over many years, 20 years, it was over 20 years’ and she had also taken bank cards from him.”*

The description of controlling behaviour over a prolonged period, particularly with reference to controlling financial assets, demonstrates an understanding that officers receiving the calls are able to identify coercive or controlling behaviour.

When interviewing suspects or parties involved in an incident, it is recommended that police officers follow either the DASH or the THRIVE model. The frontline officers referred to the DASH form checklist when explaining how they assess domestic abuse, including controlling or coercive behaviour. This supported the recommended police protocols we found and shows the officers use the intended checklists to guide them in their questioning.

Legal practitioners often saw the inclusion of coercive or controlling behaviour as a form of domestic abuse as beneficial, in order to provide further tools for preventing abuse and providing prosecutions. However, legal practitioners did not believe that the judiciary gave sufficient significance and weight to the issues, stating that the judiciary ‘*do not understand the severity’* of the issue. Specifically, in this participant’s experience the judiciary tend to favour physical abuse for an *ex parte* order, rather than controlling or coercive behaviour:

*“I’ve not dealt with as many coercive and controlling, I think you’re more…my experience has been you’re likely to get an ex parte order for physical, recent physical- that’s the key is recent, if its historical then I think the courts would be hesitant but if there’s been assault two days before that that carries…in my experience, that carries a lot of weight compared to being controlled and not being allowed to leave the house and you’ve just left the house you know a week ago. I hope though, that in time, as the judiciary understand the changing definition of domestic violence, that that will change, they are equally as important, that’s a problem.”*

Therefore, the legal practitioners’ experience of the judiciary may indicate the difficulties in establishing significant evidence to secure an order in the absence of physical injury. The CLO informed us that many of their clients keep diaries of their abuse, for evidence, on the advice of their solicitors. We encourage other solicitors to do the same, to help to increase the evidence available during Family Court proceedings.

There are continuous barriers that the police must face when it comes to understanding the dynamics of different types of domestic abuse, particularly coercive or controlling behaviour. The police in the disclosure interview discussed the issues and the barriers they may face:

*“…so one of the barriers when dealing with coercive control, in my view, is the officers time to do that, they know what they’re supposed to do… they should be able to focus on the victim at the time, but they’re dealing with the incident in front of them… it could be [up to] three to four hours to deal with that incident. In terms of coercive control, what they should be doing is asking further questions, finding out further evidence, historic incidents, that is going to take them the full tour of duty. And for one officer’s full tour of duty, there’s other victims that need to be seen, and that’s the barrier because we cannot deal with the sheer volume of work that that creates. And I think that is a problem.”*

Moreover, there are barriers which prevent the victims themselves from seeking support, protection and help. Disclosure officers were asked what the reasons behind this may be, to which they

responded:

*“I don’t think there is sufficient information out there for individuals to know their rights… I think individuals as victims of domestic violence assume they will need a solicitor, or they don’t have the financial backing… I think a lot of people in that immediate situation, they don’t want that assistance because at that point in time, psychologically they aren’t ready for it.”*

There seems to be a need to educate victims more thoroughly, of how they can access information to help their case, without the need of a solicitor. Often, the frontline police officers were seen as the first port of call in educating victims, as discussed by the officers.

When we asked a disclosure officer whether they had any engagement with non-molestation orders prior to working on the Whole Systems approach, to which they said “*not at all*,” they then went on to mention “*police officers did… have a knowledge of civil orders, but that knowledge was limited.*” The limited knowledge mentioned by the disclosure officer coincides with the frontline officers explaining to victims that non-molestation orders are the same as restraining orders. This shows limited knowledge and understanding could be the possible reasoning as to why the officers interlink these two separate protection orders. This may be because non-molestation orders are either hard to understand, explain, or both. Following from a limitation in knowledge, the officer went on to express a further concern by saying:

“*one of the critical aspects, is the gap in relation to the statements that we take in relation to the family proceedings and generally, I’ll be very honest, but I don’t think officers realise that statements could have other potential uses. I think some would, but the majority I think, wouldn’t even be thinking when they’re taking a statement, that could be used in the Family Court proceedings*.”

Knowledge limitation can have a damaging effect on the advice provided to victims of abuse and the disclosure documents provided. Important information could be excluded if the statements are not taken with the consideration of them being used in a Family Court proceeding for protection orders.

The practitioners further confirmed their belief that obtaining and providing evidence is the main hurdle faced by victims in obtaining Family Court Protection Orders:

*“if a respondent opposes, gets listed for a final without evidence, I think the court would find it really hard to make a final order when it comes down to one person’s word against the other. Got some supporting evidence, great, but a lot of victims you know, they will say at the time the last thing I wanted to do at the time was take pictures of my bruise or I didn’t want to go to the GP because I was too embarrassed… I think that’s what the biggest hurdle is.”*

This hurdle shows the thought process of a victim going through domestic abuse because at the time of abuse evidence would be the last thought on their mind, however lack of evidence could be a reason why many victims decide against obtaining protection orders or the application is not successful. This links with coercive and controlling behaviour, as this kind of abuse is difficult to gather evidence and demonstrate, compared to physical abuse. Furthermore, there can be costs of obtaining evidence from a victim’s GP.

**Stakeholders and Support**

The role of different stakeholders in the disclosure and identification of domestic abuse emerged as a significant theme. When discussing stakeholders, it often focused on their different roles in successful Family Court Orders being obtained and how their roles link together.

Frontline officers need to have detailed information about any previous incidents to make sure they are as well prepared as possible when they arrive at the scene. The Frontline Police Officers stated that:

*“…you do get the same names time and time again, so you kind of know what you’re going into, but ultimately… you’re going to have a minimum of two cops there from what’s going on and what’s been reported, I think initially you’re going from your own observation… has there been any signs of disturbance in the address… is one of the parties upset, have they been crying, have they got any injuries, do they need medical assistance, separating both the parties… that’s why we need two people there if not more…”*

In most forces, officers and staff understand how to recognise vulnerable people and respond to their needs. Forces are required to identify repeat victims as early as possible and this will help them to identify patterns of abuse. This is particularly important in cases where a single incident might not appear to be serious, but where previous reports show a pattern of behaviour. A frontline officer mentioned that:

*“…where we’ve had a little bit of an argument or raised voices just sometimes, if the neighbour rings in you know, we go because it fits our definition. We’ll submit a domestic report albeit it’ll not really have much substance to it because the argument is a little argument over money or something…”*

There is a tendency for police to focus on physical violence and what has occurred at the current incident, which can result in them missing abuse which is characterised not by physical violence and injury, but by continuous coercion or control in other forms.

Training

Training and being able to identify, deal with, and process domestic abuse reports and prosecutions, was mentioned by all participants, as a key area of concern for stakeholders. Frontline police officers identified their training, stating that they complete *“NCALT training every so often… which might be like a refresher package…but [they] do online training as well.”* One of the frontline police officers mentioned that *“…there’s no face-to-face training, [it’s] very limited face-to-face training now, it’s all digital solutions…it looks like a video but it’s got, what they call ‘pow-toons’, like an animated person doing something with a voice over, next to some words and they’ve tried to keep it very brief…”*

When it comes to receiving training in controlling and coercive behaviour, a disclosure officer stated that:

*“it was probably one of the last things we done face-to-face properly, back in 2016. So, we did frontline training for coercive control then. The domestic abuse, further training… that’s done via an interactive magazine and it has videos inserted on it. The idea of that is that the Officers will think of it as a magazine, so they’ll not do it all in one go, they’ll pick it up and put it down as they would a magazine… there’s a few mandatory aspects of it… it talks about the response, what stops the victim calling the police, how many incidents have probably occurred before the victim ever called in, so how much courage that takes…”*

In terms of police training, domestic violence calls are treated as a high priority or a life-threatening situation.[[10]](#footnote-10) As stated above, for frontline officers approaching any potential domestic abuse situation, having two officers is always the best option. This way they can identify the alleged perpetrator and keep them away from the victim. At the same time, they are trained to gather evidence, as another priority. For example, if the victim has suffered any injuries, interviews which need to be conducted, the need to obtain written, audio or video statements from either of the parties, neighbours or witnesses, and create detailed reports, whether or not an arrest is made. The officers can make a mandatory arrest under certain conditions, such as evidence of an assault, violation of any protection orders and other offences where physical evidence exists. This can be valuable for a survivor to know in advance.

Compared to the frontline police officers, the disclosure officers have different experience when it comes to training, viewing their training to be dependent on how far they are expected to go in terms of their role. One participant stated that they have worked closely with a solicitor who is an expert in family proceedings and the knowledge gained from working with them has been invaluable. However, despite this, there has been no training specifically regarding Family Court Orders for the police force, leading the officer to seek their own training:

*“In terms of any other training I’ve not had any formal training, I’ve attended some training sessions offered by the court, we quite often get invited to training sessions which are free which are also attended by the larger solicitor firms such as* [law firm]. *Where I can attend, I do attend those, because I think it is important to. Other than that I haven’t had any formal training.”*

Therefore, the police officers indicate that there is consistent training for frontline officers, whereas disclosure officers are left to seek training regarding Family Court Proceedings on their own. This is an issue, as victims can be reliant on the police to disclose evidence which is vital for their case and there needs to be detailed knowledge of how the Family Courts operate.

We did not discuss what training the solicitors receive for domestic abuse, but they did comment on judicial training, stating that they believe there needs to be more training for judges. Specifically, a family law solicitor stated:

*“I think it stems from actually being able to deal with litigants in person in DV cases and understanding, you know, the need for special measures because I think sometimes people think ‘ah special measures, big screens, a video-link’ but I don’t think they really know the importance of that because it’s actually going to make for better evidence and a better hearing.”*

This was a different perspective to the barrister who stated that in the North East *“I think the judges are excellent across the board and they’re very well trained and they also come from the background of being very experienced practitioners.”* We believe there may have been some reluctance of the part of the barrister to criticise the judiciary as openly as the solicitors.

Similarly, to the Frontline Police Officers, the CLO received suitable training to work with victims of domestic abuse. They were provided with online training and learning from the constant experiences when dealing with survivors. The CLO mentioned that *“all the extensive training was reinforced by the online training. But the biggest learning curve was that some of the [perpetrators] don’t even want to see the children they just want control over their ex-partner.”* On the whole, the CLO felt as though the judiciary and court staff understand their role and presence in the court room, and they had never been questioned as to why they are there. They mentioned that their presence had been questioned in court previously, by the litigant in person respondent, but the clerk had explained their role and they were allowed into the hearing.

Safeguarding

Safeguarding addresses situations where an adult who has care and support needs is being harmed or abused by an intimate partner or close family member in a way which could also be defined as

domestic abuse. In the interviews conducted with the solicitors we found that, even though interim orders shouldn’t be granted where there are undetermined allegations of domestic abuse and it needs to be in line with Practice Direction 12J, *“…if the court feel that there’s appropriate safeguards can be put in place regardless of the undetermined allegations, there could still be an interim order.”*

When it comes to clients of the practitioners, they can be very indecisive and impulsive, as they may be under pressure. The international family solicitor in the interview stated that:

*“if contact was directed, but something happens mid-way through the proceedings and your client instructs you that they want to suspend contact then you’d have to make an urgent application back to the court to then deal with that if it’s a safeguarding concern because essentially if there’s an order in place. Even if it’s an interim order…by suspending the contact if contact was directed you’re in breach of the order.”*

The issues faced by the practitioners in terms of safeguarding were regarded as being *“hard to explain to your client who you know wants the matter to be resolved as quickly as possible but sometimes there is just no way around it. If you haven’t got a safeguarding letter like [other solicitor] said, you want to see if there are any initial safeguarding concerns that adds another hearing.”*

External organisations and refuges

Refuge is provided for some domestic abuse survivors, many of whom may have different needs which relate to intersectional issues such as ethnicity, gender, or identity. All forms of gender-based violence, including domestic violence, cross the boundaries of race, culture, language and religious and ethnic background and may occur in all relationships.

Refuges continuously adapt and improve their services to ensure equality of access for all survivors. The majority of the refuges available are mainly focused around women, such as the National Domestic Violence Helpline and Women’s Aid. A barrister believed there to be a gender imbalance in the provision of refuges in the area, who stated *“…there tends to be a gender similarity and the vast majority are women who express themselves as victims of domestic abuse… but I don’t know necessarily if that is representative of real life or if there is a significantly greater focus on resources available for women I think. Especially in the North East, there’s the West End Women and Girls Network.* Similar to these organisations, Women’s Aid is a famous organisation, which is aimed at helping women who come victims to things such as domestic violence. There are several refuges for female victims however the participant was not aware of any local refuges for male victims. This lack of awareness and resources *“…still exists…Women’s Aid…the focus therefore is very much on female victims of domestic abuse and the refuges, certainly in the North East again. I’m not even sure there is a male refuge in the North East.”* As the solicitors outlined that many of their referrals come from organisations and refuges, support agencies are undeniably beneficial to victims of domestic abuse. Both solicitors, however, raised the issue of male victims and how difficult it is for them to obtain support as many “*services just support women”*, further that “*there is a significantly greater focus on resources available for women”* than there are male victims, “*especially in the North East”,* as stated by the barrister participant. This can be a huge barrier for male victims seeking support from any organisation as it restricts them from requesting help from big associations such as Women’s Aid and West End Women and Girls Centre.

During the interview with the solicitors it became evident that one main barrier faced by victims was the lack of available funding, stating, *“ever since you know LASPO, it’s an absolute waste of time because the access to justice is no more, the fact that you have to prove that you’re a victim of DV in order to obtain legal aid I just think is wholly unjust.”* As a result of the lack of legal aid, delays can be caused from working against perpetrator litigants in persons, or from trying to get legal aid granted. The delays caused by the “*stretch on all of the services*” make it increasingly difficult for a victim to bring forwards their case, worsened by the fact that legal aid is so hard to obtain, especially for the international family solicitor. They stated:

*“The Angelou Centre have just opened up two refuges in the North East, so they have a lot of women who have no resource to public funds which obviously sometimes, makes it harder for legal aid and to try and tell legal aid that…they don’t have bank account…it’s just a lot of explaining and trying to…have evidence for everything”,* because the Legal Aid agency require “*x y and z and if you’ve not got it then it’s no”.*

This causes many issues and “*puts an additional barrier in order to then get representation for you know, for people who might really need it.”* The domestic family law solicitor went on to explain that *“if we don’t get the bank statements then they’re gonna end up having to pay back their legal aid if their legal aid certificate gets revoked”.* Further, some victims do not realise that 3 full month’s bank

statements are needed, particularly if they do not have any support from referring agencies. If more victims had support from refuges and support workers, their cases could be brought more quickly to court, with less delays and issues. This can help with the work of the solicitors, particularly for gaining legal aid for their clients, and ultimately the rest of those working in the Family Court.

Another theme to emerge from the data was the significance of support offered by services, provided to victims of domestic abuse. This theme recounted the positive and negative impact of the support offered by the police, the legal profession and the judiciary, along with awareness of the provisions in the law, third party and family members, and rehabilitation. A disclosure officer said the main barrier to support for victims is the lack of “*sufficient information out there for individuals to know their rights and how to seek advice*.” The officer went on to mention that:

*“victims of domestic abuse assume that they will need a solicitor and there’s lots of these individuals that don’t have the capacity to either see a solicitor or they don’t have financial backing… so I don’t think they realise they can be a litigant in person, and I don’t think they realise that there are other avenues out there for them. I don’t think they are very well signposted at the court.”*

This may be used to demonstrate the lack of awareness felt by victims in regard to the court process.

Special measures

Specials measures are defined by the CPS as “a range of measures that can be used to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses” and they can be used in both criminal and family proceedings. The police officers said they can put measures in place in court to support the victim. Some examples of special measures the officers inform victims about include screens, video links, a separate location from the perpetrator and taking the victim to visit court the day before they are due to attend to help calm an overwhelmed victim. The police also support victims by escorting them into court to help them feel safe. This reinforces the officer’s statement of wanting to protect victims and also shows how far the police are willing to go to ensure a victim feels protected and safe when they need to attend court. This will help those victims who feel overwhelmed by the court process and may have doubts about attending. Having the police support network can instil confidence in a victim and decrease any barrier they may be creating because of the fear of either being in court or being in a close proximity to the perpetrator.

The lack of availability of judges has created substantial issues in terms of those victims with special requirements getting moved to the afternoon and not having a specific court room suitable for the required special measure. This is supported by a practitioner giving an example of a situation their colleague had experienced, whereby they were moved from the court to an alternative location. This created the issue as:

*“the [alternative location] has no, you know witness protection suite or even you know interview rooms… so if you think you’ve got some safeguards in place at the court, it can get moved to the [alternative location] last minute you know 4 o’clock the day before and then you’re stuck so it happens… it’s happened before where you’ve tried booking the witness suite, you’ve booked the bailiff room and you turn up and they say oh you’re not on the system.”*

The barrister stated that, “*domestic abuse cases shouldn’t be listed at the [alternative location]”,* as it is not appropriate for special measures. The lack of organisation by the courts has created a lack of trust by the solicitors and this is supported by them expressing their frustration over the matter, stating “*I’m having to… ring a couple of days before to double check, it’s just a waste of everybody’s time because it’s you know another unnecessary phone call to then make to just say oh can we double check this, ‘cause you can’t trust the courts.”* It would have a more detrimental effect on vulnerable victims relying on the special requirements because they may only be attending court due to the reassurance they would have these special measures in place to keep them safe. Finding out a day before they are due to attend court that they are not available may create a feeling of insecurity and lack of confidence, which could affect the outcome of the case. One impact could be the strength of evidence the victim gives during examination-in-chief or cross-examination. Some victims, due to nerves and fear, can give an account of their story in an unconvincing way,[[11]](#footnote-11) which could make them come across as liars, when in fact they are overwhelmed and cannot confidently speak of what they had been through. The CLO highlighted that many of their victims are frightened of the prospect of being cross-examined by the perpetrator, particularly if they are not legally represented themselves.

When asked about special measures, the barrister said, “*the court will always make sure that special measures are provided, it’s relatively recent that the court have been very focused on special measures because of Practice Direction 12J.”* This shows how PD12J is being followed by the judiciary, however it is important to note the barrister does not have as much interaction with domestic abuse victims in court as the solicitors do.

As stated in the disclosure finding, the barrister highlighted that the judiciary sympathise with litigants in person. They said judges will ask the litigant in person’s written questions to the victim, in line with their duty under PD12J. When we asked whether they considered this a fair way to conduct the cross examination, they stated:

“*I think it is because often respondents in person are very nervous about putting questions and in my experience often a litigant in person, if they are faced with actually having to cross examine someone not really understanding what it actually entails will say ‘I’ll not go ahead with this, I can’t do it, I didn’t understand that’s what I needed to do’ so that’s really restricting their ability to present their case at its highest and judges are really sensitive in putting questions to victims of domestic abuse and a judge would always make sure that the questions were put in a way that the respondent was wanting them to be put, in a way that allowed the victim to answer fully. Video links are quite frequently used…”*

Sympathy is also supported by the barrister saying, “*judges are very aware that there is a potential imbalance… and very tuned to trying to rebalance.”* The solicitors mentioned how they can find female judges “*harder*” when it comes to litigants in person, stating”

*“Yeah I think some of the female judges tend to favour like, litigants in person that tend to be males, like fathers, they will literally hear everything that they have to say and when you try to talk it’s just like ‘no, we need to listen to what the other person is saying’ and it’s just like, it’s not appropriate at all. But I think it just depends on the judge.”*

The issues discussed in the funding theme highlighted concerns with litigants in person, but further, having a litigant in person in a case can hinder the victim being able to put their case across appropriately. It is appreciated that judges wish to give a litigant in person a fair hearing, but this can sometimes tip the balance the other way.

Advice

When police arrive at a domestic abuse incident it is common that people do not feel comfortable discussing their situation with them and it appears that the feeling is mutual. Often the police feel like “*there’s people who are in a much better position to offer advice”* and in these circumstances they would deploy their “*domestic violence worker”.* One frontline office stated, “*we’ll get them to come out and have a chat with them, so if they don’t want to speak to us, they can speak to them”.* This extra support unit benefits both the police and the individuals involved in the incident, as people with specialist knowledge in this area are able to speak with the victims, to advise and gather background information about their situation. While this appears beneficial, this may arguably detach the police further from the victims of abuse, by removing officers from the situation and relying on a DV worker to recognise and identify the issues in the relationship.

Despite considering themselves detached from the Family Court, the frontline officers do offer support and advice to victims regarding civil proceedings. One participant stated, “*some people…are vulnerable and don’t want to go to court…we’ll obviously discuss what we’ll have like* *special measures for them which we know we can put for example like a screen up…or we’ll take them to a separate location completely and they would give their evidence via video link”*. This demonstrates the importance of first responders having knowledge of both civil and criminal courts, as the onus is often on the victim to seek support and start proceedings against their perpetrator. It is vital that police can raise awareness of safeguarding procedures that are in place to protect the victim and reassure them of measures that can be taken should they go forward with the proceedings. When asked how the frontline officers would approach a domestic abuse situation, they stated they would “*give them the appropriate advice, safeguarding advice”.* For this, they review their checklists, provided on their domestic violence forms which they refer to for information about “*help groups*” and numbers for organisations who will offer the victim free legal advice on non-molestation orders. The frontline officers did agree that they will direct victims to the Family Court to get a civil protection order but, “*ultimately it’d be down to them”* to pursue it. Although it seems that the police are referring victims to the right place with their initial advice, there is no procedure in place that allows them to follow up with any support after the primary incident to ensure the victims needing protection are being safeguarded. It is arguable whether this is a position for the police but ultimately, they are the ones who have these vulnerable people on record to be able to deploy checks. Perhaps if more structured intervention is offered from the first alert it would help reduce the number of ongoing domestic abuse relationships.

In terms of supporting the victim during court proceedings, a disclosure officer stated that litigants in person “*expect far more than they’ll actually get*”. Despite the lack of resources and funding the disclosure officers will “*offer them further support”’* because the officer feels there isn’t “*sufficient information out there for individuals to know their rights and how to seek advice”*. Often, disclosure officers will signpost victims to Victims First as there is “*no further assistance that we can provide”* after losing the funding for CLOs and the disclosure department aren’t available to “*hand hold”* the victim through the court process, as they “*don’t have anyone to do that at this time”*. Despite their best efforts, the lack of resources makes it increasingly difficult for the officers to give that extra support to victims. However, the participants wanted to make it clear that “*people need to know that it’s not a barrier”* and without funding there is still support available to help advise litigants in person.

The role of a CLO is primarily to support a victim of domestic abuse, and additionally their role “*takes pressure off”’* of solicitors, by taking on the victim and offering them additional support such as accompanying them to court, arranging special measures, filing housing applications and disclosure applications. By doing this, it supports the solicitors and removes some of the workload to benefit both the practitioner and client. Many victims find the role of a CLO valuable, and they stated “*some just want me to help them out getting a solicitor and some want me there in court, it’s very different”*

in terms of the work they do*.* Giving the victim personal support potentially gives them confidence and knowledge, however, because the role is so underfunded and overstretched it is not always possible for the CLO to be available to all of their clients. It is in this circumstance, support will be offered to the those who the CLO prioritises in terms of who needs support the most. This could be

potentially damaging to the victim, as it may affect the victims’ confidence in the court proceedings if they are not accompanied by a CLO. There are not many CLOs currently in operation and, even though the same CLO tries to stay with a victim throughout the process, they cannot be at two courts at the same time. This role is extremely beneficial to victims seeking advice and support and reducing their funding may create a barrier. This CLO has been attempting to raise awareness of their role, and have provided their number to some CAFCASS Officers to add to the number of referrals they get from solicitors. We cannot say, however, how effective CAFCASS are at promoting this service because we have not had the opportunity to interview a CAFCASS representative.

Lastly, the solicitors explained that most of their clients come to the meetings with a support worker. This is beneficial as the victim can rely on the support worker to communicate any gaps in their story

as, usually, they have accompanied them to previous hearings and meetings with other organisations. This helps both client and solicitor, as the advisor can raise the victim’s awareness and understanding around the legal proceedings and what they are expected to do.

The barrister also discussed support for the alleged perpetrator, stating that “*whilst there are many victims of domestic abuse who don’t feel they are able to seek protection…equally there are people who haven’t perpetrated domestic abuse, there allegations that they have, and they are deprived a relationship with their children for many months if not years”*. It is important to understand that respondents also need legal advice and support, because until the allegations are proven, they are just allegations. The barrister went on to “*contemplate a situation when an alleged victim has the benefit of legal aid and the alleged perpetrator doesn’t …if there not adequately able to put a defence then I think that’s a hugely significant disadvantage”*. The links between funding and support are significant, and play a significant role in obtaining successful Family Court Orders.

# Recommendations for Reform

Domestic abuse is a complex area which is often misunderstood, and sometimes certain survivors go unrecognised, as domestic abuse does not only occur between couples but can also involve wider family members, such as parental abuse by an adolescent or grown child. When conducting our research and interviewing the participants, we also found that the cross-Government definition of domestic abuse fails to recognise abuse suffered by individuals under the age of 16 in relationships as domestic abuse. We recommend there be a statutory definition of domestic abuse introduced and it should be broadened so that it is not restricted by either an upper or a lower age limit. Although under 16s can apply for a non-molestation order with permission from the court, if they are being treated as victims of child abuse, as mentioned by the participants, then they wouldn’t have the option of domestic abuse protection orders. Whilst there may be complexities involved in the drafting of a non-molestation order, for example if the child attends the same school as the perpetrator, the definition still needs to recognise that domestic abuse can occur at any age.

During our interviews with the practitioners, they highlighted the main problems with the resources and the lack of funding they have in order to ensure that the survivors of domestic abuse have appropriate protective measures in place. Whilst the introduction of the new Bill into parliament is a positive step forward, in order to make the necessary reforms to the system and maximise the protection available to survivors, we recommend that the Government must be able to deliver the resources which make a real difference to the survivor’s lives. The cuts to legal aid have most definitely impacted the ability for survivors of domestic abuse to be able to obtain a Family Court Order. It is clear from this report that there are many issues associated with this, including the inability to access funding when victims are entitled to it. It is not acceptable that these cuts and restrictions to legal aid are putting strains on other stakeholders, such as disclosure police officers. If the Government are not willing to improve legal aid and the process of applying for it when there are allegations of domestic abuse, they must put more resources into alternative support services, such as CLOs, to help guide those involved in domestic abuse cases through the proceedings unrepresented.

CLOs have a vast impact on victims attending court, as seen in the above findings, where the liaison worker gave an example of how she helped a victim walk into court because they were afraid. This shows having a support network, especially with no legal representation, can have a positive impact on those victims attending court to obtain a Family Court Protection Order. Despite the CLO’s role being not long introduced, the funding is being cut, creating a lack of support for victims and litigants in person within the court. Since speaking to the CLO, it has become apparent they are essential to the court experience of victims. A recommendation is to keep the CLOs, by increasing the funding and employing more in the courts of the North East. In addition, they would benefit from being provided with further training. The increase in CLOs will reduce strain on other stakeholders, such as disclosure police officers, by CLOs being equipped to give the litigant in person guidance on how disclosure could benefit the case, what disclosure they would need and how to go about obtaining it.

We found in our interview that the special measures available at court, including separate waiting rooms, different entry and exit times and the screens to divide the court rooms, were all limited and victims were required to meet certain requirements before they would be provided. Therefore, in order for reform, we recommend that the Government improve court facilities in order to ensure that the required special measures are always available in domestic abuse cases. It is imperative that situations, like the victim and the perpetrator having to use the same entrance and exit, don’t become the reason why the victim is then reluctant to attend court.

We found when interviewing frontline officers, they considered their role completely separate from the Family Court, whereas disclosure officers found it linked due to providing disclosure for persons in civil and family proceedings. The disclosure officer expressed concern over the consistency in officers taking statements and not realising statements can be used in civil trials as well as criminal trials. This could affect the disclosure that the victim or respondent receives. We recommend training being provided for officers demonstrating how their roles can have an impact on Family Court proceeding, with the focus primarily being on taking statements.

Although, we found all participants recognise coercive or controlling behaviour as a type of domestic abuse we found they refer to it as “*coercive control”*. This suggest the participants have a basic knowledge in terms of controlling behaviour but not enough knowledge and awareness of coercive behaviour. As seen in the frontline police interview the officers described “*coercive control*” as the perpetrator controlling the victim in terms of what they wear, interaction and finances, however failed to acknowledge what coercive behaviour is and this could be detrimental to those victims seeking protection for coercive behaviour rather than controlling behaviour. To solve this problem, it is vital training is issued through all police forces to ensure sufficient and consistent knowledge of coercive or controlling behaviour as two separate types of domestic abuse. The importance of consistency ensures officers have frequent and in-depth training meaning they would be equipped to recognise this complex type of abuse by recognising when a victim is being coerced as well as controlled by a perpetrator.

We found participants felt that some judges have a lack of understanding when it comes to the seriousness of coercive or controlling behaviour. Through our interview with the solicitors, we found that, in some cases, the judiciary have prioritised physical abuse over non-physical abuse. In the disclosure interview, we found that the officers had similar concerns over the CPS’s understanding towards coercive or controlling behaviour, giving a preference to prosecuting physical abuse. Alongside Mr Justice Cobb, we suggest the Family Court Judiciary need specific training on coercive and controlling behaviour in order to understand the seriousness of the offences and the impact it has on victims. This would follow on from Scotland’s example of providing the judiciary with face-to-face training on the effects of psychological abuse on victims and children. It is unfortunate that we have been prevented from asking the Judiciary directly about this issue and the training that they currently receive.

Non-molestation order breaches are self-reported and if a victim is influenced by the perpetrator, it is a possibility that they will re-enter a relationship. As mentioned by the disclosure officer, once an investigation is closed, the victim is not supported by the police or protection units, therefore this makes it easier for the victim to be influenced by the perpetrator. We suggest the police or a liaison worker should continue to work with the victim frequently throughout the duration of the non-molestation order and potentially afterwards. However, we appreciate that current limited resources prevent this from always being a possibility.

All of the participants we conducted interviews with describe the majority of the victims they assist as being female, explaining that it more common to see women fall victim to domestic abuse for a variation of reasons. However, it is important to recognise that due to the stigma attached to male victims, it is not accurate to conclude that women are the predominant victims. It is uncertain whether this is an accurate correlation, as men may not be as likely to report their abuse because of the lack of support and resources available. There are many refuges and support agencies set up in the North East (and the UK in general) which are designed to accommodate and support women, for example West End Women, and Women’s Aid, however our participants were not able to name one refuge in the North East aimed at helping male victims. Increasing and improving the number of male refuges available not just in the North East, but nationally would provide male victims with more support and the care that they require, providing a safe place they could reside during this time in their life.

It was suggested in the interviews that we conducted that one of the main hindrances preventing victims of domestic abuse seeking support from the Family Court, is the lack of evidence which they can provide, or which could be obtained to help them during their proceedings. For example, there is a charge in order for GP letters and records to be released, and this could discourage victims from attempting to get these records due to a fear of facing hefty costs, especially if they are not able to afford legal representation themselves and have no access to legal aid. Furthermore, many individuals may not be aware that these costs are likely to be covered through their legal aid funding,

if they are able to obtain it. This is a similar situation when requesting disclosure from the police. To resolve this, the cost of disclosing this information should be minimised or dissolved completely, as this may encourage more victims to obtain relevant evidence and use this throughout their proceedings. This could ultimately strengthen their case, enabling them to obtain the protection and support they need, whilst also preventing court time from being wasted.

Overall, there needs to be more education, for both victims of domestic abuse and those working with them, of the support available when obtaining a Family Court Order. Further, more funding is needed to support victims of all kinds, throughout the entire process.

# Conclusion

From speaking with the various participants involved with victims of domestic abuse either before or during Family Court Proceedings, we found that the main barriers for victims obtaining a Family Court Protection Order were:

* Legal aid cuts causing an increase in litigants in person and in turn creating more delays in court due to the lack of resources available in the public domain
* Lack of awareness and understanding surrounding coercive and/or controlling behaviour by the judiciary and CAFCASS
* Awareness surrounding disclosure is limited, especially for those with no legal representation
* A lack of awareness of the benefit of CLOs, and the reduction of CLOs in the courts due to funding cuts
* A lack of awareness by victims of Special Measures and, even when they are aware, they are not always available due to the resources of the court
* Victims being influenced by their perpetrator leading them to withdraw their application because they have re-entered a relationship, with little further support.

To summarise, we are recommending that all stakeholders are made aware of the barriers mentioned above, and there should be more widely accessible resources for litigants in person to provide guidance and support for them both prior to and during the court process. These resources should be available to all regardless of characteristics such as gender. Online resources could assist with this to an extent, but it is also important that victims have access to ‘in person’ support when attending court and that alternatives to online resources are available for those without access to technology. For this reason, we suggest for more funding is made available for CLOs to increase the support available to victims and litigants in person both before and during proceedings. We recommend more training provided to all police officers, CAFCASS and the judiciary around coercive and controlling behaviour.

Future research

We believe there is need for further research into the responses of CAFCASS to allegations of domestic abuse. This is one of the major limitations to this project and is of great importance due their involvement in children proceedings. Our project is also limited due to the refusal of the MOJ to allow us to interview the local family judiciary about our findings. It is imperative that the judiciary are permitted a response to the concerns outlined in this report and we would invite them to provide the same.

We think there would also be a benefit in interviewing the legal aid agency, as they will be able to provide insight into the effects of the cuts to funding on victims of domestic abuse and how they make their decisions in more detail. Interviewing the victims directly would allow us to gain an impartial understanding of the personal barriers they face during their experience in obtaining protection from the Family Court. However, we recognise there would potential ethical issues that would need to be considered due to the vulnerability of these individuals. Further, more research can be conducted into the effect of having consecutive criminal and family cases and why this can cause delays to victims.

# Appendices

**Appendix 1- Consent Form**

**Information for Participants**

We are Leah Nicholls, Parmdeep Kaur, Saima Miah and Sarah Picken and are students at Northumbria Law School, working in the Student Law Office’s Policy Clinic. We are undertaking this research under the supervision of Dr Rachel Dunn and with the support of Kayliegh Richardson and Associate Professor Claire Bessant, who have experience of practice and research in the field of domestic abuse.

This is a piece of research being undertaken on behalf of the Northumberland Police and Crime Commissioner. This research asks: What are the barriers faced by victims of domestic abuse when bringing proceedings in the Family Court?

This document sets out the background to the study as a whole and provides detailed information about the part of the study in which you are invited to participate. If there are any questions that are not answered here, please contact us or our supervisor for further information at**:**

Student Law Office,

Northumbria School of Law,

0191 227 3909

[la.studentlawoffice@northumbria.ac.uk](mailto:la.studentlawoffice@northumbria.ac.uk)

Dr Rachel Dunn (Supervisor)

Northumbria School of Law,

0191 227 3311

[rachel2.dunn@northumbria.ac.uk](mailto:rachel2.dunn@northumbria.ac.uk)

**What procedural and/or legal issues may prevent victims of domestic abuse from successfully obtaining an enforceable Family Court Order to protect them from future abuse?**

Northumbria, Cleveland and Durham Police and Crime Commissioners are working on a Home Office Police Transformation Domestic Abuse Project. One element of this project (“Theme 2”) focuses on improving the experiences of domestic abuse survivors using the Family Courts.

The Northumberland Police and Crime Commissioner has asked Northumbria University to undertake a piece of research to find out what different individuals’ perspectives are on the barriers faced by survivors when they seek to obtain and secure effective enforcement of Family Court orders. The research will involve interviews with participants in an individual interview or focus group/group interview, which will include Police Officers, Court Liaison Officers, Practitioners, CAFCASS Officers and members of the Judiciary.

This research will also contribute to wider debate about how the Family Courts can best provide effective protection to domestic abuse survivors and where, if at all improvements might be made to the law or practice. This research will involve a number of different activities:

* A review of the literature into domestic abuse and barriers to obtaining Family Court orders;
* Interviewing different participants in the procedures for domestic abuse victims (police officers, legal practitioners and liaison workers) by conducting a group interview, exploring their professional views around domestic abuse victims obtaining Family Court orders and

the barriers they may face (audio recording);

* One-to-one interviews with members of the judiciary and CAFCASS officers (audio recording).

**What being involved in the research will mean**

Your participation in this study is voluntary. After signing this form you can withdraw from the study at any time and you will not be asked any questions as to why you no longer wish to take part. If you have withdrawn from the study you may rejoin at any time, but it is at the researcher’s discretion if you are able to participate again.

Participation in this research means that you provide us with permission to use the data we collect in the research project and any subsequent publications by Northumbria Law School. This includes a written report to the Northumberland Police and Crime Commissioner and the Whole System Approach: Family Court Consultation Group, who may decide to disseminate the findings from this study more widely. It will be used by Kayliegh Richardson and Associate Professor Claire Bessant for the purpose of writing articles and submitting to the Government and Parliamentary Consultations on domestic abuse reform. Your responses will be combined with those of other participants. Information about individuals and any personal data will not be used in any published reports.

**Risks and Benefits of being in the study**

There is no risk in participating in this project. Your participation and opinions may prompt new perspectives and ideas which may be beneficial in the future. If you do not receive a direct benefit from your participation in this study, others may ultimately benefit from the knowledge obtained.

**Confidentiality**

The records of this study will be kept confidential to the extent of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. In any reports on this study, we will not include any information that will make it possible to identify any individual or group (for example, participants will be given a letter – Participant A - so as not to be identifiable). If an individual can be identified by the nature of their role, specific consent to waive confidentiality will be agreed and all written material will be subject to their scrutiny before publication. The audio data collected will not be included within the published research, only the information gained from them. This may include words that you have said.

Electronic copies of data, including videos and audio, will be stored securely within a password protected file on the university computer in the Student Law Office, on a secure drive not accessible outside of the office. Electronic copies of the data will also be stored on the Supervisor’s password protected computer, in a locked office. Extracts may be shared and viewed by the research team and the organisation instructing the research and publications will be generated based on the data. All documentation will be made anonymous prior to this to maintain participant confidentiality.

The recordings on a Dictaphonewill be deleted within two weeks of the initial recording. However, any electronic or hard copies of data will be held for a period of up to 6 years in the Student Law Office and electronic copies will also be held for a period of 1 year by Dr Rachel Dunn. Within this time you may request to see any data collected in this particular study. However, as stated above, all names of individuals will be not be used and firms will be given a letter instead of their usual name.

**Consent to Participate in the Element of the Study**

Participants will be interviewed in the form of group interviews. Each group will contain between 3-8 people and you will be asked questions based on your experiences of working within the field of domestic abuse and your knowledge/experience of Family Court orders. Interviews will be expected to last at least one hour per group. The interview will be held at a place convenient to all of the participants in a group, e.g. Northumbria Law School, the location of which will be made known to you at least a week prior to the interview taking place. Interviews will be recorded using a Dictaphone and will capture your voice, which will be transcribed into written documents.

Due to confidentiality, we ask that you do not disclose any personal information about domestic abuse survivors or perpetrators you have worked with or discuss their case in a way which will make them identifiable.

**Statement of Consent (please tick the relevant boxes here):**

* I have read and understand the study that I will be participating in;
* I have been given an opportunity to ask questions about the study;
* I understand that taking part in the study will include being audio;
* I have been given adequate time to consider my decision and I agree to take part in the study;
* I understand that any of my personal details, such as my name, will not be revealed to anyone outside of the research team;
* I understand that my words may be quoted in publications, reports and other research outputs but my name will not be used;
* I understand I can withdraw from the study at any time and I will not be asked any questions about why I no longer wish to take part.

*I agree to the University of Northumbria at Newcastle recording and processing this information about me. I understand that this information will be used only for the purpose(s) set out in this information sheet supplied to me, and my consent is conditional upon the university complying with its duties obligations under the Data Protection Act 2018.*

Name of Participant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Researcher:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Appendix 2- Interview Questions: Frontline and Disclosure Police Officers**

ALL police representatives:

1. Could you explain what your role is within the police and what involvement you have in family proceedings?
2. Do you consider your role is linked to or completely separate to the Family Courts?
3. How would you define domestic abuse?
4. Would you treat elderly people and young teenagers in the same way as someone aged 18-59 or do they classify this as elder abuse/child abuse and deal with them in a different way?
5. Do you know about Family Court protection orders?

* What do you know about them?

1. What training have you been through regarding Family Court orders?
   * Is training provided by the force or do you have to find training yourself?
   * Were you trained in coercive control? If so, when were you trained in coercive behaviour?
   * How often do you train?
2. How do you deal with breaches of Family Court orders (both non-molestation and occupation orders?)

* Are there any problems surrounding the enforcement of these orders to prevent or deal with a breach?

1. Does your force recognise Family Court orders from other areas around the England and Wales?

* Is there a national register to show who has a Family Court order in place? For example, if someone obtains a non-molestation order in Manchester will it show on your police computer system up here?

1. In your opinion what do you believe is the main barrier to victims not seeking help?

Additional questions for those individuals involved in disclosure:

1. Can you talk us through the steps that are taken when a disclosure request comes in (specifically disclosure for the purpose of family proceedings)?
2. Is a charge automatically applied for this disclosure or will the individual’s financial circumstances taken into account? If their financial circumstances are considered, is it for the individual themselves to request this (i.e. to request a reduction) or is this offered to them?
3. How long on average does it take to provide the police disclosure following the initial request being made?
4. How do you decide what information will be provided in the police disclosure? Does it depend on the nature/subject of the proceedings?
5. Is the process different if there is a court order in place directing the disclosure rather than the request coming from an individual involved in the proceedings (it used to be that the court would direct the disclosure but currently practice is that the disclosure will be obtained by one of the parties first and then an application will be made to the court for this to be included within the evidence)?
6. Is there a set procedure for all police forces for providing disclosure in family proceedings or does it vary between forces?
7. If you receive a request under Clare’s law, do you make disclosures regarding previous Family Court injunctions such as non-molestation orders if you have a note of these on your police system?
8. If you make a disclosure under Clare’s law about any relevant previous convictions, do you also provide the individual with additional support/advice about routes of protection available such as Family Court injunctions?

Additional questions if we have front line officers:

1. Who are you encountering that are saying they are suffering domestic abuse? Is it primarily a particular age bracket or gender of individuals?
2. Can you talk us through what you would do when you attend a potential domestic abuse incident, in particular:
   1. What evidence are you looking to gather?
   2. How do you go about gathering this evidence?
   3. What advice are you offering?
   4. What do you do to identify the types of abuse the victim appears to be suffering
   5. What support and protection by means of civil and criminal orders do they recommend to victims
   6. How regularly are you applying for domestic violence protection notices yourselves in these circumstances?
   7. Do you redirect victims of abuse to the Family Court injunctions?
3. What do you see as your role when you encounter a domestic abuse situation: is it to assist with bringing criminal proceedings to punish/deter perpetrators, to protect the victim, to advise, to prevent immediate harm or something else?

**Appendix 3- Interview Questions: Practitioners**

1. What domestic abuse cases have you advised/represented on: domestic abuse injunctions, children proceedings, divorce or all of those?
2. Have you advised victims, alleged perpetrators or both?
3. Where do your referrals mainly come from (support services? Police? Word of mouth?)
4. Do you agree with the current domestic abuse definition (have this to hand in case they are not aware of the up to date version)?
5. For those who have advised victims of domestic abuse: Have you noticed any similarities between the individuals you are assisting e.g. in terms of age, gender or other relevant characteristics?
6. Would you treat elderly people and young teenagers in the same way as someone aged 18-59 or do they classify this as elder abuse/child abuse and deal with them in a different way? If they have experience of this, did the courts deal with them in a different way?
7. What are the issues and hurdles in obtaining a Family Court order?

* What is your opinion on protection orders? Are they effective?
* Do you have confidence in the law surrounding Family Court orders?
* Do you think the judiciary deal with these cases well?
* Are there any evidential difficulties in these cases?
* How easy is it to apply for supporting evidence such as police disclosure or medical evidence?
* Can you give any examples?

1. Show them the precedent timeline – in your experience is this the procedure that is always followed? In particular how common is it for a fact finding hearing to be directed?

* Allow them to annotate the timeline with steps that are regularly not followed or areas that can cause difficulties.

1. In your experience, do you think the judiciary need more specialised training in domestic abuse cases in the Family Courts?
2. Do you think enforcing s.60 of the Family Law Act 1996 would be beneficial when obtaining non-molestation orders (the students need to be prepared to explain what s.60 is in case the practitioners do not know)?
3. What are your views around the limitations of legal aid in domestic abuse cases?

* What effect has this had on victims seeking protection for them or their children?
* Do you ever act on a pro bono basis in cases where the victims has no legal aid and cannot afford representation?
* Have you ever helped the opposing party to put together a bundle because they do not have representation?
* In your opinion, does success in cases where domestic abuse allegations are raised depend on whether a victim is represented in court?

1. Do you think the experience in court can hinder victims seeking support?

* What is your view on cross-examination in the court?
* Do you think there are adequate special measures provided for survivors?
* How often are clients excluded from appearing in court and are offered alternative methods such as video link?
* How often to survivors decline attending a hearing because of the court being unable to accommodate their requests for special measures?

1. In your opinion what do you believe is the main barrier to victims not seeking help or in obtaining protection?
2. How effective is the enforcement of non-molestation orders/undertakings/occupation orders? What are the barriers to enforcing an order or undertaking?
3. Have you had any child arrangements cases where the court have granted a protective order (non-molestation or occupation order) as part of those proceedings or do they always require a separate application to be made?

**Appendix 4- Interview Questions: Court Liaison Officer**

1. What is your role in supporting the survivors and how involved are you with their cases?
2. Have you mainly been involved in applications for injunctions, children proceedings or both?
3. How would you define domestic abuse?
4. Have you noticed any similarities between the survivors you are assisting e.g. in terms of age, gender or other relevant characteristics?
5. Have you assisted anyone under the age of 16 or over the age of 60 who are bringing allegations of domestic abuse? If so, are they being dealt with by the courts in the same way as someone aged 16-59 or are the incidents being characterised as something else e.g. elder abuse or child abuse?
6. How are you allocated to a case regarding Family Court orders? Will you remain allocated to a case all the way to its conclusion (i.e. the same liaison worker throughout)?
7. What training was available prior to you obtaining this position? Did you have any previous experience of assisting victims/survivors of domestic abuse?
8. Are you aware of the law surrounding Family Court orders?

* Do you have confidence in the law surrounding Family Court orders?
* How did you gain this knowledge?
* Do you provide the court users with advice about the law/court process?

1. What issues and hurdles have you recognised surrounding victims obtaining Family Court orders?

* Can you give any examples?
* Give them a copy of the precedent timeline and ask them each to identify by annotating the timeline where the court users tend to experience difficulties or where the procedure does not seem to be followed?

1. In your opinion what do you believe is the main barrier to victims not seeking help or, if they do seek help, the barrier to obtaining protection?
   * Lack of knowledge?
   * Intimidated by the court process?
   * Lack of funding of essential evidence?
   * Fear of cross-examination?
   * Lack of judicial understanding of the scope of domestic abuse?
2. Have they seen any cases where a victim has been directly cross-examined/questioned by the alleged perpetrator?
3. Have you experienced an alleged perpetrator trying to speak to/intimidate the court user before a hearing?
4. Do you have any examples of where your role has made a difference?

* If there has not been any positive impact, why?

Was there a situation where your role had a negative impact on case?

* Is there anything you would have done differently to ensure a positive impact was made?
* Have you ever been prevented from attending a court hearing? If so, why?

1. How would you improve your role?

* Do you feel your role is limited?
* Do you think liaison workers should be given more power/leniency over their role in the system?
* In your opinion, does the judiciary appear to understand your role?

1. In non-molestation cases, do you advise victims about the option of asking for a court bailiff to serve an order upon a respondent?

* If you knew of this option, where did you learn of it?
* Is this actively offered by the Judge if a court user is unrepresented?

1. Do you direct victims to other organisations for further support? If so, who?
2. Do you discuss the prospect of legal aid with the court users who are referred to your service?

**Appendix 5 - Interview Questions: Judiciary**

***Please note that these questions were never posed due to the MOJ refusing consent***

1. Practice Direction 12J (participants presented with two flow diagrams, one showing the procedure of gaining a non-molestation order and the other the procedure for determining domestic abuse allegations in children proceedings):

* Could you take me through how this process is applied in practice?
* Are there any particular barriers you can identify when applying it?

1. How would you define domestic abuse?
2. Approximately, how often do you hear a case concerning domestic abuse?
3. Could you give an example of a typical case you hear involving allegations of domestic abuse?
4. When abuse and violence is perpetrated against someone aged under 18 would you classify this as domestic abuse or child abuse? Would this mean that you would deal with them in a different way?
5. Is it primarily a particular age bracket or gender of individuals who are raising allegations of domestic abuse within family proceedings?
6. Have you received training in relation to the protection of domestic abuse survivors in the Family Court? Was this sufficient? What else may have been helpful?
7. Do you ever make, of your own volition and without the parent submitting a formal application, a non-molestation order and/or occupation order in private or public family proceedings, or attach exclusion requirements to public law orders, and if so in what types of cases?
8. Do you believe non-molestation and occupation orders provide effective protection to domestic abuse survivors?
9. Do you consider there are any barriers for vulnerable witnesses in seeking protection? What else could be done to improve protections?
10. Are you aware of whether there any evidential difficulties in these cases and what these might be?
11. Do you feel you are well equipped to deal with these kinds of cases?

* If not, how could the system be improved to allow you to be?

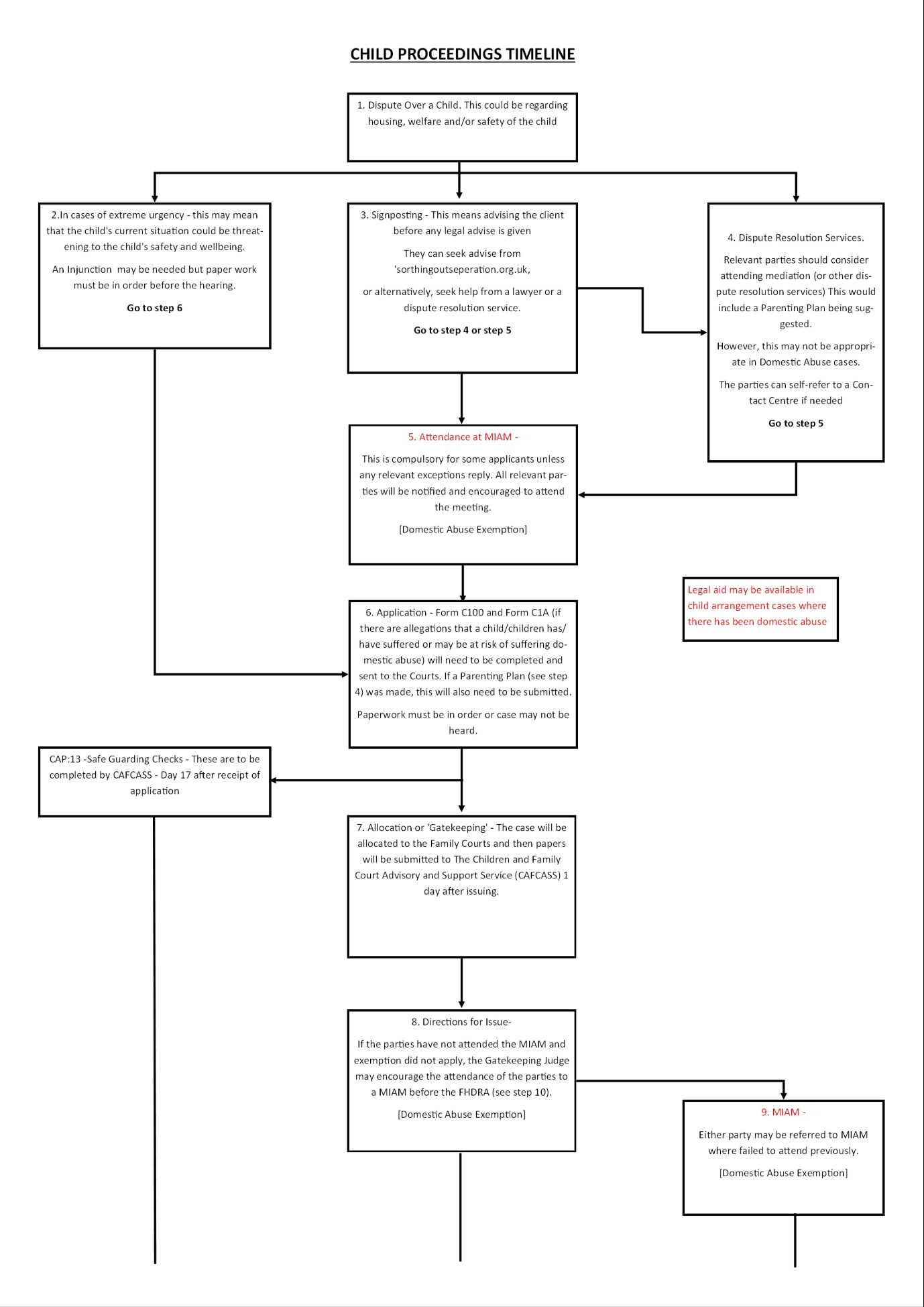
1. Do you think s.60 of the Family Law Act 1996 should be implemented to allow third parties to act on behalf of a victim in an application for a non-molestation order or occupation order?
2. What are your views around the availability of legal aid in domestic abuse cases? Do you think the public funding available to parties in these cases is sufficient?
3. How often do you deal with litigants in person in domestic abuse cases? Do you encounter any difficulties with this?
4. How often in the cases you have heard are special measures requested and used?

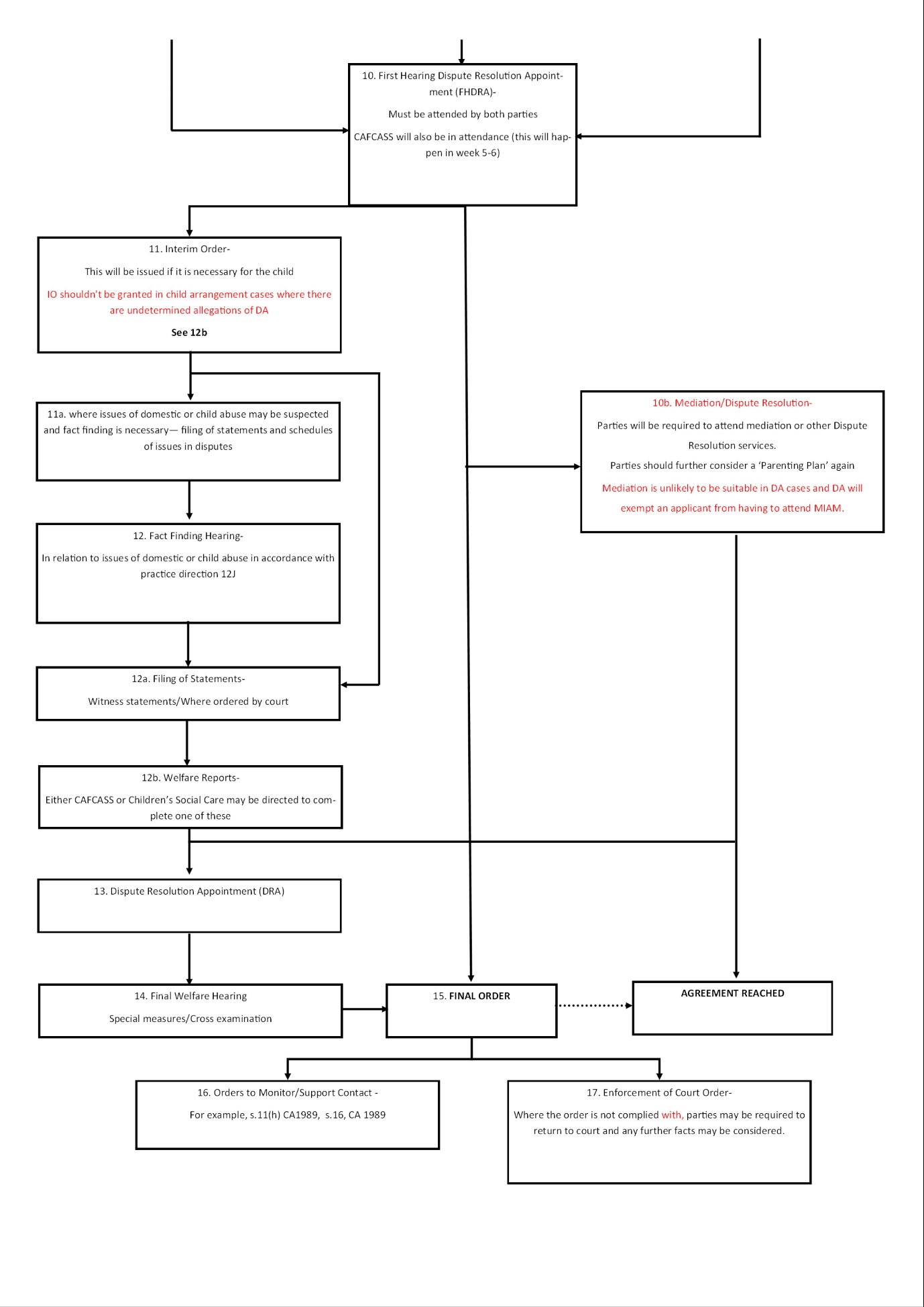
* Have you ever rejected a requested for special measures? If so, why?
* Do you ever allow a respondent to directly cross-examine alleged victim?

1. Do you have any concerns about the enforcement of non-molestation orders/undertakings/occupation orders that are made?

**Appendix 6 - Timeline: Non-Molestation Orders**



**Appendix 7 - Timeline: Child Arrangement Proceedings**



1. <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> [↑](#footnote-ref-1)
2. Office for National Statistics, ‘Domestic abuse in England and Wales: year ending March 2018’ (Office for National Statistics, 22 November 2018) [↑](#footnote-ref-2)
3. Richardson, Kayliegh and Speed, Ana (2019) ‘Two Worlds Apart: A Comparative Analysis of the Effectiveness of Domestic Abuse Law and Policy in England and Wales and the Russian Federation’ *The Journal of Criminal Law* [↑](#footnote-ref-3)
4. Bishop, Charlotte and Bettinson, Vanessa (2018) ‘Evidencing domestic violence, including behaviour that falls under the new offence of controlling or coercive behaviour’ *The International Journal of Evidence and Proof*, 22(1): 3-29 [↑](#footnote-ref-4)
5. Please see appendix 1 for the consent form [↑](#footnote-ref-5)
6. Please see appendices 2-5 for the interview questions [↑](#footnote-ref-6)
7. Please see appendices 6 and 7 for the timelines [↑](#footnote-ref-7)
8. Kirsty Richards, ‘Male victims of domestic abuse: the difficulties faced in court proceedings’ [2018] Fam Law 1047 [↑](#footnote-ref-8)
9. See appendices 6 and 7 [↑](#footnote-ref-9)
10. 'How Police Are Trained To Respond To Domestic Violence' (2016) <https://www.domesticshelters.org/domestic-violence-articles-information/how-police-are-trained-to-respond-to-domestic-violence> accessed 12 January 2019. [↑](#footnote-ref-10)
11. <<https://theconversation.com/why-its-so-hard-to-prosecute-cases-of-coercive-or-controlling-behaviour-66108>> accessed 6/12/18 [↑](#footnote-ref-11)