



Domestic abuse practice policy

(Professional Cafcass grouping: Social work practitioners and managers)

*Cafcass policies are designed to support and strengthen the accountability of Family Court Advisers (FCAs), Children’s Guardians, and their managers in safeguarding children, supporting families, staff, and upholding the reputation of Cafcass. They do not supplant or negate the balanced professional judgement that is required in preparing advice for the family court. Nor are they intended to compromise the independence of FCAs and Children’s Guardians who are appointed by the family court. **Our policies do not stand alone as a set of rules. They set out what is expected as an integral part of effective professional practice in preparing advice for family court proceedings, and they must be applied in parallel with professional assessment and the balancing of information about what is known and understood in respect of the safety, welfare and best interests of children.** Our policies derive from legislation and from what we learn in practice quality audits, court judgments, significant incidents, learning reviews, feedback, and complaints. They are public documents against which we can be held accountable collectively and individually. If they are not adhered to, Cafcass and individual FCAs and managers can be subject to challenge through complaints, the Parliamentary & Health Services Ombudsman, referral to Social Work England, or a Judicial Review. A decision not to adhere to the requirements set down in a policy intended to protect children must be supported by a thorough assessment and compelling rationale, reflected through a discussion with a manager and recorded. Policies are, therefore, subject to monitoring for compliance. Key policies that are new or updated are subject to attestation¹ by all staff or specified professional groups of staff where appropriate.*

Why is this important for children?

This policy sets out practice requirements that support practitioners and managers to improve the effectiveness of their practice and advice to the court for children and adults who have experienced or are experiencing domestic abuse. This policy requires practitioners to listen to children and adults who have experienced domestic abuse, to assess the harm or risk of further harm to them from that abuse and to accurately record and share with the court what they have been told. In respect of child victims of domestic abuse, especially babies, younger children, and those with additional needs who are at greater risk of harm and where they are unable to use words to describe their experiences, practitioners must be especially clear about harm or the risk of harm to them by listening to their primary carers and those who know them well. This must also include reviewing previous proceedings and all information that is known regarding incidents or reports of physical, sexual, emotional abuse and neglect, making it clear to the court how the information has informed the advice submitted and the associated recommendations.

¹ Cafcass process requiring its employees to confirm they have read, understood, and will act in accordance with a policy.

What is the purpose of this policy?

This policy sets out the actions that Cafcass practitioners and managers must undertake when working with children and adults who have or may have experienced domestic abuse and who therefore come under the terms of the [Domestic Abuse Act 2021](#). It is informed by [Practice Direction 12J](#) and by our understanding of the impact of domestic abuse and harmful parenting on a child and the child's primary and protective carers. The protection of children from harm or further harm is the central and fundamental purpose of this policy.

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1. Practitioners must make clear in their assessments when there is evidence that a child is or is likely to be a victim of domestic abuse. **The [Domestic Abuse Act 2021](#) recognises a child as a victim of domestic abuse if they see, hear, or experience the effects of domestic abuse and are related to, or cared for by an adult with parental responsibility who is the person being abused or the perpetrator of the abuse.**
2. This means being specific about what has happened to the child or what the practitioner has been told has happened, what is already known, and the further risk of harm to them should they live with or spend time with a domestically abusive parent or carer, including having contact that is supervised and other forms of contact such as letters, telephone and video calls. This applies to both public and private law proceedings and **this information must weigh heavily in any analysis, assessment, and advice to the court.**
3. The child's experiences, views, wishes and feelings must be clearly set out. If they are too young or have additional needs, their perspective and the impact on them of harm that has already happened or the risk of further harm must still be clear to the court, including as described by other adults and professionals who know them.
4. The analysis must include the impact on the parent or carers with parental responsibility and their capacity and safety if they are or it is proposed they are to manage family time with an adult who is or may be a risk to their child and to them. **This information must weigh heavily in any analysis, assessment, and advice to the court.**
5. Practitioners must **provide a clear, unequivocal, evidence-informed, and compelling rationale** in their reports to court for recommending 'time with' or 'live with' arrangements with a parent when domestic abuse and harm has been shared with the practitioner by the child or by one or both parents.
6. Practitioners must include within their analysis, the understanding they have gained during their assessment of the cultural context of the family and any implications of culturally influenced beliefs and attitudes about domestic abuse for the child and their arrangements.

7. **Practitioners are required to discuss cases with a manager and access supervision in line with [Cafcass' management support, supervision, and oversight policy](#).** This is so that practitioners have the opportunity to reflect and consider how to balance complex and often conflicting and contested issues in their duty to safeguard children. Effective supervision enables the balance between support and challenge, independence and professional accountability. Importantly, supervision also offers the opportunity to consider any risk or fear experienced by the practitioner in any dealings with aggressive, intimidating and/or controlling adults in proceedings and to reflect on the perspective this brings to understanding the lived experiences of and risk of harm to their children and the adults around them.
8. In public law proceedings, the local authority, as the corporate parent, will lead in the assessment of harm and risk of harm from domestic abuse for both interim and final arrangements, in accordance with their statutory duties. It is appropriate that the Children's Guardian scrutinises the arrangements and assures themselves that the risk of harm or actual harm has been robustly investigated and described to the court. The Children's Guardian should form a view in terms of safety planning and the safety of the proposed arrangements and share their views with the local authority and in the advice to the court. It is likely that there will be interim arrangements supervised by a professional whilst assessments are taking place, and the nature of this supervision should also be clearly set out to the court.
9. **In long running or repeat proceedings, practitioners must reflect and take account of previous history and patterns of behaviour, reports of or known domestic abuse, safeguarding checks, previous findings of fact and criminal history,** identifying any gaps or themes including the reasons for proceedings (which might be used to further control and abuse victims). Further or additional police information which becomes available during proceedings must be scrutinised to inform assessment and new or additional reports to court.
10. Practitioners must continuously reflect on their own practice and learning and how they are applying training to their practice **to improve their understanding of domestic abuse, including coercive control. They must also reflect on how their own experiences, values, and beliefs** impact on their engagement with families and children who have or may have experienced domestic abuse.
11. Practitioners must **use the Cafcass domestic abuse practice pathway, training, practice guidance, and relevant practice aids to analyse and assess all accounts of coercively controlling and other high-risk behaviours, and the impact of these on each child and adult victim, including connected children who are not the subject of proceedings.**

Child safeguarding

12. Formal child protection practice and guidance as set out in both Working Together(2023) and Cafcass' [Child Safeguarding policy](#) must be uppermost in the minds of practitioners and managers when they are engaging with children and adults who are or may be the victims of domestic abuse.

13. When adults describe domestic abuse including coercive control, rape and similar criminal acts, and the child is living with or spending time with the parent who is or may have perpetrated these acts, practitioners must consider and describe in their reports to court, **how** they have assessed the harm or risk of further harm to a child and their main carer. **Where this assessment concludes that child is at risk of harm, they report they are being harmed or they are known to have been harmed**, then formal child protection procedures must be followed in the form of a referral to the local authority children's social care service where the child is living, only if there is a current risk to the child. **If such a referral is made, then a 16A risk assessment report should be made to the court simultaneously, setting out the rationale for any urgent action that is required to protect the child/ren.**
14. **A 16A risk assessment report to the court should only be made when the current or proposed arrangements present a risk of harm to the child, or the child has been or is being harmed and urgent action is required.** It is critical that the nature of risk and harm is explained to the court and to the local authority in the rationale for the 16A submission.
15. **The action set out in the paragraph above must be followed in all proceedings, including repeat proceedings, where the child is considered to be at risk of harm or has been harmed.** Referral and risk assessment reports must clearly set out previous concerns and decisions in respect of the safety and welfare of the children, including what has changed and why the assessment of the risk has changed. Critically, where a child is being harmed or is at risk of harm, an assessment of the safety of existing arrangements must be made in both referrals and risk assessments submitted to the court.
16. The 16a risk assessment should be clear about what the court is being asked to do (if anything) and why, including setting out details of the referral to the local authority and their response to that if it is known.²
17. The submission of a 16A report **must not be used as a means to challenge an order of the court when the order has been made after the court has had sight of the practitioner's assessment and recommendation and there is no new information for the court to consider.** Therefore, in this instance a child safeguarding referral could be made without a 16A Risk Assessment. The [Child Safeguarding Policy](#) sets out the correct approach to such issues.
18. The referral to the local authority must include the request that in addition to any necessary child protection actions, they consider support for the vulnerable adult/victim to make a report to the police and/or local authority adult team responsible for adult protection.
19. Practitioners must follow up their referral to the local authority within one working day and managers must escalate their concerns to the local authority head of children's social work services if they believe that a local authority decision to take no further action means that the child is being harmed or placed at risk of harm as outlined in the Child Safeguarding Policy and in Working Together 2023.

² Working Together 2023 requires a local authority to respond to a referral within one working day

20. Information from proceedings cannot be shared directly with a Multi Agency Risk Assessment Conference (MARAC) as this is a multi-disciplinary forum not carrying out a direct child protection responsibility. If a referral is made to local authority children's social care relating to domestic abuse, this referral must include a request for the local authority to refer to the MARAC (if there is not a MARAC already open) making clear that Cafcass is not permitted to make such a referral. This request should only be made to the local authority if it has been agreed by a manager that a referral to MARAC should be considered. The referral must explicitly request to be told the outcome on whether the local authority referred to the MARAC.
21. **Where the resident parent and child are currently living in a refuge or other confidential, protective accommodation** due to a report of domestic abuse by the other parent, practitioners must clearly set out the risks that exist to the court of directing any form of spending time arrangements (in person and other forms of contact including letters, telephone and video contact) that could compromise the confidentiality of the location and therefore safety of the parent and child. Also, if it is necessary for someone to be living in a refuge for their safety, then the criteria for risk of harm or further harm will have been established. In these cases, it is necessary for an assessment of harm and risk of harm to be completed before any spending time arrangements are recommended to the court. In the unusual circumstance, where a parent is living in a refuge with their child/ren and 'time with' has not been suspended, then a referral should be made urgently to children's social care together with a 16A risk assessment to the court, which should recommend suspension of any interim 'time with' arrangements, while a full assessment of what is safe for the child is completed.

Investigation or conviction of domestic abuse offences, including sexual offences.

22. In accordance with Section 2a of the [Children Act 1989](#), **the presumption of parental involvement in the life of a child is not absolute**. The presumption falls away when the parent has caused harm or there is a risk of harm or further harm to the child.
23. In considering recommendations for **family time when the applicant or respondent has a conviction, or has been sentenced in respect of an offence in relation to domestic abuse (including coercive control), violence or a sexual offence, practitioners** must consider that the adult or adults concerned present a risk of significant harm to the child, connected children and the main carers. The advice to the court should clearly set out an analysis of the risk of harm to the child and how this affects the advice regarding contact and/or live with arrangements, including any action that should be taken to protect the child/ren and their main carer from harm or risk of further harm.
24. **The same considerations must also be made when Cafcass safeguarding checks establish that there is an ongoing police investigation (including repeat investigations that have resulted in no further action) in respect of domestic violence (including coercive control), violence or sexual offending.**

25. As set out in paragraphs 1-4 on page 2 of this policy, the advice and assessment required for the court from the practitioner, must set out action that has been taken to:

- a) Comply with the statutory guidance set out in Working Together 2023 in respect of making a referral to the local authority children's social care service where the child/ren live/s **if the child is at risk of harm or has been harmed.**
- b) Consider the immediate safety of the child and any connected children.
- c) Make the court aware of the harm to the child/ren or the risk of significant harm by the submission of a 16A report with recommendations as to what the court is being asked to do, why and by when – see paragraphs 13-19 of this policy.

Practice Direction 12J

26. If a parent has a conviction for a sexual offence such as rape, the risk of harm to a child of contact with that parent is likely to be significant. [Practice Direction 12J paragraphs 35-37](#) must be followed to evidence the risks to the child. Attention is drawn to the particular extracts of the Practice Direction below,

The court should make an order for contact only if it is satisfied-

- (a) that the physical and emotional safety of the child and the parent with whom the child is living can, as far as possible, be secured before, during and after contact; and*
- (b) that the parent with whom the child is living will not be subjected to further domestic abuse by the other parent.*

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

- (a) the effect of the domestic abuse on the child and on the arrangements for where the child is living;*
- (b) the effect of the domestic abuse on the child and its effect on the child's relationship with the parents;*
- (c) whether the parent is motivated by a desire to promote the best interests of the child or is using the process to continue a form of domestic abuse against the other parent;*
- (d) the likely behaviour during contact of the parent against whom findings are made and its effect on the child; and*
- (e) the capacity of the parents to appreciate the effect of past domestic abuse and the potential for future domestic abuse.*

27. Where risks are identified at any stage of proceedings, (including **Work to First Hearing**) consideration must be given to whether it is in the child's interests and whether it is safe to continue **any 'direct time with' arrangements that may already be in place**, until the next hearing. Practitioners must also in this instance consider **Practice Direction 12J when undertaking an assessment of whether interim arrangements are safe for the child.**

28. As part of this assessment practitioners must provide to the court clear advice or recommendations as to whether any order to spend time with a parent would expose the child or their other parent to any 'unmanageable risk of harm' taking into account the specific definition of a 'victim of domestic abuse' and the impact any abuse can have on the emotional well-being of the child and the safety of the other parent. Any arrangements must be in the child's best interests. PD12J sets this out in paragraph 25:

When assessing the benefits or otherwise of interim contact practitioners should make reference to;

(a) the welfare checklist

(b) give particular consideration to the likely effect on the child, including on the care given to the child by the parent who has made the allegation of domestic abuse. This includes in assessing in accordance with Practice Direction 12 J 'any risk of harm, whether physical, emotional or psychological, which the child and that parent is likely to suffer as a consequence of making or declining to make an order.'

29. In addition, practitioners should set out for the court that they have considered the following as specified in the Practice Direction:

(a) the arrangements required to ensure, as far as possible, that any risk of harm to the child and the parent who is at any time caring for the child is minimised and that the safety of the child and the parties is secured; and in particular:

(i) whether the contact should be supervised or supported, and if so, where and by whom; and

(ii) the availability of appropriate facilities for that purpose;

(b) if direct contact is not appropriate, whether it is in the best interests of the child to make an order for indirect contact; and

(c) whether contact will be beneficial for the child

30. Consideration should also be given to [Practice Direction 12Q](#) and an application for an order under section 91(14) of the Children Act 1989 in all cases where there is domestic abuse and there is concern that the proceedings are being brought and/or used to further the control, abuse and harm to the protective adults and the children.

Findings of fact

31. When there are reports of domestic abuse, that are denied, practitioners must consider the necessity and relevance of a finding of fact hearing as outlined in judicial guidance, which is included within the [Cafcass practice aid](#).

32. **A finding of fact hearing will not be required in every case where domestic abuse is raised as a concern**, nor should one be unnecessarily recommended. First and foremost, where there are concerns about domestic abuse, the safety of the child/ren and adults, there needs to be an effective assessment by the practitioner about the nature and impact of any abuse as described throughout this policy. Practitioners are required to consider multiple factors such as, whether there is any other evidence before the court, for example local authority information, criminal convictions and police reports and /or, acceptance of domestic abuse, the child's wishes and feelings and most importantly whether the finding of fact hearing is going to assist the court in conducting its welfare and safety evaluation.

Requirements derived from learning from practice and from victims of domestic abuse.

33. As enshrined in the [Domestic Abuse Act 2021](#), abusive behaviour is considered domestic abuse whether it consists of a single incident or a pattern of behaviour, including coercive control. Practitioners must **not dismiss or minimise domestic abuse as ‘historical’ or as a one-off incident**. To do so reveals to victims a lack of understanding of the ongoing and long-term trauma of domestic abuse and perpetuates it. It may also increase the risk of harm or further harm to the adult or child victim. In trauma-informed practice, there is no such thing as ‘historical’ abuse for victims. Therefore, it is important that practitioners consider the relevance of the behaviour or reported behaviour to the welfare of the child/ren and the decision the court is being asked to make.
34. Practitioners should **not reinterpret or reword what they are told about a person’s experience of domestic abuse**, but rather use the person’s own words to describe what they have said has happened, including the impact on them of domestic abuse, in all recordings and reports to the court. It is for the court to consider disputed accounts of what has or has not happened and to determine the facts based on the balance of probabilities.
35. Practitioners should be alert to the fact that in cases where English is not their first language, words to describe ‘domestic abuse’ may simply not exist in that person’s mother tongue. There may also be ‘shame’ attached to reporting their experiences which may lead to inconsistent accounts and behaviours. Race, culture and religion can all play a part in how abuse is considered and reported so it is important that practitioners take the time to understand the individual’s experience and what they are being told through this lens. Practitioners should be careful not to make presumptions and instead take an inquisitorial approach.
36. In understanding these barriers, practitioners within their recording and reports to the court should **avoid using language such as ‘claims or alleges’, although the court may necessarily use such language if there is to be a fact – finding** when a person reports domestic abuse. This is because victims report that these words leave them feeling disbelieved, undermined and frightened by the court process. Reports should state, “She/he said...” or “She/he told me.” Practitioners should be clear in their reports about what was said by all parties in their own words.
37. Practitioners must **not describe someone as suffering from mental ill-health unless clinically diagnosed without considering and understanding that a victim’s feelings of anxiety and fear, behaviour, and actions may be a trauma response to their experience of abuse**. We know from victims of domestic abuse that these feelings are likely to be compounded and re-experienced by the adversarial nature of family law proceedings.

38. Practitioners must not recommend **parental supervision** of spending 'time with' arrangements by a parent who has said they have suffered domestic abuse by the other parent, even if that parent is offering to do this. Practitioners must provide a clear and compelling rationale for this to parents and the court, again with reference to Practice Direction 12J and the factors set out in paragraph 28 above.
39. Practitioners must **understand and respect why victims of domestic abuse may take time to gain the trust and confidence to describe and share what has happened to them**, accepting, and fully analysing information even if provided late in the process of engagement and assessment.
40. Practitioners should remain open, thoughtful, empathic, and questioning about this throughout their work with the child and their family. Where possible, they must work to create a relationship that feels safe for individuals to tell them about abuse. A fraught relationship is a significant barrier to information sharing that improves the effectiveness of assessment, analysis, and safe advice to the court.
41. When assessing the reasons why a child does not want to see a parent following separation, especially when a parent says they are experiencing alienating behaviours, practitioners must first **consider whether the cause of this refusal is because the child is a victim of domestic abuse and harmful parenting** or if there are other reasons for the child not wanting to spend time with that parent.³
42. **When assessing adults who have been found to be domestically abusive, practitioners** must consider the life-long harm caused by domestic abuse to child and adult victims in their assessment before spending time arrangements can be considered and will need clear evidence that the perpetrator:
- a) Recognises the harm their behaviour has caused their victims.
 - b) Has taken responsibility for the harm they have caused.
 - c) Has taken action to sustain change in their attitude and to stop their harmful behaviour, which has been demonstrated over time, and
 - d) These changes have resulted in an assessment that the risk of them perpetrating that behaviour has been removed to the point of enabling a recommendation that family time is now in the child's best interests.

³<https://www.judiciary.uk/wp-content/uploads/2024/12/Family-Justice-Council-Guidance-on-responding-to-allegations-of-alienating-behaviour-2024-1-1.pdf>

Policy owner	Assistant Director for Performance & Quality Assurance
Endorsed by	Deputy Director of Operations and Improvement
Approved by	Corporate Management Team
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Amended	<p>26 September 2024 – new policy</p> <p>28 January 2025 – emphasised Cafcass' statutory responsibility to assess harm and risk for children, reinforcing the importance of FCAs independence and their responsibility to assess and advise the court of the unique characteristics and vulnerability of the child; clarified when referrals should be made to the local authority.</p>
Next review	28/07/2025