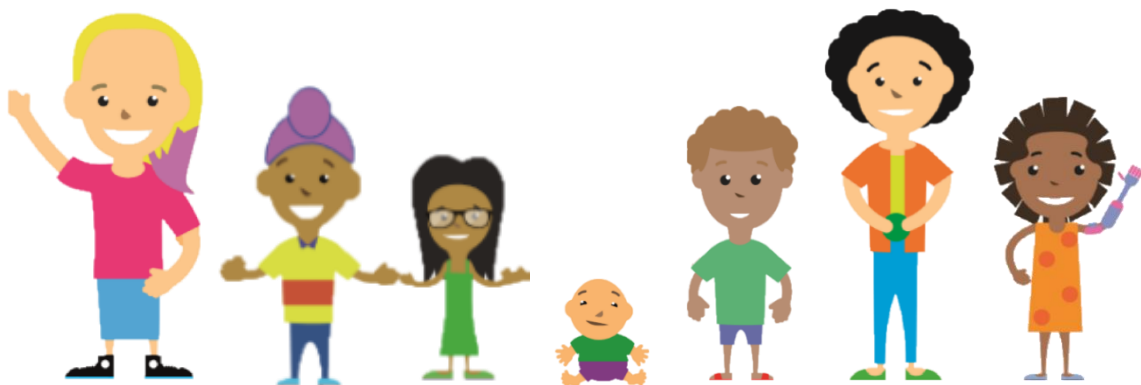




Cafcass Cymru

Domestic Abuse Practice Guidance



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Cafcass Cymru Domestic Abuse Practice Guidance

Introduction

Cafcass Cymru provides expert child-focused advice and support, to safeguard children and make sure their voices are heard in family courts across Wales so that decisions are made in their best interests.

All cases we work with are referred to us by a court with the child's future welfare being at the heart of every piece of advice and recommendation made by Cafcass Cymru. We are part of the Welsh Government's Health and Social Services Group. We are accountable to both the Minister and the Director General for Health and Social Services.

Our statutory functions are:

- Safeguard and promote the welfare of children;
- Give advice to any court to any court about any application made to it in such proceedings;
- Make provision for children to be represented in such proceedings;
- Provide information, advice and other support for children and their families.

In the context of separated parents in dispute over child-related arrangements, domestic abuse will be a feature in the lives of a large number of children and families Cafcass Cymru has involvement with. With this in mind, this practice guidance aims to provide Cafcass Cymru practitioners with the most up to date thinking, research, legislation and legal context in order to ensure that children and their families receive a quality, evidenced based service.

This practice guidance has been developed in collaboration with Cafcass Cymru practitioners and key stakeholders both internal and external to Welsh Government. This guidance is to aid and assist your thinking around the impact of domestic abuse on children and should be applied when you are involved with a case which features domestic abuse.

This guidance is not designed to be prescriptive and should be used as an aid to practice; it contains recommendations for further reading and practical application of organisational procedures including Practice Direction 12J. In addition, it is designed to set out where domestic abuse can be flagged to the court and what interventions can be provided.

It is important to remember that domestic abuse exists on a spectrum and each case will have a different pathology, assessment, path and final outcome. The impact on the child will vary and it is our job to look for risks and impacts to the child, but also to consider strength based factors that could diminish risks and potential impacts.

Domestic abuse can affect anyone in an intimate relationship. This practice guidance has been developed to consider both women and men who are experiencing domestic abuse.

Cafcass Cymru has a clear framework as we operate within The Children Act 1989, Social Services and Well-Being (Wales) Act 2014, Family Procedure Rules as well as our own detailed policies and procedures which provide the foundation and structure for our work. We need to find the right practice approach and consider each child's individual needs in that context and the impact of their lived experience of domestic abuse. It is important to note that domestic abuse, including coercive control has a direct impact upon children even if they are not the perceived victim.

It is recognised that women and girls are disproportionately affected by domestic abuse, it is also recognised by Cafcass Cymru and Welsh Government that domestic abuse can occur within the LGBTQ+ community and by female perpetrators against male victims. In order to ensure this is reflected appropriately, this guidance has been written in a gender neutral manner.

| Key practice points | |
|--|---|
| Consider: Child impact and risk | <ul style="list-style-type: none"> › Past – What has been happening for this child? › Present – What is happening now? › Future – What might happen? › Risk – How likely is it to be repeated? › Impact on the child – How serious would it be? |



Violence Against Women, Domestic Abuse and Sexual Violence data in Wales – 2017/18

(Taken from [Welsh Women's Aid State of the Sector: Building Sustainable Specialist Services in Wales \(2018\)](#))

- The recorded number of domestic abuse related incidents stood at 36,529 by the Police in Wales during 2017-18.¹
- The largest database of collated data in Wales comprises Welsh Women's Aid members' data returns on a quarterly and annual basis². The following summarises the demand for these services in 2017-18.

12,166 survivors were supported by specialist services during the year

431 survivors referred to refuge were unable to be supported by the service due to resources and capacity (i.e. the service being full, unable to meet / support their needs, lacking accessibility for disabled survivors, or lacking resources to support women unable to claim benefits)

At the end of March, **292 (26% of referrals) survivors of sexual violence** were on waiting lists for support in dealing with their experience(s) of sexual violence and abuse

In domestic abuse services, **three in four survivors** were subject to coercive controlling abuse with **74% of survivors** experiencing this type of abuse

There has been a **year on year increase of 14%** in the number of children supported in refuge-based support, which equates to **266 children and young people in refuge each quarter**

One in four survivors accessing domestic abuse services reported being stalked or harassed

The Live Fear Free helpline managed **33,642 contacts**, an **11% increase** in volume to 2016/17

95% of survivors felt safer after using refuge based support

¹<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/appendixtablesfocusonyolentcrimeandsexualoffences>

² Welsh Women's Aid (2018) Annual Report: Data from specialist services in Wales, 2017/18. Cardiff: Welsh Women's Aid

Definition of Domestic Abuse

The definition of domestic abuse is set out in the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 as:

Any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to psychological, physical, sexual, financial and emotional.

Controlling behaviour is a range of acts designed to make a person subordinate and / or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

For the purposes of private family law proceedings the relevant definition of domestic abuse is set out in **Practice Direction 12J – Child Arrangements and Contact Orders: Domestic Abuse and Harm**

“...domestic abuse includes any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, psychological, physical, sexual, financial, or emotional abuse. Domestic abuse also includes culturally specific forms of abuse including, but not limited to, forced marriage, honour-based violence, dowry-related abuse and transnational marriage abandonment”.

Practice Note

It is important to remember that domestic abuse can have both primary and secondary victims, in addition to primary and proxy perpetrators. It is important to note that children can be impacted by domestic abuse in a variety of ways, children can be primary and secondary victims and can also be used by the perpetrator to play out abusive behaviour by proxy.

Primary victims and perpetrators are the two people who have the association. Secondary victims are people who are on the receiving end of the abuse as a result of the abusive relationship. You will need to be mindful that children can be used as a way of continuing the abuse against the victim. Proxy perpetrators are others whom the perpetrator has used to continue the abuse, for example friends and family members of the perpetrator who threaten the victim or their family.

Other forms of gender based violence including female genital mutilation, so called 'honour based' violence and forced marriage are specific subsections of violence against women and require specialist consideration.

Domestic abuse can take many forms both subtle and overt. Physical and sexual abuse are the types most easily recognised as abuse. More subtle forms of abuse can be just as damaging to a victim and include (but are not limited to):

- Psychological abuse such as calling the victim names, undermining the victim's self-esteem or sanity, making victims think they are to blame, threatening to kill themselves
- Using intimidation and threats
- Financial abuse therefore preventing the victim from working, or restricting access to money
- Coercive control
- Stalking and harassment
- Isolating victims from family and friends
- Keeping tabs on victims whereabouts
- Use of children via contact or other means to control the victim;
- Manipulating children's views of the victim
- Direct abuse of the children, including abuse taking place in front of the children
- Threatening to take the children away

Research around Adverse Childhood Experiences (ACEs) tells us that growing up in a household where domestic abuse is present is linked to potential poor outcomes

into adulthood.³ We know that during childhood and adolescence, if periods of heightened stress is experienced, it could lead to neurological deficits in terms of:

- emotional management and problem processing,
- development of attitudes that support abuse within relationships,
- lack of awareness of healthy relationships,
- increased substance misuse and mental health problems,
- insecure attachment styles, and
- difficulties coping with their experience of trauma.⁴

Perpetrators of Domestic Abuse:

Domestic abuse can also be linked to the misuse of power and control by one person over another as a result of (but not exclusively):

- personality disorder
- sexual jealousy
- difficulties communicating effectively
- response to trauma (i.e. PTSD)



³ e.g. Roberts AL, McLaughlin KA, Conron KJ, Koenen KC. (2011) Adulthood stressors, history of childhood adversity, and risk of perpetration of intimate partner violence. *American journal of preventive medicine*. 40(2):128–38.

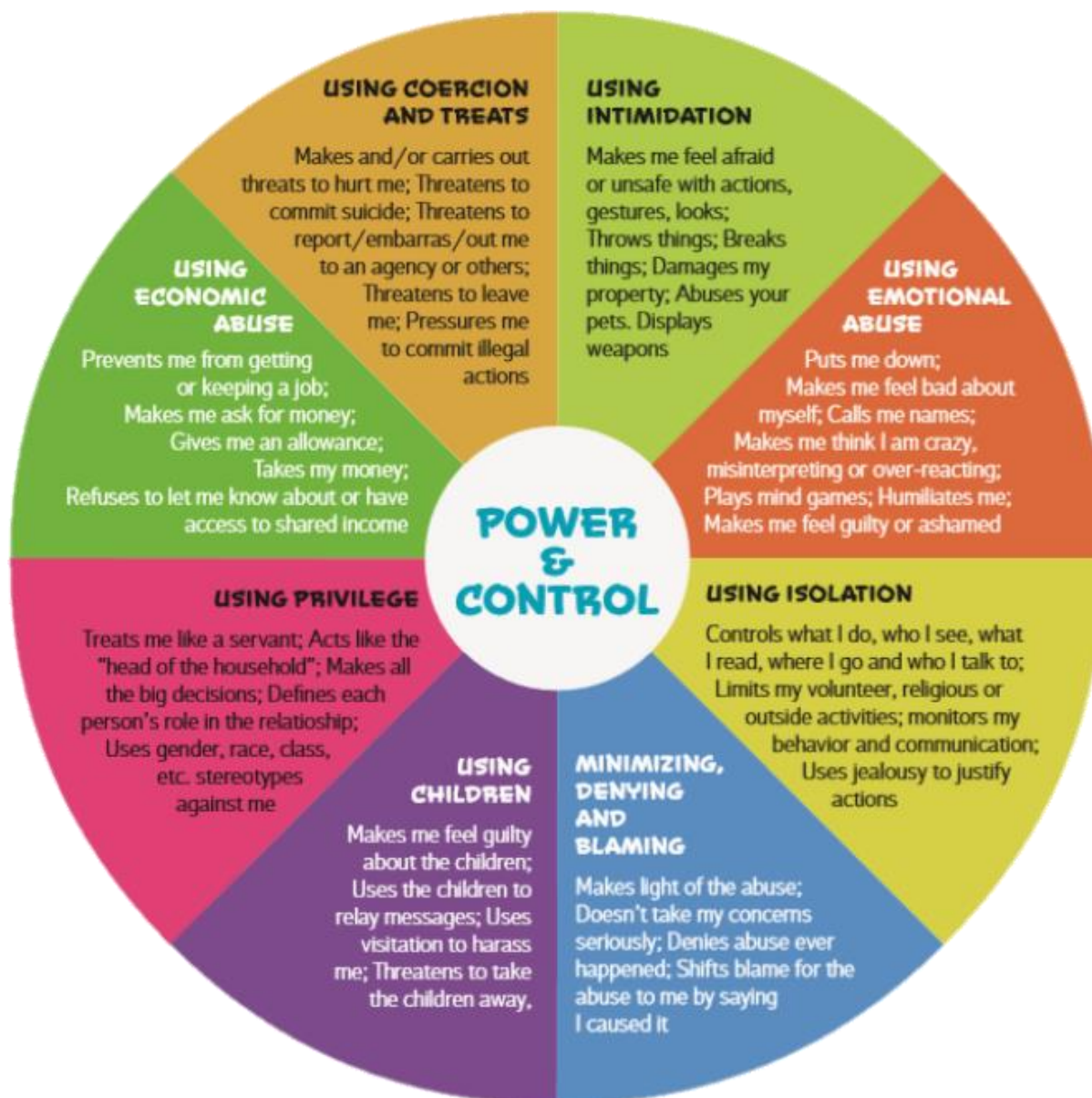
⁴ Bancroft, L., Silverman, J.G. & Ritchie, D. (2012). The batterer as a parent: Addressing the impact of domestic violence on family dynamics. Sage Publications Inc. <http://dx.doi.org/10.4135/9781452240480>

Useful links: [The Power & Control Wheel](#)

The Power and Control Wheel*

Developed by the *Domestic Abuse Intervention Project* in Duluth, Minnesota, the Power and Control Wheel illustrates the tactics an abuser uses on their victim. Constantly surrounded by threats and/or actual physical and sexual abuse, the victim is subjected to the various tactics listed in the spokes as the abuser attempts to exert complete power and control.

**adapted by Jen Snider to be gender neutral and with slight modifications not included in the original.*



Practice Note: Coercive Control (Katz, 2015)

Key Practitioner Messages:

- Children experiencing domestic violence may be affected by more than the physical violence perpetrated by one parent against the other.
- Children may be harmed by non-physical abusive behaviours inherent to coercive control-based domestic violence, including continual monitoring, isolation and verbal/emotional/psychological and financial abuses.
- Responsibility for the impacts on children of coercive control-based domestic violence should be placed with the perpetrator (usually fathers/father figures) and not with the victimised parent (usually mothers)."

(Katz, 2015⁵)



⁵ Katz. E (2016). Beyond the physical incident model: How children living with domestic violence are harmed by and resist regimes of coercive control. *Child Abuse Review*, 25, 46-59.

Practice Note

Care should always be taken to ensure you have clearly distinguished between couple conflict and situational couple violence, and situations where there has been a pattern of coercive control. Assess the potential for these behaviours to continue within and following proceedings, and how the child may be affected either directly or as a result of diminished parenting capacity. It is important to be sighted on the potential for the behaviours to continue and the impact. For instance:

- Couple conflict is likely to continue until the underlying causes of the conflict are addressed/resolved
- Situational couple violence is unlikely to continue once the couple have separated and the stresses of separation have passed.
- Coercive and controlling behaviour is likely to continue and possibly escalate post-separation, until the perpetrator acknowledges and agrees to address their behaviour.

Considering these factors will be key in terms of analysing current and forecasting future impact on the child.

Where there has been a Fact Finding Hearing (please see [fact finding guidance](#) for information), the court is required to consider the welfare checklist in light of any findings. Where there has been no fact finding hearing, Cafcass Cymru staff cannot find facts. However, Cafcass Cymru staff must make use of all the available information, and their informed professional judgement in order to make recommendations about a safe and appropriate way forward for the child.



Practice Note: Coercive Behaviour

Coercive behaviour is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

Coercive control involved repeated, ongoing, intentional tactics which are used to limit the liberty of the victim. Those tactics may or may not necessarily be physical. They can be sexual, economic, psychological, legal, institutional, or all of these. By deploying these tactics the abuser can create a world where the victim is constantly monitored or criticised and every move and action checked.

Victims often describe coercive control as not being 'allowed', or having to ask permission, to do everyday things; and being in constant fear of not meeting the abusers expectations or complying with their demands. The term 'walking on eggshells' is often used. Coercive control is not obvious at times and can be difficult for professionals and adult and children victims to recognise.

We need to be particularly careful we are live to issues of coercive control throughout the life of the case, from SER through to final report due to its very nuanced nature. Where there are allegations of coercive control made by either party we do not encourage the parties to come together at any stage of the case, unless it has been agreed and is in the best interests of the child to do so. This includes at FHDRA and through the life of the case.

Practice Note: Controlling Behaviour

Controlling behaviour is a range of acts designed to make a person subordinate and/or dependant by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. We need to be careful that we are always alert to the possible presence of controlling behaviours and always consider the power dynamic in the relationship when engaging with children and their families. Be mindful of possible economic control, along with limiting 'space' in and outside the home. Economic abuse could also be a significant factor/indicator if there are multiple petitions to the court by (an alleged or suspected) perpetrator.

Being Aware of Situational Couple Violence

Situational Couple Violence (SCV) that is not part of a general pattern of coercive control, but occurs when couple's conflict becomes arguments that turn to aggression – perpetrated by men and women. SCV can occur as a result of life crisis events and vary in intensity and frequency dependent on the relational couple dynamic. Although, it is important to recognise that SCV could occur as a result of coercive and controlling behaviour and separating the two could be difficult. To assist, refer to Cafcass Cymru's Harmful Conflict Practice Guidance.

Link: [Cafcass Cymru – Harmful Conflict Practice Guidance](#)

Where a pattern of coercive control is absent, behaviours may be evident as an incident or as a relational pattern, examples as below but no limited to:

- There has been repeated violence and the instigator of violence varies.
- There has been an incident of violence which is not part of a pattern and may be related to a specific context or event.
- High or persistent mutual verbal abuse, violence instigated and inflicted by both partners, shifting patterns of control.
- Neither partner is significantly restricted in their choices or fearful of the other in everyday life.
- Physical and emotional impact on either partner is not clearly asymmetrical.
- Violence can on occasions escalate to become chronic and severe.
- Alcohol can play a significant role in SCV as a source of conflict in itself and as a factor which leads to escalation of violence/abuse.

Points to Consider

- Situational couple abuse/violence may be low or high risk as the frequency, severity and impact on adults and children as well as the context need to be assessed. The impact and consequent risk may fall anywhere along a continuum of severity from verbal arguments and/or involving minor acts of violence by each partner, to '*mutual combat*' involving severe violence by each partner. It is therefore important to be clear as to the frequency and pattern of incidents in the relational context.
- Persistent '*low-severity*' abuse is very likely to cause significant emotional harm to children who have to live with this, and violence that carries a high risk of severe harm can still be used in a context where neither partner has (yet) established a pattern of control over the other.
- Women are as likely as men to engage in SCV but impact on women (when committed by men) is larger (due to physical size etc.) in terms of physical injury as well as fear and psychological consequences.

- Some who are experiencing quite severe violence and abuse will deny victim status because they do not want to feel like a victim.
- It is important not to rule out the need to signpost individuals to a specialist service such as Live Fear Free ([link](#)), which could assist, even if the issues are considered to be 'low-severity' SCV.

Practice Note: Coercive Control (Katz, 2015)

Coercive control is increasingly recognised as being distinct from what Johnson (2008) calls 'situational couple violence'; that is, violence sparked by situational factors and where control is not a primary motivation (Myhill, 2015). Coercive control is a particularly harmful form of domestic violence (Lehmann et al., 2012), and is usually perpetrated by men (Myhill, 2015; Hester, 2009). It is known to involve a range of tactics intended to intimidate, humiliate, degrade, exploit, isolate and control (Stark, 2009). These include verbal, emotional and psychological abuse, control of time, space and movement, continual monitoring, stalking, physical violence, intimidation and threats of violence against the victim / survivor, their loved ones and property, rape, sexual coerciveness and control of pregnancy, financial abuse and the denial of resources, and isolation from sources of support.

(Katz, 2015)⁶

Where a victim of coercive control uses violence and abuse as a defence this should not be misinterpreted as situational couple violence.

- Violence is a response to the perpetrator's violence/coercive control.
- Perpetrator will present this as mutual – "*she gives as good as gets*". Identify not by who initiates the abusive violence but who ends it and who is most scared and at risk.
- Allegations of violence by parent, but information about the context of assaults indicates that this took place in a context of fear and threat. Victim (generally female) often accepts responsibility and can be self-blaming. This kind of violence can be severe in situations of imminent or sustained threat to the victim, may involve use of a weapon to compensate for superior size/strength of perpetrator.
- Where the victim has been subject to sexual abuse and psychological control this may not be disclosed and therefore the victim's behaviour looks like situational couple violence, as the underlying threat is not visible.

The identification of perpetrators and victims of domestic abuse is not always clear cut, for example, a victim may use violence as a form of self-defence, or both partners (or ex-partners) may use abusive behaviours.

⁶ Katz, E (2016). Beyond the physical incident model: How children living with domestic violence are harmed by and resist regimes of coercive control. *Child Abuse Review*, 25, 46-59.

Static and Dynamic Risk Factors

What is a risk factor?

Risk factors are a characteristic that make a negative outcome more likely.

Risk factors can be divided into two groups:

Static Risk Factors

Those based in the individual's past history and background demographics. These are less amenable to change

Static factors provide the backbone of any credible risk assessment.

There can be a danger of:

- *Overrating* – impressions gained from the service user in interview, and
- *Underrating* – information about the person's past history and behaviour.

Dynamic Risk Factors

Those which are amenable to change through treatment, interventions or the passage of time.

These can be measured in respect of strengths and needs:

- What are the child's or family's strengths?
- What needs do the child or family have?

...if these are remedied/improved they may reduce the risks posed.

The advice from research is to make a judgement based on the static risk factors, then use dynamic risk factors (also including consideration of current behaviours) to make modest adjustments to this estimate.

The impact of harm

Timing

The more recent an event or incident of harm to others, the higher the current risk. An assault by a parent on a child this week indicates a higher risk for the present than the same incident 5 years ago.

Severity

The more severe an event/incident the higher the current risk. In terms of violence the following is a helpful guide:

Minimal: Results in no detectable injury (equivalent to common assault)

Moderate: Results in bruising or abrasions or minor lacerations (equivalent to ABH)

Serious: Results in major injuries including large lacerations, fractures, loss of consciousness and injuries requiring medical attention (equivalent to GBH)

Frequency

The more frequent the events or incidents or harm to others the higher the current risk. Persistent and repeated assaults on others are strong indicators.

Pattern

Is there a recurrent pattern to the type of incident or the context in which it occurs?

Escalation

Are the events of incidents increasing in frequency or severity?

Practice Note: Coercive Control

- It is important to remember that risk factors do not just present themselves in physical form.
- You will also need to be mindful of the impact of coercive and controlling behaviour, which can have severe and lasting consequences for children and their primary care giver.
- Coercive and controlling behaviour can be far more difficult to detect than that of physical abuse, however is equally as severe. For further reading please see Emma Katz's *Beyond the physical incident model: How children living with domestic violence are harmed by and resist regimes of coercive control* (link below)

Link: [Child Abuse Review Vol.25: 46 – 59 \(2016\)](#)

- Explicitly set out the static and dynamic factors in the report to evidence your professional recommendations.



Practical Application and Process

Practice Note: Practice Direction 12J

The purpose of the Practice Direction is to set out what the court is required to do in any case in which it is alleged or admitted, or there is reason to believe, that the child or a party has experienced domestic abuse perpetrated by another party or that there is a risk of such abuse.

Practice Direction 12J contains a number of key elements including:

- Reference is made to ‘*domestic abuse*’ rather than ‘*domestic violence*’ and a ‘*full*’ definition is provided (see PD12J, paragraph 3).
- Mandatory requirements are outlined (see PD12J, paragraphs 8, 14, 15, 18, 22 and 29).
- Additional measures are promoted for alleged victims of domestic abuse to prevent an un-represented alleged perpetrator from cross examining that individual (see PD12J, paragraph 28), as well as practical arrangements to protect the alleged victim whilst at court (paragraph 10).

The general principles are set out in paragraphs 4-8; primarily, paragraph 4 states:

Domestic abuse is harmful to children, and / or puts children at risk of harm, whether they are subjected to domestic abuse, or witness one of their parents being violent or abusive to the other parent, or live in a home in which domestic abuse is perpetrated (even if the child is too young to be conscious of the behaviour).

Children may suffer direct physical, psychological and/or emotional harm from living with domestic abuse, and on top of this may suffer from impaired parental capacity of either or both of their parents where domestic abuse is present.

Paragraph 5 goes on to state that the court must, at all stages of the proceedings, and specifically at the First Hearing Dispute Resolution Appointment (FHDR), consider whether domestic abuse is raised as an issue, and if so, act appropriately by:

- identifying the factual and welfare issues involved,
- considering the nature of any allegation, admission or evidence of domestic abuse, and the extent to which it would be likely to be relevant in deciding whether to make a child arrangements order and, if so, in what terms,

- giving directions as appropriate,
- ensuring that where domestic abuse is admitted or proven, any child arrangements order in place protects the safety and wellbeing of the child and the parent with whom the child is living, and does not expose either of them to the risk of further harm and;
- ensuring that any interim child arrangements order is only made having followed the guidance set out in the practice direction.

Domestic Abuse Factors to Consider:

- Domestic violence and abuse exists on a spectrum and each case will have different characteristics, practice approach and final outcome.
- The impact on the child will vary according to the resilience and adversity factors present, and parenting capacity may also be affected. This document ([Impact on children of experiencing domestic abuse](#)) helps with understanding the impact on children of domestic abuse.
- Look for exacerbating risk factors within the information gathered.
- Look for protective and strengths based factors which will diminish risk.
- Is an intervention for the child appropriate?

Consider the use of the Child and Adolescent Welfare Checklist (CAWAC) and its value. CAWAC was developed by Professor Gordon Harold in collaboration with Cafcass Cymru to assist practitioners in assessing psychological risk to individual children who are or who have been exposed to inter-parental conflict and/or domestic abuse. It should be noted that the CAWAC should be used on appropriate cases only and that practitioners may use all or part of the CAWAC (depending on the circumstances of the case). The research base that underpins the CAWAC indicates that children of all ages who are exposed to frequent, intense, and poorly resolved inter-parental conflict are at increased risk for a variety of negative psychological outcomes.

Practice Note:

Consider signposting for victim/survivor support if appropriate. Male victims may wish to be referred to the Dyn Wales and/or Live Fear Free website or helplines. Dyn Wales support male survivors, LiveFearFree will signpost to the most appropriate service and can be accessed by both men and women.

Dyn Wales: www.dynwales.org

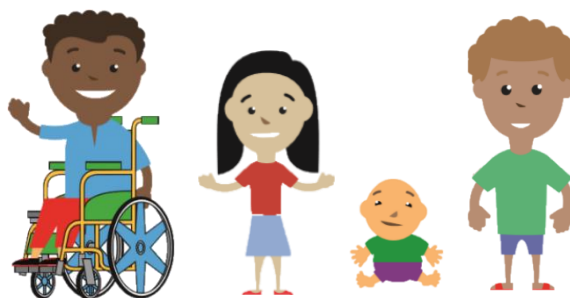
Dyn Wales Helpline for support and advice on 029 2034 9970 (open Monday to Friday 10:00am – 4:00pm)

LiveFearFree: www.livefearfree.gov.wales

Live Fear Free Helpline: 0808 8010 800

Child's Views

- Have you captured the lived experience of the child in relation to the domestic abuse?
- Wishes and feelings should be balanced with the emotional welfare of the child over time when considering contact and child arrangements.
- Balance the child's views with impact and protective factors in order to determine future risk and the potential for sustainable child arrangements.
- Consider the issue of identity and balance any risk of harm between contact and no contact regarding impact on the child over time. Reflect on the cultural sensitivity of your assessment. Have you taken account of the cultural context of the child and their identity needs? The safety and security of the child is paramount and so how can his/her identity needs be met whilst also ensuring safety?
- At the end of your session with the child take the time to deescalate the conversation, back to normal every day matters so as to minimise any distress.



Lethality

- The [SafeLives DASH Risk Identification Checklist](#) (RIC), will identify any high risk lethal behaviours – use where domestic abuse has been identified. It is available in many different languages. The actuality of the abuse needs to be measured for present impact and to establish how recent the abuse is.

Here is the [guidance for use of this](#) tool.

- Refer to Multi-Agency Risk Assessment Conference (MARAC) where appropriate – leave of the court required. Further information about Cafcass Cymru's role and MARACs can be found in the [Operational Document](#).
- Assess any high risk behaviours with reference to immediate and future risk and with specific regard to the impact on the victim and child. Be mindful to consider coercive control as a high risk factor also, when considering lethality the risk is not just from physical violence.
- When exploring threats to kill the victim and/or child, ask the victim whether in their view this is a credible threat. Research shows that victim perception of lethality should be taken as a high risk indicator.
- You are considering whether there is potential for safe and beneficial child arrangements and whether any intervention may reduce risk sufficiently to enable this to happen. The answer may be no, in which case a recommendation for no contact or indirect contact would usually follow, rather than supported or supervised contact.

NB This is general guidance only, each case is unique.

Application and Safeguarding Enquiries Stage

We screen for domestic abuse at point of application to establish whether it has been raised and the risk of harm box ticked and upon completion of the Safeguarding Enquiry Report (SER).

You can ask framing questions (see link below) to assist your enquiries at this stage.

Link: [Framing Questions](#)

Don't forget to signpost either party, where domestic abuse has been raised as an issue (female or male) to the [Live Fear Free](#) helpline (**0808 801 0800**) during the SER phone call. **The [Live Fear Free](#) helpline will also offer advice and guidance to professionals working with survivors.**

Male victims may wish to be referred to the Dyn Wales and/or Live Fear Free website or helplines. Dyn Wales support male survivors, [LiveFearFree](#) will signpost to the most appropriate service and can be accessed by both men and women.

Dyn Wales: www.dynwales.org

Dyn Wales Helpline for support and advice on 029 2034 9970 (open Monday to Friday 10:00am – 4:00pm)

- It will occasionally be clear that domestic abuse is a predominant and significant feature in the case; there may be convictions, safeguarding information from the police and/or local authority or allegations.
- You are encouraged within the SER template to flag these issues up to the court and suggest that a Fact Finding Hearing may be required to determine the facts, but only when there are contested allegations; this will provide the court with a very early indicator of the significance of domestic abuse and may avoid delay for the child (NB – if abuse is established e.g. convictions you can proceed on that basis without the need for further fact-finding).
- In addition, within the report you can raise with the court if either party requires any special measures (i.e. using a separate entrance / exit, separate waiting room etc.) as a result of domestic abuse (Revised PD12J, paragraph 10).
- You can offer reassurance at this stage that where domestic abuse has been raised by either party and they do not wish to sit in a room together, or we deem this would not be appropriate (in the cases of suspected coercive control / controlling behaviour) that joint dispute resolution **DOES NOT** take place at the First Hearing Dispute Resolution Appointment.
- Sometimes the information gathered at this stage will indicate a risk to the child and/or party the court needs to be informed of immediately. The [16a Risk Assessment report template](#) should be used in this instance

- In the event that there are immediate safeguarding concerns identified at the SER stage, you will need to refer to Cafcass Cymru's safeguarding procedure and follow the process.
- Be mindful of the potential risks posed to parties around disclosure of addresses and providing any information (including via letters) which could identify the location of a party or child.

Link: [Safeguarding: Operational Procedure \(February 2019\)](#)



First Hearing Dispute Resolution Appointment (FHDR)

You can offer reassurance at this stage that where domestic abuse has been raised by either party and they do not wish to sit in a room together, or we deem this would not be appropriate (in the cases of suspected coercive control/controlling behaviour) that joint dispute resolution **DOES NOT** take place at the First Hearing Dispute Resolution Appointment

Where issues/allegations of domestic abuse have been flagged or raised by either party, you will provide 'shuttle' dispute resolution. This means keeping both parties separate and moving between the parties to identify the issues in the case (Revised PD 12J, paragraph 9).

The safeguarding of the child/ren and parties will be of utmost concern to you and in the event of immediate safeguarding concerns you will provide the court with a verbal update, ensuring that the safety of all involved is prioritised and refer to Cafcass Cymru's [safeguarding procedure](#).

The court could also ask the local authority to prepare any further report required in respect of the case, if it considers that the local authority is best placed to do so ([see protocol](#)). In the event of significant safeguarding concerns or a history of safeguarding concerns in respect of domestic abuse, the court could consider asking the local authority to prepare a S37 report to establish whether it considers that an application for a S31 Care / Supervision Order is required. You can make these recommendations orally to the court when you feedback following dispute resolution having been undertaken.

- At FHDR you will flag to the court whether you are of the view that it needs to consider holding a Fact Finding Hearing, it will be a matter for the court to decide. If a fact finding is held then Cafcass Cymru should not prepare a report until the facts in the case have been determined (PD12J, paragraph 30) If the court decides not to hold a Fact Finding Hearing, their decision for not doing so should be recorded clearly on the face of the order.
- At FHDR there will be opportunities for you to engage with both parties and flag issues of domestic abuse. It is worth remembering that not everyone will recognise that they are or have been the victim of domestic abuse and it may be you that identifies these issues on behalf of the child. Either party could have experienced or be experiencing domestic abuse; equally it could come to light that it is a feature for one of the parties in their current relationship.
- You can always provide the number of the [Live Fear Free](#) helpline (**0808 801 0800**), the helpline staff are specially trained and can signpost individuals to the most appropriate service in their area. It is worth noting that this helpline is for both women and men.

- In your interactions and discussions at FHDRA, you will be mindful of your language and questioning styles. It is important that people who have experienced domestic abuse do not feel re-traumatised or blamed in any way, familiarise yourself with some examples of trauma informed questions

LINK: [Examples of trauma informed questions](#)

- PD12J, paragraph 6 indicates that the court has to be satisfied that all safeguarding checks are complete before making a Child Arrangements Order (CAO) by agreement/consent or allowing an application to be withdrawn. If you are aware at FHDRA that safeguarding is incomplete, you will outline this requirement to the court.
- You should be mindful that the court should adjourn FHDRA and no interim orders made if safeguarding information is incomplete (PD12J, paragraph 12).



When A Report Is Ordered

You will be mindful of the more nuanced issues around domestic abuse, including coercive, financial and emotional control. The court will need to state clearly what the issues in the case are and what it wishes for us to consider in any further report. The court can order us to prepare a report pursuant to Section 7, in cases whereby the court is satisfied it does not need a fact finding hearing, it may ask us to refer to a supervised contact centre for up to six sessions of contact, but only for cases where we have had involvement. Supported contact is not suitable for cases which feature domestic abuse, or where safeguarding concerns exist. PD12J, paragraph 38 outlines that in such circumstances where it has been deemed that there is a risk posed to a child that third party involvement is considered necessary to mitigate the risk of harm to the child and/or parent with whom the child lives, then that third party involvement must be supervised at a supervised contact centre.

PD12J, paragraph 35 says that a Child Arrangements Order should not expose the child to '*unmanageable risk of harm*'. You will need to consider this in terms of forecasting realistic future arrangements if risks to the child are high and supervision in the medium/long term necessary. This will need to form part of a longer term assessment, but can be flagged at FHDRA when a report or further work is ordered, as to the likelihood of supervised contact being successful or in the child's best interests if the issues or domestic abuse are such that post six sessions the arrangement will breakdown or be difficult to sustain.

PD12J, paragraph 14 states that the court will record on the face of any order made whether domestic abuse is raised and considered relevant to decisions surrounding a child's welfare and risk to child/parent. You will need to be aware of this when considering an order that has derived from FHDRA.



(Guidance: [Impact on children of experiencing domestic abuse](#))

Consider and ask yourself:

- ▶ What is happening for the child?
- ▶ What are they seeing and hearing/have they seen and heard?
- ▶ What are the child's views? Wishes and feelings should be balanced with the emotional welfare of the child over time when considering contact and child arrangements.
- ▶ Balance the child's views with impact and protective factors in order to determine future risk and the potential for sustainable child arrangements.
- ▶ Consider the issue of identity and balance the risk of harm between contact and no contact regarding impact on the child over time – how can his/her identity needs be met while also ensuring safety?
- ▶ You may decide that the child spending face to face time with a party is not possible, but have you considered other options to maintain a link safely? Letters, cards, birthdays, Christmas etc. and how this could be managed?
- ▶ At the end of your session with the children, take the time to deescalate the conversation, back to normal every day matters so as to minimise distress
- ▶ What tools will you be using? – [Link to tools](#)
- ▶ Is there any factual information missing?
- ▶ Are additional checks needed?
- ▶ Are the current arrangements safe?
- ▶ What other agencies are involved?
- ▶ Are there any non-molestation or harassment orders in place?
- ▶ Factor any charges, pending prosecutions and convictions into your assessment.

Begin your hypothesis:

- ▶ Is there a primary perpetrator?
- ▶ Look for gaps in the information
- ▶ Plan your interviews safely and carefully
- ▶ Update the case plan as the case develops
- ▶ Is coercive control present? Consider the impact on the child

Structure Your Analysis:

- ▶ Summarise the nature, duration and frequency of the domestic abuse.
- ▶ Refer to the tools you have used and describe what they have told you in relation to the domestic abuse.
- ▶ If lethal behaviours have been identified, be clear as to how you have assessed these in the context of ongoing risk.
- ▶ Where you cannot recommend that a child has contact with a parent, what interventions might make this safe in future?
- ▶ What is the specific risk to the partner and child/ren?
- ▶ Balance risk against the protective and resilience factors.
- ▶ What is the residual risk in the context of the application and arrangements for the child?
- ▶ What are the reasons for your recommendations?

Note on Typologies

Categorisation is rarely able to be defined without explanatory evidence based assessment which is both risk and impact focussed. All conflict should therefore be considered on a dynamic continuum using the Domestic Violence Risk Identification Matrix (DVRIM) to consider all relevant factors to produce a holistic overview of risk.

When considering typologies of domestic abuse, some practitioners have found them helpful in identifying what might be going on within a family. For example, a family affected by situational couple violence is very different to a family affected by a clear perpetrator of coercive control. Understanding these typologies can help justify a recommendation. However, distinguishing between them can be difficult and it is important to fully explore the family dynamic over time (pre and post-separation) and be careful not to jump to premature conclusions

The main points on typologies by Johnson (2011) are below:

Coercive Controlling Behaviour involves the combination of physical and/or sexual violence with a variety of non-violent control tactics, such as economic, emotional abuse, the use of children, threats and intimidation, invocation of male privilege, constant monitoring, blaming the victim, threats, escalation of violence.

Violent Resistance – many victims of intimate terrorism can respond with violence of their own. For some, this is an instinctive reaction to being attacked and often cited as self defence or a reaction of last resort by the woman victim.

Situational Couple Violence (SCV) – SCV that is not part of a general pattern of coercive control, but occurs when couple conflict become arguments that turn to aggression – perpetrated by men and women. SCV can occur as a result of life crisis events and vary in intensity and frequency dependent on the relational couple dynamic. Here is a link to further guidance ([link](#)) and a classification table for SCV.

Separation Instigated Violence or Behaviour – specific to the separation situation. The court application could be used as an extension of the alleged abuse, in addition coercive control may be present. This behaviour may be present for the first time or increase with severity following separation

Holtzworth-Munroe & Stuart (1994) have also done some research on typologies of violence.

References

Here are additional contemporary references you may wish to explore further regarding these typologies. The articles demonstrate how research has been reviewed and continues to inform the development of domestic abuse interventions.

Johnson, M (2008). A typology of domestic violence: intimate terrorism, violent resistance and situational couple violence. Boston: MA: Northeastern University Press

Carlson, R & Dayle Jones, K (2010). Continuum of conflict and control: a conceptualisation of intimate partner violence typologies. The Family Journal , 18(3), 248 – 254.

Bender, K & Roberts, A. R (2011). Battered women versus male batterer typologies: same or different based on evidence-based studies? Aggression and Violent Behaviour 12(5), 519 – 530.

Wray, A, Hoyt, T, Gerstle, M & Leitman, B (2015). Examining intimate partner violence types in a diverse sample of court-referred parenting dyads. Journal of Child Custody, 12(3 – 4), 248 – 272.

Pitman, T (2017). Living with Coercive Control: Trapped Within A Complex Web of Double Standards, Double Binds and Boundary Violations. British Journal of Social Work 47, 143 – 161.

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Stark, E. (2007). Coercive control: How men entrap women in personal life. Oxford, UK: Oxford University Press.

Jane Wangmann, *Different Types of Intimate Partner Violence: An Exploration of the Literature* (Australian Domestic and Family Violence Clearinghouse, Issues Paper 22, 2011), available at <https://opus.lib.uts.edu.au/bitstream/10453/19466/1/2010006199OK.pdf>.

Useful Links

Further reading and additional resources can be found using the links below:

Cafcass Cymru: Domestic Abuse Resources and Tools

[Impact on Children of Experiencing Domestic Abuse](#)

[Framing Questions](#)

[Practice Guidance – Finding of Fact Hearings](#)

[Safe Contact Indicator](#)

Cafcass Cymru: Operational Procedures / Guidance / Templates

[Safeguarding Procedure](#)

[Working Relationship Protocol between Cafcass Cymru
and ADSS Cymru](#)

[Cafcass Cymru's approach to engagement with
MARACs and Disclosure from Family Court
Proceedings](#)

[16A Risk Assessment Report Template](#)

[Assessment Toolkit](#)

[CC-CAWAC](#)

External Resources

[Live Fear Free](#)

[Dyn Wales](#)

Safe Lives – [DASH Risk Indicator Checklist](#)

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