

Domestic abuse practice policy

Cafcass policies are designed to support and strengthen the accountability of Family Court Advisers (FCAs), Children’s Guardians, and their managers in safeguarding children, staff, and the reputation of Cafcass. While they do not supplant the professional independence and judgement of FCAs and Guardians, our policies derive from legislation and from what we learn from practice quality audits, significant incidents, learning reviews, feedback, and complaints. They set out what must be done. 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 a policy must be supported by a compelling rationale, endorsed by a manager, and recorded. Policies are, therefore, subject to monitoring for compliance – with fair and reasonable consequences for non-compliance. Key policies that are new or updated are subject to attestation¹ by all staff or 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 FCAs and managers to listen to children and adults who have experienced domestic abuse and accurately record and share with the court what they have been told, their analysis of harm and the potential for further harm to the child. In respect of child victims of domestic abuse, especially babies, younger children and those with additional needs who are at greater risk of harm if they are unable to use words to describe their experiences, FCAs and managers must be especially clear about the risk of harm to them by listening to their primary carers and those who know them well. These testimonies must be clear to the court on their behalf.

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 experienced domestic abuse and who are therefore victims of domestic abuse under the [Domestic Abuse Act 2021](#). The policy is informed by learning from feedback and complaints from children and families, from Significant Incidents, Practice Quality Audits, Child Record Reviews, and Learning Reviews.

Who must adhere to this policy?

This policy applies to all FCAs and Children’s Guardians (hereafter practitioners) and managers. In protecting victims of domestic abuse, any departure from **the starting points** set out in this policy must be supported by a compelling rationale, discussed with a manager, and recorded contemporaneously on the child’s case record.

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

Domestic Abuse Practice Policy

In all work with children and families:

1. Practitioners must make clear in their assessments if they consider a child 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.** This means being specific about what has already happened to the child, the further risk of harm to them and the impact when a child may live with/unified/reunified/spend time with a domestically abusive parent or carer. The analysis should include the impact on the parent victim and their capacity and safety if they are having to manage real or potential contact with an adult who is a risk to their child and to them. This information must weigh heavily in any analysis, assessment and advice to the court alongside describing the experiences, feelings, views and wishes of the child in their words. Formal child protection practice and guidance as set out in both Working Together [Working Together \(2023\)](#) and the Cafcass Child Safeguarding Policy must be uppermost in the minds of practitioners and managers when they are engaging with child and adult victims of domestic abuse.
2. Practitioners must continuously reflect on their own practice and learning **to improve their understanding of domestic abuse and to understand how their own experiences, values, and beliefs** impact on their engagement with families and children who have experienced domestic abuse.
3. Practitioners must **use the domestic abuse training, practice guidance, and 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.**
4. When an adult describes a sexual offence or other criminal acts of violence, formal child protection action must be taken in the form of a 16A risk assessment report to the court and a referral to the local authority. In addition to a child protection process, the referral should include a recommendation to consider support for the vulnerable adult/victim/s to make a report to the police and/or local authority adult team responsible for adult protection. **Practitioners must follow up their referral and managers must escalate their concerns if they believe that a local authority decision to take no further action means that the child is being left or placed at risk of harm.** 16A risk assessment reports to the court must be clear about what is known about the harm or risk of harm to a child and what the court is being asked to do to safeguard the child and adult victims.
5. When there has been a report or disclosure of any form of **domestic abuse (including any sexual offence) and a child is living with the accused parent**, practitioners must urgently assess the child's safety and welfare, grounding this in an understanding of the accused parent's attitudes and behaviour, and a deep understanding of the child's experience and vulnerability.

Assessments are informed by what is known at the time and the court will need to see how [Practice Direction 12J](#) has been applied to the evidence which should be clearly set out in the practitioner's reports to court. The starting point in these circumstances must be a discussion with a manager and consideration of what actions are required to safeguard the child, which will include whether there should be any recommendations to change the current living arrangements. This may require a referral to the relevant local authority and escalation to the court via a 16A risk assessment, which must be recorded contemporaneously on the child's case record.

6. In considering recommendations for **family time when there has been domestic abuse**, practitioners cannot reliably predict what will be safe for a child. However, they can and must assess the child's safety and welfare, grounding this in the child's experience and the evidence and information that is provided. Assessments are informed by what is known at the time and the court will need to see how [Practice Direction 12J](#) has been applied to the evidence which should be clearly set out in the practitioner's reports to court. For example, a parent being investigated by the police for a sexual offence, has a conviction for a sexual offence and/or has served a prison sentence for a sexual offence, provides a clear starting point to inform a recommendation for a child **not** to spend time with that parent due to the significant risks that exist. In protecting victims of domestic abuse, any departure from **this starting point** must be supported by a compelling rationale, discussed with a manager, and recorded contemporaneously in the child's case record. The court must always be made fully aware in the report of any police investigation, charge, conviction, or prison sentence.
7. **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, 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.
8. 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. Practitioners must **not dismiss or minimise domestic abuse as 'historical' or as a one-off incident** because this not only reveals a lack of understanding of the ongoing and long-term trauma of domestic abuse for victims but also 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.
9. Practitioners must **not reinterpret or reword the experience of domestic abuse victims**. They must 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. For example, an adult describing a rape must not be re-interpreted as "non-consensual sex" or "unwanted sexual attention".

10. Practitioners must **not use language such as ‘claims or alleges’** when a person reports domestic abuse. To do so minimises and diminishes the experience of the adult and child living with the impact and trauma caused by abuse. While it is for the court to determine the facts, it is important that practitioners set out exactly what has been said by a child and an adult so that it is understood and informs the analysis regarding why any proposed arrangement for the child with an adult said to be the perpetrator of domestic abuse including coercive and controlling behaviour is or is not in their best interests. Reports should state, “S/he said...” or “S/he told me.” Practitioners should be clear in their reports about what was said by all parties and are reminded that the court will determine any disputed facts on the balance of probabilities.
11. Practitioners must **not describe someone as anxious or 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.
12. Practitioners must **provide a clear, unequivocal, and compelling rationale** in their reports to court for discounting domestic abuse as a risk to a child when recommending ‘time with’ or ‘live with’ arrangements when such abuse and harm has been shared with the practitioner by the child or by one or both parents.
13. 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.
14. If a fact-finding hearing is being recommended, along with a 16a risk assessment report and a referral to a local authority children’s social care service, consideration must also be given as whether it is in the child’s interests to continue **any ‘direct time with’ arrangements that are already in place, between the child and the parent said to have perpetrated the abuse** until the fact-finding hearing. Practitioners must make reference to paragraphs 25 to 27 of [Practice Direction 12J](#) which must inform recommendations made to the court about the safety of any interim ‘time with’ arrangements. Following any such hearing, the child’s views about contact must still be fully and wholly considered with rationales provided to the court in any subsequent report about the regard that has been given to their views in the advice.
15. Practitioners must never recommend **parental supervision of spending ‘time with’ arrangements** when the proposed supervising parent has disclosed domestic abuse by the other parent. This applies even if a 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](#).

16. Practitioners must **not support or recommend any contact (direct or otherwise) or spending time arrangements, where the resident parent and child are currently living in a refuge**, having disclosed domestic abuse by the other parent. The reasons for this are firstly, this will compromise the required confidentiality of the location of the refuge. Secondly if it is necessary for someone to be living in a refuge for their safety, then the criteria for high risk of harm or further harm will have been established. In these cases, it is also necessary for an assessment of harm and risk of harm to be completed before any spending time arrangements are recommended and ordered by 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. In protecting victims of domestic abuse, any departure from **this starting point** must be supported by a compelling rationale, discussed with a manager, and recorded contemporaneously on the child's case record.
17. Practitioners must **understand and respect why victims of domestic abuse may take time 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.
18. 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 victims to tell them about abuse. A fraught relationship is a significant barrier to reports or disclosures that improve the effectiveness of assessment, analysis, and safe advice to the court. It is important to understand that victims may need time to recognise and have the confidence and the strength to share what has happened to them.
19. When assessing the reasons why a child does not want to see a parent following separation, especially when a non-resident parent alleges 'parental alienation', practitioners must first **consider whether the cause of this refusal is because the child is a victim of domestic abuse and harmful parenting**.
20. **When assessing those who have been domestically abusive**, practitioners must assess the life-long harm caused by domestic abuse and not recommend that a child spends time with a parent who has inflicted this harm on a child and their other parent, without clear evidence that the perpetrator:
- Recognises the harm their behaviour has caused their victims.
 - Has taken responsibility for the harm they have caused.
 - Has taken action to sustain change in their attitude and to stop their harmful behaviour, which has been demonstrated over time, and
 - 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.

In protecting victims of domestic abuse, any departure from **this starting point** must be supported by a compelling rationale, discussed with a manager, and recorded contemporaneously on the child's case record.

Report, disclosure, investigation, or conviction of sexual offences.

21. In considering recommendations for **family time when there has been a report of a sexual offence**, practitioners must assess the child’s safety and welfare, grounding this in an understanding of the offender’s attitudes and behaviour, and a deep understanding of the child’s experience and vulnerability. While assessments and recommendations for interim and final orders are informed by the professional judgement of the practitioner, they must be informed and tested by applying **the following starting points** in relation to what is known at the time:

- a) If there is a report of sexual offending, such as rape, **the starting point** must be to consider the risk of harm to a child as significant and the need for a fact-finding hearing and suspension of any pre-existing direct spending time arrangements with specific reference to PD12J paragraphs 25-27 until the court makes its findings.
- b) If a fact-finding hearing is already scheduled, **the starting point** must be that there should be an evidence-based recommendation for no direct time with the accused parent, again with reference to PD12J paragraphs 25-27, until the court makes its findings.
- c) If there is a disclosure of a sexual offence and this has resulted in a police investigation or a charging decision, **the starting point** must be a recommendation for the child to spend no direct time with that parent until the police have concluded the investigation or the criminal process has run its course. If the outcome of the police investigation is ‘no further action’ (based on likelihood of successful prosecution) (a) then applies.
- d) If a parent has a conviction for a sexual offence, **the starting point** is that the risk of harm to a child of contact with that adult is significant and with reference to paragraphs 35-37 of [Practice Direction 12J](#), there should be a recommendation for no time with that parent.

22. In protecting victims of domestic abuse, any departure from **these starting points** must be supported by a compelling rationale, be discussed with a manager, and be recorded contemporaneously on the child’s case record. The parent with whom the child resides must be made fully aware in all such cases of the proposed advice to the court, including the reasons for any departure from **the starting points** set out in this policy.

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