

**The Ministry of Justice (Robert Buckland MP, Lord Wolfson of Tredegar QC)**

**The Family Justice Council**

**The President of the Family Division**

**The Family Procedure Rules Committee**

21<sup>st</sup> June 2021

Dear

**Domestic Abuse and Family Justice**

We write as experts in the field of Family Justice and Violence Against Women and Girls (VAWG) to urge action and accountability in enacting recommendations from the Harm Panel Report<sup>1</sup>.

It is widely recognised that the family justice system is in need of urgent reform in order to protect victims of VAWG in relation to domestic abuse and child sexual abuse. One year ago, on 25<sup>th</sup> June 2020, the Ministry of Justice published the Harm Panel Report which concluded that victims of domestic abuse and their children are being placed at risk of further harm by the family court.

The Report was warmly welcomed for its comprehensive and evidence-based approach which was led and informed by experts across family justice system including survivors. It reflected the lived experience of hundreds of people who responded and recommended structural reform of the family justice system. On publication of the Report, the Ministry of Justice accepted the need for change and started work on an implementation plan that includes the piloting of different models of family justice. Despite one year passing since its publication, little has been done to enact the many straight-forward and potentially life-saving changes it recommends.

Since then, landmark appeals in the Court of Appeal<sup>2</sup> have included recognition of the need for urgent reform of how domestic abuse cases are handled and highlighted that long-term reform is awaited. The Domestic Abuse Act received Royal Assent on 29<sup>th</sup> April 2021 which has introduced necessary changes to legislation to increase protections for victims of abuse.

Despite the evidence and urgency of the need for reform of the family courts being accepted, thousands of families continue to face the same issues identified in the Harm Panel Report. From July 2020 to April 2021 (the most recent date for which statistics are available) there have been more than 39,682 new cases referred to Cafcass including over 42,210 children<sup>3</sup>. There is currently no clear plan in place for the implementation of reform including key provisions in the Domestic Abuse Act 2021.

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<sup>1</sup> [Assessing Risk of Harm to Children and Parents in Private Law Children Cases](#)

<sup>2</sup> [Re H-N and Others \(children\)\(domestic abuse: finding of fact hearings\) \[2021\] EWCA Civ 448](#)

<sup>3</sup> <https://www.cafcass.gov.uk/about-cafcass/research-and-data/private-law-data/> (data available until 30.04.21)

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Further delay to introduce feasible measures which are vital for the safety and security of domestic abuse and child sexual abuse survivors would amount to a betrayal of the thousands of adults and children currently involved in court proceedings.

In consideration of the commitment previously made by the Government to introduce reforms, we propose swift enactment of six priority recommendations. These are simple to introduce and will have wide-ranging benefits if prioritised for implementation, which we propose is effected before the end of July 2021:

1. **Adoption and promotion of a statement of practice** for all cases involving domestic abuse and allegations of child sexual abuse

The President of the Family Division to adopt the attached statement of practice as recommended by the Harm Panel Report and promote its use in all family courts.

2. **Publication of best practice guidance** on domestic abuse

The Family Justice Council to expedite the publication of best practice guidance on domestic abuse it is developing and, on publication, put measures in place to ensure (a) its adoption by all courts and (b) that the guidance is accessible for all court users.

3. **Provide special measures** for all alleged survivors of domestic and sexual abuse

The President of the Family Division to make clear that the approach to special measures in the Domestic Abuse Act 2021 should be adopted now. The Family Procedure Rule Committee and Ministry of Justice to expedite work on the necessary amendments to the Family Procedure Rules and promote those changes once in place.

4. **No survivor of domestic abuse is directly cross-examined by the alleged perpetrator**

The Domestic Abuse Act 2021 sends a clear message that survivors of domestic abuse must not be directly cross-examined by alleged perpetrators. Provisions currently available to prevent this must be the norm. The Family Procedure Rule Committee and Ministry of Justice should expedite work on the necessary amendments to the Family Procedure Rules and implement the provisions in the Domestic Abuse Act 2021.

5. **Allow domestic abuse and sexual violence support workers into court** with the party they are supporting

The President of the Family Division to send a clear message that domestic abuse and sexual violence support workers are allowed to support their clients in court as recommended by the Harm Panel Report.

6. **Cease routine use of Scott Schedules** in domestic abuse cases.

The family court to move away from the use of Scott Schedules. Initial witness statements setting out the background to the relationship and how the family ended up in court should be used. The Ministry of Justice and Family Justice Council must publish guidance and templates for the court and unrepresented parties to assist them.

There is consensus throughout society about the need for action regarding the horrors of domestic abuse and child sexual abuse. Our recommendations are simple, achievable immediately and will go

some way to alleviating the harm caused by the current system while the ongoing work to implement structural change is being piloted.

We look forward to hearing from you as a matter of urgency.

Yours,

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