Rights of Women (ROW) response to consultation on revised allocation and gatekeeping guidance

ROW is a legal rights organisation which specialises in supporting women who are experiencing, or at risk of experiencing, Violence Against Women and Girls (VAWG). We offer a range of services – including specialist telephone legal advice lines, legal information and training for professionals – across criminal, family, employment or immigration and asylum law.

We have concerns about the proposed new guidance in relation to domestic abuse, child sexual abuse and experts.

Domestic abuse (DA)

The guidance reinforces a hierarchy of DA and the damaging cultural belief that coercive control is not as serious as physical violence.

It does this by allocating "domestic abuse, including coercive control" to Magistrates but "domestic abuse, including sexual abuse and strangulation or other behaviours involving injuries, subject to severity" to district judges.

This perceived hierarchy of seriousness is dangerous for survivors of DA in the Family Court and reinforces harmful attitudes most recently examined by the DA Commissioner in Everyday Business[1] which found:

> *Cases that involved physical and/or sexual abuse were more likely to be allocated to a judge rather than the magistrates. Our observations, interviews and focus groups confirmed that physical and sexual abuse continue to be assessed as more 'serious' than other types of abuse. By contrast, the seriousness of coercive and controlling behaviour was often missed or downplayed*

Coercive control is the **primary predictor** of homicide[2].The evidence required to demonstrate coercive control can be more detailed and complex, requiring the expertise of a district judge to navigate and assess the evidence produced.

Child sexual abuse (CSA)

We wish to raise concern about the allocation of CSA into the following categories:

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[1] Hunter, R., and Burton, M (2025) *Everyday Business: addressing domestic abuse and continuing harm through a family court review and reporting mechanism*, Domestic Abuse Commissioner

[22] Monckton-Smith (2019), "Intimate Partner Femicide: using Foucauldian analysis to track an eight-stage relationship progression to homicide"

Mags: exposure of a child to inappropriate sexual boundaries

DJ: the sexual grooming of a child by a parent or relative

CJ: sexual abuse of a child by a parent, relative or third party and child sexual exploitation

We highlight the conclusions of the CSPRP[3]:

> *We were also particularly concerned about some of the family court's decisions described in reviews […] where a lack of recognition of the risk presented by a parent or carer had resulted in children being placed with or having unsupervised contact with the person who was abusing them. It appeared that courts had at times failed to understand the risks they knew about.*

Evidence suggests that the Family Court is not responding to CSA adequately including failing to understand the indicators of risk demonstrated through certain behaviours. In ranking the seriousness of the behaviours as above, the criticism identified by the CSPRP is only embedded.

Furthermore, at allocation stage, the court does not have enough information to be able to make decisions about the specific risks in relation to CSA. Given the seriousness of the issue, we recommend cases are allocated to DJ or CJ level where there are indicators of any form of CSA. They can be reallocated once further information is known, if appropriate.

Expert reports

In our experience, the quality of decision-making in the Family Court in relation to challenges to expert reports is widely varying and, in many cases, very poor. It should not be left to magistrates to determine the admissibility or weight given to expert reports when they are challenged. These are legally complex decisions that are outside the expertise of magistrates.

16.10.25

[3] CSPRP (2024) "I wanted them all to notice": Protecting Children and Responding to Child Sexual Abuse Within the Family Environment