

“...Don’t complain”
Domestic abuse
survivors’ experiences
of family lawyers

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Finally, thank you to all the survivors who shared their experiences of the family court with us. We hope the training we have developed alongside this report will make the difference for future victims and survivors of domestic abuse who are represented in family court proceedings.

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We are SafeLives, the UK-wide charity dedicated to ending domestic abuse, for everyone and for good.

Introduction

We work with organisations across the UK to transform the response to domestic abuse. We want what you would want for your best friend. We listen to survivors, putting their voices at the heart of our thinking. We look at the whole picture for each individual and family to get the right help at the right time to make families everywhere safe and well. And we challenge perpetrators to change, asking 'why doesn't he stop?' rather than 'why doesn't she leave?' This applies whatever the gender of the victim or perpetrator and whatever the nature of their relationship.

Last year alone, 8,577 professionals received our training. Over 75,000 adults at risk of serious harm or murder and more than 95,000 children received support through dedicated multi-agency support designed by us and delivered with partners. In the last six years, almost 3,000 perpetrators have been challenged and supported to change by interventions we created with partners, and that's just the start.

Together we can end domestic abuse. Forever. For everyone.

About this report

At SafeLives we hear repeatedly from survivors of domestic abuse, who have spent years in the family courts, that the system is failing them.

They frequently share their experiences of feeling unsupported, silenced and even blamed by their lawyers. Survivors have raised times that legal professionals have told them to minimise or withhold information about the domestic abuse they lived with, in order to avoid 'annoying' the judge or 'complicating' a case. Others have been told that they can bring up allegations at a later date – but when they do, the Courts have rejected their disclosure out of hand on the basis that it was not raised at the outset of the case. In 2020, the Ministry of Justice Family Harms Panel concluded that “family courts approach domestic abuse cases inconsistently, and in some cases with harmful effects.”¹

One survivor of domestic abuse who responded to our Every Story Matters consultation told us that “family court professionals need to be educated in domestic abuse.”² The Family Harms Panel recommended a wide range of training “for all participants in the family justice system, including: a cultural change programme to introduce and embed reforms to private law children’s proceedings and help to ensure consistent implementation.”³ Our own response to the call for evidence highlighted the need for specialist training across the whole family justice system.⁴

In response, we were delighted to be supported by the Legal Education Foundation (LEF) to develop and deliver a cultural-change training programme to create systemic transformation within the family justice system and strengthen practitioner capacity to respond well to domestic abuse.

As part of the development of this project, we have produced two reports, exploring the voices of survivors and of family legal professionals.

We could not begin this work without talking to survivors who are experts by experience. This report draws together the findings of three survivor focus groups and six domestic abuse practitioner interviews and highlights areas where changes can be made for future survivors. It also celebrates the legal representation that survivors found supportive and empowering.

We have used these findings to shape the practitioner training programme and make recommendations for legal practitioners and family law organisations in this document. As this report is focusing on the voices and experiences of survivors, we will use their words in each of the themes to highlight their recommendations.

This report should be read in conjunction with the interim report “*Hit and miss: family lawyers’ understanding of domestic abuse*”, which presents findings from interviews with over 35 key stakeholders across the legal and domestic abuse sectors.

A full report on the overall project will be produced when the LEF pilots are concluded in 2023.

Our goal is to see a reformed and informed family justice system where survivors of domestic abuse have faith in the system, where the safety of adult and child survivors is paramount and where better, safer social justice outcomes are achieved. This work is just one step on the road to achieving that.

1. Hunter, R., Burton, M., Trinder, L., (2020). *Assessing Risk of Harm to Children and Parents in Private Law Children Cases: Final report*. p173. Available at: <https://consult.justice.gov.uk/digital-communications/assessing-harm-private-family-law-proceedings/results/assessing-risk-harm-children-parents-pl-childrens-cases-report.pdf>
2. SafeLives (2019). *SafeLives’ response to the Family Courts Review*. p12. Available at: <https://safelives.org.uk/sites/default/files/resources/190821%20SafeLives%27%20response%20to%20the%20Family%20Courts%20Review.pdf>
3. Hunter, R., Burton, M., Trinder, L., (2020). *Assessing Risk of Harm to Children and Parents in Private Law Children Cases: Final report*. p12. Available at: <https://consult.justice.gov.uk/digital-communications/assessing-harm-private-family-law-proceedings/results/assessing-risk-harm-children-parents-pl-childrens-cases-report.pdf>
4. SafeLives (2019). *SafeLives’ response to the Family Courts Review*. Available at: <https://safelives.org.uk/sites/default/files/resources/190821%20SafeLives%27%20response%20to%20the%20Family%20Courts%20Review.pdf>

Glossary

Domestic abuse practitioner

Provides one to one support to victims and survivors of domestic abuse. Domestic abuse practitioners can include:

Independent Domestic Violence Advisor (Idva)

Idvas provide one to one support to address the safety of victims at high risk of harm from intimate partners, ex-partners or family members, to secure their safety and the safety of their children. Serving as a victim's primary point of contact, Idvas normally work with their clients from the point of crisis to assess the level of risk, discuss the range of suitable options and develop safety plans.

Outreach worker

Outreach workers provide one-to-one support for victims and survivors of domestic abuse who are not assessed as at imminent risk of serious harm, but where there is the potential for serious harm if the situation changes. This may include those who have previously been at high risk of serious harm or murder, or those in a relationship that has not escalated into higher levels of risk. Outreach workers support these victims and survivors to manage safety, prevent escalation and repeat victimisation, and focus on wider needs, resilience and recovery.

Intersectionality

The term intersectionality was first coined by Professor Kimberlé Crenshaw and describes how categories of social and political experience such as race, gender, ability, socio-economic status and immigration status, amongst others, are interconnected and intersect with

one another, causing additional vulnerabilities to discrimination or structural disadvantage. An intersectional approach also recognises that historic and ongoing experiences of discrimination will impact on a victim or survivor's sense of trust.⁵

SafeLives Pioneers

A group of experts by experience came together and named themselves the SafeLives Pioneers, because they want to use their experiences and passion to change the world. Their voices inform everything we do, and together we aim to transform the response to domestic abuse in the UK – for every victim and survivor and their children.

Trauma informed practice

Trauma informed practice builds on the foundation of awareness, understanding and responsiveness to the impact of traumatic events in the lives of both service users and professionals. Definitions of a trauma-informed practice vary, however, it is widely cited to be based on a paradigm shift from thinking “What is wrong with you?” to considering “What happened to you?”.⁶ Menschner and Maul (2016) state that this involves⁷:

- “Realising the widespread impact of trauma and understanding potential paths for recovery;
- Recognising the signs and symptoms of trauma in individual clients, families, and staff;

- Integrating knowledge about trauma into policies, procedures, and practices; and
- Seeking to actively resist re-traumatisation”

Use of victim/survivor

At SafeLives, if a person is currently living in danger, we refer to them as a victim of domestic abuse, but from the moment they start to receive support we refer to them as a survivor. We have used the term survivor throughout this report; however, we understand that not everyone identifies as a survivor.

5. Crenshaw, K. (1998) “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics.” Accessed at: <https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=uclf>

6. Sweeney, A., Filson, B., Kennedy, A., Collinson, L., & Gillard, S. (2018). A paradigm shift: Relationships in trauma-informed mental health services. *BJPsych Advances*, 24: 319–333. DOI:10.1192/bja.2018.29.

7. Menschner, C., & Maul, A. (2016). *Key Ingredients for Successful Trauma-Informed Care Implementation. Issue Brief*. Princeton, NJ: Robert Wood Johnson Foundation, Center for Health Care Strategies. Retrieved from http://www.chcs.org/media/ATC_whitepaper_040616.pdf

Summary

In the main body of the document we have created recommendations for lawyers in the family courts using survivors' own words. The learnings below are a summary of these messages.

- ✓ Take the time to listen to survivors and their experiences in the relationship. Work in a trauma informed way. Understand that an authoritative power dynamic can mirror an abusive relationship.
- ✓ Show empathy. Acknowledge that the court process can be difficult. Advise on the best options for your client but ensure all options are explained to the survivor and listen to their response.
- ✓ Have a comprehensive understanding of domestic abuse to recognise and inform survivors that their experiences in the relationship have been abusive and that they are not to blame for the perpetrator's abusive behaviour.
- ✓ Reassure and actively show your client you will do the best you can for them. Challenge any stereotypes or prejudices you may have and ensure the client feels believed and that you will do everything in your power to get the best outcome possible for them.
- ✓ Know who to signpost survivors to and make sure they have the necessary support in place after their meeting with you. Re-living the experiences from an abusive relationship can be re-traumatising.
- ✓ Understand that your clients' lives are being turned upside down. Be patient, use simple language and make contact with other support workers around the client (such as domestic abuse practitioners) to ensure added support is there for practical requests, such as obtaining bank statements for legal aid applications.

- ✓ Use glossaries so survivors can understand legal jargon and go back to documents at a later stage. Flow charts can also be helpful to show the survivor different scenarios for court proceedings so they can have an overview of what may happen over the course of proceedings.
- ✓ Ensure clients feel safe in the court room. If possible, book a waiting room or ensure the client feels safe away from the perpetrator before beginning the legal proceedings



there has to be that awareness of, you're dealing with a human being, you're not dealing with a statistic, you're not dealing with a number, you're dealing with a human being and there were many times where I didn't get that

Survivor



Research approach

This report forms part of SafeLives' LEF-funded project – to deliver a training programme for family justice professionals. However, we could not create a training programme without the knowledge of experts by experience – victims and survivors of domestic abuse who have been involved in family law matters.

The research therefore used a qualitative approach to understand these experiences of survivors when obtaining and receiving legal advice on their family law matter. All participants in the focus groups shared their experiences of private law matters. We did not have any survivors who had been a respondent in a family public law matter. A SafeLives Pioneer supported the research team to develop questions for the survivor focus groups.

We partnered with VOICES Charity who recruited and supported survivors of domestic abuse to take part in three focus groups throughout the summer of 2021. VOICES is a charity founded by women with lived experience of domestic abuse and dedicated to providing recovery support and advocacy for people affected by domestic abuse. VOICES is also a platform which enables the voices of people with lived experience of domestic abuse to inform and improve service provision, in response to their needs.

Alongside focus groups with survivors we also felt it was important to hear from domestic abuse practitioners. Domestic abuse practitioners see first-hand the positive and negative experiences their clients have with legal representatives. Where survivors will have an individual experience, domestic abuse professionals will understand the common themes that arise when they signpost survivors to solicitors support.

We interviewed six domestic abuse professionals who were based in London, the Midlands and the South-West. Three practitioners specifically worked in small specialist organisations and were able to share their experiences of working with Black, Asian and racially minoritised survivors⁸ who had received legal advice within the family court system. The three other practitioners worked in larger organisations who supported all victims and survivors who need support with domestic abuse.



it's absolutely humiliating to have your personal life and all your personal stuff disclosed to at court. I know the courts are, the personnel are minimal, but none the less, to hear those things out loud can be very distressing and difficult

Domestic abuse practitioner

8. The term 'Black, Asian and Minority Ethnic' is commonly used in policy contexts but it can reinforce the idea that certain groups automatically occupy a minority position. Drawing on critical analysis of this term by services led by and for marginalised groups, we refer to Black, Asian and racially minoritised people, to highlight the way in which these groups are constructed as 'minorities' through processes of marginalisation and exclusion. We consulted with stakeholders in small specialist organisations to ensure the term was as inclusive as possible, though we recognise that people will not always define themselves using this language we have used. We fully recognise that Black, Asian and racially minoritised people are not a homogeneous group, and their experiences and identities will differ widely.

Research approach

RESEARCH QUESTIONS

- 1) What are victims and survivors of domestic abuse experiences of instructing a family law solicitor and are there any changes to this experience they would like solicitors to make?
- 2) What are domestic abuse practitioners' experiences of their clients instructing a family law solicitor and are there any concerns they have about the solicitors' representation of their client?

RESEARCH ACTIVITIES

VOICES Charity, supported by a SafeLives researcher, facilitated three focus groups. The first two focus groups were online and the third focus group was in person. Please see Appendix 1 for the demographic information of the focus groups. We also received two letters from survivors as they did not want to join the focus group. These letters have been added to the analysis of the focus groups.

In the focus groups survivors were asked to reflect on their experiences of legal advice within the family courts, specifically around their first experiences of meeting a solicitor, their experiences of obtaining advice throughout the court proceedings, how the solicitors or barrister made them feel and how their family lawyers asked or responded to disclosures of domestic abuse by the survivor. They were finally asked what would be the most important thing that lawyers needed know from the training SafeLives are developing.

The same member of the SafeLives research team conducted interviews with domestic abuse practitioners. The interview questions asked the

practitioners about their role and their experiences of working with survivors in the family court system, what they feel is best or good practice from solicitors and barristers who represent their clients and where they feel that family lawyers could improve in their response to domestic abuse. They were then asked about their experiences of solicitors and barristers understanding of the complexities of domestic abuse, their understanding of so called 'honour' based violence and forced marriage and any barriers they felt survivors had felt when disclosing domestic abuse to their legal representative.

Practitioners were finally asked whether they felt solicitors and barristers recognised intersectional needs and experiences and what they felt would be important to include on a cultural and attitudinal change programme in relation to domestic abuse for legal representatives.

The audio recordings of the focus groups and interviews were transcribed and then analysed using inductive thematic analysis in NVivo (Version 12, Release 1.3).



When the system then starts to self-blame the victim, you will defend that, and when you're in court and the perpetrator is trying to use tactics to get their way, or the perpetrator's representative is echoing these tactics, you will call them out. You're not going to allow them to just get away with certain things.

Domestic abuse practitioner



Learning

Support and empathy

The importance of support and empathy was by far the most common theme that came out of the survivor focus groups and domestic abuse practitioner interviews.

Survivors felt a sense of despair when their legal representatives didn't respond to judges minimising their experiences of domestic abuse.



I had the judge turn around and say, just get over it. He's done, what he's done. Move on. And I was very shocked, and my solicitor didn't say anything. Nobody said anything

Survivor

This lack of support to correct and ensure the impact of the domestic abuse was properly portrayed to the court was felt strongly as a key element that family lawyers needed to improve on. Survivors felt judged, often misunderstood and ignored by the court process.

An example of feeling silenced by her lawyer was given by a survivor who told us that they were advised not to complain when they noted that reports were incorrect or were missing vital information. They felt shut down and unable to share their views in order to be 'liked' and 'compliant' with the court system.



Always the advice is, 'Well, don't complain. You'll be seen to be doing this. You'll be seen to, you know, and it'll go against you.' And I think to have... I always used to say, 'Why wouldn't you challenge something like that? Why wouldn't you... you know, that's incorrect...'

Survivor

Domestic abuse practitioners were specifically asked in their interviews about the experiences of the women they support with intersecting identities. The professionals were clear that they wanted solicitors to really consider their stereotypes and prejudices when they were advising survivors from Black, Asian and racially minoritised communities.



So, how's the person, this white man, for example, or this professional, reacting to a woman who barely speaks English who's come from another country, who maybe needs her immigration status to be sorted out, who wears a headscarf, or she has like, I don't know, four children or five children? You know, I think we really have to push ourselves and challenge ourselves in thinking, what are my stereotypes? What am I holding?

Domestic abuse practitioner

One practitioner told us how their clients had experienced racism and the feeling that their case didn't matter to the person who was representing them.



I've been told, many of the reasons why the solicitors don't connect is, some of the women have mentioned racism as part of that lack of being able to go to that level, that lack of connection. Some of them have mentioned that they felt like the solicitors just didn't care, like it was just a job for them really, as opposed to truly trying to help make a difference. The women recognise it, and that's the thing, if you're already in such a vulnerable situation because of how somebody else has treated you, the person or people that you are turning to, are you within a system that says it is meant to support you, that says it's not your fault, you are not to be blamed, speak out, help is available, we can help you.

Domestic abuse practitioner

Learning: Support and empathy

Practitioners felt that solicitors should consider how intimidating approaching a solicitor is and how this is amplified if you don't speak English as a first language and have no experience of the legal or social care systems in this country. Added to this is concerns around children, income, housing and immigration as well as the domestic abuse that the client is fleeing or leaving. Ensuring the client feels believed and supported is key.



...all of that forms their opinion about themselves and their confidence and their self-esteem and it reinstates or reinforces the negative statements that the perpetrator was making that you are worthless, no one wants to speak to you, you're not going to be believed. This is my country. I speak English. I know the way of the land, the laws of the land, you don't know anything. So, it kind of reinforces all of those negative statements for her. I think there's a general understanding of domestic abuse, but I think when you start putting culture in, it kind of becomes a bit more challenging.

Domestic abuse practitioner

Domestic abuse practitioners felt they could offer solicitors support and that it was often easier for the practitioner to be in contact with the client and support them with practical jobs such as collecting documents.

One practitioner gave an example of working with a survivor who had a learning disability and how stressful the process was for the survivor, particularly when the solicitor asked for or needed something from the client. She appreciated the solicitor working with her as a domestic abuse practitioner to ensure the client felt fully supported and understood the outcomes.



It was just having that reassurance over 'cause you know. If they use big words, what they're not sure about it, I might not be sure about them either, but you know, but it was really lovely 'cause at the end of the hearing, the solicitor actually then phoned as well once it had come to an end and actually said, you know, did you fully understand what has what has now been applied sort of thing? So I thought that was really good for her to be able to do it – you know pick that up straight away 'cause she's obviously zoomed into that individual's need as well.

Domestic abuse practitioner

Both survivors and domestic abuse practitioners gave really positive examples of where survivors had felt supported, and this made all the difference to their experiences of the family courts.



I've been told by one of my women that her solicitor screamed out at the judge, I can't remember the phrase she says, but the solicitor must've said, 'no, he can't get away with this.' Something crazy like you'll see in the movies. And of course, that solicitor is going to be worried afterwards, like, 'oh sh*t, maybe I shouldn't have done that.' But it just shows their passion when they get it, and that makes that victim feel so worthy, like even if the outcome differs, what she says to me, even if the outcome didn't come back to be in her favour, she knew with every bone in her body that her solicitor did everything she could to support her.

Domestic abuse practitioner

Both practitioners and survivors were clear that the support of a solicitor, the feeling of being believed by their legal representatives and the feeling that legal representatives would fight the survivors case was vital to their experiences of the family courts, irrespective of the final outcome.



Learning: Support and empathy

Recommendations

- ✓ “Taking the time to actually **listen to what you're saying** and... giving them the opportunity and other avenues of support and being mindful that, over time, things may evolve and the importance of collating evidence, explaining processes and how things might pan out, rather than it being almost like a can't be bothered or minimising the workload.”
- ✓ “If they just had some, like, little check points of, like, checking, **do you have support?** And then when somebody does become upset, saying, saying, what are you gonna do after this? Are you gonna, are you able to call your support worker, or are you gonna talk to your therapist this week...”
- ✓ “And then be **an ally**. I think that's my biggest one... [My solicitor] didn't magically pave me the golden pathway to an amazing court experience and a judgement that I was over the moon with. It was horrific and awful and horrendous. But actually, **to have somebody sort of by my side the whole time going, 'I know this is awful. I know this isn't what you want, but this is the reality, and this is the law, and this is how we can try and navigate this...'**”
- ✓ “I think they need to get off their high horse, and at the end of the day, we all go to the toilet all the same. We're all the same. We've all been in really terrible situations. Some of us might be more vulnerable than others, but it doesn't give you the right to shit on them. It doesn't give you the right to think, well, I'm better than you because I'm not in that situation. What you should be doing is going, this is why this person has come to me. Because I'm bloody good at my job. I'm glad they've come to me and now **I'm gonna do everything in my power to make sure that they feel reassured, they feel that they're not to blame for what's happened**, that they, everyone gets in this kind of situation once or twice in their lives and that they are here to help us out of it safely and try and keep the costs down as much as possible where possible.”
- ✓ “Have a... blue tick that says, **'I'm verified trauma support, domestic abuse support.'**”

Learning

Life events outside of court

Survivors in the focus group often voiced that they did not think that their family lawyers understood that their everyday life away from the legal proceedings was being turned upside down. They felt there was no recognition of how the ending of an abusive relationship and the post separation abuse may affect the way they think or behave.



I think that's the thing, is you, you have to start at a time when you are at your absolute worst and often most vulnerable. You're probably in shock depending on what stage you're at.

Survivor

Alongside the family law matter, survivors often had to re-start and re-organise their life.



...this person has just ended, maybe like a five-year relationship, a ten-year relationship, or a one-year relationship. They're in a foreign country. They've got little kids. The income has gone down to zero or they're still waiting for the Universal Credit. Housing is uncertain. Immigration is maybe uncertain. Maybe they've been exposed to like physical abuse, rape, whatever we don't know. When you think about all of that baggage that someone is carrying, the last thing on their mind is to really focus on every single word you're giving them.

Domestic abuse practitioner

On top of this, the participants noted that during the court proceedings there was a feeling that legal representatives did not comprehend how hard it was to see someone who had been so abusive to them.



I don't think they always appreciate that just seeing your ex-partner. How it can just make you completely fall to pieces.

Survivor

Simple ways to ensure survivors felt protected and supported were often ignored, such as booking a waiting room or being in a safe place before beginning to talk about the legal proceedings. Survivors felt these simple steps would make all the difference to their court experience.

The majority of survivors who spoke about physical spaces discussed this in relation to the court setting but one participant noted how physical space in the solicitor's office had an impact on how she felt disclosing the abuse she had experienced:



But I remember like the first time I went to talk to a solicitor, they... we were sat in a room with a really big table. She was at one side, I was at the other side in quite, in quite a formal [setting]. And so, I was having to tell her about the abuse I've been through, while kind of sat in a formal [setting]... it was really, really hard.

Survivor



Learning: Life events outside of court

Survivors compared the solicitor's offices to that of a GP surgery and how simple it would be for solicitors' offices to be more approachable and supportive to survivors of domestic abuse.



...like how they have those little posters in the bathroom doors in the women's toilets in your GP. 'Take a number if you're not safe,' and do such and such. That would be a really good idea. Just seeing that in the bathroom at a solicitor's office would give me that instant, 'okay, they know the deal.' They know that it's a touchy subject and we have to be really discrete, especially when we're still in it.

Survivor

Participants also noted that their mental health was often not considered by solicitors and they were not signposted to any support around this.



I don't think anybody really realised the state I was in. When I was going through the system. I didn't... I was completely shell shocked. I was having migraines every day. And I mean migraines where I literally was falling over being sick because of... I was just in mental, such a terrible mental state trying to understand solicitors

Survivor



There was also concern that participants felt they could not be supported by their GP or mental health professionals for their mental health as it was "frowned upon" to access therapy.

Where survivors had previously experienced poor mental health or substance abuse, there was a fear that all of their history would be used against them.



I think a lot of people, especially women, they feel attacked as mothers, then they're very worried about outcomes because of the things that they may have done in the past. They're really worried they're going to lose their children, and I think you must hear that all the time, that mums are normally scared that the court process is going to result in their past drug and alcohol or mental health issues coming to light, and they're going to lose their children as a result of that

Domestic abuse practitioner

Important life decisions and factors affecting survivors' lives were felt to be routinely ignored by the court. One survivor was told she was unable to apply for her citizenship whilst the family proceedings were ongoing and therefore was living in the country illegally whilst the family proceedings continued. Another survivor in the focus groups highlighted how her education wasn't being taken into account by the professionals involved in the court system.



...I had a child young. But I was treated like a full-grown adult. And I'd just come out of school I was going to go into college. And even I was... I went to family courts during the first two weeks of starting college and none of that's taken into consideration or anything. And that then derailed my education

Survivor

Learning: Life events outside of court

Recommendations

- ✓ “Whoever is leading the training course could **get the professional into such a tizz and make them have as many ailments and realities that we have to live through** and then get a professional to talk at them. They might actually understand where we’re coming from”
- ✓ **The importance of signposting** and knowing where might be a good place for that person to go and access support so that actually that will help them through the process, which inevitably will probably help the legal proceedings as well.”
- ✓ “What they need to do is sit and go, ‘Right, step one is we need to find you somewhere to live. That’s our first job. I’m gonna go and print off a list of refuges. What I need you to do is go and ring them up. Find yourself somewhere to stay. That’s step one. Then come back to me once you’ve got somewhere to live and we’ll crack on with the rest, but that’s what they need to do, is **prioritise your mental health and well-being and that of your children as well.**”
- ✓ Ensure **survivors feel safe** (e.g. special measures in court, compassion not judgement etc)

Learning

Communication

A frequently discussed concern for survivors when thinking about their legal representation was the language used by solicitors and how they struggled to understand the advice they were being given.

“At one point, I remember it was so confusing I asked my mum to speak to her because I said I, we were days having fled and I said I don’t understand what you’re telling me. I, I can’t, I don’t understand, I can’t... So shocked. And, yeah, and also she, I’m not stupid, my parents aren’t stupid. She, my mum didn’t understand what she was saying either. So, why do you have to make it so complicated?”

Survivor

A feeling of chaos which also surrounded the court proceedings further added to the confusion and stress of the legal advice and court decisions.

“They did quickly run through... but I didn’t understand what a non-molestation order was, I didn’t understand. I’ve never been to court, I’ve never seen a judge, I didn’t understand what any of it meant

Survivor



Learning: Communication

It was felt in the focus groups that family lawyers could be patronising and that they spoke down to victims and survivors. The focus group of survivors wanted family lawyers to understand that they will always be an authoritative figure and therefore the language that they use to advise survivors needs to make them feel respected and at ease.

...it's the frustration that people will take one look at you and go, 'She's emotional,' and, 'She's going through a hard time,' and 'There, there, let me mansplain everything to you.' It's quite insulting. Like, I do have, I might be upset and sad, but don't question my integrity as a mother and my ability as a woman and my intelligence, because, just because I have emotions, doesn't make me stupid.

Survivor

An example of good practice was given by one survivor who really appreciated only having to give her story once when she first spoke to her solicitors. From that point on, she did not have to repeat the trauma she had experienced, and the solicitors used this initial report for all other applications.

The report that I gave in the first meeting that was used for other solicitors and for my divorce solicitor. So instead... that was a really good thing. So, I didn't have to go through it again and again, and again. It was like well you've done it once we'll take that and use that for other situations kind of thing, which I was really thankful for that I didn't have to sit down and go through these things again, and again.

Survivor

Domestic abuse practitioners similarly felt that communication was key to good practice for solicitors and barristers. Many of the complaints domestic abuse practitioners hear from clients is around contact from legal representatives, whether being unaware of updates or court dates or a lack of understanding of the procedures and law.

We would have feedback again and again from different clients pretty much similar, that they would start off signing off the legal aid forms, everything would kind of be okay in the beginning, but then towards the end it would be very difficult to reach the solicitors. They would message them, send them texts, try to call them go to the office, no one would respond, especially during COVID time. So, they felt lost. They didn't know when their next court hearing was, what was happening

Domestic abuse practitioner

Poor communication around fees and billing was highlighted by both survivors and domestic abuse practitioners.

I owe almost a hundred thousand pounds which I have to give back to legal aid at the end of all this, once the divorce proceedings have been done. That's the other thing. Legal was the thing of, 'Oh, it's free.' And no, they don't really... They weren't really clear about the fact that you'd have to pay it back in the end.

Survivor

For those women who are unable to access legal aid, they felt the fees were unaffordable. One participant was not advised that, each time she spoke to her solicitor or the solicitor's secretary, she would incur further fees. Participants in one focus group in particular were concerned about the consequences of these fees on survivors leaving the abuse.

How, how many solicitors are respon[sible]- you know, directly or indirectly responsible for women going back?

Learning: Communication

Recommendations

- ✓ I think it really is just, a lot of it is changing the way they speak. Their **language and the terminology they use needs to be softened massively**
- ✓ And a **list of the abbreviations or the terminology that they're going to use**. Would have been helpful, cos it's a different language I didn't understand
- ✓ I think more of a **simple flowchart** of, you now, the first hearing and then if that goes this way it goes down this sort of flowchart path and if it goes down this way it goes... you know, because you literally go and I can remember coming out and going, 'well, what next? What happens next?'
- ✓ I would like to **be explained everything**, you know? at least because I didn't have an idea what was going on and I always had been in fear, you know?
- ✓ ...**eye contact was really important** – just to take a moment to look at me and say hello. Before being... **say hello to me first**
- ✓ The importance of common humanity over authority as the **power imbalance can remind clients of their abuse**

Learning

Understanding domestic abuse

The survivors in the focus groups discussed the fact that they didn't understand what domestic abuse was. One participant gave an example of best practice and explained how their solicitor was "the first person to tell [them] my experiences were DA".

The survivors explained that a solicitor could be the first person someone got in contact with at the end of the abusive relationship and if that solicitor could listen to their experiences and begin the conversation about domestic abuse this would have really supported their understanding of their relationship with the perpetrator and this would have aided the court process as a whole.



I think importantly I would go so far as saying, probably eight out of ten women, when they're dealing with solicitors, if it's not to do with criminal case, probably aren't really clear on what domestic abuse is or what they're experiencing to be able to really clearly go in and go 'It's this. It's that. He's doing this. This is abusive.' So, I think that's quite important that when you're having these conversations and talking about behaviour and stress and things like that, for somebody to be able to unpick and look at the wider picture a little bit and spend the time to do that as well.

Survivor

Learning: Understanding domestic abuse

The survivor focus groups were concerned that the risk to survivors and their children was regularly undermined by a lack of knowledge about abusive behaviours. One participant felt there was no other choice but to put herself at risk to ensure the children were home and safe from the perpetrator.

...the only reason why I went to a solicitor, was to say, 'He's got my kids. I need to get them back. They're missing school,' and the only reason I got them back was because my solicitor made me go and spend the day with him to go and get my kids back. So, that was the only way I was getting my kids back.

Survivor

The focus groups felt that if their legal representatives had an understanding of domestic abuse they would have more empathy and an understanding of the responses of survivors of domestic abuse.

We're human and we've been traumatised and everything we do at the moment feels like trauma responses and we're fighting or we're fighting or whatever.

Survivor

Domestic abuse practitioners felt that if family lawyers did not understand the complexities of domestic abuse, it becomes hard to really recognise and represent survivor's experiences.

...the majority of the women that I've spoken to that's been through the system, the family court system, have said that their solicitors just didn't understand what they were going through, what their experiences were.

Domestic abuse practitioner

This can be re-traumatising for survivors, can lead to a lack of trust and can also lead to solicitors not gaining the right evidence for the family court matter.

So, it's been a very negative and impactful experience for them, and they talk about because the solicitors lack that understanding, it meant that one, they didn't have as much trust and confidence in the solicitor.

Domestic abuse practitioner

Domestic abuse practitioners acknowledged that solicitors and barristers have a specific role and that is to provide their clients with advice and legal representation at court. However, a key concern for domestic abuse practitioners was the victim blaming and a lack of empathy when survivors were having to share a traumatic experience with their legal representative. Domestic abuse practitioners felt it was vital that solicitors and barristers understood how hard it is for survivors to re-tell their story.

So, it's been for many of these women, not something they want to revisit at all because of the trauma. And many have spoken about actually losing their children as a result of that kind of experience.

Domestic abuse practitioner



Learning: Understanding domestic abuse

Domestic abuse practitioners were asked about their experiences of clients accessing legal representation for so called 'honour' based violence. This was seen as a specialist area of law and one practitioner noted how they would make sure they went to a trusted expert in this area of law if their client needed representation for this.



If it was enforcement action order or you know if it's a kidnapping case or someone feels like they could be taken out of the country like from looking at prohibited steps or anything like that. You want someone who gets it not gonna start talking to you about your culture or religion understands what's it about...

Domestic abuse practitioner

Outside specialist firms, it was felt that knowledge of 'honour'-based violence and forced marriage was patchy. Practitioners felt that this was often hidden from the legal profession as there was a lack of understanding about it, not necessarily just in the legal profession but in society as a whole.



Again, the thing is with 'honour'-based violence is the complexity of families and the dynamics and again, women not really wanting to take it to a level where it will involve professionals because they feel like it won't be understood.

Domestic abuse practitioner

Learning: Understanding domestic abuse

Recommendations

- ✓ **Really explain to them [clients] what domestic abuse is**, and what... have an explanation for what the different types are as well
- ✓ I think it would have been really helpful if **they'd made sure I understood what domestic abuse**... it sounds a bit basic. But what it actually meant, and what I could have... what support is out there?
- ✓ It'd be helpful for them to kind of **explain what domestic abuse a bit is more, and what the mental abuse is what the verbal abuse is coercive, and the physical abuse and everything**. Cos that would have really been helpful instead of having to try and source it out myself... so yeah.



Conclusion

Survivors clearly want their legal representatives to listen to them and believe them.

Legal representatives need to understand the complexities of domestic abuse so they can represent to the court the experiences of survivors and their concerns about the perpetrator and any ongoing abuse. Survivors want their legal representatives to fight for them and ensure they are not ignored or silenced by the family court system.

Legal representatives must use an intersectional approach to their work and recognise that each victim or survivor will have unique barriers and may face discrimination outside of their current experience of domestic abuse. Family lawyers should reflect on their own practice, challenge their thinking and ensure that they are providing an equitable service to all clients.

Survivors want their legal representatives to understand that court proceedings are daunting, stressful and frightening and that these proceedings are taking place in conjunction with a multitude of other life stressors, such as being at a higher risk of harm^{9,10}, moving accommodation, moving

away from their support networks and financial difficulty.

Survivors have told us about positive experiences of instructing legal representation as well as areas which they feel can be improved. Using the knowledge from these experts by experience we have made the following recommendations for the legal profession:

- ✓ Take the time to listen to survivors and their experiences in the relationship. Work in a trauma informed way. Understand that an authoritative power dynamic can mirror an abusive relationship.
- ✓ Have a comprehensive understanding of domestic abuse to recognise and inform survivors that their experiences in the relationship have been abusive and that they are not to blame for the perpetrator's abusive behaviour.

- ✓ Know who to signpost survivors to and make sure they have the necessary support in place after their meeting with you. Re-living the experiences from an abusive relationship can be re-traumatising
- ✓ Show empathy. Acknowledge that the court process can be difficult. Advise on the best options for your client but ensure all options are explained to the survivor and listen to their response.
- ✓ Reassure and actively show your client you will do the best you can for them. Challenge any stereotypes or prejudices you may have and ensure the client feels believed and that you will do everything in your power to get the best outcome possible for them.
- ✓ Understand that your clients lives are being turned upside down. Be patient, use simple language and make contact with the clients support workers (such as domestic abuse practitioners) to ensure added support is there for practical requests, such as obtaining bank statements for legal aid applications.
- ✓ Use glossaries so survivors can understand legal jargon and can use it when they re-read written letters and legal documents at a later stage. Flow charts can also be helpful to show the survivor different scenarios for court proceedings so they can have an overview of what may happen over the course of proceedings.
- ✓ Ensure clients feel safe in the court room. If possible, book a waiting room or ensure the client feels safe away from the perpetrator before beginning the legal proceedings

9. Monckton-Smith, J. (2020). *Intimate Partner Femicide: Using Foucauldian Analysis to Track an Eight Stage Progression to Homicide*. *Violence Against Women*, 26(11), 1267–1285.

10. Walby, S. and Allen, J. (2004), *Domestic violence, sexual assault and stalking: Findings from the British Crime Survey*. London: Home Office

Informing the training package

We used the findings from the survivor focus groups, interviews with frontline domestic abuse practitioners, and interviews with stakeholders across the legal and domestic abuse sectors to inform the content of the training package.

While the content and additional materials will undergo a process of evaluation and adjustment following each of three tranches of pilot sessions, initial feedback from solicitors and learners in the first pilot sites has been positive. At the end of the project, we will publish an evaluation of the training alongside a series of recommendations for legal professionals and policymakers to ensure that professionals across the family justice system are better equipped to identify and respond to domestic abuse, and to restore trust in the family courts.

The training opens with a section setting out the current context, including recent developments around the treatment of domestic abuse in the family courts, such as the relevant provisions in the Domestic Abuse Act 2021 and the statutory definition of domestic abuse.

A key finding in the focus group with survivors was that survivors themselves may not know they are experiencing, or have experienced, domestic abuse. Their legal advisor may be the first person the survivor speaks to at the end of an abusive relationship and, therefore, survivors felt the training should focus on developing an understanding of all forms of domestic abuse

Following our identification of key gaps in lawyer's knowledge around domestic abuse, the training then covers the dynamics of domestic abuse, including introducing "Johnson's typologies" of domestic abuse, the characteristics of a perpetrator of coercive and controlling behaviour, Biderman's 'chart of coercion', and the 'Power and Control wheel'. Alongside these theory-based materials, the training contains practical advice around identifying and evidencing coercive control. This section includes key questions which

lawyers can ask their clients, focussing on behaviour-specific questions ("does you ex-partner frequently put you down?") rather than using language centred around legal definitions (for example, "are you experiencing emotional abuse?").

In our research, respondents highlighted barriers to multi-agency working, including a gap in knowledge around the Idva and Cafcass Family Court Advisor roles and ways of working. Domestic abuse practitioners were clear in their interviews that it is helpful when solicitors work with them to support the client. Practitioners felt they could help with a range of practicalities, such as collecting identification documents, as well as addressing the client's safety and providing support throughout the court process. As such, the training focusses on evidencing risk and impact within a multi-agency framework, working with specialist domestic abuse practitioners to support survivors and help them to give their best evidence. Trainers guide lawyers through learning from Domestic Homicide Reviews to underscore the importance of multi-agency and where missed opportunities to work with domestic abuse experts can have tragic consequences.

A key finding raised in the survivor focus groups and the interviews was the need for lawyers to be able to identify and understand the impact of trauma on survivors and on their presentation – in part, to be able to address any uninformed comments or attitudes held by other officers of the court, including the opposing party's representatives or members of the judiciary. The training therefore considers five long-term effects of trauma, including the impact of trauma on the brain, and includes several specific signs of trauma a lawyer may see in a client's behaviour. Learners are encouraged to think about how it might feel to be experiencing trauma while going through the family courts, including elements specific to the court system, which may be re-traumatising to a survivor of domestic abuse. Early feedback from learners has been especially positive about the trauma-informed approach, with lawyers telling us they feel it will have direct and immediate impact on how they practise with survivors of domestic abuse.

Informing the training package

Survivors in the focus groups made a number of practical recommendations to ensure lawyers are able to appropriately respond to and represent clients who have experienced domestic abuse. Learners are asked to consider and discuss the recommendations, focussing on how they will implement them in their own practice. This includes signposting clients to specialist support, responding with empathy and compassion, and moderating their language (including abbreviations) to ensure that survivors without legal training understand what is happening in their case.

This is followed by examples of good practice that the survivors shared from their own experiences with legal representation, enabling learners to 'see' trauma-informed practice in action. Lawyers therefore hear, in survivors' own words, the positive impact that making simple changes to their practice can have on their clients.

The next section of the training focusses on the impact of domestic abuse on child victims, as raised by participants in the focus groups and interviews, including research by the Child Trauma Academy and Dr Emma Katz on the impact of trauma on children's brain development and the impact of living with coercive control. Crucial to this is the understanding that child victims of domestic abuse live in continual fear, even if they are not the 'direct' victim of neglect and physical abuse on a daily basis. The training highlights the lawyer's role in ensuring child victims have access to what they need and feel empowered to speak up for children when they do not feel that those tasked with ensuring the child's voice is heard and the court prioritises their safety are doing enough.

Finally, the training addresses the gap we identified in lawyer's understanding of the so-called 'theory' of parental alienation, its weak evidence base, and how allegations of parental alienation can be weaponised by perpetrators of domestic abuse against their victims.

There are, of course, findings from our interviews and focus groups with survivors, frontline domestic abuse practitioners and other stakeholders which the training does not cover. Some were omitted in favour of including other areas raised, given the time constraints inherent in a single day's training. For example, there is no in-depth discussion of how to work with, and represent, perpetrators of domestic abuse. Given the differing skills and contexts required for perpetrator work, we will look to scope out the potential to create a complementary training session focussing on this area in the future. Other recommendations were omitted following consultation with practising solicitors; for example, survivors recalled times they felt they were being silenced in financial proceedings, but legal experts were able to explain that those decisions were taken due to the specific rules around such proceedings. While lawyers are clearly bound by the legal system in such situations, this clearly highlights the need for them to communicate more fully with survivors to explain the reasons and ensure survivors feel informed about their case.



[My solicitor] recognised post-separation behaviour of [the] perpetrator as abuse, understood the gendered nature of DA and was aware of current research/statistics, warned me about gender bias of some judges and professionals, and advised me on how to manage that, always replied back and logged all communication between us, all of my concerns were taken seriously and I was allowed to build my own case, which was very empowering...

Appendix 1

Focus Groups

Gender

Gender	N(11)	%
Female	9	82%
Male	0	
Prefer not to say	0	
Prefer to self describe	0	
Unknown	2	18%

Sexual orientation

Sexual Orientation	N(11)	%
Heterosexual	8	73%
Bisexual		
Lesbian		
Gay		
Not sure		
Prefer not to say	1	9%
Prefer to self describe		
Unknown	2	18%

Age

Age	N(11)	%
18–20		
21–30	3	27%
31–40	2	18%
41–50	2	18%
51–60	1	9%
61–70	1	9%
70+		
Unknown	2	18%

Disability

Disability	N(11)	%
Physical health	1	9%
Mental health	3	27%
No	5	45%
Not sure		
Prefer not to say		
Unknown	2	18%

Ethnicity

Ethnicity	N(11)	%
White/White British		
English/Welsh/Scottish/ Northern Irish	7	64%
Irish		
Gypsy or Irish Traveller		
Any Other White Background		
Black/Black British		
African		
Caribbean	1	9%
Any other Black/African/ Caribbean background		
Asian/Asian British		
Indian		
Pakistani		
Bangladeshi		
Chinese		
Any Other Asian Background		
Mixed/Multiple Ethnic Group		
White and Black Caribbean	1	9%
White and Black African		
White and Asian		
Any other Mixed/Multiple/ Ethnic Background		
Other Ethnic Group		
Arab		
Any other ethnic group		
Not sure		
Prefer not to say		
Prefer to self-describe		
Unknown	2	18%

Order applied for¹¹

Court Application	N(11)	%
Private law application	8	73%
Public law application		
Financial application	3	27%
Injunction	3	27%
Unknown	2	18%

Applicant or Respondent

Applicant or Respondent	N(11)	%
Applicant	4	36%
Respondent	5	45%
Unknown	2	18%

Access to Legal Aid

Access to Legal Aid	N(11)	%
Yes	5	45%
No	3	27%
Partially	1	9%
Unknown	2	18%

11. There may have been more than one application made

SafeLives

Charity no: 1106864

Scottish charity reference number: SCO48291

Company no: 5203237

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