



SafeLives Guidance: Domestic abuse practitioners giving evidence in court

Why do we need guidance?

We receive numerous queries about SafeLives' stance regarding domestic abuse practitioners, particularly Idvas, giving evidence in criminal court. Due to the police's requirement to record third party evidence, and as practitioners are increasingly based within remote locations - such as hospitals and police stations, where they may be witnessing domestic abuse incidents or evidence of abuse - they may be increasingly asked to make third party reports or statements to the police. In some cases, this could lead to a summons or request to give evidence in criminal court.

This is a complex area of practice that should be dealt with on a case-by-case basis. Domestic abuse services should have clear policies and procedures in place that equip domestic abuse practitioners with the knowledge to respond to these requests in an informed, safe, defensible and legal way, that considers the needs, wishes and safety of the client, child(ren) and the practitioner.

Balancing considerations

When deciding whether to give evidence in court, above all consideration should be given to the safety and wellbeing of the client and any associated child(ren). The decision should balance considerations for whether providing evidence would likely increase or decrease the safety of the client and their child(ren). This should be decided on a case-by-case basis, and should consider the following

- Are there current safety measures in place to reduce the risk of further harm to the client and their child(ren) that are not dependent on criminal justice outcomes (non-molestation orders, occupation order, home safety improvement)?
- Is the client still living with or in a relationship with the perpetrator, and could giving evidence increase the risk of harm (especially where other safety measure may not be in place)?

If a decision is made to give evidence in court, or if the practitioner is summoned to do so, the risks for the client and the child (ren) should be assessed and a responsive safety plan should be put in place by the practitioner and the client and any other relevant agencies (such as Children's Social Care where there are children involved).

Management level decisions

Policies and procedures should be in place to clearly guide practitioners to make safe, well-informed and defensible decisions regarding giving evidence in court. When the decision is made to give evidence, or and practitioner is summonsed to give evidence, these policies and procedures should also guide the practitioner through this process to the same effect. However, no matter how robust the decision-making procedures may be, a practitioner should not make these decisions in isolation. Regular and ad-hoc case management supervision, should allow practitioners to make decisions with the support of a manager, who will also

ensure that the practitioner is following the procedures and policies throughout the case management process. Having a manager's involvement and ultimate sign off will also take the weight of responsibility off of the practitioner and make it an organisational rather than an individual information sharing decision. All decisions regarding information sharing should be appropriately recorded.

The client's wishes

As a domestic abuse practitioner, and particularly for Idvas, it is within your remit to independently represent and advocate for the needs, wishes and rights of your client with other agencies, including the courts and the police. Therefore, as an independent advocate, when deciding whether or not to give evidence in court you should first and foremost consider and discuss the needs and wishes of the client.

The client may express concerns regarding:

- A desire to remain in a relationship with the alleged perpetrator, which could be compromised by a criminal case
- Concerns for the safety and wellbeing for themselves or their child(ren) (or other family members) as a result of participating in criminal proceedings.
- A desire to not have any further involvement or contact with the perpetrator
- A concern for their emotional, psychological and mental wellbeing which could be compromised through the criminal court process
- Your independent advocacy and loyalty to them

Summonses

If you are summoned, you have a legal obligation to give evidence in court. How you manage this with the client should be guided by the organisational policies and procedures, but should also consider this document's guidance on safely sharing information via the criminal court process.

The safety and wellbeing of the domestic abuse practitioner

A practitioner may be concerned that giving evidence in court, especially where the alleged perpetrator and associates may be able to identify them, could increase the risk of harm to themselves. Services should have robust policies and procedures in place for 'lone working' and going out into the community, and these should be followed when the practitioners gives evidence in court. Consideration could also be given to having a colleague or manager attend with the practitioner.

In some circumstances a practitioner may feel intimidated, or suffering from fear or distress in relation to giving evidence, for example when threats have been made to the professional concerned. In these circumstances, they could request special measures via the CPS who may put in an application to the court to make a final decision¹. A few of the measures offered include:

- Screens
- Live link

¹ Crown Prosecution Service, Legal Guidance on Special Measures:
http://www.cps.gov.uk/legal/s_to_u/special_measures/#a03

- Evidence given in private

Professionals giving evidence in court is a normal occurrence, and this does not normally increase the risk of harm to the professional. However, adequate safety measures should always be put in place to ensure the safety and wellbeing of professionals.

Giving evidence in court could be a difficult process, especially as the practitioner may be describing distressing events or information in a high pressured environment. For this reason, immediate support, supervision and debriefing with a manager is important. In addition, regular clinical supervision and, in some circumstances additional clinical supervision, should be offered to the practitioner.