



Recent Developments

- **Publication of report “Domestic Violence and the Supplemental Information Form C1A: an evaluation of the introduction of the form into the Family Courts”:** published on 11 December 2007 can be accessed at <http://www.justice.gov.uk/publications/research111207.htm>. Further information on the evaluation can be found [below](#)
- **Consultation Paper “Forced Marriage (Civil Protection) Act 2007 – Relevant Third Party”:** This Act enables applications be a relevant third party on behalf of a victim of forced marriage. This consultation asks for responses on what need there is for relevant third parties, who should act, and what safeguards might be needed. The consultation opened on the 12 December and will close on 14 March 2008. The consultation can be accessed at: <http://www.justice.gov.uk/publications/cp3107.htm>. Further information on the Act can be found [below](#)
- **Home Affairs Committee eConsultation into Domestic Violence and Forced Marriage:** The Home Affairs Select Committee is holding an eConsultation as part of its current inquiry into domestic violence. The eConsultation will open on 21 January 2008 and run until 29 February 2008. The Committee is running this eConsultation because it wants to hear about the experiences of survivors of domestic violence, including forced marriage and honour-based violence. For further information about the eConsultation please contact Gemma Buckland at bucklandg@parliament.uk.
- **Going to Court DVD:** The DVD is a step by step guide to being a witness. It is an interactive, multilingual, animated DVD designed especially to help prosecution and defence witnesses understand their role in the court process. It is an easy to follow animation seen through the eyes of a witness. It explains what to expect throughout the court process and follows the journey a witness makes from making a statement right through the criminal court process and after the trial. The DVD can be viewed in English, Welsh, Arabic, Bengali, Cantonese, Gujarati, Hindi, Urdu, Punjabi and British sign language. For copies , telephone: 0845 603 8482 or email hmcs@prolog.uk.com quoting reference **GoingtoCourtDVD**.
- **Defendants in person [cross-examination of victim/witness]:** Guidance has been issued as a reminder to court staff of the provisions which exist to protect victims from cross-examination by defendants presenting their own case in court. This responded to concerns that defendants who were financially ineligible for criminal legal aid, or opted to conduct their own cases, were seeking to cross-examine witnesses and victims in person. The Guidance reminds staff of existing legislative provisions, as well as providing additional advice on early identification of domestic violence cases and the scope of payments from Central Funds. The CPS has been advised of the position.
Background: Sections 34 – 40 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA) provide protection for alleged victims and witnesses against cross-examination by a defendant in person Payment for the representative in such circumstances comes from Central Funds. Section 19(3)(e) of the Prosecution of Offences Act 1985, as inserted by section 40(1) of the YJCEA, provides for a regulatory power ‘to cover the proper fee or costs of a legal representative appointed under section 38(4) and any expenses properly incurred in providing such a person with evidence or other material in connection with his appointment.’ The Lord Chancellor exercised this power through The Costs in Criminal Cases (General)(Amendment) Regulations 2000 (SI No. 2000/2094). These amended the system set out in Part III of the Costs in Criminal Cases (General) Regulations 1986 (SI No. 1986/1335) so that payment of

defendants' costs out of Central Funds extend to the remuneration of a legal representative appointed under section 38(4) of the YJCEA.

Common Definition of Domestic Violence¹

The definition [agreed by IMG] follows that used by the Association of Chief Police Officers, and is:

'Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults² who are or have been intimate partners or family members³, regardless of gender or sexuality.'

National Report & Delivery Plan

The 2006/07 progress report was published in March 2007 and can be accessed at: <http://www.crimereduction.gov.uk/domesticviolence/domesticviolence066.htm>

"Domestic Violence – A National Report" was first published on 31 March 2005 - <http://www.crimereduction.gov.uk/domesticviolence/domesticviolence51.pdf>. A progress report was published on 14 June - <http://www.crimereduction.gov.uk/domesticviolence/domesticviolence61.pdf>. The Report provides an overview of achievements to date (since *Safety & Justice*) and a programme for future work.

The Domestic Violence, Crime and Victims Act 2004 [15 November 2004]

[\[http://www.opsi.gov.uk/acts/acts2004/20040028.htm\]](http://www.opsi.gov.uk/acts/acts2004/20040028.htm)

Further to the Written Ministerial Statement by the then Lord Chancellor and Harriet Harman in December 2006, s1 and s4 of the Act were implemented on 1 July 2007.

Measures impacting directly on HMCS include: -

- Section 1: makes breach of a non-molestation order a criminal offence. Breach will be punishable by up to five years' imprisonment on indictment.
- Section 3 & 4: giving cohabiting same-sex couples the same access to non-molestation and occupation orders as heterosexual couples and making couples who have never cohabited or been married eligible for non-molestation and occupation orders.
- Making common assault an arrestable offence by adding it to the list of offences for which a police officer may arrest without a warrant.
- Section 12: enabling courts to impose restraining orders when sentencing for any offence.
- Giving any person mentioned in a restraining order a right to make representations in court if an application is made to vary or terminate the order.

s1 inserts a new section 42A into the Family Law Act 1996 which makes the breach of a family non-molestation order (Part IV of the Family Law Act 1996) a criminal offence punishable by up to five years' imprisonment.

¹ The definition has been widened to incorporate violence by family members as well as between adults who are, or were, intimate partners. This was done to ensure that those issues of chief concern to BME communities, such as so-called 'honour crimes' are properly reflected.

² An *adult* is defined as any person aged 18 years and over.

³ *Family members* are defined as mother, father, son, daughter, brother, sister and grandparents, whether directly related, in-laws or step-family.

Section 3 [implemented on the 5th December 2005] of the DVCV Act 2004 amended the Family Law Act definition of 'cohabitant' to include same-sex couples making it explicit that same sex couples can apply for non-molestation orders as an 'associated person'.

s4 extends availability of Part IV orders to those persons that are not co-habiting i.e. *"they have or have had an intimate personal relationship with each other which is or was of significant duration."*

Section 10 of the DVCV Act amends the Police and Criminal Evidence Act (PACE) 1984 to make common assault an arrestable offence. However, from 1 January 2006, the existing arrest provisions under PACE based on the concept of seriousness will be replaced by a simplified approach providing a constable with the power of arrest for all offences. The exercise of the power will be subject to the constable considering and being able to show that the arrest is necessary.

As the implementation of the above section of SOCPA 2005 will substitute the current list of arrestable offences under Section 24 of PACE - this supersedes Section 10(1) of the Domestic Violence, Crime and Victims Act 2004.

It had also been announced that s12 of this Act would be commenced on 1 July. s12 extends powers on restraining orders on conviction or acquittal under the Protection from Harassment Act 1997 to cover all violent offences in England and Wales. This is a Home Office provision. s1 and s4 were fully funded and ready to go. It then came to light that the impact/cost of additional prison places was not covered sufficiently [if at all] by the Home Office. On 6 June 2007, Baroness Scotland wrote to Harriet Harman explaining the impact on prison places, the costs involved and suggesting that MoJ take the policy lead as we now had responsibility for NOMS. Lord Falconer decided to implement s1 and s4 only. The Home Office will make any further announcements on the implementation of s12.

The provisions of the **Civil Partnership Act 2004** were implemented on 5th December 2005. This is a new form of legal relationship, which may be formed by two persons who are:

- ◆ the same sex;
- ◆ not already in an existing civil partnership or lawfully married;
- ◆ not within the prohibited degrees of relationships;
- ◆ both aged sixteen years or over.

The 2004 Act (section 82, Schedule 9) amends Part IV of the Family Law Act 1996 so that the same provisions apply to civil partners as they do to married couples. This means that where there are provisions for a 'spouse' to apply for an occupation order, civil partners have the same rights.

Forced Marriage (Civil Protection Act) 2007

http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070020_en.pdf

The Forced Marriage (Civil Protection) Act 2007 received Royal Assent on 26 July 2007 having completed its passage through Parliament with all-party support. The Act is a hugely significant step forward in tackling the harmful practice of forced marriage and protecting the rights of all individuals to choose whom and when to marry.

The aim of the Act is to provide protection to those at risk of forced marriage and to provide recourse for those who have already been forced into marriage. Under the Act, a person who is being forced into marriage or has been forced into marriage may apply to the court for a Protection Order. The court can order the behaviour or conduct of those responsible for forcing that person into marriage to change or stop or to impose requirements upon them. If they fail to comply with the court order they will be dealt with by the court and indeed may be sent to prison.

Specialist DV Courts Programme

There are currently 64 SDVC systems in place. Continued funding for Independent Domestic Violence Advisers (IDVA) that support these existing systems has been confirmed as well as funding for new IDVA services outside of SDVC areas. Areas that submitted an expression of interest in setting up new SDVCs have now been asked to submit detailed self-assessments and decisions will be made on new sites by the end of March 2008.

The Resource Manual for SDVCs can be found at:

<http://www.crimereduction.gov.uk/domesticviolence/domesticviolence59.pdf>

Croydon Integrated DV Court - Pilot

The basic premise of an Integrated Domestic Violence Court is “one judge one family”. The first pilot integrated court system to be based at Croydon Magistrates’ Court had its first ‘overlapping’ case in October 2006. The pilot will be evaluated within a wider project to assess the impact of the provisions of the DVCV Act 2004. The report is expected in spring 2008.

Anonymous registration on electoral register

From June 1 2007, victims of domestic violence can benefit from new legislation that allows those at risk to apply to their local authority in England and Wales to be registered anonymously while still being able to vote. The press notice can be accessed at:

<http://www.justice.gov.uk/news/newsrelease300507.htm>

Children Issues

Ensuring Safe Contact between Children and non-resident Parent

The definition of harm amended by the Adoption and Children Act 2002, was formally implemented in January 2005. The amendment already makes clear that when a court is considering whether a child has suffered, or is likely to suffer harm, it must consider harm that a child may suffer, not just from domestic violence, but from witnessing it.

Revised forms (commonly known as ‘Gateway’ forms), for applications for child contact and residence were also introduced on 31 January 2005. Courts are now required to consider whether any incidents of domestic violence - not just from direct violence but also from witnessing violence toward another – has had an adverse impact on the child, or might affect the child in the future.

The evaluation was undertaken at a point where the C1A form had been in use for nine months. The findings confirmed that it is meeting some of the objectives of its introduction in acting as a mechanism to enable domestic violence and associated harm to parents and children to be recognised at an early point in proceedings. The Judges, CAFCASS officers, Court Managers and solicitors interviewed all had some reservations about its use, but felt that it had made some improvement to the situation of recognising violence. This was highlighted in relation to individual cases and in relation to court processes more generally.

Despite acknowledged limitations the C1A is playing a role in screening for violence and harm. It is also sensitising court processes to the particular issues of domestic abuse and prompting the parents, practitioners and members of the judiciary involved to address issues of violence and harm.

Children and Adoption Act 2006

The Children and Adoption Act 2006 completed its Parliamentary passage and received Royal Assent on 21 June 2006. Section 7 of the Act, which came into force on 1 October 2007, requires officers from the Children and Family Court Advisory and Support Service (CAFCASS), or Welsh family proceedings officers, to carry out risk assessments in private law proceedings under the Children Act 1989 (residence/contact/prohibited steps and specific issues orders) where they consider that there is cause to suspect that a child is at risk of harm. The officers are then required to inform the court of their findings in respect of the risk of the child who is suffering harm, so that the court can consider what action should be taken.

New provisions in respect of family assistance orders, extending the maximum duration of an order to 12 months, removing the need for the family circumstances to be exceptional and enabling the court to ask for a report on a contact order, also came into force on 1 October 2007.

The Government is now considering the timetable for the implementation of the remaining provisions of the Act, covering contact activities to help resolve contact disputes and providing more flexible powers for the court to deal with breaches of contact orders and order financial compensation for losses arising from failure to comply with a contact order.

The Act can be found at: <http://www.opsi.gov.uk/acts/acts2006/20060020.htm>

Link to the Government's Green Paper on Parental separation: Children's Needs and Parents' Responsibilities. <http://www.dfes.gov.uk/childrensneeds/>

Disclosure - Improving transparency and privacy in family courts

The Department for Constitutional Affairs published its response to the *Confidence and Confidentiality: improving transparency and privacy in family courts* consultation paper on 22 March 2007. One of the key proposals in the paper was to allow the media to attend family courts as of right. The media supported the Government's proposals to allow the media into family courts as of right. On the other hand, children and young people and the groups who support and protect them were strongly opposed to allowing the media into courts as of right.

Ministers therefore decided to take a new approach to openness in family courts. Instead of increasing access *into* proceedings, they decided to increase the amount of information *coming out* of the court. In certain cases, information will be given to the people involved, it will be retained for people who were involved in family proceedings as children to help them understand how decisions were made about them, and it will be made available in an anonymous format for public scrutiny.

A further public consultation paper was published on 20 June which also asked questions about changing the rules on disclosure of information, and continuing anonymity for children beyond the end of proceedings. The consultation closed on 1 October 2007. The Government's response to this consultation will be published in due course.

Lord Justice Wall's Review of 29 Child Homicides

In 2004, WAFE published a report "*29 Child Homicides: Lessons still to be learnt on Domestic Violence and Child Protection*". The report suggested that a number of the children involved were subjects of court ordered contact. During 2005, Lord Justice Wall carried out a detailed file based study of five cases cited in WAFE's report that had been to court.

The Family Justice Council's (FJC) report to the President on the approach in cases where a consent order is made and domestic violence has been an issue and a summary are both on the FJC website <http://www.family-justice-council.org.uk/docs/contactsummary.pdf>. The President has indicated that he wished to act on the recommendation in the report that a Practice Direction should be issued. Work on that is being undertaken by the President's office.

Other Projects/ Initiatives

Family Process DVD "You Don't Have to Live in Fear"

Victims of domestic violence will be given an insight into the family court process through the DVD. HM Courts Service produced the DVD with the support of the Family Justice Council and the Family Law Bar Association in response to the HMICA report on how domestic violence is handled in the family courts and following the success of a similar production in Northern Ireland.

Copies of the DVD are available from Home Office Publications: telephone 0870 241 4680, reference DVL-DVD. There will be currently be a delay in receiving copies of the DVD as the original print run of 20,000 has been distributed. We have arranged for a further 20,000 copies to

be produced, these will be available in the near future. There is an option to view the film with Welsh subtitles and the leaflet has also been produced in Welsh, reference DVL-DVD-W

The DVD has received very positive feedback from legal professionals and practitioners that specialise in domestic violence across England and Wales. An evaluation of the feedback received will be available at the end of March 2008.

DV Guide

In February 2003 we published "Domestic Violence: A Guide to Civil Remedies and Criminal Sanctions" available in English, Welsh, Punjabi, Urdu, Bengali, Cantonese and Somali. The guide has been well received and is still in demand for multi-agency training events as well as individual interest.

Updated in March 2007 to reflect changes in legislation and progress that has been made in tackling domestic violence. The updated version has been translated into three new languages Arabic, Gujarati and Polish. Copies of the guide can be obtained from the DV Branch on 020 7210 8339 or by emailing bola.aggrey-finn@hmcourts-service.gsi.gov.uk.

The Unified Family Service

The Programme is moving Family Proceedings Court staff from Magistrates' Courts into County Courts and where possible moving Family Proceedings Courts hearing centres into County Court buildings as well. This will improve the customer experience by moving family cases away from the locations where criminal business is managed. It will also make County Court facilities available to a larger number of people involved in family cases

Pilots are currently underway in Barnet, Birmingham and Ipswich. Local initiatives are already applying the early lessons learned and delivering Unified Family Centres where this can be achieved. A pilot workshop, designed to disseminate best practice was successfully delivered in December and future workshops are being planned for early this year. The full document can be accessed at :

<http://libra.lcd.gsi.gov.uk/gl/2191.htm>

- **The Unified Family Service:** The Unified Family Service Programme is working to combine family administration and business; combining separate Family Proceedings Courts and County Courts into Family Courts Centres. (see below). This document can be accessed at: <http://libra.lcd.gsi.gov.uk/gl/2191.htm>
- **Sentencing Guidelines Council** published definitive guidelines on 7 December 2006 on *Overarching Principles: Domestic Violence* and *Breach of a Protective Order*. The documents are accessible via: http://www.sentencing-guidelines.gov.uk/docs/domestic_violence.pdf and http://www.sentencing-guidelines.gov.uk/docs/breach_of_protective_order.pdf.

Association of Chief Police Officers [ACPO] Police/Family Disclosure Protocol

The pilot exercise to test a Police / Family Protocol for the early request of information from the police in family cases concluded at the end of August 2005. The pilot was designed to test the effectiveness of early requests for information contained in police records, in advance of an application to the court for a disclosure order. An evaluation report collating the findings from the pilot has been circulated by email to all those involved in the pilots – a limited number of hard copies are still available. The report and slightly revised versions of the protocol (including new MPS contacts) have been posted on the DCA website and linked from the HMCS site at the addresses noted above. ACPO is keen to have all police areas implement the pilot as soon as possible and we continue to liaise with the new ACPO lead on dissemination.

A Business Information letter was circulated to the courts [BI 267/09/05, 30 September 2005] and judiciary and links to key documents are now accessible via HMCS & DCA websites as follows:

- Explanatory Memorandum Protocol (as used in the pilots including procedure and forms) <http://www.dca.gov.uk/family/metpol-expmem.pdf>;

- Metropolitan Police Service (MPS) version
<http://www.dca.gov.uk/family/metpol-protocol.pdf>;
- Northern Circuit version (for areas outside of London/MPS) [please ignore the reference to it being 90 pages long – it is only 11 pages long]
<http://www.dca.gov.uk/family/metpol-northerncircuit.pdf>;
- Standard Reply and Request Forms – Annexes B and C:
<http://www.dca.gov.uk/family/stdreq-form-annexb.doc>
<http://www.dca.gov.uk/family/stdpol-replyform-annexc.doc>
- Evaluation Report at <http://www.dca.gov.uk/family/police-info-family-proceedings.pdf> - a limited number of hard copies are still available from the contact address below.

To access these documents on the HMCS website click on:

http://www.hmcourts-service.gov.uk/infoabout/family_law/index.htm

Go to the section that says 'Part IV of the Family Law Act 1996' there is now a link in the right hand box 'Further Information' called 'Domestic Violence Guidance and Information' – this will take you to the DCA site.

Training

We have worked closely with the DV Working Group of the Family Justice Council (FJC) on the development of a DV training programme to be delivered at Local FJC level.

HMCS will continue to liaise with the JSB particularly in respect of the implementation of the DV Act and the impact of the 'gateway' forms and the revised definition of harm.

Raising the Standards

This Inter-Governmental initiative that was set up after the Metropolitan Police Conference "Enough is Enough". The initiative aims to help address domestic violence throughout the United Kingdom and Republic of Ireland by sharing information on policy initiatives, co-ordinating research and developing good practice. A conference took place in Guernsey in October 2007 and concentrated on the impact of domestic violence on the workplace

Other Events & Publications

- The Legal Services Commission (LSC) published a number of papers in March 2007 that take forward the legal aid reform programme set out in Legal Aid Reform: the Way Ahead, published in November 2006. The papers concerning family matters and can be accessed at the following links:

Family legal aid strategy:

http://www.legalservices.gov.uk/civil/innovations/strategy_for_cls.asp#reality_children

Family fees - private/public:

http://www.legalservices.gov.uk/civil/docs_for_consultation/family_fee_schemes.asp

Funding code childcare:

http://www.legalservices.gov.uk/civil/docs_for_consultation/funding_code_changes.asp

Contract specification:

http://www.legalservices.gov.uk/civil/docs_for_consultation/unified_contract_specification.asp

Immigration and asylum scheme:

http://www.legalservices.gov.uk/civil/remuneration/immigration_asylum_graduated_fee_scheme.asp

Press notice:

http://www.legalservices.gov.uk/press/press_release96.asp

Key Facts

- Fifteen per cent of violent incidents were incidents of domestic violence¹;
- Long term trends in violent crime, as measured by the annual sweep of the British Survey (BCS), have shown a significant decline; between 1995 and 2005/06 there was a 64 per cent decrease in the number of incidents of domestic violence²;
- Findings from the BCS self-completion Inter-Personal Violence (IPV) module suggest that the estimates of prevalence of domestic from 2004/05 IPV are in the same order of magnitude as those from the 2001 IPV³;
- The 2004/05 IPV suggests that about 1 in 4 women and 1 in 6 men had been a victim of domestic violence (partner/ex-partner) since the age of 16 and about one in twenty women (6%) and men (4%) had experienced domestic violence (current/ex-partner) in the last year⁴ though women were likely to suffer greater injury and be classed as chronic victims⁵;
- 89% of those suffering 4 or more attacks are women⁶;
- On average 2 women a week are killed by a partner or former partner: in 2004/05 45% of all female homicide victims were killed by their current or ex-partner compared with 6% of male homicide victims⁷;
- Domestic violence is the largest cause of morbidity in women aged 19-44, greater than war, cancer, and motor vehicle accidents⁸;
- One incident is reported to the police every minute⁹;
- Among women, risks of domestic violence do not differ significantly by ethnic origin¹⁰;
- People in lesbian, gay, bisexual and transgender communities experience domestic violence in a similar proportion to the rest of the population¹¹;
- Between 2003 and 2005 an average of just over 24,000 civil injunctions a year were made under Part IV of the Family Law Act 2006¹².

¹ Walker, A., Kershaw, C. and Nicholas, S. (2006) Crime in England and Wales 2005/06. Home Office Statistical Bulletin. London: Home Office.

² Walker, A., Kershaw, C. and Nicholas, S. (2006) Crime in England and Wales 2005/06. Home Office Statistical Bulletin. London: Home Office.

³ Finney, A. Domestic Violence, sexual assault and stalking: findings from the 2004/05 British Crime Survey. Home Office Online Report 12/06. London: Home Office.

⁴ Finney, A. Domestic Violence, sexual assault and stalking: findings from the 2004/05 British Crime Survey. Home Office Online Report 12/06. London: Home Office.

⁵ Walby, S. and Allen, J. (2004) Domestic Violence, sexual assault and stalking: Findings from the British Crime Survey. Home Office Research Study No. 276. London: Home Office.

⁶ Walby, S. and Allen, J. (2004) Domestic Violence, sexual assault and stalking: Findings from the British Crime Survey. Home Office Research Study No. 276. London: Home Office.

⁷ Coleman, K., Hird, C., and Povey, D. (2006) Violent Crime Overview, Homicide and Gun Crime 2004/05 (Supplementary Volume to Crime in England and Wales 2004/05). Home Office Statistical Bulletin 02/06.

⁸ World Health Organisation statistics;

⁹ Stanko, E. (2000) The Day to Count: A snapshot of the Impact of Domestic Violence in the UK. Criminal Justice 1:2.#;

¹⁰ Walby, S. and Allen, J. (2004) Domestic Violence, sexual assault and stalking: Findings from the British Crime Survey. Home Office Research Study No. 276. London: Home Office.#;

¹¹ Henderson, L. (2003) Prevalence of Domestic Violence among Lesbians and Gay Men. Sigma Research. London: Sigma Research.

¹² HMCS Management Information System.