



Recent Developments

- An announcement was made on 21 December 2006 that the provisions of the Domestic Violence, Crime and Victims Act 2004 would be implemented from July 2007 - as soon as training is completed. A Written Ministerial Statement by the Lord Chancellor and Harriet Harman preceded this announcement on 18 December 2006. Press notice can be accessed at:
<http://press.homeoffice.gov.uk/press-releases/DOMESTICVIOLENCE?version=1>
- **The Number of Specialist Domestic Violence Courts has been increased:** A further announcement of new sites was made on 21 December 2006 bringing the total to 64 sites by April 2007. The Prime Minister announced the second tranche on 11 September 2006. Press Notice can be accessed at:
<http://press.homeoffice.gov.uk/press-releases/domestic-violence-courts>
- **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.
- **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>

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.'

Government Strategy

What the Government is doing to tackle domestic violence?

The Government's strategy as set out in *Safety & Justice: the Governments Proposals on Domestic Violence 2003⁴* is to improve delivery in three key areas: -

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.

⁴ <http://www.archive2.official-documents.co.uk/document/cm58/5847/5847.pdf>

Prevention: working to prevent it happening in the first place, and working with victims and offenders to prevent it recurring;

Protection and Justice: including increased legal protection for victims and families, and bringing offenders to justice;

Support: providing support to victims and their families by: -

- tightening and strengthening the law to ensure that the system is coherent and effective; and
- closing loopholes in the system to provide victims with the support they need.

National Report & Delivery Plan

“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.legislation.hms.gov.uk/acts/acts2004/20040028.htm>]

Sections 1, 4 and 12 of the Act will be implemented from summer 2007 [see above].

Measures impacting directly on HMCS include: -

- Section 1: making 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.

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'.

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.

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.

Specialist DV Courts Programme 2006/2007

Building on the research¹ into the effectiveness of existing specialist / fast-track courts (SDVCs) the second round of the SDVC Programme concluded on 11 September 2006 with an announcement from Downing Street of the new sites. See above for further announcement.

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". Considerable progress has been made towards implementing the first pilot integrated court system to be based at Croydon Magistrates' Court. The first 'overlapping' case for the IDVC was progressed during October 2006.

Criminal, Civil and Family Interface

The Family-Criminal Interface Committee was established to take an 'overview' role in co-ordinating all work currently being undertaken in England and Wales. Its aim is to improve the interface between the family and criminal jurisdictions and to identify areas which have not yet been addressed to enable all stakeholders to respond more effectively to child protection, domestic violence and private and public family law issues within the forensic arena.

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.

An evaluation of the impact of the forms is being carried out. We are collating statistical data from the county courts via FamilyMan, and qualitative research began in February 2006 with a report and recommendations expected by March 2007. We are also looking into retrieving other information on issues such as counter-allegations and false allegations.

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 requires Children and Family Court Advisory Support Services (CAFCASS) officers, 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. They are then required to inform the court of their findings in respect of the risk of the child-suffering harm.

¹ Reports available on line at <http://www.cps.gov.uk/publications/docs/specialistdvcourts.pdf>; <http://www.cps.gov.uk/publications/docs/dvpilotsites0405.pdf>; and http://www.cps.gov.uk/publications/docs/eval_dv_pilots_04-05.pdf.

The Government is now considering the implementation of the provisions of the Act, including the provisions for risk assessments by CAFCASS and intends to make an announcement about the implementation of each provision of the Act.

Disclosure - Improving transparency and privacy in family courts

The consultation exercise on Improving Transparency and Privacy in Family Courts closed 30 October 2006 [www.dca.gov.uk/consult/courttransparency1106/cp1106.htm]. The Government sought views on proposals which would mark a major change in the way family courts conduct their business, and a major step towards the dual objective of confidence and confidentiality. The consultation paper also included proposals for what may be appropriate in terms of press and public attendance in family courts and will consider how reporting restrictions might work.

The main proposals in the consultation paper were:

- Making changes to attendance and reporting restrictions consistent across all family proceedings
- Allow the media, on behalf of and for the benefit of the public, to attend proceedings as of right, though allowing the court to exclude them where appropriate to do so and, where appropriate, to place restrictions on reporting of evidence
- Allow attendance by other people on application to the court, or on the court's own motion
- Ensure reporting restrictions provide for anonymity of those involved in family proceedings (adults and children), while allowing for restrictions to be increased or relaxed, as the case requires
- Introduce a new criminal offence for breaches of reporting restrictions
- Make adoption proceedings a special case, so that there is transparency in the process up until the placement order is made, but beyond that proceedings remain private.

In addition to the proposals, the consultation paper invited consideration about:

- Whether we should make special provisions for HMICA and CSCI inspectors and specified other groups to attend without needing to make an application to the court
- Options on the further provision of information for adults who were involved in family proceedings as children.

To engage more people in the consultation process, for the first time DCA ran two on-line forums during the consultation period for both the general public and young people. The forums were jointly piloted between the DCA and the Hansard Society, as part of an electronic participation project that looks at how new technologies can be used to improve communications between central government and the public.

The level of response to the consultation was good and comments are currently being analysed. An announcement is expected in the next few months on next steps.

HMICA Report "Domestic violence, safety and family proceedings"

Her Majesty's Inspectorate of Court Administration Report "Domestic violence, safety and family proceedings" was published in October 2005.

The Report contained 11 recommendations for HMCS and CAFCASS. The Report and the Overall Responses can be found on line at:

http://www.hmica.gov.uk/files/HMICA_Domestic_violence_linked1.pdf - Report

http://www.hmcourts-service.gov.uk/cms/files/hmica_action_plan_overall_response_1005.pdf –

HMCS Overall Response

<http://www.cafcass.gov.uk/English/Publications/reports/05Oct11CAFCASSActionPlanSummary.pdf>

- CAFCASS Overall Response

HMCS's submitted a detailed Action Plan on to the Inspectorate on its plans to address the 6 recommendations that applied to the courts. Progress will be monitored by HMICA with a view to completion by 31 March 2007.

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 President of the Family Division has accepted the 3 recommendations made by Wall LJ:

- i The Family Justice Council (FJC) should consider and prepare a report to the President on the approach the courts should adopt to proposed consent orders in contact cases where domestic violence is an issue.
- ii There should be a more rigorous approach to safety in cases where a parent has been violent to their parent but not to the child.
- iii On judicial training, no judge should sit for the first time in private family law proceedings without having undergone training that includes multi-disciplinary induction on domestic violence. All refresher-training courses should contain updating on domestic violence issues.

Medway Pilot

The final report on the Medway Pilot has been circulated. You may recall the pilot tested the efficiency of transferring the 'on notice' hearings of Part IV applications from Medway County Court to the Family Proceedings Court. If you would like a copy of the report please contact the DV Branch. Key findings included:

- Medway reported a successful transfer of 35% of cases from the County Court to the FPC.
- There was no reduction in the speed with which cases were listed.
- Figures suggest just over 3 days of county court time were saved / 1.5% of a judicial year.
- There was no distinction in compliance rates between the courts so the protection given to victims was consistent between courts.
- No complaints were received from parties objecting to the transfer.
- In all cases transferred, family panels and legal advisers had been retrained.
- Uniformity of publicly funded pay scales in domestic violence matters throughout the courts ensured the co-operation of the profession.

Other Projects/ Initiatives

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>

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 has been circulated to the courts 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.

DV Guide

In February 2003 we published "Domestic Violence: A Guide to Civil Remedies and Criminal Sanctions" [<http://www.dca.gov.uk/family/dvguide03.pdf>] 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. Work has already begun to revise the Guide to reflect the changes in the DV Act.

We have now commissioned the production of a DVD of the family court process for victim-applicants and for those advising people on the process – similar to that produced by Northern Ireland. An Editorial Board has been set up and the master copy will be completed by end of March 2007.

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. The most recent conference was held on 6, 7 February 2006 in Belfast, on the theme of prevention and education. For the first time the event included representatives from Non-Governmental Organisations.

Other Events & Publications

- The Department for Communities and Local Government published “*Options for Setting up a Sanctuary Scheme*” on 19 December 2006. The document is accessible at http://www.communities.gov.uk/pub/297/OptionsforSettingupaSanctuaryScheme_id1505297.pdf

Key Facts

- Fifteen per cent of violent incidents were incidents of domestic violence²;
- 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 violence³;
- 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 IPV⁴;
- 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 year⁵ though women were likely to suffer greater injury and be classed as chronic victims⁶;
- 89% of those suffering 4 or more attacks are women⁷;
- 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 victims⁸;
- Domestic violence is the largest cause of morbidity in women aged 19-44, greater than war, cancer, and motor vehicle accidents⁹;
- One incident is reported to the police every minute¹⁰;
- Among women, risks of domestic violence do not differ significantly by ethnic origin¹¹;
- People in lesbian, gay, bisexual and transgender communities experience domestic violence in a similar proportion to the rest of the population¹²;
- 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 2006¹³.

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

³ Walker, A., Kershaw, C. and Nicholas, S. (2006) Crime in England and Wales 2005/06. Home Office Statistical Bulletin. 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 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.

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 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.

⁸ 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.

⁹ World Health Organisation statistics;

¹⁰ Stanko, E. (2000) The Day to Count: A snapshot of the Impact of Domestic Violence in the UK. Criminal Justice 1:2.#;

¹¹ 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.#;

¹² Henderson, L. (2003) Prevalence of Domestic Violence among Lesbians and Gay Men. Sigma Research. London: Sigma Research.

¹³ HMCS Management Information System.