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Rapid Literature Review: Domestic Abuse in Private Family Law Proceedings

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This rapid literature review was commissioned by the Northern Ireland Assembly's Justice Committee. The paper provides an overview of the academic research relating to domestic abuse experienced by adult and child victims/survivors engaged in the family court system.

This paper contains references to topics some readers may find distressing, including the impact of domestic abuse.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Key Points

- The literature reviewed suggests that some private family law court proceedings can risk triggering, worsening or prolonging domestic abuse experienced by parents and children, particularly coercive and controlling behaviour.
- Domestic abuse is recognised in the literature as a highly gendered crime but there are some gaps in the research in relation to the experiences of male victims/survivors of domestic abuse. The impact of a number of other characteristics, such as ethnicity, socioeconomic status, disability and sexual orientation, also remain underexplored within the research.
- Searches for literature focused on studies from England and Wales, Scotland and the Republic of Ireland as well as other common law jurisdictions from 2015 onwards. The family court systems and laws vary, meaning that experiences may be jurisdiction dependent but many of the systemic issues identified appear to be widespread.
- A limited number of studies have been conducted in Northern Ireland on victims/survivors of domestic abuse navigating private family law proceedings in recent years which suggests a need for further research in this area.
- Table 1 below summarises the key themes found in the literature.

Table 1: Key Themes from the Literature

Key Themes	Description
Litigation Abuse	<p>This involves court proceedings being used by perpetrators as a way of continuing to engage in patterns of abuse or embedding new forms of coercive control.</p> <p>This can result in significant financial implications with access to civil legal aid reported as creating a barrier for victims/survivors of domestic abuse.</p>

Key Themes	Description
'Parental Alienation' and 'Alienating Behaviours'	<p>'Parental alienation' was identified in the literature as being used to describe the manipulation of a child. However, the term has no single accepted legal or psychological definition and many of the studies exploring this subject have methodological flaws affecting their credibility.</p> <p>Courts in England and Wales have instead recognised 'alienating behaviours' by a parent. Recent emphasis has been placed on the importance of conducting a fact-finding exercise to determine issues of domestic abuse, before considering a child's refusal to engage, in cases where there are allegations of abuse and cross-allegations of alienating behaviours.¹</p>

¹ [Re Y \(Experts and Alienating Behaviour: The Modern Approach\)](#) [2026] EWFC 38

Key Themes	Description
<p>'Pro-Contact' Culture</p>	<p>This describes the approach adopted by the family courts in a number of jurisdictions meaning that they promote ongoing relationships between children and both their parents following separation, including in cases which have involved domestic abuse.</p> <p>In October 2025, the Government announced its intention to repeal the statutory presumption of parental involvement contained in Section 1(2A) of the Children Act 1989 in England and Wales. This would be enacted through clause 17 of the Courts and Tribunals Bill which was introduced into the House of Commons on 25 February 2026.</p> <p>This presumption does not feature in the Children (Northern Ireland) Order 1995 but a perception still exists locally that the courts will prioritise a child's relationship with both parents, even in situations where there has been a history of domestic abuse.</p>
<p>Children's Participation Rights</p>	<p>A number of studies identified a 'selective approach' being taken to children's views in court proceedings with a variety of experiences evident. There were suggestions in some of the literature that children felt their views had been misrepresented by professionals or excluded from the decision-making process.</p> <p>The research highlights a need for children to receive age-appropriate information and a clear explanation of their involvement in family court processes.</p>

Key Themes	Description
Trauma-Informed Practices	<p>Some of the recent literature describes situations where victims/survivors are increasingly engaging with judges, legal professionals and social workers who have been sensitive to their needs. However, a perception remains that professionals working within the court system do not fully understand the complex dynamics associated with domestic abuse, particularly coercive and controlling behaviour. In Northern Ireland, court rules introduced in 2022 make specific provision in relation to special measures in family proceedings for victims of domestic abuse.²</p>
New Approaches to Improve Experiences	<p>The Lady Chief Justice's recent guidance (June 2025) for the judiciary in family proceedings involving domestic abuse emphasises the need for trauma-informed and child centred approaches where an application for a contact and/or residence order has been made.</p> <p>The Pathfinder Courts model in England and Wales is an innovative approach which offers more child-centred outcomes but the roll-out of this has encountered difficulties due to the significant resources and investment required. In March 2026, the Justice Secretary announced the national rollout of Child Focused Courts with funding of £17 million for 2026-2027.</p>

² [The Family Proceedings \(Amendment\) Rules \(Northern Ireland\) 2022](#) made under Section 37 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

- A recent report by the Commissioner for Victims of Crime Office in Northern Ireland makes a series of recommendations for improving the experiences of those engaged within the family court system locally.³ This includes further specialist training on domestic abuse for those working in the system, improved information sharing between criminal and family courts, greater opportunities for children to be heard in family proceedings and further awareness raising of the discretionary legal aid waiver for victims/survivors defending proceedings in Article 8 Children’s Order cases.
- In Northern Ireland, there are three Departments with civil or family justice functions. The Commissioner Designate for Victims of Crime is in the process of establishing a Family Court Pilot Task and Finish Working Group involving the Department of Justice, Department of Health and Department of Finance to explore “*alternative family law models which adopt a more trauma-informed approach and place children’s voices at the centre of the decision-making process*”.⁴

³ Commissioner for Victims of Crime Office, “[Totally Invisible” The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025)

⁴ [AQW 39000/22-27](#) (January 2026)

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1 Introduction

1.1 Context

This briefing paper has been prepared following a request from the Northern Ireland Assembly's Justice Committee. The Committee has asked for a summary of academic research in relation to domestic abuse experienced by victims/survivors and children who have been involved in private law family court proceedings.

Given the breadth of this topic and the time available, this paper adopts a rapid literature review approach. It is non-exhaustive and aims to synthesise recent academic research, official reports and grey literature from across the UK, Republic of Ireland and other common law jurisdictions published since 2015. The specifics of the legal mechanisms of family courts may vary across these jurisdictions but many of the systemic issues discussed in the paper appear to be widespread. It should also be acknowledged that the evidence base is heavily reliant on qualitative studies involving small sample sizes. More information can be found in section 6 on methodology.

The focus of this paper is primarily on civil proceedings within the family courts. Particular focus is placed on matters relating to child contact and residence orders within private family law proceedings rather than on public law interventions such as care orders or supervision orders.⁵ However, there is overlap in some of the academic literature and research reports.

⁵ Under Articles 52 of The Children (Northern Ireland) Order 1995, care orders grant parental responsibility to a Health and Social Care (HSC) Trust. These do not remove parental responsibility of any parent or change their legal status. However, the HSC Trust can determine the extent to which a parent can exercise their parental responsibility if this is necessary to safeguard the welfare of the child. Article 54 and Schedule 3 of the 1995 Order allow the court to make a supervision order which allows for the appointment of a social worker to "advise, assist and befriend the supervised child". These orders can be used in scenarios where the court is satisfied that the child is "suffering, or likely to suffer, significant harm" which is attributable to the "care given to the child" or the child is "beyond parental control" under Article 50(2).

What are Private Family Law Proceedings?

The court's emphasis in private law proceedings is on parents exercising their parental responsibility to reach agreement with each other about what is in the best interests of their children.

The purpose of court orders available under Article 8 of The Children (Northern Ireland) Order 1995 are to specify arrangements for children in circumstances where their parents are unable to agree. The main orders are:

- **Contact Orders:** This requires the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order. It sets out how the child has contact with the parent the child does not live with and can include direct contact, supervised contact (e.g. in a contact centre) or indirect contact (e.g. phone, email etc.)
- **Residence Order:** This sets out the arrangements to be made as to the person with whom a child is to live until they reach the age of 16. This can be for residence with one parent or for shared residence between both parents.
- **Prohibited Steps Order:** This specifies steps which a parent is prohibited from taking in connection with exercising their parental responsibility without the consent of the court (e.g. relating to a child's education or schooling, name, travel or holiday).
- **Specific Issue Order:** This gives directions for the purpose of determining a specific question which has arisen, or which may arise, in connection with any aspect of parental responsibility for a child (e.g. a child's education or schooling, medical treatment, travel or holiday).⁶

⁶ B. Clelland BL and L. Murphy BL, [A Handbook on Family Law relating to Children in Northern Ireland](#) (July 2023)

1.2 Legislative and Policy Developments

There have been a number of advances in recent years aimed at addressing domestic abuse, such as the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 which specifically criminalises patterns of non-physical abusive behaviour.⁷ This offence covers behaviour that is controlling or coercive or that amounts to psychological, emotional or financial abuse of another person. Abusive behaviour may also include sexual abuse and technological or digital abuse. It is designed to capture a course of abusive behaviour that occurs on two or more occasions by a partner, ex-partner or close family member.

The Act also introduced aggravating factors to be considered when sentencing cases of domestic abuse relating to a child victim under 18 or where a child was present or heard the abuse, was a victim of the abuse or was used to direct abuse at the victim.⁸ It also separately makes specific provision in relation to special measures in family proceedings for victims of domestic abuse. This can involve adjustments to typical court practices which support victims/survivors in participating and giving their best possible evidence, for example, from behind a screen, via a remote evidence centre or by live link.⁹ Section 28 included a discretionary power for the Legal Services Agency to disapply the financial eligibility limits in cases involving victims/survivors of domestic abuse defending proceedings in Article 8 Children's Order cases brought by the perpetrator.¹⁰ Section 2.2 explores the domestic abuse waiver in further detail.

⁷ Department of Justice, [New domestic abuse offence comes into force – Long](#) (February 2022). It is worth noting that this legislation also prohibits perpetrators of abuse from cross-examining their victims in person in certain circumstances in family proceedings (section 36) but this has not yet been implemented. The Minister recently highlighted in response to an Assembly Question that drafting of the secondary legislation required for this underway and the aim is to commence the provision this year. See [AQW 38893/22-27](#) (January 2026)

⁸ Section 8 and 9 of the [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#)

⁹ Implemented through [The Family Proceedings \(Amendment\) Rules \(Northern Ireland\) 2022](#) which was made under Section 37 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

¹⁰ See Section 28 of the [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) which amends [regulation 10](#) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015. Separately, regulation 10 also permits the LSANI to disapply the eligibility limits in situations where an applicant seeks to bring a non-molestation order.

Section 26 of the Act also legislated for Operation Encompass which is a partnership between the Police Service of Northern Ireland, Safeguarding Board for Northern Ireland, the Education Authority and schools that aims to support children who witness domestic violence or abuse in the home. A full regional rollout was completed in May 2023 and it allows Police Officers to pass on relevant information to the safeguarding team at the child's school, so the right support can be put in place. Operation Encompass recognises children as unseen victims of domestic abuse and the impact of the trauma that children experience from being in a house where there is domestic abuse.¹¹

Northern Ireland has also seen other advances in the criminal law with the Protection from Stalking Act (Northern Ireland) 2022 which makes stalking a specific offence.¹² The Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 makes non-fatal strangulation a specific crime.¹³ Furthermore, it criminalises upskirting, downblousing, the sending of unwanted sexual images or cyber flashing and makes it an offence to threaten to disclose private sexual photographs and films with intent to cause distress.¹⁴

Domestic Homicide Reviews were also introduced in 2020 which aim to prevent future domestic homicides by learning lessons from the death and improving

¹¹ Police Service of Northern Ireland, [Operation Encompass](#). In 2025, a CJINI report recommended further work to finalise an Information Sharing Agreement between the PSNI and the Education Authority in respect of Operation Encompass. Criminal Justice Inspection Northern Ireland, [Annual Review of the Effectiveness of Part 1 of the Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021 - Year Two Progress Review](#) (April 2025), page 18

¹² This legislation also introduced Stalking Protection Orders which came into effect in October 2023. Department of Justice, [Long welcomes stalking protection progress](#) (September 2024). There have since been some challenges associated with the application and operation of these orders. See Questions to the Chief Constable, [Stalking Prevention Orders](#) (February 2025). The Justice Minister has laid a Legislative Consent Memorandum in the Assembly to extend the stalking provisions contained in the Westminster Crime and Policing Bill to Northern Ireland. These would give courts the power to impose the orders directly at the end of criminal proceedings on conviction or acquittal. Legislative Consent Memorandum, [Crime and Policing Bill](#) (January 2026)

¹³ Women's Aid Federation Northern Ireland and National Women's Council, [North South Co-operation to Tackle Violence Against Women](#) (November 2024)

¹⁴ Recently, the Department of Justice consulted on proposals to criminalise the creation and sharing of sexually explicit deepfake images of adults in July 2025. This is expected to be included as an amendment to the Justice Bill at Consideration Stage. Department of Justice, [Minister launches consultation on sexually explicit deepfake images](#) (July 2025). In January 2026, a Legislative Consent Memorandum was laid in the Assembly to extend new offences to Northern Ireland under the Crime and Policing which criminalise the possession or publication of pornography portraying strangulation or suffocation. Legislative Consent Memorandum, [Crime and Policing Bill](#) (January 2026)

responses to domestic abuse victims/survivors.¹⁵ The Domestic Violence and Abuse Disclosure Scheme is another example of progress under which Police can disclose information to a person aged over 16 where they are concerned that their partner, or the partner of someone that they know (such as a friend or family member), has a history of abusive behaviour.¹⁶

At present, victims/survivors of domestic abuse can also apply to the family court for a protective order, including non-molestation orders (prohibit a person from molesting an applicant or relevant child) and occupation orders (regulate the occupation of a dwelling-house and provide for its peaceful use and enjoyment) under the Family Homes and Domestic Violence (Northern Ireland) Order 1998.¹⁷

Breach of a non-molestation is a criminal offence and an individual can be arrested and potentially prosecuted if sufficient evidence is available (maximum penalty of six months' imprisonment and/or a level 5 fine of £5,000).¹⁸

Meanwhile an occupation order may be used as a complementary order to the non-molestation order or as a stand-alone order. When it is granted alongside a non-molestation order it prevents the alleged perpetrator from living in the family home and a breach of any such orders is deemed to be a criminal offence.

Furthermore, the Protection from Harassment (Northern Ireland) Order 1997 gives courts the power to issue a restraining order, at the conclusion of criminal proceedings, if they consider the order is necessary to prevent a defendant from harassing a victim or causing them to fear violence. In 2021, the Department of Justice consulted on domestic abuse specific orders known as Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs)

¹⁵ NI Direct, [Domestic Homicide Reviews \(DHRs\)](#)

¹⁶ Department of Justice, [Domestic Violence and Abuse Disclosure Scheme](#)

¹⁷ [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998](#)

¹⁸ The number of breaches of non-molestation orders has declined from 1,415 recorded in 2005/06 to 508 recorded in 2024/25. Police Service of Northern Ireland, [Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2024/25](#) (November 2025). Figures for 2020-2024 on prosecutions and convictions at court for a breach of a non-molestation order offence contained in [AQW 26686/22-27](#) (May 2025). Figures for 2020-2024 on the main disposals applied by the courts following conviction for a breach of a non-molestation order contained in [AQW 38024/22-27](#) (March 2026)

which could be made by criminal, civil and family courts. A pilot is expected to be implemented in 2026-2027.¹⁹

The other jurisdictions referenced in the literature review have also introduced legislative reforms aimed at addressing domestic abuse. For example, the Domestic Abuse Act 2021 in England and Wales, the Domestic Abuse (Scotland) Act 2018 in Scotland and the Domestic Violence Act 2018 in the Republic of Ireland. However, despite these changes it is clear from reviewing the literature that systemic challenges persist across jurisdictions for parents who are victims/survivors of domestic abuse when going through family court proceedings.²⁰ It is also worth noting that there are various statutory frameworks governing private family law proceedings which differ across jurisdictions. For example, the statutory presumption of parental involvement contained in Section 1(2A) of the Children Act 1989 in England and Wales is not contained in the Children (Northern Ireland) Order 1995.²¹

The following sections consider literature relating to the experience of parents and children who have been involved in private law family proceedings in the context of domestic abuse. The paper then looks at the role of the family courts in responding to and managing domestic abuse in proceedings involving children before considering innovative approaches used in other jurisdictions to improve experiences for families. It also analyses the guidance issued by the Lady Chief Justice for the judiciary in family proceedings involving domestic abuse. It finishes with a section examining recent recommendations for change in the family courts from a report produced by the Commissioner for Victims of Crime Office.

¹⁹ Department of Justice, [Enhancing legal protections for victims of domestic abuse](#) (May 2021) and [AQW 39424/22-27](#) (February 2026)

²⁰ J. Bradshaw et al. '[Intimate Partner Violence Survivors' Perspectives on Coping With Family Court Processes](#)' *Violence Against Women* (2024) 30(1):101-125 and K. Walsh '[The Failure to Recognize Continuing Harm: Post-separation Domestic Abuse in Child Contact Cases](#)' *Violence Against Women* (2024) 31(8):1816-1837

²¹ The statutory presumption of parental involvement was inserted into legislation by the Children and Families Act 2014. In October 2025, the Government announced its intention to repeal the presumption contained in Section 1(2A) of the Children Act 1989. See Ministry of Justice, [Government action to protect children from abusive parents](#) (October 2025). Section 4 covers this in further detail.

2 Experience of Private Law Family Court Proceedings from the Perspective of Parents

2.1 Litigation Abuse

Victims/survivors may experience poor mental and physical health as a direct result of domestic abuse, including trauma-related conditions such as depression, anxiety and post-traumatic stress disorder (PTSD).²² The consequences of domestic abuse can extend to other family members and children who are exposed to it, with severe and lasting psychological effects.²³

These health impacts can be exacerbated by the way in which perpetrators of domestic abuse exploit family law proceedings to begin or continue to engage in patterns of coercive control. This can form part of ‘post-separation abuse’ which in the literature refers to the continuation, or in some cases the intensification, of patterns of abuse even after the relationship has ended.²⁴ This can take the form of financial, social, or psychological harms with some perpetrators using technology and social media to threaten and harass victims/survivors.²⁵

A recurring theme in the literature is how family courts may inadvertently facilitate coercive control post-separation. The idea that family court proceedings can be ‘weaponised’ against domestic abuse victims/survivors, forcing them into protracted litigation, is reported across a number of studies.²⁶

²² L. Khaw et al. “‘The system had choked me too’: Abused mothers’ perceptions of the custody determination process that resulted in negative custody outcomes’ *Journal of Interpersonal Violence* (2021) 36(9-10), 4310-4334

²³ J. Doyle and M. McWilliams, ‘Transforming Responses to Domestic Violence in a Politically Contested Environment: The Case of Northern Ireland’ *feminists@law* (2019) 9(1), 1-26 and Women’s Aid Federation Northern Ireland, [Not Just a Statistic: Women’s Aid Confirms Thousands of Women Across Northern Ireland Are Experiencing Domestic Abuse](#) (November 2025)

²⁴ J. Kuruppu, et al. ‘[Family court...sucks out your soul’: Australian General Practitioners’ Experiences supporting Domestic Violence Survivors through Family Court](#)’ *BMC Primary Care* (2023) vol. 24, 95

²⁵ N. Henry et al. ‘[Technology-facilitated Domestic and Sexual Violence: A Review](#)’ *Violence Against Women* (2020) 26(15-16):1828-1854

²⁶ Z. Rathus et al. “[‘It’s Like Standing on a Beach, Holding Your Children’s Hands, and Having a Tsunami Just Coming Towards You’: Intimate Partner Violence and “Expert” Assessments in Australian Family Law](#)’ *Victims & Offenders* (2019) 14 (4), 408–440 and A. Beeman, ‘[The Need for More States to Adopt Specific Legislation Addressing Abusive Use of Litigation in Intimate Partner Violence](#)’ *Seattle Journal for Social Justice* (2022) 20(3), 825-860 and E. Campbell, ‘[How Domestic Violence Batterers Use Custody Proceedings in Family Courts to Abuse Victims, and How Courts Can Put a Stop to It](#)’ *UCLA Women’s Law Journal* (2017) vol. 24, 41-66

There is also evidence to suggest that victims/survivors face significant anxieties at the prospect of potentially having to face a perpetrator inside a courtroom which can further exacerbate the poor mental and physical health experienced as a direct result of the abuse.²⁷

Research in England and Wales highlighted the concerns victims/survivors had while attending court because of the lack of facilities, such as separate waiting rooms and entrances/exits to the building. Two women interviewed as part of one study had been granted non-molestation orders but found that these did not prevent them having to face their former partners at court.²⁸ Locally, the research produced by the Commissioner for Victims of Crime Office also indicates instances where victims/survivors continued to have contact with abusive former partners both at court and when facilitating handovers for contact, even where non-molestation orders had been put in place.²⁹

Research in England and Wales has repeatedly highlighted how family court applications consistently result in non-resident parents, typically fathers, being given substantial contact with their children, even in circumstances in which there is evidence of domestic abuse having been perpetrated against the mother or even when such abuse may be ongoing.³⁰ The research has also highlighted serious problems faced by parents when they raise safety concerns.³¹

²⁷ E. Gutowski and L. Goodman, 'Like I'm invisible': IPV survivor-mothers' perceptions of seeking child custody through the family court system' *Journal of Family Violence* (2020) 35(5), 441–457 and L. Laing, 'Secondary Victimization: Domestic Violence Survivors Navigating the Family Law System' *Violence Against Women* (2016) vol. 23(11), 1314-1335

²⁸ All-Party Parliamentary Group on Domestic Violence, [Domestic Abuse, Child Contact and the Family Courts](#) (April 2016) and M. Coy et al. 'It's like going through the abuse again': domestic violence and women and children's (un)safety in private law contact proceedings' *Journal of Social Welfare and Family Law* (2015), vol.37(1), 53-69

²⁹ Commissioner for Victims of Crime Office, "[Totally Invisible](#)" [The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 219

³⁰ G. Macdonald, '[Domestic violence and private family court proceedings: Promoting child welfare or promoting contact?](#)' *Violence Against Women* (2016) 22(7), 823–852 and Women's Aid, [Nineteen Child Homicides: What Must Change so Children are Put First in Child Contact Arrangements and the Family Courts](#) (2016) and L. Cusworth, S. Bedston et al. '[Uncovering private family law: Who's coming to court in Wales?](#)' Nuffield Family Justice Observatory (2020)

³¹ Ministry of Justice, [Final Report: Assessing Risk of Harm to Children and Parents in Private Law Children Cases](#) (June 2020)

There is a recurring theme that perpetrators “*manipulate the family court system to maintain coercive control post-separation, using repeated litigation to erode court orders, disrupt relationships and prolong conflict*”.³² Courts which prioritise the involvement of a non-resident parent can risk re-exposing victims/survivors and their children to trauma and harm where domestic abuse is a factor.³³ Some victims/survivors have also reported that abuse can be perpetuated as part of court ordered child contact. Examples of this include perpetrators changing arrangements at the last minute or cancelling and attempting to use contact to obtain information about the victim/survivor.³⁴ Another study found that non-resident fathers faced their children being used as ‘weapons’ through the restriction of contact which exacerbated psychological and emotional harm.³⁵

2.2 Financial Impacts

The literature highlights that victims/survivors can experience economic hardship associated with relationship breakdown involving domestic abuse. The literature indicates that this hardship can be linked to victims/survivors experiencing secondary trauma when engaging with the family courts.³⁶ This can often be compounded by previous financial abuse which places victims/survivors in a disadvantaged position from the beginning of proceedings.

³² M. McCormack, ‘[Endless litigation in family court as a method of post-separation coercive control](#)’ *Journal of Social Welfare and Family Law* (2025) 47(2–3), 183–212

³³ S. Jeffries, ‘In the Best Interests of the Abuser: Coercive Control, Child Custody Proceedings and the “Expert” Assessments That Guide Judicial Determinations’ *Laws* (2016) 5(1), 14

³⁴ S. Wilde, et al. ‘[The Psychological Impact on Mothers who have Experienced Domestic Violence when Navigating the Family Court System: A Scoping Review](#)’ *Psychiatry, Psychology and Law* (2024) 31(4), 764–791 and E. Gutowski and L. Goodman, ‘Like I’m invisible’: IPV survivor-mothers’ perceptions of seeking child custody through the family court system’ *Journal of Family Violence* (2020) 35(5), 441–457

³⁵ B. Hine et al. ‘[Examining the Prevalence and Impact of Parental Alienating Behaviors \(PABs\) in Separated Parents in the United Kingdom](#)’ *Journal of Family Violence* (2025)

³⁶ E. Gutowski and L. Goodman, ‘Legal Abuse and Mental Health: The Role of Judicial Betrayal’ *Psychology of Violence* (2023) 13(6), 468–478 and M. Illiadis, et al. ‘Improving Justice Responses for Victims of Intimate Partner Violence: Examining the Merits of the Provision of Independent Legal Representation’ *International Journal of Comparative and Applied Criminal Justice* (2019) 45(1), 105–114

The Duluth Post-Separation Power and Control Wheel depicts ‘financial abuse’ as withholding financial support or creating litigation costs, imposing economic dependency, limiting survivors’ autonomy and access to justice.³⁷ This involves deliberately restricting a victims/survivor’s access to the financial resources necessary for independence, including refusing to pay child support, withholding money for essential needs (such as food, housing or medical care) or denying access to joint accounts.³⁸

One aspect of this abuse can involve a non-resident parent using repeated litigation to exert control, burdening the resident parent with legal costs.³⁹ This strategy can be used to deplete a former partner’s resources, with significant financial and emotional toll often associated with this. These tactics of litigation abuse can leave victims/survivors feeling that they are respondents under scrutiny, requiring time and money to be spent in defending their parenting, often at the cost of work, childcare and emotional stability.⁴⁰

2.2.1 Legal Aid

The literature references victims/survivors perceiving a difference in the provision of legal aid and assistance, typically reporting less effective support than that which is available to perpetrators.⁴¹ In addition, some perpetrators have greater financial resources which means that they can pay for higher-quality legal representation.

In 2024, a report by Criminal Justice Inspection Northern Ireland (CJINI) highlighted a number of the barriers facing domestic abuse victims/survivors in

³⁷ C. Godsey and R. Robinson, ‘[Post-separation Abuse featured in the New Duluth Power and Control Wheel](#)’ *Family & Intimate Partner Violence Quarterly* (2014) 6(4), 101

³⁸ M. McCormack, ‘[Endless litigation in family court as a method of post-separation coercive control](#)’ *Journal of Social Welfare and Family Law* (2025) 47(2–3), 183–212

³⁹ N. Bala et al. ‘[Exploring litigation abuse in Ontario: an analysis of costs decisions](#)’ *Family Court Review* (2024) 62(4), 936–961

⁴⁰ M. McCormack, ‘[Endless litigation in family court as a method of post-separation coercive control](#)’ *Journal of Social Welfare and Family Law* (2025) 47(2–3), 183–212

⁴¹ E. Gutowski and L. Goodman, ‘Legal Abuse and Mental Health: The Role of Judicial Betrayal’ *Psychology of Violence* (2023) 13(6), 468-478

accessing legal aid.⁴² A waiver of the financial eligibility limits was introduced for victims/survivors of domestic abuse in cases involving applications for Article 8 Orders brought by the perpetrator.⁴³ Proceedings under Article 8 involve contact, residence, specific issues and prohibited steps orders. However, lack of awareness amongst solicitors and a high threshold for evidence of domestic abuse has meant a low uptake of the waiver.⁴⁴

RaISe requested updated figures on the uptake of the waiver in preparing this paper. In April 2026, the Department told RaISe in correspondence that there had been 190 applications with 69 grants made since its introduction in February 2022 up to March 2026. 66 of these 69 grants were made to females with the remaining cases granted to males. Table 2 provides further detail on the applications submitted, granted and those ineligible or withdrawn.

⁴² Criminal Justice Inspection Northern Ireland, [Review of the Effectiveness of Part 1 of the Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) (April 2024), page 84

⁴³ See Section 28 of the [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) which amends [regulation 10](#) of the Civil Legal Services (Financial) Regulations (Northern Ireland) 2015

⁴⁴ Examples of evidence that can be considered by LSANI in deciding whether to deploy the waiver include: a conviction or caution for domestic abuse or a crime aggravated by domestic abuse by the applicant in the Article 8 proceedings against the respondent, an inter-partes non-molestation order or occupation order considered and granted by a Judge and evidence provided by the PSNI that the respondent in the Article 8 proceedings has been a reported victim of domestic abuse by the applicant. This has been widened to include 'other evidence' providing an equivalent level of assurance that the applicant is eligible for the Waiver. Legal Services Agency, [LSANI Guidance on Seeking the Domestic Abuse Waiver](#) (January 2026). Future consideration may need to be given to Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs) within the scope of evidence for the legal aid waiver.

Table 2: Applications for the Article 8 Children’s Order Proceedings Waiver introduced by Section 28 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

	23/02/22 to 31/03/22	2022/23	2023/24	2024/25	01/04/25 to 12/03/26	Total
Applications Submitted	7	57	42	45	39	190
Granted	1	12	22	16	18	69
Ineligible – Out of Scope	6	38	10	15	6	75
Withdrawn – Application issue(s) / no response to query	0	7	10	14	14	45

Source: Legal Services Agency NI (LSANI) Case Management System, Correspondence between RaISe and Department of Justice (03 April 2026)

In considering the figures in table 2, it is also important to note the following:

- 1 application submitted during 2025/26 had not been determined at the time of analysis. Accordingly, the sum of outcomes will differ by a count of 1 when compared to the number of applications submitted since 01/04/2025.

- Ineligible applications are out of scope for the waiver as either the applicant is eligible for legal aid without the need for a waiver to be applied, or because the applicant is seeking to take proceedings rather than defend. Since 22/02/2022, 40 per cent of all applications have been out of scope.
- Withdrawn applications are due to application issues and/or when the solicitor firm has failed to respond to a query raised by the LSANI seeking further information or clarification to allow the means and/or merits test to be completed. Since 22/02/22, 24 per cent of all applications have been subsequently withdrawn.
- These figures constitute Management Information and may therefore be subject to change.

Table 2 shows that the proportion of applications received that were either 'Ineligible' or 'Withdrawn' decreased from 79 per cent (45 applications) in 2022/23 to 53 per cent (20 applications) in the latest year (01/04/25 to 12/03/26). The overall number of submissions dropped by a third during the same period from 57 to 38 applications. However, the overall grant rate increased from 21 per cent (12 out of 57 applications) to 47 per cent (18 out of 38 applications).⁴⁵

The Department highlighted that this may coincide with the LSANI undertaking a series of awareness raising initiatives since 2023. This has resulted in an increase in the number of properly presented eligible applications being presented for consideration by the LSANI. This includes a range of engagements with the Law Society and the publication of updated guidance on seeking the waiver.⁴⁶

⁴⁵ Correspondence between RaISe and Department of Justice (03 April 2026)

⁴⁶ Legal Services Agency, [LSANI Guidance on Seeking the Domestic Abuse Waiver](#) (January 2026)

The Department of Justice has also developed an ‘Enabling Access to Justice’ Reform Programme with the Minister highlighting that legal aid forms a core part of the welfare system but “*current eligibility tests are not necessarily ensuring protection for the most vulnerable - for women, children, victims of abuse, those with a disability*”.⁴⁷ Alongside this reform programme, the Department commissioned and published a priority setting exercise for victims of domestic abuse.⁴⁸

This report highlights the barriers that victims/survivors of domestic abuse can experience in applying for legal aid, noting that the research indicates that “*the difficulties associated with evidencing domestic abuse... as well as the way the system interacts with a recipient’s social security and/or immigration status, have been highlighted as particularly traumatic*”.⁴⁹ In addition, the “*complex and intertwined nature*” of an individual’s finances within the context of their personal relationships can also act as a barrier to accessing legal aid, prolonging and exacerbating their precarious financial situation.⁵⁰

The report also identified the financial thresholds for civil legal aid as one of the most commonly cited barriers for victims/survivors of domestic abuse. The research indicates that there were some examples of positive experiences when engaging with solicitors but that there were also reports of inconsistent service. Some victims/survivors highlighted issues around navigating different practices and procedures from solicitors alongside a perception in some instances that availing of civil legal aid would “*result in the bare minimum and less commitment and effort from solicitors*”.⁵¹ This risks embedding a “*perceived hierarchy of representation with those in receipt of legal aid at the bottom*”.⁵²

⁴⁷ Department of Justice, [Oral Statement: Enabling Access to Justice \(EAJ\) Programme](#) (December 2024) and [Enabling Access to Justice Reform Programme Foundation Review of Civil Legal Services Summary Report](#) (December 2024)

⁴⁸ S. Lagdon et al. ‘[A Steep Learning Curve: Review And Rapid Priority Setting Exercise of Civil Legal Aid for Cases of Domestic Abuse In Northern Ireland](#)’ (December 2024) This study involved interviews with 13 individuals (8 women and 5 men).

⁴⁹ Ibid, page 5 citing Domestic Abuse Commissioner for England and Wales, [Domestic Abuse Commissioner’s Response to the Review of Civil Legal Aid Call for Evidence](#) (March 2024)

⁵⁰ Ibid

⁵¹ Ibid, page 14

⁵² Ibid, page 6

The report also suggests that the way domestic abuse victims/survivors encounter civil legal aid can amount to ‘secondary victimisation’.⁵³

In 2025, research produced by the Commissioner for Victims of Crime Office into the experiences of adult and child victims/survivors of domestic abuse when engaging with the family courts in Northern Ireland highlighted the significant financial implications for women.⁵⁴ This research involved interviews with 12 adult victims/survivors with concerns expressed that the family courts can be used by perpetrators to continue to abuse their former partners.

One remarked that “*women [are] being brought back to family court time and time again for really minor adjustments [to contact arrangements], to cause financial abuse... So, perpetrators will take that woman through court just to cause financial abuse*”.⁵⁵ Some others also noted that victims/survivors were not always being made aware of their entitlements by their solicitors or supported to apply for legal aid, often incurring “*very large legal bills*” as a result.

Under Section 29 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021, the Department of Justice must bring forward a report setting out proposals to reduce the cost for the victim of defending proceedings brought against them by an abusive partner, or for making it more difficult for abusers to access civil legal services to bring vexatious applications and to perpetuate their abuse through the courts. In June 2025, the Department of Justice’s report on ‘Enhancing Access to Justice for Victims and Survivors of Domestic Abuse’ was published.⁵⁶

⁵³ L. Laing, ‘Secondary Victimization: Domestic Violence Survivors Navigating the Family Law System’ *Violence Against Women* (2016) 23(11), 1314-1335

⁵⁴ Commissioner for Victims of Crime Office, “[Totally Invisible” The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 199

⁵⁵ *Ibid*, page 200

⁵⁶ Department of Justice, [Enhancing Access to Justice for Victims and Survivors of Domestic Abuse: Report under Section 29 of the Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) (June 2025)

Research conducted as part of this report recognised the key role played by solicitors in supporting clients who are eligible to apply for civil legal aid. It noted that the quality of the support provided by legal professionals was generally described by stakeholders as having been good. However, others had voiced concerns that some solicitors were sometimes “*driven by profit rather than a focus on the needs of the child*” or did not always provide clients with sufficient information to help them apply for legal aid.⁵⁷ There was also a suggestion that remuneration for work done in connection with these types of cases was too low. The report recommended that action should be taken to help ensure that all solicitors undertaking work in the family courts understand the waiver process and offer it to those respondents who have experienced domestic abuse.⁵⁸

Addressing the domestic abuse waiver is clearly an important step in potentially reducing the number of vexatious proceedings being instigated if applicants can see that a victim will not be financially worse off. However, this report also highlighted the need for greater focus to be given to the rights and needs of the child with concerns highlighted that court proceedings can further entrench conflict between parents with cases which can drag on for years with multiple delays, assessments and adjournments.⁵⁹

In March 2026, a consultation relating to the scope of legal aid and merits testing was launched.⁶⁰ This also considers potential new approaches to financial eligibility testing for legal aid. These are wide ranging documents but they contain options relevant to cases in the family courts. One of the reform options considered is prohibiting the granting of a legal aid certificate for applications relating to Article 8 cases in respect of a child about whom such an order is in place and made within the previous three years. The rationale for this

⁵⁷ Ibid, page 29-30

⁵⁸ The Department of Justice published [guidance](#) in April 2025 and the Legal Services Agency also published updated [guidance](#) for solicitors on the Domestic Abuse Waiver in January 2026.

⁵⁹ Department of Justice, [Enhancing Access to Justice for Victims and Survivors of Domestic Abuse: Report under Section 29 of the Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) (June 2025), page 35

⁶⁰ Department of Justice, [Enabling Access to Justice Division Legal Aid Engagement Process](#) (March 2026)

is to try and limit the number of repeat proceedings that an applicant can initiate as a means of perpetuating abuse.⁶¹

The consultation also acknowledges that uptake of the financial eligibility waivers remains low given the complex application process with the risk that victims of abuse are not always receiving the help that they need.⁶² It proposes simplifying financial eligibility testing through a new set of operational principles for victims of domestic abuse. This would involve a single application process granting access to a new form of legal aid certificate providing, as required:

- Advice and assistance for a person in relation to their status as a complainant and/or a witness in criminal proceedings about their abuse
- Advice and assistance for a person in relation to their status as a separating partner and, as applicable, a separating parent
- Representation to seek a protective order or protective orders as necessary to protect themselves and their family
- Representation to seek or to respond to an application for a divorce, or a dissolution of a civil partnership and/or
- Representation to apply for or to defend an application for an order relating to contact and residence of children for whom they and their abusive partner share parental responsibility.

The consultation suggests that this application would be based on the submission of documentary evidence similar to that currently required to access the domestic abuse waiver for Article 8 Children's Order cases. However, there would be no need for the submission of evidence of financial circumstances. It also proposes the expansion, over time, of the range of organisations and individuals who can provide the documentary evidence required to support an application for this new form of certificate.⁶³

⁶¹ Department of Justice, [Legal Aid Engagement Paper: Improving Impact and Value for Money by Reforming Scope and Merits](#) (March 2026), page 7

⁶² Department of Justice, [Legal Aid Engagement Paper: A Fairer Simpler Approach to Means Testing](#) (March 2026), page 23

⁶³ *Ibid*, page 25

2.2.2 Mediation

The shift towards mediation within private family law proceedings in some jurisdictions also has the potential to leave victims/survivors more vulnerable to harm. The move towards framing family law disputes as matters which should be resolved privately risks creating a divide between a small number of ‘vulnerable’ litigants eligible for legal aid and the bulk of families who are encouraged and expected to be self-sufficient and resolve things independently.⁶⁴

For example, in England and Wales the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 removed most private family law cases from the scope of legal aid with those remaining only where there is evidence of issues concerning domestic abuse. It is also a legal requirement to attend a Mediation Information and Assessment Meeting (MIAM) before applying to the family court, unless a domestic abuse exemption applies.⁶⁵

Locally, the Gillen Review of Family Justice recommended a “*fresh emphasis on solutions outside the court system, with more accessible mediation in private law cases involving children*”.⁶⁶ In 2021, a Private Family Law Early Resolution Action Plan was published by the Department of Justice and Department of Health which acknowledges that the wider use of mediation will require substantial investment.⁶⁷

⁶⁴ J. Mant, and J. Wallbank, ‘The Mysterious Case of Disappearing Family Law and the Shrinking Vulnerable Subject: The Shifting Sands of Family Law’s Jurisdiction’ *Social & Legal Studies* (2017) 26(5), 629-648 cited in Commissioner for Victims of Crime Office, “[Totally Invisible” The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 32

⁶⁵ Family Mediation Council, [What is a MIAM?](#) (2025) See also [Practice Direction 3A](#) on Family Mediation Information and Assessment Meetings (MIAMS) and Non-Court Dispute Resolution (paragraph 20 exception for domestic abuse). [Practice Direction 12J](#) within the Family Procedure Rules (first published 2008) also provides further guidance in situations where a parent alleges that contact would cause harm to the child or to themselves. It was revised in 2017 to address concerns that unsupervised contact was being granted to abusive parents. Under the revised 12J, separate fact-finding hearings can be held to address abuse allegations.

⁶⁶ Judiciary NI, [Review of Civil and Family Justice in Northern Ireland: Review Group’s Report on Family Justice](#) (September 2017), page ix

⁶⁷ Department of Justice and Department of Health, [Private Family Law Early Resolution Action Plan](#) (July 2021)

An Early Resolution Forum Pilot is due to be convened at the Family Proceedings Court in Laganside Court beginning on 06 May 2026 for an initial period of 12 months. The pilot is described as aiming to “*improve outcomes for children by reducing delay, encouraging early agreement, and narrowing issues at the earliest stage*”. Hearings will be taking place one day per month and will be supported by Court Children Officers.⁶⁸ The guidance states that cases involving allegations of domestic abuse will not be appropriate for inclusion in the forum.

2.3 Allegations of ‘Parental Alienation’

Another theme within the literature relating to emotional abuse is the use of ‘parental alienation’ allegations involving one parent’s manipulation of a child. Several papers referred to the manipulation of a child in a number of ways, including ‘parental alienation’, ‘parental alienation syndrome’, ‘implacable hostility’ or ‘alienating behaviours’.

Emotional abuse in this context was generally defined as a family dynamic characterised by behaviours engaged in by one parent that resulted in a child’s extreme negativity towards and unwarranted rejection of the other parent. However, parental alienation syndrome remains controversial both within the psychological community and the legal system.⁶⁹ The diversity of associated behaviours and the complexity of assessment mean there is little to no reliable data within existing literature.⁷⁰ The term has no single accepted legal or psychological definition and many of the studies exploring this subject have methodological flaws affecting their credibility.⁷¹

The literature demonstrates that the fear of facing counter-allegations of parental alienation can result in some victims/survivors of domestic abuse

⁶⁸ Judiciary NI, [Early Resolution Forum](#) (March 2026)

⁶⁹ Ministry of Justice, [Review of the Presumption of Parental Involvement](#) (October 2025), page 32

⁷⁰ M. Saini et al. ‘Empirical Evidence of Alienation’ in L. Drozd, M. Saini and N. Olesen (eds.), *Parenting Plan Evaluations: Applied Research for the Family Court* (2nd edition) (2016), page 374-430

⁷¹ Ibid, page 9 and J. Doughty et al. [‘Review of Research and Case Law on Parental Alienation’](#) Welsh Government (2020)

withdrawing from family court processes or avoiding initiating proceedings in the first place.⁷² It is evident from the studies relating to this issue that parental alienation allegations tend to be a highly gendered area with the literature suggesting that some family courts are more likely to label mothers as “alienating” rather than fathers.⁷³ There is also concern that gender stereotypes play into this with women seen to be “*more likely to lie and/or be vindictive*”.⁷⁴ There was also concern within the literature that some professionals working within the family court system do not have an adequate awareness of the complex dynamics of abusive relationships and therefore are not equipped to identify ‘parental alienation’ accusations as another form of abuse.⁷⁵ The role of professionals in the family court system is explored further in section 4.

2.3.1 Policy and Case Law in England and Wales

In England and Wales, the Children and Family Court Advisory and Support Service (Cafcass), which represents children in family court cases, has employed the term “alienating behaviours” in assessments by Family Court Advisers carried out in line with their Child Impact Assessment Framework (CIAF).⁷⁶ Cafcass states that it uses the term “alienating behaviours” to “*describe circumstances where there is an ongoing pattern of negative attitudes, beliefs, and behaviours of one parent which have the potential or intent to undermine or obstruct the child’s relationship with the other parent*”.⁷⁷

⁷² Commissioner for Victims of Crime Office, “[Totally Invisible](#)” [The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 23

⁷³ B. Hine, ‘Parental Alienation – What do we know, and what do we (urgently) need to know? A narrative review’ *Partner Abuse* (2024) 15(3)

⁷⁴ Commissioner for Victims of Crime Office, “[Totally Invisible](#)” [The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 23

⁷⁵ J. Birchall and S. Choudhry “I was punished for telling the truth’: how allegations of parental alienation are used to silence, sideline and disempower survivors of domestic abuse in family law proceedings’ *Journal of Gender-Based Violence* (2022) 6(1), 115-131

⁷⁶ Cafcass, [Child Impact Assessment Framework \(CIAF\)](#)

⁷⁷ Cafcass, [Understanding why a child does not want to spend family time with a parent: A guide to assessment](#) (July 2025), page 15

Cafcass published a new Domestic Abuse Policy in October 2024 which highlights that *“when assessing the reasons why a child does not want to spend time with a parent following separation, especially when a parent says they are experiencing alienating behaviours, practitioners must first consider whether the cause of this refusal is because the child is a victim of domestic abuse and harmful parenting or if there are other reasons for the child not wanting to spend time with that parent”*.⁷⁸

In December 2024, the Family Justice Council (FJC) released guidance stating that *“for the avoidance of doubt, the FJC recognises that ‘parental alienation syndrome’ has no evidential basis and is considered a harmful pseudo-science”*.⁷⁹ This also acknowledged that concepts of ‘parental alienation syndrome’ and ‘parental alienation’ are increasingly exploited within family litigation.⁸⁰

The guidance distinguishes between the behaviours often seen in the context of family breakdowns, classifying some as typically emotional responses to parenting experiences from a child which are not the result of ‘psychological manipulation by a parent’.⁸¹ Reference is also made to protective behaviours by a parent towards a child in order to protect the child from exposure to abuse by the other parent. This can include the *“justified rejection”* of a parent by a child because of their abusive behaviour.⁸²

However, the guidance does acknowledge “alienating behaviours” as *“psychologically manipulative behaviours, intended or otherwise, by a parent*

⁷⁸ Cafcass, [Domestic Abuse Practice Policy](#) (October 2024), page 11 and T. Doyle ‘No longer ‘contact at all costs’: a new approach from Cafcass? Implications for private law cases’ *Family Law* (2025) 55(Apr), 527-530

⁷⁹ Judiciary UK, [Family Justice Council Guidance on responding to a child’s unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour](#) (December 2024), page 5

⁸⁰ This is reflected as an issue at an international level with the UN Special Rapporteur on Violence against Women and Girls recommending in 2023 that states should *“legislate to prohibit the use of parental alienation or related pseudo-concepts in family law cases and the use of so-called experts in parental alienation and related pseudo-concepts”*. See UN Special Rapporteur on Violence against Women and Girls, [Custody, Violence against Women and Violence against Children A/HRC/53/36](#) (April 2023)

⁸¹ *Ibid*, page 4

⁸² *Ibid*

towards a child which have resulted in the child's reluctance, resistance or refusal to spend time with the other parent".⁸³ The guidance also includes a further category called "reluctance, resistance or refusal" to describe "behaviours by a child concerning their relationship with, or spending time with, a parent, which may have a variety of potential causes".⁸⁴

Women's Aid described the Family Justice Council's guidance as a "*step in the right direction*" but expressed concern that it "*is not sufficiently child-centred and that the wishes of children will continue to be overlooked in family court proceedings*".⁸⁵

In June 2025, the Shadow Family Justice Board chaired by a Senior Family Judge agreed to set up a working group on similar guidance for Northern Ireland.⁸⁶ In March 2026, the Department told RaISe that this working group has since produced draft guidance on Responding to Allegations of Alienating Behaviour. The Department noted that "*the purpose of the guidance is to set out how through each stage of family law proceedings allegations of alienating behaviour should be addressed. In doing so, it aims to bring clarity to an issue which has been subject to much debate. It also serves as a reminder that there is a need to centralise the voice and safeguard the welfare of the child in such cases by prioritising the weight to be attached to the impact of the alleged alienating behaviour on them*".⁸⁷ The draft guidance is currently with members of the Shadow Family Justice Board for comment and will be subject to approval by the Lady Chief Justice before a consultation is launched.

A number of cases also exist on this topic. For example, in *Re C ('Parental Alienation'; Instruction of Expert)* [2023] the President of the Family Division in England and Wales held that 'parental alienation' is not a syndrome capable of

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Women's Aid, [Women's Aid respond to the guidance on allegations of alienating behaviours, or 'parental alienation', published by The Family Justice Council](#) (December 2024)

⁸⁶ Judiciary NI, [Minutes of the Twenty First Meeting of the Shadow Family Justice Board held on 16th June 2025](#) (December 2025)

⁸⁷ The group was established by Mr Justice Humphreys in November 2025 and included representatives of the Bar Council and Law Society. Correspondence between RaISe and Department of Justice (09 March 2026)

being diagnosed. The judge instead referred to three elements which must be established before a court can conclude that “alienating behaviours” had occurred.⁸⁸ This case is referenced throughout the Family Justice Council’s guidance.⁸⁹

More recently, the President of the Family Division summarised the “modern approach” to addressing alienating behaviour in situations where domestic abuse is alleged in *Re Y (Experts and Alienating Behaviour: The Modern Approach)*.⁹⁰ This emphasises the importance of a fact-finding process to first determine the issues of domestic abuse before considering whether the child’s refusal to engage with the estranged parent is an ‘appropriate justified reaction’ to any abusive behaviour, or is the result of protective behaviour or a traumatic response on the part of the victim parent.

It notes that “*courts should not appoint an expert to advise in cases where a child is reluctant, resistant or refusing to engage with a parent unless and until there is clarity... as to the parents’ past behaviour towards each other and the child and, if domestic abuse is proved, whether the child’s reaction to that behaviour is an appropriate one*”.⁹¹ This highlights that family judges should not grant permission for an expert ‘psychologist’ to be instructed who is “*neither registered by a relevant statutory body nor chartered by the British Psychological Society*” unless there is no alternative.⁹²

⁸⁸ [Re C \(‘Parental Alienation’: Instruction of Expert\)](#) [2023] EWHC 345 (Fam), para 103

⁸⁹ Judiciary UK, [Family Justice Council Guidance on responding to a child’s unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour](#) (December 2024), page 8

⁹⁰ [Re Y \(Experts and Alienating Behaviour: The Modern Approach\)](#) [2026] EWFC 38, para 75

⁹¹ *Ibid*

⁹² *Ibid*, para 71

2.3.2 Research in the Republic of Ireland

In the Republic of Ireland, the Department of Justice, Home Affairs and Migration published a research report and policy paper on ‘parental alienation’ in 2023.⁹³ These found that while there was evidence of the use of the term ‘parental alienation’ in Irish courts, there was no common definition or description of it. In addition, the report identified challenges in relation to assessing parental alienation, particularly through the assessment or expert report process used in family courts. This exercise formed part of work under the Family Justice Strategy 2022-2025 which contained a commitment to consider the topic of ‘parental alienation’.⁹⁴

Wider reform has also seen the Family Courts Act 2024 enacted which provides for the establishment of specialised family court divisions within the existing court structures with a Family High Court, a Family Circuit Court and a Family District Court. The phased commencement of the new family courts structure is expected from January 2027.⁹⁵ Further work has also been undertaken to give priority to children’s voices being heard and considered by the courts.⁹⁶ A Children’s Court Advocate Pilot Project aimed at assisting children in having their voices heard in private family law proceedings is due to commence later in 2026 in two locations, Waterford and Clonmel.⁹⁷

⁹³ Department of Justice, Home Affairs and Migration, [Parental Alienation Research Report and Policy Paper](#) (May 2023) and [Minister Harris publishes policy paper and commissioned research on Parental Alienation](#) (May 2023). A public consultation on the issue was also undertaken in May 2022.

⁹⁴ Department of Justice, Home Affairs and Migration, [Family Justice Strategy 2022-2025](#) (November 2022)

⁹⁵ Department of Justice, Home Affairs and Migration, [Family Justice Development Forum Speech 19 January 2026 Minister Jim O’Callaghan](#) (January 2026)

⁹⁶ Department of Justice, Home Affairs and Migration, [Review of the Role of Expert Reports in the Family Law Process](#) (June 2024) and [Funding for pilot project to support voice of children](#) (October 2024)

⁹⁷ Department of Justice, Home Affairs and Migration, [Family Justice Development Forum Speech 19 January 2026 Minister Jim O’Callaghan](#) (January 2026)

3 Experience of Private Law Family Court Proceedings from the Perspective of Children

3.1 The United Nations Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (UNCRC) explicitly calls for children to be granted the right to participate in legal proceedings that affect them.⁹⁸ Whilst the UNCRC is not binding in domestic law in Northern Ireland, the UK is a signatory to the Convention. This means that the UK Government and devolved Governments, including the Northern Ireland Executive, have obligations to fulfil the requirements of the Charter.⁹⁹

The UNCRC has not yet been incorporated into domestic Northern Irish law. However, the Children (Northern Ireland) Order 1995 reflects the principles and aims enshrined in the UNCRC, for example, through the Article 3(3) ‘welfare checklist’ to which the courts must have regard when considering whether to make an order in family proceedings.¹⁰⁰ It is worth noting that the first item in the list is “*the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)*”.¹⁰¹ In addition, there are a number of other policy and legislative vehicles through which it is envisioned that children’s rights will be realised, including through the Children’s Services

⁹⁸ UNCRC, [Article 12](#): “1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law”.

⁹⁹ The UK ratified the UNCRC in December 1991. Each devolved administration takes forward the UNCRC as appropriate to its own requirements. The Westminster Government, however, remains responsible for the overall implementation of the UNCRC across all four nations as well as for reporting responsibilities. It is worth noting that the UNCRC has been incorporated into Scotland’s legal system through The UNCRC (Incorporation) (Scotland) Act 2024 which places specific obligations on public authorities.

¹⁰⁰ Judiciary NI, [LCJ’s Closing Remarks: Joint NICCY/QUB Stakeholder Conference on Incorporation of the United Nations Convention on the Rights of the Child](#) (June 2025)

¹⁰¹ See Article 3(3) of the Children (Northern Ireland) Order 1995

Co-operation Act (Northern Ireland) 2015 and the Children and Young People's Strategy 2020-2030.¹⁰²

Despite an evolving consensus that recognises children as social and competent actors, the literature indicates that it has been difficult to translate the rhetoric of Article 12 UNCRC into meaningful practice, particularly when decisions are being made about contact arrangements for children where there has been a prior history of domestic abuse.¹⁰³ The literature reviewed highlights that there has been an increasing awareness, in recent years, of the impact that exposure to domestic abuse can have on children. This includes recognition that children are direct victims rather than 'hidden victims' of abuse and that their safety must be prioritised.¹⁰⁴

3.1.1 Supporting the Child's Right to Participate

The literature indicates that involving children in legal processes can help to promote a sense of empowerment or control and can enhance their capacity to cope with adversity. In the context of domestic abuse, listening to and responding to children's views validates those experiences and can help to ensure that decisions are better informed, thereby promoting children's safety.¹⁰⁵

The literature identifies the 'Lundy Model' of child participation as providing a simple way of conceptualising a child's right to be listened to and have their views taken seriously, as laid down in Article 12 UNCRC.¹⁰⁶ It focuses decision-

¹⁰² Northern Ireland Assembly Research and Information Service, [Children's Rights and Educational Policy in Northern Ireland: Implementation of the UNCRC](#) (February 2021)

¹⁰³ S. Holt, 'A voice or a choice? Children's views on participating in decisions about post-separation contact with domestically abusive fathers' *Journal of Social Welfare and Family Law* (2018) 40(4), 459–476

¹⁰⁴ N.G. Ho, 'Children – the hidden or direct victims of domestic abuse?' *Journal of Social Welfare and Family Law* (2022) vol. 44(4), 512-528

¹⁰⁵ G. MacDonald 'Hearing children's voices? Including children's perspectives on their experiences of domestic violence in welfare reports prepared for the English courts in private family law proceedings' *Child Abuse and Neglect* (2017) 65, 1–13

¹⁰⁶ L. Lundy, "[Voice is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child](#)" *British Educational Research Journal* (2007) 33(6), 927–942 and L. Lundy et al. 'Incorporation of the United Nations Convention on the Rights of the Child in Law: A Comparative Review' *International Journal of Children's Rights* (2013) 21(3), 442-463

makers on the distinct, albeit interrelated, elements of the provision by focusing on space, voice, audience, influence. This has been adopted by a number of national and international organisations and Governments to inform their understanding of children's participation in recent years.¹⁰⁷ It is noted in the literature as offering potential in ensuring a focus on children's rights and best practice in terms of strengthening their meaningful involvement in decision making within the family courts.¹⁰⁸

While the importance of the right of child participation appears to be generally accepted, issues remain around how and when these rights can be both protected and fulfilled in practice within the family courts. The complex dynamics associated with domestic abuse, particularly coercive and controlling behaviour, can have an impact on the ability of children to participate in family proceedings. As referenced in section 2, these proceedings may inadvertently facilitate the continuation of post-separation abuse with children potentially exposed to further control, manipulation and disruption.

A consistent theme has emerged from the literature in terms of a 'selective approach' being taken to children's views in court proceedings with a variety of experiences evident even across the UK. The studies indicate that there is a tendency to rely on age as a determining factor within the family court system.¹⁰⁹ Some have highlighted concerns that many children, particularly younger children, do not have their views taken into consideration as part of the court process.¹¹⁰

A Scottish study found a number of barriers that may prevent children from expressing their views or prevent them from being considered by a court,

¹⁰⁷ Queen's University Belfast, [Enabling the Meaningful Participation of Children and Young People Globally: The Lundy Model](#)

¹⁰⁸ B. Stone at al. '[Is it a positive or a negative? Children's participation in discharge of care order proceedings](#)' *The British Journal of Social Work* (2025) 55:4, 1675-1694

¹⁰⁹ A. Parkes et al. '[The right of the child to be heard? Professional experiences of child care proceedings in the Irish District Court](#)' *Child and Family Law Quarterly* (2015) 27(4), 423-444

¹¹⁰ K. Mackay, 'The approach in Scotland to child contact disputes involving allegations of domestic abuse' *Journal of Social Welfare and Family Law* (2018) 40(4), 477-495 and an earlier report from 2013 by the same author: K. Mackay, '[The treatment of the views of children in private law child contact disputes where there is a history of domestic abuse: A report to Scotland's Commissioner for Children and Young People](#)' Scotland's Commissioner for Children and Young People (2013)

including fears that their views may be relayed to their parents and a perception that children do not have the capacity to articulate their views. In addition, it noted that practitioners or parents may be reluctant to ask children directly what they want or may make assumptions about the age and maturity of the child. It also articulated concerns around a belief by practitioners or parents that the views children express will not be their own but those of a parent.

It is evident that a range of factors can influence the court's approach to children's participation, including the practical difficulties and the challenges of translating their views into legal decision-making.¹¹¹ One study notes that there is no accepted understanding as to how to "weigh" children's views and that judges have significant discretion around this. It notes concerns that at times children's views only appear to be given "significant weight" if the judge agrees with them anyway.¹¹² A recent review in England and Wales found limited evidence about 'what works' to listen to children's voices effectively and authentically.¹¹³ This indicates that there are significant evidence gaps in relation to research in this area, particularly where domestic abuse is a factor.

3.1.2 Approach in Northern Ireland

In private law proceedings the mechanism for communicating with a child typically involves engaging through the parents, solicitor, children's court officer (CCO) and sometimes there may be direct contact with the judge. The Court Children's Service is run by HSC Trusts in Northern Ireland and has a legal responsibility to assist the family courts in making decisions about the care and contact arrangements for children when separating parents are unable to come to an agreement.

¹¹¹ Commissioner for Victims of Crime Office, "["Totally Invisible" The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#)" (December 2025), page 34

¹¹² A. Daly, '[No weight for 'due weight'? A children's autonomy principle in best interest proceedings](#)' *The International Journal of Children's Rights* (2018) 26(1), 61-92

¹¹³ Ministry of Justice, [Review of the Presumption of Parental Involvement: Literature Review – Impact of Harm and Parental Involvement on Child Welfare](#) (October 2025), page 50

This service only accepts referrals from the courts and works to the direction of the presiding judge.¹¹⁴ The CCO's role is to represent the voice of the child in the court proceedings with reference to the welfare checklist within The Children Order (Northern Ireland) 1995. The CCO may not be involved in every case before the court; they are instructed by the judge when the judge feels it is proportionate and relevant to the case. No data is available in relation to what proportion of cases a CCO's report is carried out or the judge speaks with the child directly and the characteristics of those cases.¹¹⁵

In public law proceedings, the Children's Court Guardian Agency (formerly the Northern Ireland Guardian Ad Litem Agency) provides Guardians appointed by the court to safeguard the interests of children in proceedings such as care and adoption proceedings. It is worth noting some recent commentary locally in relation to the appointment of Guardians in private law proceedings by Gráinne Murphy KC: *"access to the children court's guardians in private law proceedings is largely missing and is something that has been advocated for, for a long time. Instead of guardians, the courts dealing with private law contact/residence applications, hears the children's voices from the parents and the Court Children's Officers (social workers attached to the court). Occasionally, the official solicitor is appointed to represent the child. What we are seeing is resource and time pressures impacting on the child's voice being heard independently in the private family court system"*.¹¹⁶

Previously, the Independent Review of Children's Social Care Services highlighted this separation of court welfare functions, noting that families involved in private law proceedings have the *"enforced involvement of statutory children's social services which may feel like a threatening intrusion"*. The Review stated that the Children's Court Guardian Agency for Northern Ireland social workers have the *"expertise, specialism and credibility to be the family*

¹¹⁴ Department of Justice, [Enhancing Access to Justice for Victims and Survivors of Domestic Abuse: Report under Section 29 of the Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) (June 2025), page 43

¹¹⁵ Ibid

¹¹⁶ AgendaNI, [Roundtable Discussion: Amplifying Children's Voices, Safety and Rights in Northern Ireland's Family Court System](#) (February 2025)

*court welfare service for both public and private law proceedings and should be resourced to provide this service rather than courts working with two separate arrangements for court welfare services”.*¹¹⁷

Section 5 below considers further the Lady Chief Justice’s guidance (June 2025) for the judiciary in family proceedings involving domestic abuse which emphasises the need for child centred approaches where an application for a contact and/or residence order has been made.

3.2 The Influence of Children’s Voices

A number of studies indicate that children, particularly younger children, do not feel reassured that their views are being adequately considered as part of the decision making process.¹¹⁸ Some of the literature highlighted that children’s views were taken seriously by the court and were even determinative if they wanted contact with non-resident fathers. However, their views were also more likely to be discounted, or treated as problematic, in situations where they were opposed to contact, even if children had experienced domestic abuse.¹¹⁹

Where children voiced reluctance or opposition to contact, some studies found that considerable efforts were made to persuade children to have contact.¹²⁰ Therefore, the literature suggests that there is a risk that child victims/survivors of domestic abuse are being denied the opportunity to contribute meaningfully given the level of influence that their views may have on proceedings.

It is clear that children need age-appropriate information and a clear explanation of their involvement in family court processes, including who they will be talking with, for what purpose and under what conditions. However, providing too much

¹¹⁷ R. Jones, ‘[Independent Review of Children’s Social Care Services](#)’ Department of Health (2023), page 232

¹¹⁸ G. Dimopoulos et al. ‘[Talk to Us, Not About Us: Children’s Understandings and Experiences of Participation in Australian Family Law](#)’ *Child and Family Social Work* (2025)

¹¹⁹ M. Harding and A. Newnham, ‘[How do County Courts Share the Care of Children between Parents? Full Report](#)’ University of Warwick and University of Reading (2015)

¹²⁰ R. Thiara and C. Harrison, ‘[Safe not sorry: Supporting the campaign for safer child contact - Key issues raised by research on child contact and domestic violence](#)’ Women’s Aid (2016)

information, such as details about the financial difficulties of a parent, can risk having a negative impact by placing a sense of responsibility onto the child.¹²¹

Inconsistent mechanisms for informing children potentially risk leaving them unclear and vulnerable to misinformation, including from parents. In one study of the Pathfinder Courts Pilot in Wales, both older and younger children reported confusion around the court process but in different ways. Where teenagers were concerned, this centred on questioning the purpose of expressing their views when they felt capable of making their own decisions. The confusion of younger children was exacerbated by short notice before meetings to discuss their views.¹²²

The same study also found low levels of awareness among children about alternative or more flexible ways to participate in the court process, particularly given that some expressed a view that the court environment can be intimidating.¹²³ It is evident from the literature that children's participation tend to occur indirectly, meaning that professionals play a key role in terms of ensuring that the views of children are conveyed to the court in an accurate way.¹²⁴

Research studies that have asked children about engaging with professionals indicate that children often complain about their views not being listened to or re-interpreted.¹²⁵ Children are reliant on their voices being filtered through a "professional adult lens" as part of proceedings which raises the potential for misrepresentation of the child's views.¹²⁶ One study noted that the opportunity

¹²¹ G. Dimopoulos et al. '[Talk to Us, Not About Us: Children's Understandings and Experiences of Participation in Australian Family Law](#)' *Child and Family Social Work* (2025)

¹²² R. Jones, '[Children and Young People's Experiences of Participation in Private Proceedings in the Family Court](#)' Welsh Government (2023), page 23. The research explored participation experiences of children and young people who had been worked with under the 'Pathfinder' project, a new model piloted in the family courts in North Wales.

¹²³ Ibid, page 49

¹²⁴ Commissioner for Victims of Crime Office, "[Totally Invisible: The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#)" (December 2025), page 44

¹²⁵ F. Morrison et al. 'Manipulation and Domestic Abuse in Contested Contact – Threats to Children's Participation Rights' *Family Court Review* (2020) vol.58(2), 403–416

¹²⁶ S. Holt, 'A voice or a choice? Children's views on participating in decisions about post-separation contact with domestically abusive fathers' *Journal of Social Welfare and Family Law* (2018) 40(4), 459–476 cited in Commissioner for Victims of Crime Office, "[Totally Invisible: The Experiences of](#)

for children to discuss and provide feedback about how their views should be presented in court is useful in “*reassuring children and young people that they have been accurately heard*”.¹²⁷ The Welsh Pathfinder Courts Pilot described professional Family Court Advisors quoting children directly as a “*powerful way of conveying their views*” but is not clear that this is widely done within the family courts.¹²⁸

Some of the children interviewed as part of the research for the Commissioner for Victims of Crime Office spoke about the disruption to their lives as well as the impact on their physical and mental health.¹²⁹ Some children also expressed a sense of fear about repercussions following their contact with court professionals and the potential impact of this on decision-making.¹³⁰

3.2.1 New Judicial Approaches

It is worth highlighting that in recent years, a number of studies in England and Australia suggest there is an increasing judicial commitment to engaging with children and seeking their input in relation to post-separation contact.¹³¹ In some cases, judges have written a letter or a specific judgment explaining the reasons for their decision to the child whose living or contact arrangements were in dispute.¹³² These can have several functions, including a ‘communicative function’ to help children to understand and accept the court

[Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 44

¹²⁷ R. Carson et al. ‘[Children and Young People in Separated Families: Family Law System Experiences and Needs](#)’ Australian Institute of Family Studies (2018)

¹²⁸ R. Jones, ‘[Children and Young People’s Experiences of Participation in Private Proceedings in the Family Court](#)’ Welsh Government (2023), page 40

¹²⁹ Commissioner for Victims of Crime Office, “[Totally Invisible” The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 201

¹³⁰ Ibid, page 208

¹³¹ L.A. Barnes Macfarlane, ‘[Patrick v Patrick and Re a Letter to a Young Person: Judicial Letters to Children – An Unannounced, but Not an Unwelcome, Development](#)’ *Edinburgh Law Review* (2018) vol. 22(1), 101–107 and J. Cashmore, ‘[The Role of Children’s Voices and Feedback Mechanisms in Family Justice](#)’ *Child and Family Social Work* (2025)

¹³² G. Dimopoulos et al. ‘[Talk to Us, Not About Us’: Children’s Understandings and Experiences of Participation in Australian Family Law](#)’ *Child and Family Social Work* (2025)

decision.¹³³ It can also have a ‘transformative function’ as it encourages the judge to position the child at the centre of their deliberations, “*potentially stimulating a greater engagement with his or her rights, interests and perspectives*”.¹³⁴

In February 2025, the President of the Family Division in England and Wales published a toolkit for family judges on how, when and why to write to children in family court proceedings.¹³⁵ Sir Andrew McFarlane encouraged judges to use the toolkit and stated that it has the potential to “*change the culture and to make the sending of a short letter from the judge the norm in all substantive cases*”.¹³⁶ The Nuffield Family Justice Observatory described the toolkit as “*an important step forward – an active response to what children have said needs to change*”.¹³⁷

3.3 Views on Post-Separation Contact

A number of studies have considered children’s views on post-separation contact with fathers who were perpetrators of domestic abuse.¹³⁸ Some of this research revealed that children have widely varied, conflicted, mixed and ambivalent feelings and views about contact with their fathers. These feelings ranged from being happy to see their fathers and missing them when they did not see them, having mixed feelings and others experiencing a sense of fear and dread.¹³⁹ No research was located relating to contact with abusive mothers.

¹³³ H. Stalford and K. Hollingsworth, “[“This Case Is About You and Your Future”: Towards Judgments for Children](#)” *Modern Law Review* (2020) 83(5), 1030–1058

¹³⁴ Ibid

¹³⁵ Judiciary UK, [President of the Family Division publishes guidance on writing to children, developed with the Family Justice Young People’s Board](#) (February 2025)

¹³⁶ Ibid

¹³⁷ Nuffield Family Justice Observatory, [Judges asked to write to children involved in court proceedings explaining why they made their decision](#) (February 2025)

¹³⁸ Women’s Aid, [Child First: A Call to Action One Year On](#) (March 2017) and Callaghan et al. (2018) ‘Beyond “Witnessing”: Children’s Experiences of Coercive Control in Domestic Violence and Abuse’ *Journal of Interpersonal Violence* (2018) 33(10), 1551–1581

¹³⁹ F. Morrison, ‘[Children’s views on contact with non-resident fathers in the context of domestic abuse](#)’ Centre for Research on Families and Relationships (2016) Research Briefing 84

Research by Women's Aid found that some of the children interviewed had strong views about contact, with older children less likely to want to have contact with a parent who had been physically violent towards them or another member of the family.¹⁴⁰ Another study found that domestic abuse was a key concern for children which explained why they felt distressed at having contact with their fathers. This distress was compounded, for some, by contact being court ordered, which they experienced as forced rather than wanted. Others wanted contact if, for example, their father was not "*in one of his moods*".¹⁴¹

The priority for children who wanted a relationship with their fathers appeared to be safety for themselves and their wider family. However, in cases where children perceived a lack of commitment or genuine interest in them by their fathers, including being inconsistent and unreliable, or spending little time with them during contact, children found contact to be an unrewarding experience.¹⁴² Another study examined children's views and perceptions of contact with fathers who perpetrated coercive and controlling behaviour.¹⁴³ This study found that the children were aware of attempts to exercise control and described some post-separation contact as constituting "*deliberate attempts to disrupt, control and manipulate*".¹⁴⁴

A limited amount of literature is available on the interventions that may make parental involvement safe, even where there is a risk of harm to the child.¹⁴⁵ One review found that domestic abuse perpetrator programmes (DAPPs) can have a positive impact on children whose fathers attended or completed these programmes as it brought about positive father-child interactions by minimising

¹⁴⁰ Women's Aid and Cafcass, [Allegations of Domestic Abuse in Child Contact Cases](#) (August 2017), page 3

¹⁴¹ F. Morrison, '[Children's views on contact with non-resident fathers in the context of domestic abuse](#)' Centre for Research on Families and Relationships (2016) Research Briefing 84

¹⁴² S. Holt, 'Post-separation Fathering and Domestic Abuse: Challenges and Contradictions' *Child Abuse Review* (2013) vol.24(3), 210–222 and S. Holt, 'A voice or a choice? Children's views on participating in decisions about post-separation contact with domestically abusive fathers' *Journal of Social Welfare and Family Law* (2018) 40(4), 459–476

¹⁴³ Callaghan et al. (2018) 'Beyond "Witnessing": Children's Experiences of Coercive Control in Domestic Violence and Abuse' *Journal of Interpersonal Violence* (2018) 33(10), 1551–1581

¹⁴⁴ A. Barnett, '[Domestic Abuse and Private Law Children Cases: A Literature Review](#)', Ministry of Justice (2020), page 51

¹⁴⁵ Ministry of Justice, [Review of the Presumption of Parental Involvement](#) (October 2025), page 52

further exposure to abuse.¹⁴⁶ However, another study found that DAPPs showed limited effects of changing perpetrator behaviour, and in one program where there was evidence of sustained change, the degree of change was insufficient to cease supervision of monitoring of contact between the father and the child.¹⁴⁷ A number of the professional participants involved in the Commissioner for Victims of Crime Office research expressed frustration that access to programmes for domestic abuse perpetrators in Northern Ireland is “*extremely limited*”.¹⁴⁸

In the literature, contact centres were discussed as an intervention that can be used to make parental involvement safe for children where fathers were perpetrators of domestic abuse. However, there was mixed evidence on whether involvement through contact centres is effective in safeguarding children and abused parents.¹⁴⁹ In some cases, involvement through contact centres resulted in positive involvement of both parents in the life of the child but in other cases it risked leading to further abuse.

Recommendations for making contact centres safer included educating staff on domestic abuse, explicitly considering different situations and providing more supervision during the interactions, as well as clarity about the level of supervision offered. It is evident that there are gaps in the research around the conditions that make contact centres safe, including factors such as the characteristics of parents who use them and the differences in how contact centres operate between jurisdictions.¹⁵⁰

Locally, the Commissioner for Victims of Crime Office research references this issue and identifies multiple and varied impacts of post-separation contact on

¹⁴⁶ Z. Turhan ‘Safe Father–Child Contact Postseparation in Situations of Intimate Partner Violence and Positive Fathering Skills: A Literature Review’ *Trauma, Violence, & Abuse* (2019) 22(4), 856-869

¹⁴⁷ D. Molloy et al. [‘Improving the Effectiveness of the Child Protection System: Overview’](#), Early Intervention Foundation (2017)

¹⁴⁸ Commissioner for Victims of Crime Office, [“Totally Invisible” The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 249

¹⁴⁹ Z. Turhan ‘Safe Father–Child Contact Postseparation in Situations of Intimate Partner Violence and Positive Fathering Skills: A Literature Review’ *Trauma, Violence, & Abuse* (2019) 22(4), 856-869

¹⁵⁰ Ministry of Justice, [Review of the Presumption of Parental Involvement](#) (October 2025), page 55

children. Participants in the research spoke of contact arrangements which built up gradually, starting with some forms of indirect contact (e.g. letters, emails, video calls) which was followed by gradual in-person contact through supervised visits in a contact centre before building up to unsupervised visits with a perpetrator. Concerns were also expressed about a lack of resourcing for contact centres meaning that suitable third parties were not always available for supervision.¹⁵¹ However, it also notes the lack of repercussions for perpetrators who breach contact arrangements or who eventually disengage from the relationship with their child.¹⁵²

4 Role of the Courts

This section considers the literature and case law around the role of the courts in promoting a 'pro-contact' culture. It also looks at studies which highlight the importance of integrating trauma-informed principles across the family courts through training and engagement with a range of professionals, such as judges, solicitors, court children's officers and social workers.

4.1 The 'Pro-Contact' Presumption

As referenced in section 3, Article 3 of the Children (Northern Ireland) Order 1995 states that when a court determines any question relating to the upbringing of a child, "the child's welfare shall be the court's paramount consideration". This replicates similar legislation in England and Wales known as the Children Act 1989. Section 1(2A) of the Children Act 1989 also contains a statutory presumption of parental involvement but this is not included as a provision in the 1995 Order in Northern Ireland.¹⁵³ Section 1(2A) states that the

¹⁵¹ Commissioner for Victims of Crime Office, "["Totally Invisible" The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#)" (December 2025), page 213

¹⁵² Ibid, page 212

¹⁵³ For background, see Ministry of Justice, [Government action to protect children from abusive parents](#) (October 2025). This followed a recommendation from the Expert Panel on Assessing the Risk of Harm to Children and Parents in Private Law Children Cases which found that the statutory presumption reinforces a 'pro-contact culture' and detracts from the court's focus on the child's individual welfare and safety, and recommended it should be reviewed. Ministry of Justice, [Final](#)

court will presume that the involvement of a parent in a child's life will further the child's welfare unless there is evidence to the contrary. Clause 17 of the Courts and Tribunals Bill would repeal this presumption. This Bill was introduced into the House of Commons on 25 February.¹⁵⁴

Broadly, there is awareness that an ongoing relationship with both parents is of benefit for a child's welfare unless this is not in their best interests. The literature highlights that the family courts across the United Kingdom and many other jurisdictions have adopted a 'pro-contact' culture meaning that they promote ongoing relationships between children and both their parents following separation, even in cases which have involved domestic abuse.¹⁵⁵ Family policy and legal decision-making and professional practice in court proceedings has been shaped by the view that children need contact with non-resident fathers for their emotional, psychological and developmental health.¹⁵⁶

A number of studies have identified how this strong presumption of contact has led to domestic abuse being marginalised within private family law proceedings, which can risk child safeguarding and welfare.¹⁵⁷ Some have described that the granting of contact in domestic abuse cases reveals a lack of understanding about its effects on children and risks prioritising the abusive parent's rights over those of the other parent and the child.¹⁵⁸ The literature suggests that some professionals still take the view that a present father is better than an

[Report: Assessing Risk of Harm to Children and Parents in Private Law Children Cases](#) (June 2020) and Ministry of Justice, [Presumption of parental involvement review](#) (October 2025)

¹⁵⁴ Ministry of Justice, [Landmark bill to deliver swifter justice for victims](#) (February 2026) and [Courts and Tribunals Bill \(as introduced\)](#) (February 2025)

¹⁵⁵ M. Harding and A. Newnham, '[How do County Courts Share the Care of Children between Parents? Full Report](#)' University of Warwick and University of Reading (2015) and F. Kaganas, 'Parental involvement: a discretionary presumption' *Legal Studies* (2018) 38(4), 549–570

¹⁵⁶ R. Hunter et al. '[Introduction: Contact and Domestic Abuse](#)' *Journal of Social Welfare and Family Law* (2018) 40(4), 401–425

¹⁵⁷ J. Birchall and S. Choudhry, '[What About My Right Not To Be Abused? Domestic Abuse, Human Rights and the Family Courts](#)' Women's Aid (2018) and Domestic Abuse Commissioner for England and Wales, [The Family Court and Domestic Abuse: Achieving Cultural Change](#) (October 2023) and Domestic Abuse Commissioner for England and Wales, [Everyday business: Addressing domestic abuse and continuing harm through a family court review and reporting mechanism](#) (October 2025)

¹⁵⁸ R. Thiara and C. Harrison, '[Safe not sorry: Supporting the campaign for safer child contact - Key issues raised by research on child contact and domestic violence](#)' Women's Aid (2016)

absent one, even if they display harmful behaviours.¹⁵⁹ One study also observed that much greater limits can actually be placed upon an abusive parent's future involvement with their children in public law proceedings.¹⁶⁰

4.1.1 Case Law

The higher courts in England and Wales have repeatedly emphasised that compelling reasons are necessary to refuse contact in family proceedings. A number of cases have suggested that contact between the child and an abusive parent should only be stopped by a court as a last resort. For example, *Re L (A child)(Contact: Domestic Violence) & Ors* [2001] held that courts should consider the nature and effect of alleged violence at the earliest opportunity when determining contact arrangements.

Butler-Sloss LJ highlighted that “*there is not... nor should there be, any presumption that on proof of domestic violence the offending parent has to surmount a prima facie barrier of no contact. As a matter of principle, domestic violence of itself cannot constitute a bar to contact. It is one factor in the difficult and delicate balancing exercise of discretion. ... In this context, the ability of the offending parent to recognise his past conduct, be aware of a need to change, and make genuine efforts to do so, will be likely to be an important consideration*”.¹⁶¹

In *Re C (Direct Contact: Suspension)* [2011] the court highlighted that contact between a parent and child is a “*fundamental element of family life and is almost always in the interests of the child*”. In addition, contact between a parent and child is to be terminated only in exceptional circumstances, where there are cogent reasons for doing so and when there is no alternative.¹⁶²

¹⁵⁹ G. Macdonald, ‘[Domestic violence and private family court proceedings: Promoting child welfare or promoting contact?](#)’ *Violence Against Women* (2016) 22(7), 823–852

¹⁶⁰ R. Thiara and C. Harrison, ‘[Safe not sorry: Supporting the campaign for safer child contact - Key issues raised by research on child contact and domestic violence](#)’ Women’s Aid (2016)

¹⁶¹ *Re L (A child)(Contact: Domestic Violence) & Ors* [2001] FLR 260 [272]

¹⁶² *Re C (Direct Contact: Suspension)* [2011] EWCA Civ 521 [47]

In *Re M* [2013], the Court of Appeal stressed that judges must carefully consider and give reasons for their rejection of supervised contact options, including an explanation of why the risks found to exist will not be sufficiently guarded against by supervised contact, before deciding to order indirect or no contact.¹⁶³ The court stated that “*an order that there should be no contact between a child and his non-residential parent is draconian*”.¹⁶⁴

In the case of *MS v MN* [2017] an appeal was allowed against an order that a mother should make a child available for contact with a father who had been found to have perpetrated serious domestic abuse upon the mother. In the course of the judgment, reference was made to the case of *Re M (contact: violent parent)* [1999] highlighting the comments of Wall J that “*often in these cases where domestic violence has been found too little weight... is given to the need for the father to change. It is often said that, notwithstanding the violence, the mother must nonetheless bring up the children with full knowledge in a positive image of their natural father and arrange for the children to be available for contact. Too often it seems to me the courts neglect the other side of that equation, which is that a father, like this father must demonstrate that he is a fit person to exercise contact; that he is not going to destabilise the family; that he is not going to upset the children and harm them emotionally*”.¹⁶⁵

The Court of Appeal in *Re HN and Others (children) (domestic abuse: finding of fact hearings)* [2021] handed down guidance on the importance of judges needing to properly understand the nature of coercive control as a pattern of behaviour, and stipulated that this should be taken into account when assessing future risk of harm to children.¹⁶⁶ However, it was clear from the judgment that challenges remain in relation to the “*proper implementation*” of Practice

¹⁶³ [Re M \(Children\)](#) [2013] EWCA Civ 1147 [19], [24], per Macur LJ and [27] per Underhill LJ

¹⁶⁴ See also F. Kaganas, ‘Parental involvement: a discretionary presumption’ *Legal Studies* (2018) 38(4), 549–570 for a wider analysis of the impact of the statutory presumption using the reported case law.

¹⁶⁵ [MS v MN](#) [2017] EWHC 324 (Fam) [8]

¹⁶⁶ [Re HN and Others \(children\) \(domestic abuse: finding of fact hearings\)](#) [2021] EWCA Civ 448 [51]-[59]

Direction 12J relating to contact arrangements where there are allegations of domestic abuse.¹⁶⁷

4.1.2 Approach in Northern Ireland

Whilst Northern Ireland lacks the statutory presumption in favour of parental contact, it is possible to contend that a ‘pro-contact’ culture still seems to exist within its family courts. This favours the preservation of the relationship between children and both parents following parental separation. Recent research from the Commissioner for Victims of Crime Office references perceptions of a ‘pro-contact’ culture. The professional participants spoke about a working assumption that the “*ideal*” in a child’s life is to benefit from a relationship with both parents.¹⁶⁸

One legal professional observed that only in the “*most serious*” of cases would the court rule “*no contact whatsoever*” and most experiences of domestic abuse would not be sufficient to put a bar on contact.¹⁶⁹ Several participants, who were adult or child victims/survivors of domestic abuse, felt that there was an assumption towards awarding contact to a perpetrator, even where children clearly expressed that they did not wish to see the abusive parent.¹⁷⁰

However, some of the professional participants (judges, legal professionals, CCOs) emphasised that decision making in these cases involves a more complex consideration of a range of factors. They also noted that contact will not always equate to direct contact where this is not in line with the child’s wishes and/or best interests. A number of indirect or supervised arrangements can be considered more appropriate in these circumstances and decisions can also be made to stop contact where it is determined to be unsafe.¹⁷¹

¹⁶⁷ Ibid, [28]

¹⁶⁸ Commissioner for Victims of Crime Office, “[Totally Invisible](#)” [The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 114

¹⁶⁹ Ibid, page 115

¹⁷⁰ Ibid

¹⁷¹ Ibid, page 116

It is also worth referencing feedback from stakeholders as part of another study in Northern Ireland which also described a ‘pro-contact’ attitude to decisions relating to child contact arrangements. It noted that “*many of the victims we spoke with, typically mothers, described situations where their child did not want to see the other parent during contact, but they felt faced with the impossible position of having to send them anyway*”.¹⁷²

This research also highlighted a lack of connection between the civil, family and criminal courts. This relates to concerns around inadequate communication between the courts being particularly problematic for domestic abuse victims. One problem cited by victims/survivors and legal professionals was when special measures around keeping the victim/survivor safe were agreed in a criminal court under the Victim Charter but these were then not used to inform the decisions or actions taken in the family courts such as arranging contact. This was highlighted as potentially placing victims/survivors and their children at risk of further post-separation abuse.¹⁷³

4.2 Trauma Informed Practice

Recent literature has highlighted a perception that professionals working within the court system do not fully understand the complex dynamics associated with domestic abuse, particularly coercive and controlling behaviour. A recurring challenge across jurisdictions arises “*when courts, constrained by evidentiary thresholds that prioritise overt harm, may fail to recognise the subtle forms of coercion being exerted by perpetrators*”.¹⁷⁴ The literature indicates that a lack of training and awareness amongst professionals working within the system risks

¹⁷² Department of Justice, [Enhancing Access to Justice for Victims and Survivors of Domestic Abuse: Report under Section 29 of the Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) (June 2025), page 45. This involved 30 interviews and focus groups with over 50 professional stakeholders as well as 27 victims/survivors and 1 child.

¹⁷³ Ibid, page 35

¹⁷⁴ M. McCormack, ‘[Endless litigation in family court as a method of post-separation coercive control](#)’ *Journal of Social Welfare and Family Law* (2025) 47(2–3), 183–212

victims/survivors of domestic abuse and their children being exposed to further abuse and re-traumatisation both in Northern Ireland and elsewhere.¹⁷⁵

A number of studies identified a consistent theme with victims/survivors reporting a lack of understanding amongst professionals around what domestic abuse actually is.¹⁷⁶ This lack of understanding appeared to permeate across many interactions with legal practitioners and social services.¹⁷⁷ It included a failure to appreciate the complexities of an abusive relationship, the difficulties associated with leaving the relationship and how traumatic and dangerous this process could be.¹⁷⁸ As part of this wider lack of appreciation of domestic abuse, some victims/survivors referred to feeling a level of judgement during interactions with professionals, referring to accusations of lying or being viewed as unfit mothers.¹⁷⁹

The judiciary and legal professionals were also identified in some studies as failing to adopt trauma-informed approaches with behaviour described as “dehumanising” given the power of these actors within the system.¹⁸⁰ One study from Northern Ireland even contended that this went beyond a lack of understanding by professionals to indicate “*an ingrained victim blaming culture*

¹⁷⁵ Ministry of Justice, [Assessing risk of harm to children and parents in private law children cases: Final Report](#) (June 2020) and Domestic Abuse Commissioner, [The Family Court and Domestic Abuse: Achieving Cultural Change](#) (October 2023)

¹⁷⁶ S. Wilde et al. ‘The psychological impact on mothers who have experienced domestic violence when navigating the family court system: A scoping review’ *Psychiatry, Psychology and Law* (2024) 31(4), 764-791 and Women’s Aid Federation Northern Ireland, [Hear Her Voice](#) (October 2021)

¹⁷⁷ K. McLaughlin et al. ‘[Domestic Abuse Survivors’ Experiences of Family Courts in Northern Ireland](#)’ Queen’s Policy Engagement (September 2024). This study involved interviews with 17 women who were service users of Women’s Aid.

¹⁷⁸ Ibid

¹⁷⁹ E. Gutowski and L. Goodman, ‘Like I’m invisible’: IPV survivor-mothers’ perceptions of seeking child custody through the family court system’ *Journal of Family Violence* (2020) 35(5), 441–457

¹⁸⁰ M. Coy et al. ‘It’s like going through the abuse again’: domestic violence and women and children’s (un)safety in private law contact proceedings’ *Journal of Social Welfare and Family Law* (2015), vol.37(1), 53-69 and K. Walsh ‘[The Failure to Recognize Continuing Harm: Post-separation Domestic Abuse in Child Contact Cases](#)’ *Violence Against Women* (2024) 31(8):1816-1837 and E. Dalgarno et al. ‘[Health-related experiences of family court and domestic abuse in England: A looming public health crisis](#)’, *Journal of Family Trauma, Child Custody & Child Development* (2024) 21:3, 277-305

whereby survivors are urged to keep quiet about the abuse they have endured for fear of being labelled mentally unfit or unstable”.¹⁸¹

However, it is worth noting that there is some evidence that trauma-informed approaches have become increasingly common in the healthcare, justice and social care sectors in recent years.¹⁸² Some of the literature describes situations where victims/survivors are increasingly engaging with judges, legal professionals and social workers who have acknowledged their trauma and dealt with it sensitively.¹⁸³ One study referred to a judge acknowledging a mother’s “*appropriate reaction*” (trauma response) to abuse, indicating heightened understanding of domestic abuse and coercive control. This was described as bringing “*relief and validation to the mother*”.¹⁸⁴

The development of a trauma-informed approach involves an “*organisational transformation process which requires systemic culture change and ongoing work at all levels*”.¹⁸⁵ Those operating within a trauma informed system will infuse trauma awareness, knowledge and skills into their organisational cultures, practices, and policies. This requires leadership buy-in, dedicated training and ongoing support to help ensure the development of trauma-informed approaches which allow survivors of trauma to engage with services.¹⁸⁶ It is evident from the literature that the embedding of a trauma-

¹⁸¹ K. McLaughlin et al. ‘[Domestic Abuse Survivors’ Experiences of Family Courts in Northern Ireland](#)’ Queen’s Policy Engagement (September 2024)

¹⁸² M. Long and L. Lynch, ‘[Developing Trauma Informed Systems in Northern Ireland: A Review of Organisations’ Experiences of Implementing a Trauma Informed Approach using an External Assessment](#)’ Safeguarding Board for Northern Ireland (March 2025) and C. Walsh et al. ‘[The Prevalance and Impact of Adverse Childhood Experiences in Northern Ireland](#)’ The Executive Programme on Paramilitarism and Organised Crime (February 2025) and RalSe, [Trauma-informed Approaches](#) (NIAR 114-2025) (June 2025)

¹⁸³ E. Dalgarno et al. ‘[Health-related experiences of family court and domestic abuse in England: A looming public health crisis](#)’, *Journal of Family Trauma, Child Custody & Child Development* (2024) 21:3, 277-305 and

¹⁸⁴ Ibid

¹⁸⁵ S. Mooney et al. ‘[We Are on a Journey: Implementing Trauma Informed Approaches in Northern Ireland](#)’ Queen’s University Belfast (2024)

¹⁸⁶ M. Long and L. Lynch, ‘[Developing Trauma Informed Systems in Northern Ireland: A Review of Organisations’ Experiences of Implementing a Trauma Informed Approach using an External Assessment](#)’ Safeguarding Board for Northern Ireland (March 2025), page 6

informed approach across the family courts could be transformative in helping victims/survivors to navigate the system and recover from abuse.

Locally, the Commissioner for Victims of Crime Office research published in 2025 shows increasing recognition of the impacts of the court process on victims/survivors with reports of the judiciary being willing to facilitate special measures where required and not allowing perpetrators to directly question victims/survivors through cross-examination.¹⁸⁷ Court rules introduced in 2022 make specific provision in relation to special measures in family proceedings for victims of domestic abuse. This can involve giving evidence from behind a screen, via a remote evidence centre or by live link.¹⁸⁸

The research also references the need for professionals working in the family court system to have an enhanced understanding of the complexities of domestic abuse. Professional participants identified the need for mandatory, regular and up-to-date training, incorporating legislative developments around stalking and coercive control. CCOs also recognised a need for specialised advanced training within their own profession, noting that whilst they had received general training, there were gaps in understanding and practice “*specifically in relation to children*”.¹⁸⁹

Some of the social work participants and legal professionals also spoke of the need to work towards the family court becoming a trauma-informed environment with training for all staff, including those involved in security, so that they can be aware of the implications of domestic abuse for victims/survivors when entering the family court.¹⁹⁰

¹⁸⁷ Commissioner for Victims of Crime Office, “[Totally Invisible](#)” [The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 118

¹⁸⁸ [The Family Proceedings \(Amendment\) Rules \(Northern Ireland\) 2022](#) made under Section 37 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021

¹⁸⁹ Commissioner for Victims of Crime Office, “[Totally Invisible](#)” [The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 238-239

¹⁹⁰ *Ibid*, page 240

5 Improving Experiences in the Family Courts

The international literature identified in this paper gives an overview of the experiences of adult and child victims/survivors of domestic abuse when navigating private family law proceedings. Whilst there is limited research on this in Northern Ireland, the report from the Commissioner for Victims of Crime Office provides an insight into the barriers that victims/survivors face locally as well as the views of some professionals working within the legal system.¹⁹¹ The following section examines innovative approaches operating in other jurisdictions before considering the Lady Chief Justice's recent guidance for the judiciary in relation to family proceedings involving domestic abuse where an application for a contact and/or residence order has been made.¹⁹²

5.1 Innovative Approaches

5.1.1 The Pathfinder Model

In 2022, the Pathfinder Project was launched as a pilot at a number of family courts in England and Wales.¹⁹³ Its aims were to improve the experiences of families in child arrangements proceedings, reduce the re-traumatisation of victims/survivors of domestic abuse, reduce the amount of time families spent in court and improve coordination between agencies.¹⁹⁴ This multi-agency coordination could include local domestic abuse professionals sharing risk assessments with the court to spare victims/survivors and parties in the case having to unnecessarily repeat their experiences.¹⁹⁵

¹⁹¹ Ibid

¹⁹² Judiciary NI, [Lady Chief Justice of Northern Ireland: Guidance for Judiciary Family Proceedings Domestic Abuse](#) (June 2025)

¹⁹³ See AgendaNI, [Roundtable Discussion: Amplifying Children's Voices, Safety and Rights in Northern Ireland's Family Court System](#) (February 2025) for some discussion on how a Pathfinder model could be adapted to meet the needs of children in Northern Ireland's family court system.

¹⁹⁴ C. Barlow et al. '[Private Law Pathfinder Pilot Process Evaluation and Exploratory Financial Analysis](#)' Ministry of Justice (March 2025), page 3 and J. Doughty, [Evaluation of the Pathfinder Pilot in Private Law – published](#) Transparency Project (April 2025)

¹⁹⁵ Ministry of Justice, [Pioneering approach in family courts to support domestic abuse victims better](#) (March 2022)

It also aimed to give children greater opportunity to voice their wishes and feelings with the aim of the courts taking children's views into account earlier in the decision-making process. The project began in North Wales and Dorset in February 2022 before expanding to South East Wales in April 2024 and Birmingham in May 2024. In early 2025, it was expanded to Mid and West Wales and West Yorkshire.¹⁹⁶ In November 2025, it was expanded to include Stoke, Worcester and Wolverhampton. In January 2026, the model expanded again to cover Hampshire and the Isle of White.¹⁹⁷

The Pathfinder replaced the previous court process (known as the Child Arrangements Programme or CAP) with a new model which incorporates three phases: information gathering and assessment; interventions and/or decision hearing; and a review stage. It includes a dedicated Case Progression Officer in the court administrative team focused on case coordination and acting as a point of contact and support for families alongside the 'frontloading' of case management with information gathering focused at the beginning of the court process. This includes early investigative information gathering using a Child Impact Report as a key component of the Pathfinder model. Furthermore, direct funding is also central with domestic abuse support services conducting Domestic Abuse Stalking and Honour-Based Violence (DASH) risk assessments and providing support to victims/survivors.¹⁹⁸

The Pathfinder model could offer a more child-centred, problem-solving approach to resolving private family law disputes. In 2023, a study was commissioned by Cafcass Cymru to explore the effect of Pathfinder on children's experiences of participation in private family law proceedings.¹⁹⁹ This found that the model helped to put children's views to the forefront, accorded them greater consideration earlier on and that courts were taking their views

¹⁹⁶ Ministry of Justice, [Thousands of children to be supported thanks to multi-million expansion of innovation in family courts](#) (February 2025)

¹⁹⁷ Ministry of Justice, Presentation on Child Focused Courts (Pathfinder), Delivered March 2026 at the NI Victim Summit

¹⁹⁸ C. Barlow et al. '[Private Law Pathfinder Pilot Process Evaluation and Exploratory Financial Analysis](#)' Ministry of Justice (March 2025), page 3

¹⁹⁹ R. Jones, '[Children and Young People's Experiences of Participation in Private Proceedings in the Family Court](#)' Welsh Government (2023), page 48

seriously. However, it also identified some practical barriers, such as children's lack of knowledge of the process, strict timelines hindering their opportunity to have their voices heard and an absence of alternative ways for children to engage.²⁰⁰

Furthermore, a recent evaluation of the Pathfinder model published by the Ministry of Justice found that it "*brought about substantial improvements both in terms of the experiences of children and families as well as to system efficiencies. Centring 'the voice of the child' in proceedings was recognised as a key aspect of the delivery of Pathfinder. This included hearing and respecting children's views much earlier in the process in comparison to CAP*".²⁰¹ Fewer court hearings were also required and the introduction of Case Progression Officers saw greater efficiencies. In addition, the Pathfinder reduced re-traumatisation for both adult and child victims/survivors of domestic abuse due to a "*more supportive process and better court environment*".²⁰²

The scope of this review was limited to a focus on the experience of professionals rather than directly involving families and children. Therefore it is unclear if the Pathfinder had an impact on the outcome of cases or the types of order made by the courts.²⁰³ It also identified a number of challenges relating to the implementation of the new process, particularly around resourcing and staff capacity. A further area where resourcing posed a challenge was in the funding and capacity of the domestic abuse services involved in delivering the Pathfinder Pilot with a lack of capacity to manage the number of cases being referred to them.²⁰⁴ The limited availability of wider support for families, such as

²⁰⁰ Ibid

²⁰¹ C. Barlow et al. '[Private Law Pathfinder Pilot Process Evaluation and Exploratory Financial Analysis](#)' Ministry of Justice (March 2025), page 5

²⁰² Ibid, page 6

²⁰³ J. Doughty, '[Evaluation of the Pathfinder Pilot in Private Law – published](#)' Transparency Project (April 2025)

²⁰⁴ C. Barlow et al. '[Private Law Pathfinder Pilot Process Evaluation and Exploratory Financial Analysis](#)' Ministry of Justice (March 2025), page 37

parenting courses and contact centres, and lack of interventions for domestic abuse perpetrators were also highlighted as issues.²⁰⁵

In summary, elements of the Pathfinder model could offer the potential for improved experiences for victims/survivors of domestic abuse within private family law proceedings. The Domestic Abuse Commissioner has highlighted that the Pathfinder Courts offer a “*vastly improved experience for victims*” and are effective in “*reducing stress levels within proceedings and supporting all parties*”.²⁰⁶ Meanwhile data from the Ministry of Justice published in 2025 showed these courts resolve cases earlier with the average case length reducing from 29 weeks to 18 weeks in North Wales and 38 weeks to 27 weeks in Dorset. In South East Wales, average case length fell from 37 weeks to 12 weeks and in Birmingham there was a reduction from 53 weeks to 23 weeks.²⁰⁷

It is unclear as to whether there are any cost savings associated with this reduction in delay. More broadly, it is evident that the Pathfinder model requires more resources and a wider assessment to accurately gauge the level of funding required for a national rollout. In 2025, a report from the House of Commons Public Accounts Committee highlighted slow progress around the national rollout of the Pathfinder model. It noted that the Ministry of Justice had “*no timetable for wider adoption, nor an assessment of what funding would be required*”. It also highlighted that Cafcass’s involvement in private family law cases is expected to increase from around 30 per cent of cases to 80 per cent under the Pathfinder model, requiring around 200 more Family Court Advisers who will work with children and families at an earlier stage.²⁰⁸

In March 2026, the Ministry of Justice announced that the Pathfinder Courts are to be renamed Child Focused Courts and will be expanded across England and

²⁰⁵ Ibid, page 6

²⁰⁶ Domestic Abuse Commissioner, [The Family Court and Domestic Abuse: Achieving Cultural Change](#) (October 2023), page 58 and [Commissioner responds to the Government's evaluation of Pathfinder Family Court pilots](#) (March 2025)

²⁰⁷ Ministry of Justice, [Thousands of children to be supported thanks to multi-million expansion of innovation in family courts](#) (February 2025) and [Pathfinder Programme Ad Hoc Management Information](#) (February and November 2025)

²⁰⁸ Public Accounts Committee, [Improving Family Court Services for Children](#) (September 2025), page 6

Wales. £17 million of funding for 2026-2027 will see the model initially rolled out across Northumbria and North Durham, Cleveland and South Durham, Lancashire, Cumbria, York and North Yorkshire, Cheshire and Merseyside, Northamptonshire, and Coventry and Warwickshire.²⁰⁹ This was welcomed as a “*game changer*” by the President of the Family Division.²¹⁰

5.1.2 The Lighthouse Model

Reforms in Australia have also seen changes within the family courts, particularly with the expansion of the Lighthouse model run by the Federal Circuit and Family Court of Australia. This scheme, which was piloted in 2020 before being expanded nationally in 2022, aims to improve the risk screening, triage and assessment of family law matters. It involves screening family law litigants for major risk factors, including family violence, child abuse, alcohol or substance abuse and mental ill-health at the point of filing in all applications that seek parenting orders.²¹¹

Lighthouse focuses on the identification of risk factors and safety through: universal early risk screening (completed by parties using an online platform called Family DOORS Triage);²¹² assessment and triaging of cases by a specialised team made up of Judicial Registrars and Triage Counsellors with knowledge of family violence and safety risks; and case management which includes referring high risk cases to a dedicated court list known as the Evatt List. The Evatt List focuses on early information gathering and intervention from the commencement of proceedings and was created to ensure that families who are the most vulnerable are provided with resources, support and timely court events.²¹³

²⁰⁹ Ministry of Justice, [Children to get swifter justice as new family court approach expands nationally](#) (March 2026)

²¹⁰ Judiciary UK, [Judges welcome roll-out of Child Focused Courts](#) (March 2026)

²¹¹ Federal Circuit and Family Court of Australia, [Annual Reports 2023-2024](#) (2024)

²¹² J.E. McIntosh et al. ‘Development and validation of the Family Law DOORS’ *Psychological Assessment* (2016) 28(11), 1516–1522 and J.E. McIntosh ‘Re-examination of the Family Law Detection of Overall Risk Screen (FL-DOORS): Establishing fitness for purpose’ *Psychological Assessment* (2018) 30(8), 1121

²¹³ The Federal Circuit and Family Court of Australia, [Lighthouse Overview](#)

Lighthouse is currently funded until June 2026 as part of the National Plan to End Violence against Women and Children 2022-2032.²¹⁴ A recent evaluation of the triage process using data from 4,175 adults collected using the Family DOORS Triage Tool and court intake records indicates that it is “*highly accessible and accurate across vulnerable sub-populations*” providing “*valuable information about the characteristics of family safety and risk on entry to the family court system*”.²¹⁵ This study is the first in a suite of studies tracking the utility and impact of early screening and how this can translate into safer outcomes for families.²¹⁶

More broadly, it is worth noting that Australia has also seen recent legislative changes under the Family Law Amendment Act 2024 which enable the family courts to consider the economic consequences of family violence when resolving the property and financial aspects of relationship breakdown.²¹⁷

5.2 Northern Ireland

As highlighted above, concerns about the impact of family court proceedings on victims/survivors of domestic abuse have been documented in neighbouring jurisdictions alongside emerging insights into experiences in a local context.²¹⁸ In 2017, Lord Justice Gillen led a fundamental review into the civil and family justice system in Northern Ireland with a particular focus on achieving better outcomes for court users, particularly children and young people. This made 176 recommendations for change with key ones including the “*creation of a*

²¹⁴ The Federal Circuit and Family Courts of Australia, [Lighthouse Update: Two Years of Lighthouse](#) (November 2024) and Australian Government, [National Plan to End Violence against Women and Children 2022–2032](#) (October 2022)

²¹⁵ J.E. McIntosh et al. ‘[Family Violence Risk on Entry to the Family Courts of Australia: Profiles and Predictive Validity of the DOORS Triage Process](#)’ *Journal of Interpersonal Violence* (2025) and J.E. McIntosh et al. ‘[Enhancing Safety for Separating Families Affected by Domestic and Family Violence: A Scoping Review of Modifiable Factors](#)’ *Trauma, Violence, & Abuse* (2025)

²¹⁶ This is part of a broader research project ‘Family Violence Triage in Family Courts: Safety, Efficacy and Benefit’ which received a grant from the Australian Research Council in 2021 and is due to run until October 2026. See [Australian Research Council](#).

²¹⁷ Attorney General’s Portfolio, [Landmark family law reforms commence](#) (June 2025)

²¹⁸ Judiciary NI, [Review of Civil and Family Justice in Northern Ireland: Review Group’s Report on Family Justice](#) (September 2017) and K. McLaughlin et al. ‘[Domestic Abuse Survivors’ Experiences of Family Courts in Northern Ireland](#)’ Queen’s Policy Engagement (September 2024)

single family court” and “a fresh culture of problem-solving courts within the family justice system, bringing together civil and criminal matters, including a new drug and alcohol court and a domestic violence court”.

The review also made a number of recommendations linked to “*developing the voice of the child*” in family court proceedings.²¹⁹ In 2025, Sir John Gillen spoke of his concern that “*inadequate action has taken place on implementing this*”.²²⁰ He noted that there are three key considerations when assessing the evolution of children’s voices in the family court system. Resourcing is a key factor alongside a need for caution when transferring solutions from Great Britain to ensure they are adaptable to Northern Ireland. He also highlighted a number of longstanding issues that have yet to be fully resolved, for example, how judges speak to children and the concept of open justice when reporting judgments.²²¹ He also highlighted that the “*thrust of the Pathfinder concept [in England and Wales] should be introduced into Northern Ireland*”.

5.2.1 Lady Chief Justice’s Guidance

Recently, the Lady Chief Justice published comprehensive guidance for the judiciary in relation to family proceedings involving domestic abuse (admitted to, proven or alleged) where an application for a contact and/or residence order has been made.²²² This applies to any proceedings in the Family Division of the High Court, the Family Care Centre or the Family Proceedings Court under the Children (Northern Ireland) Order 1995 or the Adoption (Northern Ireland) Order 1987.

It also states that the guidance is applicable to “*any proceedings in any other court in which any question arises about where a child should live or about*

²¹⁹ Judiciary NI, [Review of Civil and Family Justice in Northern Ireland: Review Group’s Report on Family Justice](#) (September 2017), page ix and page 156, FJ125-133

²²⁰ AgendaNI, [Roundtable Discussion: Amplifying Children’s Voices, Safety and Rights in Northern Ireland’s Family Court System](#) (February 2025)

²²¹ A pilot is currently operating to allow journalists in Northern Ireland to be able to report on family court hearings. See BBC News, [BBC reports from family court case in NI media first](#) (December 2025)

²²² Judiciary NI, [Lady Chief Justice of Northern Ireland: Guidance for Judiciary Family Proceedings Domestic Abuse](#) (June 2025)

contact between a child and a parent or other family member where the court considers that an order should be made". It applies equally to proceedings involving personal litigants as well as those where the parties are legally represented.²²³

The guidance makes clear the need for trauma-informed and child centred practice within the family courts, highlighting that "*children may suffer direct physical, psychological and/or emotional harm from living with and being victims of domestic abuse and may also suffer harm indirectly where the domestic abuse impairs the parenting capacity of either or both of their parents*".²²⁴ It notes that the parties might wish to reach a resolution on matters themselves, but that any such outcome must be subject to the approval of the court.²²⁵

In family proceedings involving domestic abuse, section 3 of the guidance refers to an obligation on the parties involved to identify child protection issues at an "*early stage*". This also requires the completion of a Form C1AA (Supplemental Information Form) setting out any allegations of domestic abuse.²²⁶

In cases where domestic abuse has been admitted to or proven, then a residence or contact order should protect the safety and wellbeing of the child without exposing them to "*the risk of further harm*".²²⁷ However, in situations where domestic abuse allegations are in dispute, then a fact-finding exercise may be necessary. It is also worth noting that if a fact-finding exercise is found

²²³ More broadly, Ulster University, [Litigants in person in Northern Ireland: barriers to legal participation](#) (2018) identified difficulties that individuals self-representing experienced in the family court system. The [Litigants in Person Reference Group](#) provides wider support in identifying ways to improve the experiences of personal litigants in the court system.

²²⁴ Judiciary NI, [Lady Chief Justice of Northern Ireland: Guidance for Judiciary Family Proceedings Domestic Abuse](#) (June 2025), paragraph 2.1

²²⁵ Ibid, paragraph 2.2. Note the comments of the LCJ during an appearance before the Justice Committee around whether mediation is appropriate in cases involving domestic violence: "*domestic violence needs to be determined in a case. That can lead to a problem with mediation, for instance, because there is an inequality of bargaining power, and I worry about coercive control seeping into mediation*". Northern Ireland Assembly Official Report, [Delays in the Criminal Justice System: Rt Hon Dame Siobhan Keegan, Lady Chief Justice of Northern Ireland](#) (22 January 2026)

²²⁶ Department of Justice, [Form C1AA Supplemental Information Form](#)

²²⁷ Ibid, paragraph 3.2

not to be necessary, then the court order should record the reasons for that decision.²²⁸

In situations where a fact-finding exercise is required, the court must provide direction on how this will be conducted to ensure that the matters are determined “*as soon as possible, fairly and proportionately, and within the capabilities of the parties*”.²²⁹ The guidance appears to acknowledge the various difficulties that victims/survivors of abuse may face by noting that “*in cases where the alleged victim of domestic abuse is unable for reasons beyond their control to be present in court, what measures, including any special measures, should be taken to ensure that that person’s best evidence can be put before the court*”.²³⁰ It also highlights the need for courts to consider “*what support the alleged perpetrator may need in order to have a reasonable opportunity to challenge the evidence*”.²³¹

Furthermore, the guidance includes a section on the importance of the continuity of proceedings as part of the fact-finding exercise as “*hearings should be arranged in such a way that they are conducted by the same judge or, where the proceedings are in the Family Proceedings Court, by a panel made up of the same DJ(MC) and lay magistrates*”.²³² On matters relating to child welfare, the court will likely also wish to direct the preparation of an expert report, unless it is satisfied that no such evidence is needed to safeguard the child’s interests.²³³ Such reports should come from the Children’s Court Guardian Agency, a Court Children’s Officer, a Social Worker, or “*any other expert whose expertise the court considers might be of assistance*”.²³⁴

²²⁸ Ibid, paragraph 4.3

²²⁹ Ibid, paragraph 4.4

²³⁰ Ibid, 4.4 (k)

²³¹ Ibid, 4.4 (l)

²³² Ibid, paragraph 4.5

²³³ Ibid, paragraph 5.1

²³⁴ The definition of an expert may require further consideration. As highlighted in section 2.2, the UN Special Rapporteur on Violence against Women and Girls recommended that states should “*legislate to prohibit the use of parental alienation or related pseudo-concepts in family law cases and the use of so-called experts in parental alienation and related pseudo-concepts*”. See UN Special Rapporteur on Violence against Women and Girls, [Custody, Violence against Women and Violence against](#)

In cases where there are disputed allegations of abuse, the Lady Chief Justice's Guidance makes it clear that no interim contact or residence order should be made, unless the court is satisfied that it is in the interests of the child to do so. It also states that any such order must not "*expose the child to an unmanageable risk of harm*" given the "*impact that domestic abuse against a parent can have on the emotional wellbeing of the child and the need to protect against domestic abuse*".²³⁵

When deciding on whether to make an interim order, the court should also consider the arrangements required to ensure "*as far as possible, that any risk of harm to the child and the parent who has made the allegation of domestic abuse is minimised and that the safety of the child and the parties is secured*".²³⁶ This may require resources to be available to allow for the supervision of contact so that it is beneficial to the child.

The guidance goes on to include a section on the outcome of a fact-finding exercise, highlighting that "*the court should, wherever practicable, make findings of fact as to the nature and degree of any domestic abuse which is established and its effect on the child, including where appropriate, the effect on the child of the harm caused to the parent against whom the domestic abuse is, or was, directed*".²³⁷ These findings should be recorded in writing and made available to the parties. They should also be shared with the Children's Court Guardian Agency or the relevant Court Children's Officer.²³⁸

Section 8 of the LCJ's guidance relates to cases involving contact orders where domestic abuse has occurred and allows for the court to consider whether it would be assisted by further assessments, such as social work, psychiatric,

[Children A/HRC/53/36](#) (April 2023). See also [Re Y \(Experts and Alienating Behaviour: The Modern Approach\)](#) [2026] EWFC 38.

²³⁵ Judiciary NI, [Lady Chief Justice of Northern Ireland: Guidance for Judiciary Family Proceedings Domestic Abuse](#) (June 2025), paragraph 6.1

²³⁶ Ibid, paragraph 6.3

²³⁷ Ibid, paragraph 7.1

²³⁸ Ibid, paragraph 7.2

psychological, or expert safety and risk, in relation to the child or any other party.²³⁹

It goes on to suggest that contact orders should be made only where the court is satisfied that “*the physical and emotional safety of the child (including safety from the harm caused by the impact of domestic abuse on the parent against whom the domestic abuse is, or was, directed) can, as far as possible, be secured before, during and after contact*”.²⁴⁰ The court should also consider “*the conduct of both parents towards each other and towards the child and the impact of same on the child*”.²⁴¹

In summary, it is evident that the LCJ’s guidance aims to ensure that courts in Northern Ireland deal with family law cases where domestic abuse is a factor expeditiously using a child-centred approach.²⁴² The LCJ’s guidance references the impact of litigation abuse, discussed in section 2.1, in highlighting that the court should consider whether a parent is “*motivated by a desire to promote the best interests of the child or is using the process to continue a form of domestic abuse against the other parent*”.²⁴³ The guidance does not automatically rule out contact following domestic abuse and it does appear that the court could potentially direct contact if it believes this is “*safe and beneficial for the child*” but consideration would need to be given to “*any directions or conditions*” required to enable the order to be carried into effect, such as the supervision of contact (or whether indirect contact would be more appropriate).²⁴⁴

²³⁹ Ibid, paragraph 8.1

²⁴⁰ Ibid, paragraph 9.1

²⁴¹ Ibid, paragraph 9.2

²⁴² Judiciary NI, [PwC and PSNI Business Breakfast on Tackling Violence against Women and Girls](#) (November 2025)

²⁴³ Judiciary NI, [Lady Chief Justice of Northern Ireland: Guidance for Judiciary Family Proceedings Domestic Abuse](#) (June 2025), paragraph 9.2

²⁴⁴ Ibid, paragraph 11.1 and 11.2

5.2.2 Recommendations for Change

It is also worth highlighting some recent recommendations for change aimed at improving the experiences of families who have experienced domestic abuse and are involved in private law proceedings. Section 2.2 highlighted improvements to the process around the operation of the waiver of the financial eligibility rules which was introduced for victims/survivors of domestic abuse in cases involving applications for Article 8 Orders brought by perpetrators.

Further recommendations for change have also been made in the recent report referenced throughout this paper by the Commissioner for Victims of Crime Office.²⁴⁵ These can be linked to outcome 5 of the Executive's Strategic Framework to End Violence Against Women and Girls (EVAWG) which focuses on a *"justice system which has the confidence of victims, survivors, and the public in its ability to address violence against women and girls"*.²⁴⁶

The Commissioner's report includes a recommendation for formal mechanisms to be established to allow for more timely sharing of information and evidence related to allegations of domestic abuse, including consideration being given to an information sharing protocol between criminal and family courts.²⁴⁷ In addition, clear processes and procedures need to be established for information sharing between agencies and Departments holding relevant evidence, such as the PSNI, Public Prosecution Service and Social Services.

There is a recommendation relating to mandatory training on domestic abuse for all members of the judiciary, the legal profession and other professionals working within the family courts. This should be aimed at addressing current gaps, such as understanding of post-separation abuse. A greater focus is also placed on the voice of the child to help ensure that they are heard early in the

²⁴⁵ Commissioner for Victims of Crime Office, ["Totally Invisible" The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025)

²⁴⁶ Northern Ireland Executive, [Strategic Framework to End Violence Against Women and Girls 2024-2031](#) (September 2024)

²⁴⁷ Commissioner for Victims of Crime Office, ["Totally Invisible" The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 260

process with the report calling for an increase in the number and capacity of Court Children's Officers across all Health and Social Care Trusts in Northern Ireland.

Furthermore, it highlights a need to provide greater opportunities for children to be heard in family proceedings with a suggestion that a resource should be developed and co-designed with children which advises what family court proceedings are, who is who, what they will be asked and, how information will be used and decisions made. It also notes that children should be consulted on their preferred method of communication with the court and that formal mechanisms to provide children with feedback should also be considered. There may also be merit in exploring emerging practice in neighbouring jurisdictions, such as the children/judiciary co-produced letter writing toolkit for judges referenced in section 3.2.

The research also makes a number of other recommendations to improve family court processes in Northern Ireland, including a presumption against contact in cases where domestic abuse is established. This would require "*an important shift in focus towards perpetrators establishing why it is safe and appropriate for them to have contact with their child*".²⁴⁸

The report also suggests that steps should be taken to guard against mediation being offered to victims/survivors and perpetrators as a first-stage means to expedite a 'resolution' around contact given the dynamics associated with coercive and controlling relationships. It also states that consideration should be given to further restrictions beyond Article 179(14) of the Children (Northern Ireland) Order 1995 to limit perpetrators' ability to make a further application for a period of time, with the potential to bar further applications indefinitely in certain circumstances.²⁴⁹

The research commissioned by the Department of Justice on 'Enhancing Access to Justice for Victims and Survivors of Domestic Abuse' also includes a

²⁴⁸ Ibid, page 261

²⁴⁹ Ibid

broad set of recommendations relating to changes within the family courts.²⁵⁰ These highlight a need to focus on preventing vexatious proceedings being brought to court by changing perpetrator behaviour and offering alternatives to court proceedings where appropriate, including through intervention programmes to change perpetrator behaviour and mediation services which allow parties to engage safely and voluntarily.²⁵¹

It also calls for further work to develop family courts to be more sensitive to victims/survivors and trauma-informed. There is also a suggestion that improvements could be made to the type of information used to explore and monitor processes within the family court system around domestic abuse, including reasons for adjournments, demographic data of applicants/respondents, length of cases and patterns where they are withdrawn or where there are repeat applications.

In Northern Ireland, there are three Departments with civil or family justice functions. The Department of Finance carries the overall civil justice policy lead whilst the Department of Health has policy responsibility for public family law, including cases involving children in care. The Department of Justice has a range of responsibilities in relation to the administration of civil justice, such as the jurisdiction of the courts and access to civil legal aid. The Northern Ireland Courts and Tribunals Service, which is an agency of the DOJ, supports the independent judiciary by providing administrative support for courts and tribunals and maintaining the court estate.²⁵²

In February 2026, the Justice Minister stated in evidence to the Justice Committee that the Department of Justice will be “*convening a round table of officials from different Departments to look at what we can do better in the family courts*” following the report from the Commissioner for Victims of Crime

²⁵⁰ Department of Justice, [Enhancing Access to Justice for Victims and Survivors of Domestic Abuse: Report under Section 29 of the Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#) (June 2025). This research was delivered by Outcome Imps.

²⁵¹ Ibid, page 64

²⁵² Judiciary NI, [Review of Civil and Family Justice in Northern Ireland: Review Group's Report on Family Justice](#) (September 2017), page 11

Office.²⁵³ A Family Court Pilot Task and Finish Working Group involving the Department of Justice, Department of Health and Department of Finance is being established to explore “*alternative family law models which adopt a more trauma-informed approach and place children’s voices at the centre of the decision-making process*”.²⁵⁴

6 Methodology

6.1 Approach

A number of sources were consulted in developing this paper:

- Academic databases (e.g. Westlaw UK, Google Scholar, LexisNexis) used to identify peer-reviewed journals, key publications and books relevant to the topic. A number of search terms were used for this such as ‘domestic abuse’, ‘family court proceedings’, ‘child contact and domestic abuse’ and ‘coercive control’. This highlighted relevant studies based on surveys, focus groups and case studies;
- Grey literature²⁵⁵, including Government publications, consultation documents and relevant reports from NGOs and charities which provide insights into policy and practice in Northern Ireland;
- Information provided by the Assembly Library.

This research identified within these sources has been categorised and presented across three key themes:

- Domestic abuse experienced by parents before and after separation, including private law family court proceedings;

²⁵³ Northern Ireland Assembly Official Report, [Ministerial Briefing: Naomi Long MLA, Minister of Justice](#) (05 February 2026)

²⁵⁴ [AQW 39000/22-27](#) (January 2026)

²⁵⁵ Grey literature covers a range of different information that is produced outside of traditional academic publishing channels. This includes research produced by Governments, NGOs, charities and third sector organisations.

- The experience of children involved in private law family court proceedings in the context of domestic abuse;
- The role of the family courts in responding to and managing domestic abuse in proceedings involving children.

As part of this, the literature review also addresses the impact that harm caused by a child's parent has upon their welfare. This includes the impact that involvement, or cessation of involvement, of a parent in a child's life has upon their welfare, including in situations where a parent has caused, or is at risk of causing, harm to the child. Comparisons with other jurisdictions also indicate that these issues are not limited to Northern Ireland but reflect broader challenges evident in family court proceedings elsewhere.

Limited research exists on the topic of domestic abuse in private family law proceedings which has been conducted in Northern Ireland in recent years. In December 2025, the Commissioner for Victims of Crime Office published new research by the Centre for Children's Rights at Queen's University Belfast into the experience of victims/survivors of domestic abuse in private law family courts in Northern Ireland which is referenced throughout this paper.²⁵⁶ This research involved interviews with 51 participants (12 adult victims/survivors, 10 children, 6 Court Children's Officers, 4 Independent Social Workers, 11 child/victim advocates, 3 members of the judiciary and 5 legal professionals).

Searches for relevant literature were mainly focused on studies from England and Wales, Scotland and the Republic of Ireland and were broadened to include studies undertaken in other common law jurisdictions where possible, including the USA, Canada and Australia. The specifics of the legal mechanisms of family courts may differ both within and across these jurisdictions but many of the systemic issues discussed below appear to be widespread. The time frame for the searches was limited to those published within the last decade (2015 onwards with a small number of references to literature published before this).

²⁵⁶ Commissioner for Victims of Crime Office, [Landmark Report on Domestic Abuse Victims' Experiences in Family Courts Launched](#) (December 2025)

6.2 Terminology

Until recently, ‘domestic violence’ was used to describe what is now known by the wider term of ‘domestic abuse’ and was generally limited to physical violence perpetrated by adults in intimate relationships which could be prosecuted under a range of offences. In recent years, understanding of abuse has developed significantly with a recognition that this can also include acts of coercive or controlling behaviour.²⁵⁷ The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 introduced a number of reforms, including a specific offence of coercive control and updated definitions which encompass a wider range of behaviours.²⁵⁸

In this paper, domestic abuse is used to describe any incident or pattern of violent, controlling, coercive or threatening behaviour. This can be physical, sexual, psychological, virtual or emotional and occurs between current or former intimate partners or family members.²⁵⁹ It can also include financial or economic abuse and recognises that children can be used as a means of enacting control over another person. This definition aims to reflect how domestic abuse is described in the academic literature and recognises recent developments within policy and legislation in Northern Ireland.

In addition, the academic literature refers to both ‘victims’ and ‘survivors’ in relation to those who have experienced domestic abuse. Therefore this paper uses both terms. However, it is important to note that ‘victim’ or ‘complainant’ is often used in a legal context to refer to those impacted by crime but the term ‘survivor’ or ‘person with lived experience’ is sometimes preferred to reflect the resilience of those who have experienced abuse.²⁶⁰

The term ‘perpetrator’ is used in this paper to refer to an individual who engages in behaviour that causes physical or psychological harm. This includes the

²⁵⁷ A. Barnett, [‘Domestic Abuse and Private Law Children Cases: A Literature Review’](#), Ministry of Justice (2020)

²⁵⁸ [Domestic Abuse and Civil Proceedings Act \(Northern Ireland\) 2021](#)

²⁵⁹ Department of Justice and Department of Health, [Domestic and Sexual Abuse Strategy 2024-2031](#) (September 2024), page 24

²⁶⁰ Ibid, page 14

range of abusive behaviours outlined in the definition of domestic abuse detailed above. The experience of children and young people in the family court system is also included within the literature which refers to those aged under 18.

6.3 Limitations

The main focus of this work was on existing research which allowed this rapid literature review to cover the broad themes which are outlined in section 1.2. This paper spans much of the literature on the discussed topics but is not exhaustive and it is possible that some details on individual studies could be lost. In addition, individual studies within this paper rely on differing definitions and measurements of key terms and it is not always possible to identify the definitions used by each individual study. It should also be highlighted that the evidence base is heavily reliant on qualitative studies involving small sample sizes. Many of the studies also involve interviews with participants who have been recruited by support organisations which work with victims/survivors of domestic abuse. There is also a lack of publicly available quantitative data relating to the family courts in Northern Ireland.²⁶¹

There are also gaps in academic research in relation to men's experiences of domestic abuse and family court proceedings. Domestic abuse has long been recognised as a "highly gendered crime".²⁶² Women typically experience higher levels of fear, coercive and controlling behaviours, and are disproportionately exposed to severe and ongoing domestic abuse.²⁶³ Locally figures from the

²⁶¹ Department of Justice, [Judicial Statistics 2024](#) (June 2025) details that there were a total of 4,553 Children Order applications received and 4,335 disposed in 2024. The average waiting time for applications disposed was 50.3 weeks for public and 31.8 weeks for private law.

²⁶² E. Dalgarno et al. '[Health-related experiences of family court and domestic abuse in England: A looming public health crisis](#)', *Journal of Family Trauma, Child Custody & Child Development* (2024) 21:3, 277-305

²⁶³ A. Myhill, '[Measuring Domestic Violence: Context is Everything](#)' *Journal of Gender Based Violence* (2017) 1(1), 33–44

Police Service of Northern Ireland (PSNI) show that during 2024/25, 67 per cent of all domestic abuse crime victims were female and 33 per cent were male.²⁶⁴

However, it is also worth noting that men experience unique challenges when attempting to navigate the family court system.²⁶⁵ The high proportion of female participants is reflective of the wider patterns of domestic abuse and involvement in court proceedings but the emphasis on this in the literature reviewed only provides a partial story.²⁶⁶ Some of the literature indicates that male victims/survivors may find it difficult to articulate their experiences of domestic abuse.

Interviews in a number of studies show that traditional masculine norms (such as men needing to be strong, stoic, dominant, in control of their emotions and able to cope on their own) had a significant impact on how men viewed themselves as victims.²⁶⁷ Feelings of shame and humiliation are reported by both men and women as barriers to seeking help and reporting domestic abuse.²⁶⁸ However, it appears that “regressive gender norms” and the way in which domestic abuse is typically understood and framed as a heteronormative experience serve to exacerbate these feelings for men.²⁶⁹ Therefore being a victim of domestic abuse as a man is often experienced as a loss of

²⁶⁴ Police Service of Northern Ireland, [Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland 2004/05 to 2024/25](#) (November 2025)

²⁶⁵ J. Berger et al. ‘The mental health of male victims and their children affected by legal and administrative partner aggression’ *Aggressive Behavior* (2016) 42(4), 346-361 and B. Hine et al. ‘[Understanding the profile and needs of abused men: Exploring call data from a male domestic violence charity in the United Kingdom](#)’ *Journal of Interpersonal Violence* (2022) 37, 17–18

²⁶⁶ C. Proudman, *He Said, She Said: Truth, Trauma and the Struggle for Justice in Family Court* (2025) cited in Commissioner for Victims of Crime Office, “[Totally Invisible” The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#) (December 2025), page 17

²⁶⁷ A.L. Huntley et al. ‘[Help-seeking by male victims of domestic violence and abuse \(DVA\): A systematic review and qualitative evidence synthesis](#)’ *BMJ Open* (2019) 9(6), e021960

²⁶⁸ J. Montayre and S. Thaggard, “[“There was no-one I could turn to because I was ashamed”: Shame in the narratives of women affected by IPV](#)’ *Women’s Studies International Forum* (2019) 74, 218-223

²⁶⁹ B. Hine, “It can’t be that bad, I mean, he’s a guy”: Exploring judgements towards domestic violence scenarios varying on perpetrator and victim gender, and abuse type’ in E. A. Bates & J. C. Taylor (eds.), *Intimate Partner Violence: New Perspectives in Research and Practice* (2019), page 43-57

masculinity.²⁷⁰ Men and boys can go unrecognised or can be disregarded as victims of domestic abuse largely because of these gender stereotypes.²⁷¹

In addition, the issue of intersectionality remains underexplored within the existing research. A number of factors, such as ethnicity, socioeconomic status, disability and sexual orientation, can impact on an individual's experience of the family courts. However, these are not extensively explored within the existing literature and point to potential areas for further research. The literature also highlights that children's participation rights are not always fulfilled in practice within family court proceedings.

The existing research may not adequately capture the wide and varied experiences of children and young people, particularly those with disabilities or neurodivergence. It is worth noting that there has been some recent progress in relation to research examining the challenges inherent in post-separation contact involving children with a disability.²⁷² There is a further gap in academic research concerning the participation rights of children and young people in family court proceedings where the mother has been abusive.²⁷³

²⁷⁰ T. Moore, '[Suggestions to Improve Outcomes for Male Victims of Domestic Abuse: A Review of the Literature](#)' *SN Social Sciences* (2021) vol. 1, 252 and J. Scott et al. '[Mapping services for male adult and child victim-survivors of domestic and sexual abuse in Northern Ireland](#)' Commissioner for Victims of Crime Office (2025)

²⁷¹ E. McGlinchey et al. '[Experiences and Mental Health Impacts of Intimate Partner Violence against Men and Boys: A Rapid Review](#)' Commissioner for Victims of Crime Office (2023) and B. Hine et al. 'Characteristics of Men Who Seek Help From an Irish Domestic Abuse Helpline: The MENCALLHELP Study' *Partner Abuse* (2023) vol. 14, 4

²⁷² S. Robinson et al. '[Prioritising Children and Young People with Disability in Research About Domestic and Family Violence: Methodological, Ethical and Pragmatic Reflections](#)' *Journal of Family Violence* (2023) 38:1191–1204 and S. Gregory et al. '[Post-separation child contact and domestic violence and abuse: The experiences of children with a disability](#)' *Journal of Family Violence* (2024) 1–16. Earlier seminal study on the barriers which mothers of children with a disability face in leaving abusive relationships in Australia: E. Baldry et al. '[Domestic violence and children with disabilities: Working towards enhancing social work practice](#)' *Australian Social Work* (2006) 59(2), 185–197

²⁷³ Commissioner for Victims of Crime Office, '["Totally Invisible" The Experiences of Domestic Violence and Abuse Victims/Survivors and Children engaging with Private Law Family Court Processes in Northern Ireland](#)' (December 2025), page 36

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