



# Domestic Abuse Act 2021 Committee

## Corrected oral evidence: Domestic Abuse Act post-legislative scrutiny

Thursday 26 March 2026

10.40 am

Watch the meeting

Members present: Baroness Kennedy of The Shaws (The Chair); Baroness Barran; Baroness Gerada; Baroness Hussein-Ece; Lord Polak; Baroness Porter of Fulwood; Baroness Rafferty; Lord Russell of Liverpool; Baroness Sugg.

Evidence Session No. 6

Heard in Public

Questions 50 – 57

### Witnesses

[I](#): Barbara Mills KC, Head of Chambers, 4PB; Jacky Tiotto, CEO, Cafcass; Elisabeth Carney-Haworth OBE, Joint Creator, Operation Encompass.

## Examination of witnesses

Barbara Mills, Jacky Tiotto and Elisabeth Carney-Haworth.

Q50 **The Chair:** Good morning, and welcome to this meeting of the Domestic Abuse Act 2021 Committee. The purpose of this committee is to review this piece of legislation passed nearly five years ago, and to see how it is working in the field. What is the impact of the legislation? Is it doing what we as parliamentarians had intended that it should do?

I am delighted to welcome some very esteemed guests today who have an enormous amount of experience in the area of domestic abuse, and we are going to look particularly at the situation regarding children. One of the breakthroughs of this legislation was the recognition that domestic abuse affects children in the family too because of their presence, the atmosphere and fear created in the household, and the observation they have of what has happened to the parent who is being abused. It was really important that this development took place, but the question is whether we have seen progress in protecting children and providing for their care and well-being in the aftermath of the discovery of abuse.

Let me welcome Barbara Mills, King's Counsel. She is head of a set of chambers, 4PB. She specialises in highly complex children's cases, many involving allegations of serious abuse and safeguarding risk. Her practice frequently addresses domestic abuse within private and public law proceedings, and she is regarded for her work in family, children and family matrimonial non-court dispute resolution by *Chambers and Partners*, which is a great publication on who has expertise in particular areas. She is definitely recognised as one of the great experts in the courts in this field. Her research has found that domestic abuse features in 40% of private children's cases, underscoring her advocacy for improved system-wide support and judicial resources for this particular problem. Barbara Mills was also the chair of the Bar Council of England and Wales, and has only just completed her period in office.

**Barbara Mills:** I finished on 31 December 2025.

**The Chair:** That is right, and you were a great leader of the Bar.

We also have with us Jacky Tiotto. Prior to Cafcass, Jacky was director of children's services at the London Borough of Bexley. She had statutory responsibility for all services for children and young people, schools, families, and carers. She oversaw the directorate in its implementation of family and child-focused help, protection, and care. It was judged outstanding by Ofsted, and there is no doubt that it was Jacky's great leadership that took it to those heights. It is wonderful to have you here with us, Jacky. We know that you have been a leading professional adviser on child protection to government, which has been greatly valued.

We also have with us Elisabeth Carney-Haworth, who has the Order of the British Empire for her great work in the field of education. She is a retired primary head teacher and the co-creator of Operation Encompass,

a pioneering safeguarding charity that was established in 2011. She developed this initiative with her husband, who was a police officer, to ensure police notify schools before 9 am when a child has experienced domestic abuse that has come to their attention. With over 42 years in education, Elisabeth focused on creating a trauma-informed environment allowing school staff to offer immediate support. She is very much at that interface of education, working with investigations of abusive behaviour.

That is the first panel. We are going to have a second panel later on this morning, but we are lucky to have all three of you here with us today. Could you broadly outline the role that you play, or your organisation plays, in relation to children as victims of domestic abuse in their own right? Barbara, you have enormous experience in this field in the courts and I am going to kick off with asking you to assist us. How do you think the legislation brought in five years ago has impacted on this issue of children and domestic abuse?

**Barbara Mills:** The first thing to say is that it allows the court to focus attention on the issue of how it impacts children. The court has always done that, but there is greater recognition in the fact that one in five children experience domestic abuse in the UK, and the implications that flow from it. That has definitely been a positive. Some data goes on to say that 105,000 children live in homes where there is a high risk of domestic abuse, and legally recognising them means that there is nuance as to how they are dealt with.

I am sure this has come to your attention, but one gap in the legislation is that, at the same time as it recognises children as victims in their own right, some remedies fall short of actually supporting them. I am sure you will have noticed that the domestic abuse protection notices and domestic abuse protection orders are not specifically referable to children. They can be protected via the adult but not specifically because it is on the basis that person A has been abusive to person B, who is age 16 and over. That is a clear gap in the legislation. It means that that very important issue that is becoming more and more recognised, which is abuse within children in their own relationships, is a difficulty: teenagers in relationships.

**The Chair:** That has been drawn to our attention by other witnesses from whom we have received evidence. Thank you for drawing it to our attention as a practitioner dealing with the nature of those orders.

Elisabeth, you were in the world of education and have explained your relationship to policing. When police were dealing with domestic abuse, you saw a gap in terms of whether there should be notification to schools. Is it happening? Did the legislation help? What are you seeing through your organisation as being the impact of the law?

**Elisabeth Carney-Haworth:** Yes, the notifications are happening. Operation Encompass is now in statute across the whole of England and Wales. All 43 police forces were using Operation Encompass prior to it becoming legislative.

The specific issue of children as victims is something that still causes us great concern. When we created Operation Encompass 16 years ago, it was because children were not recognised in any way as victims in their own right. Something happened to a child in my school, and we realised that it was happening across the whole of our country. We fought for that recognition for 10 years. When it became part of the Bill in 2020, before it became an Act in 2021, we were full of hope that something had been achieved. We wrote a document called *Hear My Voice* in which we detailed some things that we thought were incredibly easy for us to achieve as a society as soon as we knew the Bill had become an Act. Suffice to say, at the beginning of this year we wrote a new document called *The Promise, The Practice and the Reality*, which details how disappointed we are with the fact that so many things have not changed. May I take a moment to explain some things?

**The Chair:** Please do.

**Elisabeth Carney-Haworth:** One thing we asked for in *Hear My Voice* was incredibly simple: that we change the language we use and no longer read in any documents “the victim and their children”, which immediately places children not as victims but as an adjunct, as a backgrounder, and as less important. That is still happening.

**The Chair:** What language did you want?

**Elisabeth Carney-Haworth:** We want “the adult and child victims”. It is as simple as that. We have asked for that from the Government. That “victim and their children” language is in the violence against women and girls strategy. Sadly, your call for evidence uses that language as well. It is such a simple thing to achieve; language matters. Whenever we read something subliminally, it gives us a message. When we read “victim and their children”, that is exactly where we are placing our children. It is something that greatly concerns me.

Police forces are deciding to use video-first response or rapid-video response to respond to domestic abuse calls, which has come in place across our country. It is also in the new White Paper. Many police forces are using it, and they are being encouraged to use it. The College of Policing has created evaluations of VFR, if I may refer to it as that for brevity’s sake. Unless you are a high risk—so unless the police are going to attend with their sirens blaring and their lights flashing—you can be offered an immediate video response. The evaluations have come out and said that it is absolutely wonderful because it saves police officers time and they can do things immediately. Not once has anybody thought about the impact on our children. Not once have they thought: how are we going to safeguard the children who are in that home when we are merely doing this over a video? Are we going to do it just when there are older children? Are we going to do it when there are three-day-old babies? Are we going to do it when we have offered this family a video call for the 10th time? We spoke to the people who did the evaluation and they said, “No, you’re absolutely right. This is an adult-focused process,

and our evaluation was adult focused". It is something that really concerns me, that we have police forces doing things like this.

The police force also changed the DASH into a DARA without thinking about children as victims. The DASH changed into a DARA during the time we knew children were going to be recognised in the Bill as victims in their own right. The domestic abuse risk assessment—DARA—does not speak about children other than how having children may increase the risk to the adult victim and how a perpetrator of domestic abuse may use those children as a weapon against the adult victim. That is something that gravely concerns us.

The multi-agency response to children as victims, following a number of JTAIs being undertaken, has actually reinforced everything that David and I have been saying: there is so much that we could do to recognise our children as victims but are just not doing.

**The Chair:** Many of your experiences will come out in the course of this evidence through the questions of my panel. Jacky, can you give us your reflections on the legislation and its impact?

**Jacky Tiotto:** I would just like to affirm what has already been said about the dominance of the adult voice still in the world of domestic abuse. Any legislation that gives voice and prominence to children as victims, rather than witnesses, can only be a good thing. This was the first time ever that we saw a legal definition of a child as a victim, so that is fantastic.

The statutory responsibility of Cafcass, when children come into family proceedings, is to safeguard them, protect them and give advice to the court on the basis of an assessment that we undertake about the extent to which they have been harmed and/or are at risk of future harm.

**The Chair:** Can you, for the sake of our watchers who are sitting at home, explain what Cafcass is?

**Jacky Tiotto:** Cafcass is a non-departmental arm's-length body of government. We exist when the court orders an adviser to be independently appointed in family proceedings, whether they are public or private. We exist in England and have a counterpart in Wales, Cafcass Cymru, which is separate to us.

**The Chair:** Can you just say what the letters stand for? Acronyms are the things that people complain about most when they are watching Parliament in action.

**Jacky Tiotto:** It stands for the Children and Family Court Advisory and Support Service.

**The Chair:** We all become so used to acronyms that we forget what they originally stood for, but we know in our heads what they are supposed to do. It is important that people know. The fact that it included children for the first time is in itself impactful and interesting. What about the

practicalities of its use?

**Jacky Tiotto:** Domestic abuse in the world of social work has been understood and present in assessments for many years, whether for Cafcass or local authorities. The focus on the impact of domestic abuse on children in the Act itself—the harm it causes and the long-lasting damage to them and the protective adult that is in their life—has had an improvement effect on the work that social workers do. We have explicitly developed a policy all our social workers have to use and deploy when assessing a child in a private or public law case where domestic abuse is known and/or reported—that is, not necessarily having facts found but reported by either the child or adult victim. We require the impact to be very clearly set out to the court in a way that was not always the case. We are working really hard on what an assessment of harm and risk is: how you explain it to the court, what the impact is of it being reported and not found, and needing that to be taken into account in the arrangements that are made for the children. It is a good thing for us; it is a continued area of improvement and priority. I am happy to answer more questions.

**The Chair:** We have some further questions about it coming up. It is wonderful that all three of you have come today because my colleagues from the House have many questions for you. I will hand over to Lord Polak.

Q51 **Lord Polak:** I was pretty quiet and not listening when the Domestic Abuse Bill was being discussed for the most part until a young lady called Charlie Webster, who was a survivor of sexual abuse by her trainer as a child, took me over the road and said, “This great Act is going through and there is no mention of children”. She talked of her story and she totally convinced me. I worked with others to try to get children on to the face of the Bill; it is there. I am listening to you and you have answered most of the question already, but there are gaps. How do we make it better? Where we were coming from in the end was that, if you help one child, or if you better protect one child, then it is worth it but we can do much more. I am really trying to deep dive into how you believe, as the practitioners, it can work better. What do we need to recommend to the department at the end of our report and say, “You need to do this, this and this to help children?”

**The Chair:** You mentioned the whole problem, Barbara. It is one that has been mentioned to us already: the business of under 16-year-olds not being referred to in the orders. Would you like to unpick that a little more for us?

**Barbara Mills:** The domestic abuse protection notice is there so that, if the police are called out, they can issue the notice immediately to protect the people who are the victims as they assess it with reasonable cause for believing. The difficulty is that the victim has to be 16 or over. If the call-out is in respect of harm to a child specifically, then the notice cannot be used in that circumstance. The same applies to the orders. If you wanted to protect a child, you would have to go through the Children Act

or the Family Law Act as the mechanism, which defeats the whole purpose of having third parties deliver the justice for the victim survivors. That is a real problem, but it is one of many. It requires legislative attention, which is why I mentioned it front and centre. Nothing will change if it remains as currently drafted. There are workarounds, but it requires piggybacking on other pieces of legislation.

The delay overall that children face in the court system, as they wait for issues to be resolved, is inimical to their welfare. We keep saying it, but it still continues. I have been instructed only this week in a case that started in February 2025; the final hearing is likely to be in September of this year, and in that time the children have been waiting for the resolution of issues, which include domestic abuse. It has obviously and necessarily had various degrees of impact on them, including their education. One of them is beginning to refuse to go to school. When you read the papers, the stress, strain and pressure they are under as a family is plain and obvious. It is little wonder that that is happening. That is another issue that might bear attention.

The way in which children participate generally, whether they are witnesses or victims in the proceedings, is still adult-led because those allegations have to be pursued and prosecuted largely on their behalf. Children are automatically parties in public law proceedings, so proceedings brought by the state—local authorities—on the basis that their parent or caregiver is causing the child harm. In those public proceedings, children are parties. In private proceedings, in other words between those who have parental responsibility, typically their parents, those children are not automatically parties. If they are victims in their own right, the allegations are being pursued on their behalf, which brings all sorts of other problems with it.

**Baroness Hussein-Ece:** That is really illuminating. How can that be overcome under the current circumstances, given the legislation does not offer that kind of protection?

**The Chair:** I understood you to say that it would require new legislation. It is a question of us looking for a piece of justice legislation that is going through the House, and seeking to add an amendment to it. We can then—

**Baroness Hussein-Ece:** In the meantime, how is that handled?

**Barbara Mills:** In the meantime, there are workarounds. The parent who seeks to protect the child would make an application under the Family Law Act for non-molestation and occupation orders, or through the Children Act for an order for the child to live with them and/or a prohibited steps order to ring-fence the amount of contact the other parent has with that child.

**The Chair:** Is that time-consuming, more complicated, more expensive, all of that?

**Barbara Mills:** All of the above. The whole purpose of the domestic abuse perpetration notice and order was that the victim survivor did not have to have the burden, on top of everything else, to prosecute. If it is not open to them, it is a piece of legislation that is not as used because for many of my clients, who allege domestic abuse and are then either found or not, the driver to act is often the need to protect their children.

**Lord Russell of Liverpool:** Jacky, I can see you want to contribute. Why do you not give us your five pennyworth?

**Jacky Tiotto:** Just to continue on the issue of gaps, but also on children who wait for proceedings to conclude when they are living with risk, two things Cafcass has been pushing hard on is that the legislation should make provision for the court to make an order that no further applications can be made, because sometimes people apply to court to continue the abuse of the other parent/victim. Our social work colleagues are encouraged to consider whether they advise the court to make that sort of order so that applications in the future are restricted in terms of the harm they continue to create. If Cafcass is involved in a case and children are living with risk at the time of the application, we are able to make an application to the court for an urgent hearing and for some action to be taken. We have some recourse if Cafcass is involved.

The other point I would like to make is that we have adults in the domestic abuse system called independent domestic violence advisers—IDVAs—but they are for the adults. We are very thoughtful about the fact that children do not get specialist support through the court process, and they certainly do not get support at the end of proceedings. We are not involved anymore; often local authorities are not involved in private law proceedings. There is a definite need for the Government to consider provision for children who are victims that is not there currently.

**Lord Russell of Liverpool:** Is that the case with all IDVAs, or do some as part of their practice include looking after children?

**Jacky Tiotto:** They will clearly think about the impact of domestic abuse on the child through the adult that they are supporting, but that is very different to support and provision for children as individuals and as victims themselves.

**Lord Russell of Liverpool:** Is that evolved practice or is it written down somewhere?

**Jacky Tiotto:** For children to be excluded from the provision? It is not written anywhere, but those advisers were invoked for the protection of the adult victim. We are entering a different era now where people are saying, "If children are victims, what is different for them now?"

**Lord Russell of Liverpool:** We need to find a way of making that explicit.

**Jacky Tiotto:** Absolutely, and there should be resources invested to provide for them.

**The Chair:** Could one be doing that by expanding the role of the person you have described, who is really there to provide for the adults envisioned originally? Could the role be widened so that it becomes their responsibility to find ways of getting social service involvement with the children and an examination of the well-being of a child going forward?

**Jacky Tiotto:** There are pros and cons. Clearly, there is no money tree so resources are obviously limited, but children's voices need to stand alone because adults do dominate.

**The Chair:** I can see that, and I see Elisabeth nodding. You can be sure that Government would come back to us and say, "We can enlarge that role rather than create a new role". What is your answer to that, Elisabeth?

**Elisabeth Carney-Haworth:** A number of thoughts from what has been said, if I may? There are some places where there are CHIDVAs, which are child independent domestic violence advisers, and they are specifically trained to work with children who are victims of domestic abuse. It is not a national scheme, but they do exist in some places across our country.

**Lord Russell of Liverpool:** Where they are doing it, is it working?

**The Chair:** Can you tell us where those exist?

**Elisabeth Carney-Haworth:** Can I get back to you on that? David will make a note and I will get back to you on which areas—

**The Chair:** Your other half is here too to help us; that is very good. Let me say this to all three of you. If there is something that occurs to you, or there is information you just do not have to hand, please send it through to us so that it can be included in the overall evidence. You do not have to feel that a line has been drawn under your evidence when you leave this room. Please send us anything that might be helpful and informative and we will include it.

**Elisabeth Carney-Haworth:** The other thing that strikes me is that we are talking very much about children where the domestic abuse has gone to court. There are hundreds of thousands of our children where the domestic abuse will never get to court. There are hundreds of thousands of our children where the police are never going to be called. There are hundreds of thousands of our children where nobody is ever going to know. There are some who may go to a domestic abuse service, but they do not want the police involved. What is absolutely crucial, and this is where we come from as Operation Encompass, is that the people who are seeing these children on a day-to-day basis are their early years childcare workers and people in their schools. We have to make sure that they understand children as victims, which is what we have spent 16 years doing, and that they understand how to support those children.

Our online training started in 2020. Prior to that, David and I were going face-to-face up and down the country, which is obviously totally

unsustainable. We created online training, which should be done by every designated safeguarding lead in every single school and every early years setting, so we know they understand domestic abuse, its impact on children, what Operation Encompass is, and how to support it. It has now been undertaken by over 55,500 people. It is free because David and I will never charge for anything to do with child victims. Nothing to do with Operation Encompass is charged for; every single thing is free. It equates to over £7 million-worth of free training, and makes sure that those receiving the notifications know what to do when they receive them. It is important that we note that. So many of these cases will never get to court, and our schools are there to support those children on a day-to-day basis.

Another issue, which comes back to your question in a sense, is that if we went out in London now and said, "What do you know about children as victims of domestic abuse?", most would say, "I do not know what you are talking about". It came in as a whisper and it should have been a roar. We said at the time that it needed publicising. It needed publicising across all police forces, all education and all aspects of society, but it was not. There is nobody standing up and championing our children and saying, "This is what we have done. They are victims in their own right". There is a gap there. All our agencies, such as the police, health and education, should now be asked, "It has been in for over five years; what have you done? Tell us what you have done to make things better for the child victims of domestic abuse? How have you improved outcomes for them? How have you improved their lives?" Every single one of those should be able to do so. There are small ways that they can do it.

I was bemoaning some things that have happened, but we have also had really positive conversations with the Department for Education. If you look at the assessment at the end of its census for children in need—these are figures from the last year, so 2024-25—it said, "Are you concerned that the child is a victim of domestic abuse?" That came out in 57,930 cases, but the figure for "concerns parent is a victim" was 162,890. You cannot have that. You cannot have that number of parents but not the child. It shows you that our social workers do not understand that children are recognised as victims in their own right. We have had emails, letters and meetings. We met the previous Safeguarding Minister for Education and eventually got that changed. This year, for the very first time, it clearly tells the people who are gathering the information that if you identify a parent as a victim of domestic abuse then you must automatically identify the children related to that parent.

There are positives in things like that, but when David and I were thinking about what we wanted to say today it was that we need one person who really understands domestic abuse children. It is not the sensational ones we read about in newspapers. As one child victim said to us, "It is the fear you live with every day". Can you imagine going to school with a knot in your stomach every single day because of what has happened and what you are afraid might happen when you get home that night? It is those children. We need somebody who understands that, but

also understands all the cogs and wheels of society and just focuses on it. Our children are worth that effort. We should do it because we need somebody to say, "This has to be a whole culture change", and "How are we going to achieve it?"

**The Chair:** I am going to remind my colleagues that we have a second panel. Many of you have questions you really want to get in. Lord Russell, one thing you wanted to ask about was whether there was a difference between children as witnesses to domestic abuse and children as victims. We have had that recognised by all three of our panellists to some extent, but there is not sufficient acknowledgement that a child can be more than a witness. Do you want to deal with that a little more?

Q52 **Lord Russell of Liverpool:** Barbara, do you have any specific examples that highlight the dilemma between the child as a witness and the child as a victim? How do you manage that in a way that helps due process but does not impact negatively on the child?

**Barbara Mills:** There is not a huge amount of difference. The differences come in the way my colleague from Cafcass set out, that there is a desire and intention not to gloss over the fact that children are themselves victims. How it actually plays out in the court system has not changed all that much in the sense that it is still, as I said before, pursued and prosecuted on their behalf. They are not themselves parties to the proceedings. Even if the allegation is about them, the way in which their evidence is gathered and put before the court remains the same and can be quite clunky. There is reluctance for them to then attend court to give evidence on their own behalf. There are all sorts of problems. The bigger question is: how are we saying our children should participate in these proceedings having now recognised them as victims? That is a real issue, and has cost implications too.

**Baroness Barran:** Can I ask for a clarification? As I understand it, under the Adoption and Children Act 2002, children were already recognised in the family courts as suffering harm. That has been true for over 20 years, so how big a change is it from that position?

**Barbara Mills:** The Children Act has within it a recognition that children suffer harm. When you look at the welfare checklist in Section 1—

**Baroness Barran:** Sorry, forgive me; I mean specifically in relation to domestic abuse. The Adoption and Children Act 2002 specifically changed the law so that children were not witnesses in the family courts anymore but were recognised as actually suffering harm. I expected the change in the Act to potentially have a greater impact in the criminal courts than the family courts because it is reinforcing what I thought was the status quo.

**Barbara Mills:** In practice and on the ground, it has not changed the way in which we deal with those allegations.

Q53 **Baroness Sugg:** I wanted to ask about controlling and coercive behaviour. Obviously, that does not apply to cases where the victim is

under 16. Could you share any issues around the impact on children as victims, specifically when evidence is being collected?

**Barbara Mills:** The issue for children is the same as it is for adults, in the sense that coercive and controlling behaviour is an incredibly difficult issue to harness. It requires trauma-informed attitude and intention; it requires us to understand that it tends to be a pattern of behaviour, and that often there is a cumulative effect. The lack of early advice is a real issue; I cannot tell you how many clients will only identify themselves as victims of abuse in a conference; when you are talking to them, and you ask, "Was there any domestic abuse?" They will reply, "Oh, no, I wasn't hit". They will then describe behaviour that is plainly abusive. If they did not have that advice, they would not understand that. It is worse if they are children, as you can imagine.

The Government's VAWG strategy very clearly sets out the numbers we are talking about. Disturbingly, the paper notes that the problem is not improving, and that it is worse for the younger generation. It says that there are alarming levels of violence and abuse in teenage relationships, and that 39% of 13 to 17-year-olds who have had a past relationship have experienced emotional and physical abuse. If adults grapple with this, what hope do teenagers have? For example, they do not understand that somebody insisting they have access to their password is the beginning of coercive control, and that sending a photograph is coercively controlling. It is a real issue for them, and identifying them as victims is a great and important start; but so much more work needs to be done if we really are to protect them and recognise them as victims in their own right.

**Baroness Sugg:** Do you think that recognising coercive and controlling behaviour for under-16s would be a helpful thing to do? At the moment, it is just classified as child abuse, but again it is another thing where there is a differential between adults and children.

**Elisabeth Carney-Haworth:** Yes, I personally think it would, and there are cases where that has been self-evident. It also helps schools when they are doing their personal, social and health education with children to be able to talk that through and explain it. That would certainly help.

**Jacky Tiotto:** I agree with absolutely everything that has been said.

**The Chair:** We like a witness who says that; they agree and let us move to other more difficult things. Baroness Hussein-Ece, you have an issue you want to raise.

Q54 **Baroness Hussein-Ece:** My question is about the issues that arise for children in their relationship with their parents, particularly when you have fact-finding hearings and subsequent family court judgments. We have heard a lot about listening to children's voices, but my question is: how is that done? Some of us say "We must listen", but is there enough training for professionals to ensure that children are listened to in a way that makes them feel confident to say what is happening to them? We

know that there can be manipulation from ex-partners—for example, an estranged father—and that a child can be frightened to speak up. I know that Cafcass has a whole policy on listening to children now, but how confident are you that this is being done as effectively and sensitively as it should be?

**Jacky Tiotto:** This is the point at which I might be controversial, so apologies to anyone watching. The system is actually in a bit of a muddle about fact-finds in relation to children; fact-finds are largely about adult disputes, and the role of a Cafcass adviser is to present to the court their assessment about the impact of harm on the child. But there is muddle if findings are not found because children then feel disbelieved. In this country, we are still not doing well enough at believing children without evidence, or what we as adults class as evidence. We have to talk differently. We have just heard that children do not understand that they are in a coercive and controlling relationship. We have words now for this behaviour that we have not had before, and we need to introduce it into the system for them; we need to hear from them differently in the family justice system, which is the bit that I sit in at the moment.

There is a moment coming with the Government's announcement that they want to repeal the presumption of parental involvement in children's lives because there is an interwoven muddle. The law says it is right for both parents to be involved in a child's life unless it can be proven to be harmful; in the way that the system is currently set up, if there is no fact found in a case where an adult is saying, "I'm a victim", you are immediately left with an unsafe situation. We have to dismantle all that and start with asking: what is the child's experience? What is the impact on them? That is as important to determine as the evidential gathering of fact, but at the moment, we are not there. I am not sure if I have explained that well or not, but I am trying to expose a complexity that we see and feel at Cafcass.

**Baroness Hussein-Ece:** In some cases, the mother of a child who is a victim of domestic abuse from an ex-partner is saying that her child is suffering and he or she does not want contact. I dealt with a case some years ago, where Cafcass was saying, "You have to see the ex-partner because the court has said so". That is terrifying for the child. Is the mother, or whoever it is, listened to as a proxy or advocate for the child?

**Jacky Tiotto:** Yes, absolutely. The law is clear that if a child is at risk of harm or has been harmed, the presumption falls away. But the reality about that being applied is that in some cases there is a culture of the harm having to be proven, which is very difficult for children and their protective adult. It cannot be true that if it is not proven, it did not happen, but that is the system we have. So I am appealing for some reflection on that.

**The Chair:** This goes back to legal rules. It is that whole business of an interface where one is dealing with things that are amorphous, and trying to judge whether a child is suffering the consequences; they almost invariably are. But regarding that business of seeking hard evidence,

perhaps you, Ms Mills, could respond to that. What Jacky is saying is that there is a mismatch between what the law requires and what the threshold should be when we are talking about harm regarding a child.

**Barbara Mills:** That is probably why some say that the family court or the court system is not the best arena in which to grapple with these very nuanced issues. I completely understand why you would want to start and finish with the child's lived experience as they express it in their way, however old they are. The difficulty, as you imagine, is on the other side. That right to a fair hearing means that the alleged perpetrator would be saying with a strong voice, "I didn't behave in this way". This is the area in which children are reluctant or resisting contact with one parent. Typically, the family breaks down; typically, the father would say, "We had a perfectly good relationship. This mother is using allegations and other things to weaponise and destroy. There is a settled campaign to ruin my relationship with my child". That is something the court has to grapple with. If on the balance of probability the court finds that the allegations have not been proved, then you are in a world in which it did not happen, and the child is then made to go. The difficulty is in seeing that their reluctance and resistance does not occur in a vacuum; is it based on anything?

If those fact-findings are found, then you have a reason for the child's resistance, and you would not, for example, call it alienation. But if you did not, then there is that challenge. It is very difficult; but I cannot sit here and say that I have never done a case in which the court's finding was that the person who was putting forward allegations was doing that as part of an overall campaign to prevent the other parent from having a relationship with the child. That is a real issue that the court has to grapple with.

**The Chair:** Many of us will be alert to that problem: a child wanting their mother's love might well feel that, to be secure and confident of that, they may be required to be negative about another parent whom they actually also love. But it is that complexity that courts have to grapple with.

**Barbara Mills:** Those other disciplines are not strong enough voices in the proceedings. Why would a child be aligned to one parent and not the other, absent abuse or allegations? It is a very real issue because the child might just think, "My family has broken up. One parent has left. I must cling on to the one that is here".

**The Chair:** They are clinging on to the wreckage.

**Barbara Mills:** It might be as simple as that, but it might then manifest itself into a reluctance that is then not properly understood. When we recognise domestic abuse, when we recognise coercive control, when we say children are victims, how much time, effort and resources do we then put into the system in order for it to deliver something that looks vaguely like well thought-through trauma-informed justice? That is the issue.

**The Chair:** That is the issue. Thank you so much.

**Baroness Hussein-Ece:** Sorry, I wanted to ask one more question. Is there adequate training on how to listen to children? Obviously, that is the key, as Elisabeth was talking about earlier.

**Elisabeth Carney-Haworth:** There is an interesting piece of research by Dr Annemarie Millar entitled “Policing incidents of domestic abuse involving children”, where she managed to speak to the very police officers who attended an incident where there were children; she also spoke to the children. Police officers are often the very first ones to deal with an incident; sometimes, it might be the only occasion when the domestic abuse has ever come to light, and it is really interesting to tease out their attitudes to talking to children because some of them are scared. They are young officers, they may not have children of their own, and with young children especially they are almost scared of talking to them. One officer said, “You don’t want to talk to the children. You might open a Pandora’s box”. Other officers, however, see it as a hugely important part of their role; they want to make sure that, while they are there, they talk to the children. So there is a huge issue around training our officers—not more, but differently—in how they talk with children.

As other agencies involved with children will know, there is a case in *Bridging Silence*, which is another one of the documents on our website, about a young girl called Elsie. She spent longer going through the courts—seven years—than she did in her prior life as a child. She was disbelieved because the perpetrator was her mother; she was constantly questioned, and she said, “They just didn’t want to believe that it was my mother that was doing the abuse”. She did not want contact with her mother, but she said, “They just kept asking me and asking me to tell the story again and again and again, and how abusive is that?” She felt that they did not believe her; they wanted to hear that she did want to see her mother because surely her father was persuading her. It is a very powerful piece, if you have the time to read it.

**The Chair:** Thank you, Elisabeth. Can I just remind my colleagues that we have less than 15 minutes? I am mindful that some answers that we have received have covered questions that might be outstanding. That is not to say that you cannot supplement on things that do need to be covered; what I would like to see covered is the question from Baroness Gerada about minorities because we have not yet touched on that issue. I will then ask Baroness Barran to come in.

**Baroness Gerada:** My question is not actually on minorities, but I am happy to ask that first.

**The Chair:** I am sorry, I thought it was.

Q55 **Baroness Gerada:** I am happy to ask it. First, I would like to say that as a GP I have been shocked by all the evidence I have heard over the last few weeks; thank you all for being in this space and doing the best you can. The question I thought I was going to ask, which I do not want you

to respond to now unless it comes up, is about information sharing. Again, I am shocked because I was safeguarding lead for a very large practice and I do not think I was once informed by anybody about a child who had been a victim of domestic abuse, unless the child themselves was under safeguarding procedures. It has never ever happened in 37 years of being a GP.

My new question is: what specific issues, if any, arise for minoritised children as victims, and how do the courts and legal systems handle these?

**The Chair:** The experience of those from minorities of one kind or another is one of the issues that has come up throughout other areas of evidence; we are talking about many different areas, including disability, sexuality, ethnicity and religion. Do you identify any problems, and are there particular special gaps? Jacky, is there anything you would like to say on that?

**Jacky Tiotto:** There is evidence that Black, Asian and minority ethnic families who already encounter structural inequality find family justice even harder. There have been several reports over the last few years; you will recall the harm panel report in 2020, which described the experiences of Black families, women in particular, as worse than their white counterparts, particularly around what is seen as culturally acceptable in some relationships. The panel recently published a report on child sexual abuse and children talking about wanting to be noticed and wanting someone to believe them. There is content in there on Black and Asian children experiencing that system as a racist system in that people do not want to talk about their experiences. So we have to accept that there is evidence.

In Cafcass, mixed-heritage children are overrepresented by about two and a half times in private law proceedings; we do not know why. There is a slight overrepresentation of Black and Asian victims of domestic abuse in private law proceedings too. We are currently doing some work on that to understand and try to get in front of some people to talk about those experiences and what needs to change. As a system, we have not made enough progress, I would say.

**The Chair:** Do either of my other witnesses want to come in?

**Elisabeth Carney-Haworth:** It is very early days, but we are working with the Department for Education at the moment on the post-18 age group; you will understand transitional safeguarding, which is that on your 18th birthday, you fall off this huge cliff. They are now young adults who have left education in one sense as a child, but are still in education because of severe disabilities. They would previously have had Operation Encompass notifications, but now they do not get any because of their age. Obviously, that is a real concern. Some of these children are non-verbal; one school was wondering why a child winced every time an adult went near them and would scream loudly when there were any loud noises. They discovered the reasons once they saw the child's past

records.

**The Chair:** Elisabeth, thank you for reminding us that children in care are a minority that are often forgotten about by bodies that deal with these things. Barbara, are there any special challenges with minority issues?

**Barbara Mills:** Yes, there are special challenges; it is really hit and miss. There is an increasing awareness that children from minority groups may face high levels of challenge, stigma et cetera because of particular cultural nuances, but in my experience there is no specific approach to that. The only time in which you would really focus on it is when you come to apply the welfare checklist in the Children Act: where you look at the child's age, their characteristics and so on. So the cultural background might come into that.

**The Chair:** Have the courts improved on the old-fashioned notion that beating your child is a culturally accepted thing in certain communities, or that certain things are much more accepted by some groupings? That has gone by the board, has it not?

**Barbara Mills:** Yes, it has. But there is no knowledge bank to deal with cultural nuances as they arrive; they are picked up in a case. I am both a practitioner and I sit as a deputy High Court judge; in cases that I have dealt with, cultural nuances are picked up only if the practitioners in the case have some understanding. They will then bring them to your attention, but otherwise it is hit and miss. There is no dedicated way of ensuring that all the cultural nuances are properly understood.

**The Chair:** I am going to ask you something that I have raised with others. Do you think it would be of value if people dealing with cases of abuse—particularly the abuse of children—were certificated as having received special training with regard to children, so that it is not just something that they can choose to do? Should it become mandatory to be certificated as having knowledge of particular background issues if you are going to be doing this kind of work?

**Barbara Mills:** It seems to me that that would be a very valuable addition. We speak all the time about the need for trauma-informed practice, but it would have to be across the board. It would not just be for the practitioners; it would have to be for the judiciary and everybody who dealt with the case to properly understand because domestic abuse is cunning and baffling. We are getting better at putting down some myths, but I know that the family courts have benefited hugely from the vulnerable witness training that people have to do. If you watch a vulnerable witness or child being cross-examined by someone who is properly trained, you can tell the difference. We are still in pursuit of the answer in justice, but they do it in a way that understands that even the questioning and the presence in court can re-traumatise, and that is very important.

Q56 **Baroness Barran:** Jacky, could you talk a bit about the pathfinder child-

focused courts? Can you summarise briefly for us what is different about them, and what impact you see for adult and child victims? Then perhaps you could talk about any issues you see with the rollout.

**Jacky Tiotto:** In short order, they are a brilliant idea. We are taking on a great deal of change through this rollout, but the main difference for Cafcass is through the child arrangements programme. Currently, we are not able to see children before the first hearing and a number of weeks can pass before an adviser gets in front of them, if they get in front of them at all. We will now be seeing 75% of children, as opposed to 30%, and we will be seeing them within the first two weeks of the application being made, which is a huge difference. If they are victims of domestic abuse, that assessment will start immediately and the arrangement will require us to have a report before the court within eight working weeks. In private law in London at the moment, it is taking 75 weeks if you have a welfare assessment. The benefits are huge, so why would you not do it? It is a no-brainer. What we found in the pilot courts is that it is good for children: they are seen earlier; their needs are understood earlier; the judge has focus on them and the impact on them; their protective adults feel better about the process.

There are people who are worried that it is too fast and that we are not given enough time to make a proper assessment, but we are alert to those things and we will talk about them over time. If the proceedings feature domestic abuse, there is now resourced provision in the form of an IDVA service for those victims, which is absolutely not the case at the moment. It is a remarkable investment by government; it is brilliant, and it is being rolled out.

What it does mean for Cafcass, though, is that we will need something in the order of about 170 more social workers over the three-year implementation. We already need 200 today, so there is a question to be asked about where we will get them from. There is another question to be asked during the implementation about whether there is a capability in the system for alternatively qualified professionals to do some low-risk proceedings so that we do not need so many social workers, because we are competing with local authorities that also need social workers. That is an issue for rollout.

The other issue in terms of this committee is in making sure that the Government are really explicit and clear about what the IDVA, that specialist domestic abuse support, is for, because adult victims are saying that they value support in court throughout the process. If that is what victims value and need then that is what we should be providing, rather than a different assessment which goes up to the judge alongside the Cafcass report. There is some work to be done in the next round of commissioning—it is a lot of money—about whether it should be a national service, whether there should be a national provider, who is going to do the quality assuring, how it sits with the Cafcass report, and so on. But none of that is bad; it is just to be developed. I hope that is helpful.

**Baroness Barran:** I have a brief follow-up, if I may.

**The Chair:** That is fine; then I would like to bring in Baroness Rafferty and Baroness Porter if they have additional questions.

**Baroness Barran:** I will hold my question, and if we have time at the end, I will ask it.

**The Chair:** Baroness Porter, do you have anything? Your question was answered, but you may have something that has arisen in the course of this evidence session that you would like to return to.

**Baroness Porter of Fulwood:** I think it has been covered.

Q57 **Baroness Rafferty:** I would like to pick up on Baroness Gerada's question about the interface and multi-agency working in relation to education and the passing of information from police to teachers. Elisabeth, you have been working with the Department for Education. How efficiently and effectively do you think that is happening, if at all? What do teachers do with the information, and how do they act on it? Is what they hear actionable?

**The Chair:** How do you deal with certain privacy issues that are vitally important? Giving information to someone who does not know what to do with it can lead to inappropriate sharing, so what do we do?

**Elisabeth Carney-Haworth:** Information is not just shared with anybody in the school. Operation Encompass notifications go to the trained designated safeguarding lead in the school, and that trained safeguarding lead has to have undertaken our online training, which I spoke about earlier. David spends half his life checking their certificates to make sure they have done it and done it properly, then sending them off to the appropriate police force to say that they have done it. That training ensures they understand that they should share as much information as is necessary within the school, but as little as possible to be able to support that child.

I would say that Operation Encompass is working incredibly well—it could always be better, but it is working incredibly well in comparison to before we started this. According to the latest Freedom of Information request in 2025, at least 2,000 notifications go out every day just in England and Wales—that is at least 2,000 of our children who have received support and nurture and compassion from their school this morning. That might be a simple thing, for instance that they arrived three minutes late for school this morning; any other child would be put in ready to learn or some other detention, but the school recognises that it is a miracle they have even got here because of what their home life is like. So there is that compassion and understanding. There is guidance within all the training, there is guidance on our website about what schools do, and we still do online briefings for all our staff.

**The Chair:** It is really good to know the work that you are doing, and we must in some way make sure that in our report we give prominence to

the fact that inter-agency work is vitally important.

**Baroness Gerada:** Do you involve the health visitor or the GP at all?

**Elisabeth Carney-Haworth:** Yes, health visitors should be informed of every single domestic abuse incident, up from 28 weeks of pregnancy to five years of age.

**Baroness Gerada:** The fact that we have only one health visitor per 1,000 children is presumably a problem.

**Elisabeth Carney-Haworth:** It is not ideal, but they need to know. For a lot of our children, if they are not attending an early years childcare setting, the health visitor will be the only person that knows. So we have to make sure they know.

**Baroness Barran:** This might be easier, perhaps, to follow up in writing because it is quite a broad question. Rightly, the focus has been on domestic abuse, but a child may be living with parental alcohol abuse, depression, financial issues, a whole shedload of other things. I wonder how we keep the balance between the focus on domestic abuse, but the experience from a child's perspective is that it is part of a patchwork of things that are going on.

**The Chair:** That question could lead to another hour of discussion.

**Baroness Barran:** If anyone has the strength to follow up in writing, I would be grateful.

**The Chair:** If anyone has something short and sharp to respond with, please send it in writing.

**Barbara Mills:** I will. The point you make is really encapsulated in the work of the family drug and alcohol courts; most of the participants there will have domestic abuse in their background, as well as alcohol. We will respond in writing.

**The Chair:** Baroness Rafferty, is your question quick, short and sharp?

**Baroness Rafferty:** I hope so. I might be opening a can of worms, but does any of the type of support you were talking about, Elisabeth, impact on how we frame special educational needs, and the whole issue of SEND provision in schools?

**Elisabeth Carney-Haworth:** In a sense, they can be two completely separate things, but of course, for some children, there are overlaps.

**The Chair:** This was a really important session, and thank you, all three of you, for being here. If there is anything you want to send through in the aftermath, please do. We have all found it really illuminating and enormously useful; thank you so much for coming.