



Domestic Abuse Act 2021 Committee

Corrected oral evidence: Domestic Abuse Act post-legislative scrutiny

Thursday 19 March 2026

11.50 am

Watch the meeting

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

Evidence Session No. 5

Heard in Public

Questions 42 – 49

Witnesses

[I](#): Elspeth Thomson, member of National Committee, Resolution; Ursula Lindenberg, Pioneer, SafeLives; Dr Charlotte Proudman, Founder and In-house Counsel, Proudman.

Examination of witnesses

Elspeth Thomson, Ursula Lindenberg and Dr Charlotte Proudman.

Q42 The Chair: Welcome to the second panel of the committee that is looking at the legislation on domestic abuse, the Act that was passed in 2021. We have invited practitioners and professionals to assist our work.

Let me just introduce you all. Ursula Lindenberg is a pioneer at SafeLives and a lived experience advocate. It is great to have you here, Ursula. In 2024, she became the founder/CEO of VOICES, a domestic abuse charity in Bath. She helped initiate the domestic abuse training for family law professionals created by SafeLives and the Bristol LFJB domestic abuse advisory group. She has worked in this area for a number of years. I will not go through all the great things you have done, Ursula, but it is great to see you here, and we will be very indebted to you for what you can offer us, I am sure.

We also have Dr Charlotte Proudman, the founder and in-house counsel at Proudmans. She is a British barrister, academic and writer specialising in family law and women's rights. She was called to the Bar in 2010 and has built a prominent practice representing survivors of domestic abuse, coercive control and gender-based violence. She is a senior research associate at Jesus College, Cambridge, where her work examines FGM, rape, domestic abuse and wider gender inequalities under the law. As I have said, she is a founder of her own practice but also of Right to Equality. She is a well-known, multi-award winning advocate and a great writer. It is wonderful to see you.

Elspeth Thomson is an elected member of the national committee of Resolution, a nationwide community of 6,000 family justice professionals promoting constructive approaches to family disputes. She is a solicitor, specialising in children's law and domestic abuse. She has decades of experience representing survivors and is known to most of us who have worked on women's issues in the law.

It is great to see all three of you; thank you for coming and giving us your time. What issues arise for victims and survivors of domestic abuse with regard to their attitude towards using and appearing in the family courts? Generally, is it a happy experience for the victims of abuse? Perhaps you can fill us in. I will start with you, Elspeth, if you do not mind.

Elspeth Thomson: I would say it is a very unhappy experience. It is difficult for anybody to go to court and talk about their family circumstances, but that problem is amplified many times for a victim of domestic abuse. There is the obvious fear of seeing the perpetrator at close hand in the courtroom; there is also danger of re-traumatisation by the court process. Victims have to relive experiences to justify their position within an adversarial process, which is a very difficult thing. The power imbalance as regards victim survivors of domestic abuse is played out in the courtroom. They often fear they will not be believed. They have their story, but there is a natural anxiety that they will not be believed

when they tell it. They also worry about their children and that the ultimate outcome will be that a relationship with someone they fear is promoted for their sake. There is general court overwhelm; it is not a happy experience at all.

The Chair: These are intimidating places in the best of circumstances but particularly hard in these cases. I turn to you, Ursula, because you have been there. How is the court experience for those who have been on the receiving end of domestic abuse?

Ursula Lindenberg: I agree with what Elspeth already described, so I will not repeat those things but add to them. There is a sense of loss of control, entering a system with processes and language that they do not understand. If they are aware of other cases, they may fear years of litigation. Also, by implication, this is an upstream question about the journey of people into the system, looking at how survivors arrive at that point, so that we do not continue simply to react to the symptoms. We need to be aware that people take different routes. Some have access to specialist help around coercive and controlling behaviour before taking the first steps; others find themselves being taken to court for proceedings they did not initiate before they receive any support to understand what they have lived with. It may be that person has no language for what they have been through, is deeply traumatised and continues to feel at great risk despite being separated from the other party due to post-separation abuse and having problems around child contact. They may be unaware of their rights and choices.

Sexual abuse may have been a factor for an adult or child, disclosed or not disclosed at that point. Such factors are critical for how people experience and are seen in court and for whether they have hopes of justice or fears or experiences of, for example, racial injustice, which makes it hard to trust professionals and the system. From my point of view, the key thing is that it behoves those entrusted with overseeing change to ask themselves how confident they are that they understand why they do not hear about or understand the problems that people report—for example, children not feeling heard in family court processes—and be open to looking at more psychologically informed ways to learn and to gather that knowledge. Victims and survivors do not have the power to change the system, but very often they have the knowledge that those with power should be informed by.

The process actively traumatises many survivors. In 2026, the results from Our Own Words, the largest survivor-led survey of domestic abuse experience in the UK, revealed that 61% of participants felt their experience of family courts was more traumatic than the domestic abuse itself.

The Chair: Gosh. Thank you, Ursula. Dr Proudman, you do these cases in the courts all the time. Can you give us your view of how the family courts work?

Dr Charlotte Proudman: We know from the Domestic Abuse Commissioner's report published last year that domestic abuse is seen as the everyday business of the family justice system, meaning the vast majority of cases involve allegations of sexual or domestic abuse, coercive and controlling behaviour, or sexual abuse towards children. Yet we tend to see a number of key themes play out within these types of cases; for example, the family justice system is still slow to treat domestic abuse as directly relevant to children's welfare. There is a misconception that, once a survivor-parent leaves an abusive relationship, a child is therefore protected and the abuse ends. In fact, having developed a more sophisticated understanding of domestic abuse, we see that abuse can continue post separation. If a parent can be abusive towards another parent, a child can be directly affected by the abuse.

Building on themes we have already heard about, the second issue is in respect of the relevance of domestic abuse, particularly so-called historical abuse. If abuse is not recent, or happened within the last few days, weeks, months or even year, and if the abuse is not necessarily physical violence, we tend to see minimisation or demeaning of the significance of that harm. In the case of *Re H-N and Others* (2021), the Court of Appeal decided that this approach is outdated and old fashioned. We need to recognise that harm, even if it took place a decade or a few years ago, is still long lasting for children in particular. We do not necessarily see that translate into the way in which decisions are reached in family courts.

The third issue, as we have heard, is the re-traumatisation of victims and survivors—parents and children—within family courts. We do not see a trauma-informed approach and recognition of just how harmful family court proceedings can be in exacerbating the abuse experienced in the relationship and the barriers that are present, particularly for minoritised survivors. An intersectional approach is needed to understand that someone who may not have recourse to public funds may experience language barriers and may have insecure immigration status; they are particularly vulnerable and needs additional support within the family court system.

Finally, thinking about a trauma-informed approach, we need better training for judges and family court professionals to make sure there is not a dismissive attitude and that children, in particular, are listened to when they disclose domestic abuse.

Q43 **Baroness Neate:** This question will touch on matters you have already raised. The Domestic Abuse Act expanded the coercive and controlling behaviour offence by removing the need to live together. Dr Proudman talked about post-separation abuse, which is a critical issue. The Act also introduced a new offence of strangulation and suffocation. What has been the impact of the Act on the understanding, hopefully, of these offences in the family courts?

Dr Charlotte Proudman: Having a definition now enshrined within primary legislation of coercive and controlling behaviour has been absolutely imperative in developing a better understanding of this matter, particularly post separation coercive and controlling behaviour. However, low conviction rates for coercive and controlling behaviour are an obstacle. Many victims in family courts report to the police but, if no further action is taken, or the matter is dropped by the Crown Prosecution Service, that can be used by alleged or found perpetrators in family courts to suggest that the allegations lack credibility and should not be determined within that context.

Strangulation and suffocation in particular are minimised in terms of recognising of just how harmful they are. We understand that suffocation and strangulation are linked to homicide. In the work of Professor Jane Monckton-Smith, there is a lot of evidence on the steps that can lead to very severe forms of harm, even death, which is not understood in family courts. In terms of coercive and controlling behaviour post separation, one needs to identify that this type of behaviour is a pattern of behaviour. We therefore need to not look at it in a vacuum or in isolation.

For instance, an allegation of rape can be seen in isolation from other forms of abuse; coercive and controlling behaviour is often part and parcel of a dynamic of a very toxic, abusive and harmful relationship. The reliance on Scott Schedules in family courts, where all the allegations are set out in an itemised fashion, can create a blurred picture of the dynamic in an abusive relationship, which means that judges and professionals struggle to grapple with those incidents. Looked at in isolation, an incident of financial control on its own may not seem as severe as a whole host of patterns of isolating a victim, preventing them from speaking to family and friends, controlling what they wear and making demeaning comments. We need to put all that together. Re H-N went some way towards doing that, but implementation of that has been very difficult in practice.

Finally, with the lack of training in the field, particularly on coercive and controlling behaviour, sometimes professionals conceptualise abuse as a high-conflict, situational, toxic relationship—six of one and half a dozen of another, to put it in a colloquial fashion—rather than potentially harmful, abusive behaviour, that could even ultimately lead to death, in some instances involving children.

The Chair: Elspeth, you do these cases too. Do you share Charlotte's view of this?

Elspeth Thomson: Yes, I do. There has been improvement since Re H-N in terms of people recognising a pattern of behaviour and concentrating on the pattern rather than isolated incidents. Previously, there was a tendency to pick your first, worst and last incident rather than look at how behaviour developed and the overall impact on the victim. There has been improvement, but it is patchy. I am not sure the improvement necessarily came as a result of the Domestic Abuse Act; it is more the developing case law, which Charlotte was involved in with that particular

case. There is still work to be done, but it is more at an individual case level rather than a legislative level.

The Chair: Listening to you makes me think it takes a lot of court time to bring out carefully from a witness all the different matters that intersect and provide you with a full picture of an abusive relationship. Often courts, including family courts, are under enormous pressure of time because of the circumstances of our system at the moment. Do you find a tetchiness in the court about going into all the detail and people saying, "Give me your worst; I don't want to hear about the times when he said you look like a fat cow"?

Elspeth Thomson: Yes, that is definitely right. You make an interesting point about the difficulty in making sure that you understand your client's case and the time and skill it takes to help somebody tell their story when they are traumatised. You need a trauma-informed approach to help them give a narrative. Very few people can sit down, start from day dot and give a cohesive narrative of their experiences; they need to be supported and helped to do that. It is about giving people the time and skills required. Then you move on to the court, where there is a lack of time.

Baroness Sugg: In terms of the landmark ruling that you talked about, Dr Proudman, can you tell us what that was and what improved from it?

Dr Charlotte Proudman: The case of Re H-N went to the Court of Appeal in 2021. There were four appellant mothers; I represented two of them. An important point was raised about how coercive and controlling behaviour is understood within family courts and the approach that judges and court professionals should take. It was certainly one of the first cases in the Court of Appeal that defined coercive and controlling behaviour to be as harmful as physical or even sexual abuse. The President and his brother and sister judges agreed that one needed to look at patterns of behaviour rather than incidents of abuse in isolation from others.

I do not think Re H-N necessarily went far enough in understanding how to approach other forms of violence. For example, in family courts, there is no definition of rape or consent. The vast majority of cases I work on through Proudman's, my family law firm, involve allegations of rape. If you represent a complainant, you need to prove rape; the onus is on you. If there is no definition, it is very difficult to know what the threshold is. So there are a number of gaps. Another issue is disclosure of medical records. We have no guidance, policy or practice direction on whether medical records, particularly of survivors, should or could be disclosed to perpetrators.

Baroness Neate: This might be a bit of an out-of-date question, but do you still see the inappropriate use of mediation in cases where there is coercive control?

The Chair: People used to say, "Why can't you just kiss and make up?"

Baroness Neate: Maybe I am being optimistic to say that it is out of date. I do not know.

The Chair: Do they try to do some sort of mediation? Is there a pressure to do that?

Dr Charlotte Proudman: Certainly, in my experience, there is often a drive to push parents into mediation, even in cases where there have been fact-finding hearings and domestic abuse has been found. There may then be a Section 91(14) barring order in force, which we will come on to. Then, within the final order, it will say: "Before returning to court, the party should consider or undertake mediation or alternative dispute resolution". Mediation can be very dangerous for victims.

In another high-profile case, a victim of domestic abuse had secured a non-molestation order. When she alleged that the father had raped her, which translated into one of the appeals in *Re H-N*, the judge told her, "If you continue with your allegations of rape, I could have your child put into foster care or adopted." In that very hearing, the judge encouraged the parties to go outside and sort things out over a cup of coffee. So there is that type of approach. I appreciate that that was some years ago but still, in 2026, I see a drive towards mediation, where parents and their disputes, as they are referred to, are removed from the court setting.

The Chair: Baroness Hussein-Ece, I know you have to go, but there is a question you wanted to ask before you leave.

Q44 **Baroness Hussein-Ece:** It is a straightforward one. Since the prohibition of perpetrators cross-examining their victims in the family courts, what has the impact been? Have there been other issues that maybe we did not foresee, so unexpected consequences?

Elspeth Thomson: First, take-up of the QLR scheme is extremely patchy over the country. I have taken soundings through various resolution committees, and certainly Newcastle, where I practise, is something of a QLR desert; we just do not have them. Judges still ask questions, and I am told that it is the same in Devon and Cambridge: people are just not taking on this role. I thought it would be helpful to refer you to—

The Chair: Can you explain what the rule is, for those who are listening?

Elspeth Thomson: Yes. There is a prohibition on cross-examination by an alleged perpetrator of the person making those allegations. In the past, if somebody made allegations of domestic abuse against their former partner, that person could, if they did not have legal representation, directly cross-examine the accuser.

The Chair: Great complaint was made about that. Then a new system was introduced because judges would often take over and ask the questions on behalf of the alleged perpetrator. What suggestion was made?

Elspeth Thomson: We now have qualified legal representatives, which is a scheme whereby the court can appoint a lawyer to ask questions on behalf of the alleged perpetrator. The scheme was set up but does not work across the country because of these deserts. Lucy Reed KC recently prepared the Pink Tape blog, which makes very interesting reading, where she reviewed 35 published judgments that mentioned QLRs. Of those, QLRs had been directed in 12 cases but were not available or present and, in 10, judges still asked the questions. So the system still does not work. Essentially, it was brought in as a sticking plaster to make up for the issues raised by the LASPO Act, which restricted the availability of legal aid. The problem did not exist to the same extent prior to LASPO; but since LASPO, it has been a problem. QLRs are effectively a sticking plaster to try to solve that problem but it is not working.

The Chair: Are you saying it is a resource issue?

Elspeth Thomson: It is a resource issue; there are not enough people who want to do the work. It would be more effective if people were represented.

The Chair: Ursula, I want to bring you in. You have direct experience of all this and have spoken to so many women who have gone through the court processes. Do direct cross-examinations happen? Do judges try to fill the gaps but are not able to do so successfully?

Ursula Lindenberg: Yes. The same concerns come up. Survivors feel that during cross-examination professionals are used almost as a proxy to continue abuse through the wording of questions, which can be intrusive. It is important that the people undertaking that role are equipped to identify when questions are inappropriate or potentially harmful and intrusive. Requests for invasive physical and psychological assessments initiated by perpetrators can also be harmful.

The Chair: To the practitioners, do you see in the courts requests made by those acting for perpetrators, wanting to see medical records, suggesting that psychiatrists should examine women who bring cases? Does that still go on?

Dr Charlotte Proudman: It does. I could talk about a recent case, but of course I am not allowed to, with it being private proceedings, but it happens very regularly. It can happen through the back door. For example, the family court may order a psychiatric or psychological assessment of a victim of domestic abuse. As part of that report, a breakdown of medical records may be included in the appendix, which could go back to when the victim was born. It could include information about abortions; there may be a history of child sexual abuse, which is then disclosed to the perpetrator, or alleged perpetrator.

We appealed another case that was successful on other points but unfortunately not on this one, which in my view is a public interest argument. All the victim's medical records had been disclosed since birth because it was alleged that she had a particular medical condition that

impacted her ability to parent, even though that matter had not been adjudicated upon by the court and there had been no expert evidence to suggest her perpetrator's assertions were true. There is no procedure, as I mentioned, or case law, despite attempts on a number of occasions with two particular appeals, for the court to provide guidance on the correct approach to disclosing victim's medical records to found or alleged perpetrators. Such records are, of course, intimate in nature and very private, and most people do not want them disclosed, certainly to somebody with whom they had an abusive relationship. It is somewhat astounding that this lacuna remains and has not been addressed by the family courts.

The Chair: Thank you for identifying it for us.

Q45 **Baroness Sugg:** Victims are now automatically eligible for special measures in family court. What is your experience of them? In the introduction, you spoke about how traumatising it can be for survivors going to court. Have special measures made any difference? Is there a way they could be better utilised?

Ursula Lindenberg: They certainly are sometimes helpful, but there are limitations in how they are applied. They should be agreed in advance and clearly communicated to the person requesting them. Litigants in person may not know they can ask for special measures, or what they are. A survivor mentioned coming to court to find the requested screens placed against the wall. As a litigant in person, she felt that would have to physically move them into place herself. Not all courts have the infrastructure or enough physical space for separate waiting rooms. It is not just what happens in the courtroom that counts.

People are vulnerable to the language of coercive control that is unspoken, such as tapping fingers, a cough that previously signified the onset of violence, or an intimidating presence. There can be problems with parking and using toilets as unprotected areas. You can still hear somebody behind a screen. The Courts and Tribunals Bill aims to reform special measures, but without investment there will be no change—we talked about the lack of awareness of the impacts of coercive and controlling behaviour and sexual trauma, and of being in the same space—and it cannot answer those problems sufficiently.

Having to provide justification can also hinder applications. People have been called to give verbal justification in front of the other party. In some cases, victims feel they might present as vulnerable by asking for such support. There are positive examples of people having special measures of over multiple hearings, but there is a question about whether this should happen automatically. Judges have wide discretion, but do they have sufficient knowledge to make the right decisions?

Dr Charlotte Proudman: I have represented a number of complainants of domestic abuse who did not have special measures—or participation directions, as they are referred to in family court under Rule 3A and Practice Direction 3AA, which is now helpfully embedded in the Domestic

Abuse Act 2021—when they gave evidence in fact-finding hearings. I have argued that it hindered their ability to give their best evidence. They felt intimidated and distressed by the process of looking directly at the person they accused of raping them, while describing the fact that they were raped and it being put to them that they are lying. Seeing the reaction from the person they accuse is deeply traumatic. The family court should never be used as a vehicle to continue that abuse.

The appeals that I have been involved with have largely been successful because of the lack of implementation of primary legislation. The case of *Re B-B*, which was one of the cases in *Re H-N* and then went to a retrial, came before Mr Justice Cobb—now Lord Justice Cobb—who was an architect of Practice Direction 12J of the Family Procedure Rules. I understand that that was one of the first cases to be reported where a complainant of domestic abuse successfully asked for a video link so that, when the mother was in court, the father was appeared by video link but could not see her; of course, he could hear her and could give electronic instructions to his counsel. That meant that, when she gave evidence in the courtroom, as Ursula described, she did not have the fear of being able to smell him or hear him move or cough. Even with a screen, there is always the risk that you may catch a glimpse of the person when leaving or coming into court. That creates fear, a high heart rate and high cortisol levels, so that one is not relaxed while giving evidence. Of course, no one is relaxed, but certainly one wants them to be in a place where they can give their best evidence.

Baroness Sugg: I assume that is a big disincentive to go through the process in itself.

Dr Charlotte Proudman: Exactly. It was one of the first cases where the judge found the mother had been subject to gaslighting, which was defined in the judgment as a form of domestic abuse. It was a very powerful and important case with the judgment by then Mr Justice Cobb. Since then, we have seen video links being used more frequently. But again, as Ursula says, if a complainant is a litigant in person, they may not know they have access to participation directions, and these should be automatically introduced. Indeed, there is a mandatory duty on the court to ensure that participation measures are implemented where a complainant is considered to be vulnerable, and all complainants of domestic abuse are vulnerable.

The Chair: I am conscious that Baroness Gerada, who is a GP and our medical expert in the House of Lords and on this committee, has to go. Clare, do you have time to ask your question?

Q46 **Baroness Gerada:** I do; I might not have time to hear the response but my colleagues will. I would like to thank the witnesses in terms of especially the issue around notes being disclosed. Of course, we disclose notes if instructed to and the harm from this sounds pretty shocking.

The Act expanded a broad definition of perpetrator to include those who are personally connected, so not just the intimate nuclear family but

others in the wider sphere such as ex-partners, mothers-in-law, teachers, people in a religious network. What issues, if any, does this raise for the family courts? Are there any specific issues around minoritised victims?

Elspeth Thomson: It is less of an issue in the family courts. I think of this in a number of contexts. First, in terms of non-molestation orders under the Family Law Act, there is already provision to word any order to prevent people from instructing, encouraging or in another ways suggesting that anybody else should molest or harass the person who is protected by the order; we already had that. Then, in terms of wider family cases involving children, I am not aware that the change of definition in the Domestic Abuse Act has had an impact, but I would be interested to hear what other members of the panel have to say.

The Chair: It is interesting to hear your experience. What about you, Charlotte Proudman?

Dr Charlotte Proudman: I see this as an issue in specific cases involving minoritised families and communities where, for example, in-laws might be considered to be alleged perpetrators of wider forms of coercive and controlling behaviour in a family dynamic. In Children Act proceedings in particular, it can be very difficult for a complainant to make allegations against in-laws who are not parties to proceedings. While they may be a witness, if a complaint makes allegations that could result in findings against someone who is not a party to proceedings—Baroness Kennedy will understand the implications of this—it is very difficult in terms of Article 6 to ensure they have a right to a fair hearing. They are not necessarily represented and do not have access to all the papers.

Judges are reluctant to allow allegations to be tried and tested specifically against individuals who are not parties, such as in-laws or other family members within the wider circle of the intimate couple. This can constrain assessments of the risk of harm to children if the alleged perpetrator invites the court to make an order that allows children to have contact with family members who are accused of perpetrating coercive and controlling behaviour. A full risk assessment might not be conducted by family courts because the wider family remain on the periphery and are not party to proceedings.

The Chair: That is a very tricky one.

Dr Charlotte Proudman: We see that as a real issue, particularly in honour-based violence cases.

The Chair: The business of children has been particularly in our minds because it has been so neglected in the past.

Q47 **Lord Russell of Liverpool:** We have repeatedly touched on children during your evidence and heard about issues that involve them, sometimes from years before. Can we jump to the chase? As children have been brought into the definition of potential victims in the Act, where are the gaps? What are your recommendations? Are there things

we can or should do to make things better for them?

Dr Charlotte Proudman: If I may say so, this is one of the most important questions for this panel. Children, of course, are a paramount consideration of family courts but are, in many ways, the forgotten survivors of domestic abuse. In most cases, I never meet the child of a victim who I represent even though I try to put their voice before the court, and judges rarely meet them. Sometimes Cafcass social workers meet the child only once during the whole course of proceedings that may last years. Many feel disempowered and disenfranchised in the process.

Section 3 of the Domestic Abuse Act 2021 recognises, or is supposed to recognise, that children are victims in their own right as a result of seeing, hearing, experiencing domestic abuse, but that does not necessarily translate into findings within family courts. If there is a fact-finding hearing and a mother is found to be a victim of rape, the family court does not necessarily then look at the nexus between the fact a father has raped the mother and the harm that causes to a child. If you just indulge me—

The Chair: Dr Proudman, I have to stop you there. There is a Division, which means we have to go down to vote. We will pause, and I suspend the hearing for 15 minutes.

Sitting suspended.

The Chair: Welcome back to this session. Lord Russell, you were asking about children.

Lord Russell of Liverpool: We were talking about children; Charlotte, you were in mid flow. What are your specific observations and recommendations in relation to children and how to make things better?

The Chair: We will have to take this quite sharpish, because we are running out of time.

Dr Charlotte Proudman: I draw on a particular case involving a man called Kristoffer White, who was identified within family courts. He was a serial rapist. He raped a teenager off the street and then went on to rape the mother of his child. Notwithstanding that, Cafcass recommended and the court ordered contact between him and the child. That meant that a rape victim, the child's mother, had to facilitate contact with her rapist. The family court does not understand that, in cases of that nature, the long-term psychological and emotional harm that will be experienced when that child is older and understands that the state has forced them into a relationship with a man who raped their mother and thereby harmed them too. That is state-sanctioned abuse and should not be allowed. Section 3 needs tightening up to recognise that, where the father has raped the mother, the children are victims of that rape and of the very same form of domestic abuse.

Secondly, there needs to be an understanding of long-term psychological and emotional harm. Children aged three or four may not be overtly harmed but, longer term, they will come to understand the implications. Very briefly, in another recent case, the mother had been raped by the father. My client, the mother, argued that the child's surname should be changed from the father's to her surname, recognising the associated stigma, harm and shame. The judge said that, no, the child should continue to retain the name of the father owing to the paternal links and how important his heritage is. Why is it important for a child to retain the name of the man who raped their mother and threatened to kill the child and the mother? That case is now before the European Court of Human Rights where we are representing the mother through Proudman. This is wrong and needs to be addressed; I hope you are able to do that.

Elspeth Thomson: It would be useful to contrast how situations akin to that are treated within public law, where the local authority steps in, applies for care orders, and children are treated differently and more recognised as victims of domestic abuse in their own right, as opposed to private law where parents make applications for child arrangements orders. I wonder whether some of the practice within the public law arena could be in some way transferred—I do not have the magic wand—perhaps through training, to make sure that private law proceedings adopt the same approach.

Baroness Barran: We tried in the Children's Wellbeing and Schools Bill and were batted down very firmly.

The Chair: Those are the challenges, and Baroness Barran has been at the front line on it.

Ursula Lindenberg: As with coercive and controlling behaviour, recognition and response are two different things. The acknowledgement in law that children are victims in their own right is not always seen in the ways they are responded to. There is a lack of understanding around coercive and controlling behaviour and children. Each child has its own experience, sometimes with a perpetrator playing divide and rule. The impact of such behaviour with children can involve apparently minor things that disrupt and sabotage trust and safety. For example, they may be made to pass messages that can be threatening from one parent to the other. There can be a lack of curiosity about forms of victimisation and what children might have to navigate in family dynamics, for example, with other siblings. Children coping with abuse at home may go under the radar as being very well behaved at school or acting up and being blamed and stigmatised.

Lord Russell of Liverpool: We understand what is happening; what can we do to stop it?

Ursula Lindenberg: I agree with what has been said. We have to listen more. We have to foreground children's needs and wishes and stop using persuasive language that tells them they perhaps should not be setting

boundaries or making their wishes known. Essentially, we have to believe the children.

The Chair: Baroness Barran, I am anxious about time.

Q48 **Baroness Barran:** I will try to roll two questions into one. I will start with you, Elspeth. I understand there are two Pathfinder courts in Dorset and in south Wales that are trying to address many of the issues raised with us today. It would be interesting to hear feedback from your members operating in those areas. More broadly, the Act introduced barring orders to prevent perpetrators using repeated court proceedings. Since its implementation, have you seen any change?

The Chair: Do you have any experience of a Pathfinder court?

Elspeth Thomson: Not personally, but I have feedback from members.

The Chair: Okay, please give it to us then.

Elspeth Thomson: Currently, 10 out of 43 court areas use Pathfinder or child-focused courts, as they were renamed two days ago. The feedback is that, generally, they are good for straightforward cases where the child's voice is brought into the arena more quickly. Parents hear that, which helps resolution be reached for straightforward cases. There is some concern about whether more complex cases, particularly including domestic abuse, are given adequate time to be dealt with properly. People welcome the more frequent use of IDVAs in the courts, but there is a concern that the pressure to do things quickly means issues are not dealt with properly to include the input of both parties, and perhaps decisions can be rushed. There has also been a problem with legal aid not being available because the agency cannot move quickly enough to give victims legal aid for final hearings.

The Chair: Do you have any experience of barring orders?

Elspeth Thomson: Yes. Barring orders act as a filter rather than a bar; that is the first point. Since the change in the law, people report that there has been an increase in those orders being made and more of a focus on the harm to the child rather than repeat applications, which is a success.

Baroness Barran: There are green shoots.

The Chair: That is good. We like to hear the good as well as the bad stuff. Does anybody want to add anything different?

Dr Charlotte Proudman: Barring orders have been a real positive. However, we are starting to see judges ordering them against perpetrators and victims with the belief that there should be parity; so both parties are subject to such orders, even though one may engage in lawfare and there are no findings against the other. Why should victims be subject to Section 91(14) orders, particularly where they are at risk of experiencing post-separation coercive and controlling behaviour? They

may struggle to bring a case back to court if they need further protection because they need to seek permission of the court to do so. I would discourage this approach of mutuality and parity and look firmly at what PD 12Q says, where applicable.

The Chair: What is really going on.

Dr Charlotte Proudman: Exactly.

The Chair: Is there anything you want to add, Ursula?

Ursula Lindenberg: In terms of Pathfinder courts, it is important that everyone's active attention is focused on children's safety and recovery throughout their life course. The role of IDVAs is so critical, but the relationship between them, Cafcass and social workers must be strong and effective.

Q49 **The Chair:** Baroness Porter of Fulwood wanted to ask about professionals. This whole session has ended up being a description of judges and people on the other side not getting it right. We get a general picture. The real question that comes out of that is the business that Charlotte started with, which was about improving the training of judges and prosecutors. We heard about that from the prosecution service.

I have a particular bug about criminal defence lawyers, or those who do not have much experience of this matter, bringing the brutish ways of the criminal courts into family courts issues in ways that are unattractive and also really oppressive. I have tried to push for the idea of certification, that you have to be certified as somebody who is appropriately skilled for handling cases like these. Is there any mileage in that?

Dr Charlotte Proudman: That would be absolutely essential. I am surprised that we do not already have that. We have vulnerable witness training that advocates can opt into. SafeLives has a brilliant course, and I was part of the advisory board that established training for legal professionals in a trauma-informed way. But it is not mandatory; that is the problem. As you say, there is no certification or similar in family courts. It is absolutely essential, particularly when it comes to potentially cross-examining children if there is a successful Re W application.

The Chair: Baroness Porter, is there anything you would like to pick up on this front?

Baroness Porter of Fulwood: These are alarming examples; that is clear. In terms of getting more consistency across this, culturally, are there specific things around training that you see as important? Outside of training, are there other things that would help re consistency?

The Chair: Judges are very big on pointing out that they now see abuse in much wider terms and that it is not just about violence or physicality. Points raised by our witnesses today suggest that the system needs to be much better than it currently is. We could make recommendations around training and possibly around the business of certification, that people

should not take on these cases and cross-examine children and so on when they have absolutely no understanding or knowledge of the whole area of domestic abuse.

Elspeth Thomson: I just add that Resolution has a number of accreditation schemes; they are not compulsory, but we very much encourage our members to do them. On training, it is important that training includes hearing from victim-survivors. I was particularly struck by training I did last year at Resolution's national conference, where a victim survivor, Ruth Dodsworth, spoke about her experiences along with Jane Monckton-Smith. That was recorded as a live podcast. There is nothing like hearing about somebody's experience of coercive and controlling behaviour to really impact your practice.

The Chair: We plan to focus on victim-survivors and get people to bring this subject alive. For that reason, in our call for evidence, we are trying to reach out and use language that is inclusive and will somehow draw people in. I would value it if you could be our vectors and point out people who might be good in this regard. We also do not want to re-traumatise them, but it would be good to hear from more people. Ursula, you must know many who you could encourage to be in touch with us about their stories.

Ursula Lindenberg: It is really important to consider exactly what psychological risks are entailed in giving your story. We will not go into them here, but it is critical that we find safe and ethical ways to include people, not only for their own story but for the expertise they bring through their lived experience of the issues at hand.

The Chair: I am sorry to speak over you, but we hope your advice and help will be useful in telling us how. We will not invite people to sit on a panel like this, but we would like to have a successful way of hearing from them and letting outsiders hear from them, for those who are willing to be more open. It is a matter of finding a sensitive and good way of doing that. Any assistance from you all would be welcome. I hope people watching will do the same.

Dr Charlotte Proudman: The judicial college is opaque in terms of what training it provides to judges in particular. At the time the then Domestic Abuse Bill was going through Parliament, I worked with Jess Phillips MP and the now Victims Commissioner, Claire Waxman OBE, specifically on ensuring that there is mandatory training on trauma, memory, and tropes and stereotypes in respect of victims of rape and domestic abuse. We did not get anywhere in terms of pushing through the amendment that Baroness Bertin very much championed, to her credit.

I want to raise another point that relates to this, which is parental alienation. When training on domestic abuse, it is important to include parental alienation, which is the other side of the coin and often used by perpetrators to undermine allegations to say, "This is not a case of abuse; in fact, this is a mother who is weaponising these allegations and seeking to malign the children against me". It can be weaponised in quite

cruel ways. There have been a number of high-profile cases where children were removed from survivor parents and placed with perpetrator parents and, once they become teenagers—so aged 14 or 15—they apply to the family court to return to their mothers.

I represented one of the first children in a case of that nature in the High Court, whose name was Florence. After going through various “expert” assessments by parental alienation proponents, she was found to be a child victim of alienation by her mother, despite the mother being a victim of domestic abuse as found by the family court. She was ordered to live with her father and was desperate to go back to her mother and suffered all sorts of harm and trauma as a result of that, until finally we made that application on her behalf. The use of experts is very dangerous and is becoming a cottage industry, if it has not already become one, within our family justice system.

The Chair: Thank you for raising that; it is an important matter for us to consider too. You know the questions that we have for you. If there is any further material that you would like to place before us, we would like to receive it. If you have recommendations or ideas of people we should hear from, we would value that. Please do not hesitate to be in touch with us afterwards. I do not think that there any other matters. We rushed at the end, but we have covered the ground. I thank you on behalf of the committee for coming and giving of your time today; it has been really important and hugely valuable.