



Live Fear Free Helpline
Llinell Gymorth
Byw Heb Ofn

Providing confidential support
and information on domestic
abuse, sexual violence and
violence against women in Wales

Darparu gwybodaeth a chefnogaeth
cyfrinachol ynghylch trais domestig,
trais rhywiol a thrais yn erbyn merched
yng Nghymru

0808 80 10 800




Cymorth i Ferched Cymru
Welsh Women's Aid
Rhoi Merched a Phlant yn Gyntaf
Putting Women & Children First

Welsh Women's Aid Briefing for MPs in Wales

Westminster debate: domestic abuse victims in family law courts,
Thursday 15 September, House of Commons Chamber

Introduction

This briefing outlines some of the issues that domestic abuse survivors in Wales face in family law courts. It is based on **Welsh Women's Aid focus groups with 69 survivors of violence and abuse across Wales** and more in-depth feedback received from survivors of abuse (who have experienced family law courts in cases of child contact arrangements) and from specialist domestic abuse services.

Welsh Women's Aid is the national charity in Wales working to end domestic abuse and all forms of violence against women, supporting 23 specialist services across Wales that provide lifesaving services to survivors of violence and abuse - women, men, children, families - and deliver a range of innovative preventative services in local communities.

Summary of key points to inform the debate

Welsh Women's Aid research highlighted that the **family justice system was the most negatively experienced by survivors of domestic abuse**, of all public services.

Every focus group involved women who have experienced domestic abuse and who have used family courts in Wales, and **all unanimously raised concerns**, for example -

- Women spoke of their experience of perpetrators using the family court system to continue to abuse and control them, and of family justice system prolonging and reinforcing the abuse they had experienced by perpetrators.
- Women told us they felt the abusive parent's right to see their children overrides the safety and well-being of children, during family court proceedings, despite the intent of the law to put the child's safety, wishes and feelings first.
- Women spoke of their concerns about their children being subject to ongoing emotional and other forms of abuse, as a result of family court decisions that allow unsafe contact with the abusive partner/parent.
- Women felt that, unlike improvements in the criminal justice stem, the family justice system did not appear to understand domestic abuse, its impact on mothers and children, and their need for support.

Pendragon House, Caxton Place | Pentwyn, Cardiff | CF23 8XE
Tel: 02920 541551 | Fax: 02920 736128
Email: info@welshwomensaid.org.uk | Web: www.welshwomensaid.org.uk

Registered Charity Number: 1140962

- Women spoke of concerns about the availability, location and access to suitable supervised contact facilities in Wales, following a family court decision.
- Women told us about problems with not being able to access legal aid, and the additional trauma this had caused them.
- Women spoke of a lack of a joined up approach between criminal and family court cases, where in some cases family courts were not aware there was also a criminal case being investigated.

Women in Wales say they want:

- 1. Dedicated specialist services for children and young people impacted by or experiencing domestic abuse, who have to go through family courts**
- 2. Support through the family courts for women, provided by specialist domestic abuse services, which are often not funded to provide support and advocacy through the family justice system**
- 3. Improved awareness of and response to domestic abuse by professionals involved in the family justice system (CAFCASS Cymru, judges and court personnel, contact centres), and safe child contact with parents/carers following separation, in cases of domestic abuse and sexual violence.**
4. Accessible 'refuge service' support in every area, accompanied by safe, affordable, longer-term support for survivors of abuse, that meet survivors' needs.
5. Women's groups and peer support available in every area, to reduce isolation and maximise independent spaces that increase confidence, esteem, and empowerment.
6. Protection and support for all survivors who have no recourse to public funds, to ensure equal access to safety, support, protection and justice, and finances to live independently, irrespective of survivors' immigration and residency status.
7. Counselling and therapeutic services for survivors that is available, in every area, when needed, is age-appropriate, and helps build resilience and recovery from abuse.
8. Greater focus on stopping perpetrators' behaviour and holding them to account by public services, and where violence and abuse involves coercive control, action by public services to ensure perpetrators leave and end abusive relationships.
9. Improved training for all services on all aspects of violence against women, domestic abuse and sexual violence, informed by survivors' experiences.
10. Preventing violence against women, domestic abuse and sexual violence from happening in the first place, through compulsory prevention education in all schools and colleges, increasing awareness of the issues and the help available in local communities across Wales.

Sara's* story – a case study

I am the one who has been abused, but I'm the one treated like a criminal. That is how the family courts have made me feel. As soon as we split up my ex applied to the court for child contact arrangements, and he immediately started using the courts as a way of continuing his abuse through threatening and intimidating letters.

At my first hearing my Independent Domestic Violence Advisor (IDVA) requested a separate waiting room and either a screen or video link in court so I didn't have to see my ex. I was given a separate waiting room but everything else was ignored and my IDVA wasn't even allowed to sit in court with me for support. So I was in a small room right opposite him and I felt totally intimidated - I was in bits trying to shield my face.

In a later hearing I was told that we would have to watch a police video of the interview I made around rape allegations against my ex-partner. I was expected to sit in a tiny room and watch this video around a laptop with my ex, his sister, his barrister and the judge. The courts wouldn't put you in a situation like that if they understood what I've been through and what it really means to be abused and controlled, and how terrifying that is.

Another big issue I've faced is not being entitled to legal aid. My ex has a full-time wage while I work part-time and have two children to feed. Now I have to pay for these legal costs, which will total around £15,000, and if I can't afford it I have to represent myself. It's all about who has the most money to throw at it, but where is the justice in that? I'm already paying back the thousands of pounds that he stole on my credit cards when we were together, so I'm skimping and saving while he knows that he is still controlling me.

Women don't end up with Welsh Women's Aid groups or being assessed as high risk by the police or other professionals for no good reason, but this seems to be forgotten by the family courts. I've had personal and traumatic experiences dragged through the courts only to be met with aggression and intimidation, at times even disbelief. I just wish people would listen to what I'm saying.

*Names have been changed to protect identities

Background information

Welsh Women's Aid research highlights a multitude of issues facing domestic abuse victims in family law courts in Wales, including:

- **A lack of understanding among family law professionals about domestic abuse**, including the impact of non-physical abuse such as financial abuse and coercive control.
- **Survivors' fears and concerns not being heard or understood.** Women and children need support through the family justice system to help and support them explain their experiences of abuse, and concerns in relation to safety.

- **Legal aid restrictions**, which means that women who are now over the threshold to get access to legal aid, or whose evidence does not meet gateway requirements, are unable to access justice.
- **Family law courts – buildings and structures**, which do not accommodate survivors in a way that makes them feel safe and secure.
- **A complex legal system that is difficult to understand**, and for women who are not fluent in English/Welsh, understanding the legal process can be especially difficult.
- **The geography and transport services in Wales**, which means reaching a solicitor, a court or a contact centre can be a challenge.

Understanding domestic abuse in family law courts

“He stole credit cards and money, which has had a massive impact on me and my children. But they don’t see financial abuse as an important aspect of these child contact arrangements. He wasn’t physically violent but he was everything else and that’s just as bad, but there is a real lack of understanding among the courts.” Survivor, 2016

Our research shows that women who have experienced domestic abuse often feel powerless, blamed and disbelieved in family law courts and for some this can feel as if they are being abused all over again.

Services and survivors have told us that there seems to be a lack of understanding as to why women feel unable to express themselves and fears for their children in front of their abuser, why they feel scared to be in the same room, and why the fear and control exerted by perpetrators does not automatically stop once a relationship has ended. Incorrect assumptions are being made that because a relationship has ended, so has the domestic abuse. Yet as many as 90% women experience post-separation abuse by their ex-partners.¹

Listening to victims of abuse

“My solicitor was awful – I picked them because they have training in domestic abuse but they didn’t understand or care about what I’ve been through and I had to stop using them because they didn’t prepare me for anything. They said it was all about the children, but how can you ignore the abuse? Even if children are not directly abused they still witness it and experience it and are traumatised by it. That at least needs to be acknowledged.”

– Survivor, 2016

Our research shows that women feel blamed if their children said they did not want contact, and feel scared that they would be threatened with a fine or community service for a breach of court order if they did not ensure contact took place, regardless of their children’s wishes and their concerns about safety.

Just as victims of domestic abuse are supported through the criminal justice system, so too do victims of domestic abuse need support through the family justice system. Dedicated support would help them explain their experiences of abuse, and provide advocacy to alleviate concerns

¹ Solace Women’s Aid (2014) Finding the Costs of Freedom

in relation to the safety of their children, to ensure that the decisions being made in family courts are based upon a good understanding of the case in hand. This doesn't always happen and sadly in the worst case scenarios we have seen children being killed by their father following court ordered contact, as outlined in the 19 Child Homicides report² by Women's Aid in England.

Legal Aid restrictions

"I'm not entitled to legal aid because I'm working part-time while he's on a full time wage and has help from his parents. I almost thought I would have to give up my job but I have to work, I've got two children to feed. But now I have to pay for this process – it's a joke. For the next finding of fact stage I need a minimum of £1500. But what if I couldn't afford that and I have to represent myself? That is completely unjust. There is no equality, it's all about who can throw the most money at it."

- Survivor, 2016

Accessing legal aid is problematic for women without recent evidence of the abuse. For example, it is problematic for women who work part time – women who are often on low incomes and are the sole financial provider for their children – along with women who are in joint mortgages or have joint ownership of a property with an abusive partner.

Overall, these restrictions can result in women returning to or remaining in abusive households, walking away from cases altogether or ending up in extreme debt. It can also led to women being cross examined by their abusive partners, and having to represent themselves against a partner with legal representation as litigants in person. Women without English/Welsh as a first language often do not have the option of representing themselves in court due to language barriers.

Family law courts – buildings and structures

"During the actual hearings women are forced to come face-to-face with their abuser in small court rooms, without an understanding from those involved that women don't feel comfortable speaking up about what the real issues are, or find it very hard to speak their mind and say what they are afraid of, when they're in the same room. Then people don't understand why [women] don't want as much contact as the judge wants them to have."

- Support worker, specialist domestic abuse service, 2016

If the courts do not accommodate women in a way that makes them feel safe and secure, this can directly impact on a woman's ability to present herself and the history of the case. We heard of women being unable to access separate waiting rooms, especially if their hearing fell in the afternoon when waiting rooms were usually full. This means that women are left feeling anxious and scared before they even enter the court room.

² <https://1q7dgy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2016/01/Child-First-Nineteen-Child-Homicides-Report.pdf>

For women who are provided with separate waiting rooms, they usually still have to enter the courthouse via the same entrance as their perpetrator, where they are at risk of seeing him. We also heard of men goading women as they moved from the waiting room to the courtroom.

Ensuring victims understand the legal process

Women often struggle to understand how their case is due to progress, step-by-step, and often have to wait in court for hours at a time, sometimes just to be told that their case had been adjourned. This is a problem for women because they usually have to arrange and pay for childcare. For women who are not fluent in English, understanding the legal process can be incredibly difficult.

The geography of Wales

“My next hearing is in a court which is a good drive away and it starts at 9:00am. But my children’s nurse only opens at 8:00am and [the court] said that’s fine because it’s only a 50 minute drive. But that’s dependent on me dropping my children off in one minute flat, driving, finding somewhere to park, plus, when I get to court, I need a while to collect myself.”

- Survivor

The geography and transport services in Wales are significant barriers for some women, especially those who live in more rural areas, because being able to reach a solicitor, a court or a contact centre can be a challenge. This is especially true for women on low or no income, or women who are waiting for their benefits to come through after recently leaving an abusive partner, or who may not have a car or enough money to pay for travel fares.

Further information about the consultation with survivors in Wales is available on request.

Welsh Women’s Aid will continue to monitor the issues and legislation that impact on domestic abuse survivors in family law courts. To support our campaign to achieve safety for children and their mothers in the family courts, please, get in touch.

If you have any comments or questions about this briefing, please don’t hesitate to get in touch with:

Alice Moore

Campaigns and Communications Officer, Welsh Women’s Aid

AliceMoore@welshwomensaid.org.uk

02920 541551