

LADY CHIEF JUSTICE OF NORTHERN IRELAND
GUIDANCE FOR JUDICIARY
FAMILY PROCEEDINGS: DOMESTIC ABUSE

1. APPLICATION AND INTERPRETATION

- 1.1. This Guidance applies to any proceedings in the Family Division of the High Court, the Family Care Centre or the Family Proceedings Court under the Children (Northern Ireland) Order 1995 or the Adoption (Northern Ireland) Order 1987 in which an application is made for a contact and/or residence order. It applies also to any proceedings in any other court in which any question arises about where a child should live or about contact between a child and a parent or other family member where the court considers that an order should be made.
- 1.2. This Guidance applies from 30th June 2025.
- 1.3. This Guidance applies to proceedings involving any litigant in person as well as proceedings where all or any of the parties are legally represented. If a legal representative acting in the proceedings becomes aware that another party is a litigant in person, they should send a copy of this Guidance to the litigant in person at the earliest opportunity.
- 1.4. In this Guidance –
- “domestic abuse” includes behaviour falling within [section 2](#) (*What amounts to abusive behaviour*) of the Domestic Abuse & Civil Proceedings Act (Northern Ireland) 2021 when read with [section 4](#) (*Meaning of behaviour etc*) of that Act; and

“harm” means ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing or hearing the ill-treatment of another, by domestic abuse or otherwise.

2. PURPOSE

- 2.1. Domestic abuse is harmful to children and/or puts children at risk of harm, including where they are victims of domestic abuse, for example by

witnessing one of their parents being violent or abusive to the other parent, or living in a home in which domestic abuse is perpetrated (even if the child is too young to be conscious of the behaviour). Children may suffer direct physical, psychological and/or emotional harm from living with and being victims of domestic abuse and may also suffer harm indirectly where the domestic abuse impairs the parenting capacity of either or both of their parents. There is evidence now to indicate that babies in the womb can also suffer harm from domestic abuse.

- 2.2. The purpose of this Guidance is to set out the approach of the court in any case in which it is alleged or admitted, or there is other reason to believe, that the child or a party has experienced domestic abuse perpetrated by another party or that there is a risk of such abuse. It should be noted that a fact-finding exercise will not be necessary in every such case and that nothing in this Guidance prevents the parties from reaching a resolution of the issues, subject to the approval of the court.

3. CONDUCT OF FAMILY PROCEEDINGS WHERE DOMESTIC ABUSE IS OR MAY BE A FACTOR

- 3.1 There is an obligation on the parties to identify child protection issues at an early stage. Form C4 (Acknowledgment of Service) and Form C1AA (Supplemental Information Form), if applicable, should be lodged in advance of the First Directions Hearing setting out any allegations of domestic abuse.

- 3.2 The court should:

- (a) identify at the earliest opportunity the factual and welfare issues involved;
- (b) consider the nature of any allegation, admission or evidence of domestic abuse and the extent to which it would be likely to be relevant in deciding whether to make a contact and/or residence order and, if so, in what terms;
- (c) give directions to enable contested relevant factual and welfare issues to be tried as soon as possible and fairly; and

- (d) ensure that where domestic abuse is admitted or proven, any contact and/or residence order in place protects the safety and wellbeing of the child and does not expose them to the risk of further harm.

4. DIRECTIONS FOR A FACT-FINDING EXERCISE

4.1 The court should determine as soon as possible whether it is necessary to conduct a fact-finding exercise in relation to any disputed allegation of domestic abuse –

- (a) in order to provide a factual basis for any welfare report or for assessment of the factors set out in paragraphs 9.1 and 9.2 below;
- (b) in order to provide a basis for an accurate assessment of risk; or
- (c) before it can consider any final welfare-based order(s) in respect of the child.

4.2 In determining whether it is necessary to conduct a fact-finding exercise, the court should consider –

- (a) the views of those involved in the proceedings;
- (b) whether there are admissions by a party which provide a sufficient factual basis on which to proceed;
- (c) whether there is other evidence available to the court that provides a sufficient factual basis on which to proceed;
- (d) whether the factors set out in paragraphs 9.1 and 9.2 below can be determined without a fact-finding exercise;
- (e) the nature of the evidence required to resolve disputed allegations;
- (f) whether the nature and extent of the allegations, if proved, would be relevant to the issue before the court; and
- (g) whether a separate fact-finding exercise would be necessary and proportionate in all the circumstances of the case.

- 4.3. Where the court determines that a fact-finding exercise is not necessary, the order should record the reasons for that decision.
- 4.4. Where the court considers that a fact-finding exercise is necessary, it should give directions as to how the exercise is to be conducted to ensure that the matters in issue are determined as soon as possible, fairly and proportionately, and within the capabilities of the parties. In particular it should consider –
 - (a) what are the key facts in dispute;
 - (b) whether it is necessary for the fact-finding exercise to take place at a separate (and earlier) hearing to the hearing at which contact and/or residence arrangements will be determined;
 - (c) whether the key facts in dispute can be contained in a schedule or a table which sets out what the applicant complains of or alleges and what the respondent says in relation to each individual allegation or complaint; and if so, direct by when the schedule is to be completed;
 - (d) what evidence is required in order to determine the existence of coercive, controlling or threatening behaviour, or of any other form of domestic abuse;
 - (e) directing the parties to file written statements giving details of such behaviour and of any response;
 - (f) whether documents are required from third parties such as the police, health and/or social care services or domestic abuse support services and giving directions for those documents to be obtained;
 - (g) whether oral evidence may be required from third parties and if so, giving directions for the filing of written statements from such third parties;
 - (h) where third parties from whom documents are to be obtained are outside the jurisdiction, how to obtain those documents in good time for the fact-finding exercise, and who should be responsible for the costs of obtaining those documents. Where relevant, the [Judicial Protocol Regulating Direct Judicial Communications between Scotland,](#)

England & Wales and Northern Ireland in Children's Cases should be consulted;

- (i) whether any other evidence is required to enable the court to decide the key issues and giving directions for that evidence to be provided;
- (j) what evidence the alleged victim of domestic abuse is able to give and what support the alleged victim may require, including any special measures, in order to give that evidence;
- (k) in cases where the alleged victim of domestic abuse is unable for reasons beyond their control to be present in court, what measures, including any special measures, should be taken to ensure that that person's best evidence can be put before the court;
- (l) what support the alleged perpetrator may need in order to have a reasonable opportunity to challenge the evidence; and
- (m) whether a pre-hearing review would be useful to ensure directions have been complied with and all the required evidence is available.

4.5 Where the court fixes a separate fact-finding exercise, it may at the same time fix a directions hearing to follow. The hearings should be arranged in such a way that they are conducted by the same judge or, where the proceedings are in the Family Proceedings Court, by a panel made up of the same DJ(MC) and lay magistrates; where it is not possible to assemble the same lay magistrates, the resumed hearing should be listed before a panel that includes at least the same DJ(MC).

5. REPORTS

5.1 (1) Subject to sub-paragraph (3), sub-paragraph (2) applies in any case where an issue is raised about a child being a victim of domestic abuse or there being a risk of harm to a child resulting from domestic abuse.

(2) In such a case, the court should consider directing that a report be prepared by the Children's Court Guardian Agency or a Court Children's Officer, a Social Worker or any other expert whose expertise the court considers may be of assistance, on the question of contact, residence or any other matters relating to the welfare of the child.

(3) Sub-paragraph (2) does not apply where the court is satisfied that the preparation of such a report is not necessary to safeguard the child's interests.

5.2 Any request for a report should set out clearly the matters the court considers need to be addressed.

6. INTERIM ORDERS BEFORE DETERMINATION OF RELEVANT FACTS

6.1 Where the court gives directions for a fact-finding exercise or where disputed allegations of domestic abuse are otherwise undetermined, the court should not make an interim contact or residence order unless –

(a) it is satisfied that it is in the interests of the child to do so and;

(b) that the order would not expose the child to an unmanageable risk of harm (bearing in mind, in particular the impact that domestic abuse against a parent can have on the emotional well-being of the child and the need to protect against domestic abuse).

6.2. In deciding any interim contact or residence application the court should–

(a) take into account the matters set out in Article 3(3) of the Children (NI) Order 1995 ('the welfare checklist'), as appropriate; and

(b) give particular consideration to the likely effect on the child, and on the care given to the child by the parent who has made the allegation of domestic abuse, of any contact and any risk of harm, whether physical, emotional or psychological, which the child is likely to suffer as a consequence of making or declining to make an order.

6.3 Where the court is considering whether to make an order for interim contact or residence, it should in addition consider:

(a) the arrangements required to ensure, as far as possible, that any risk of harm to the child and the parent who has made the allegation of domestic abuse is minimised and that the safety of the child and the parties is secured; and in particular,

- (i) whether contact should be supervised or supported, and if so, where and by whom; and
 - (ii) the availability of appropriate facilities for that purpose;
- (b) if direct contact is not appropriate, whether it is in the best interests of the child to make an order for indirect contact; and
- (c) whether contact will be beneficial for the child.

7. OUTCOME OF FACT-FINDING EXERCISE / OTHER HEARING OF THE FACTS WHERE DOMESTIC ABUSE IS ALLEGED

- 7.1 The court should, wherever practicable, make findings of fact as to the nature and degree of any domestic abuse which is established and its effect on the child, including where appropriate, the effect on the child of the harm caused to the parent against whom the domestic abuse is, or was, directed.
- 7.2. The court should record its findings in writing in a schedule to the relevant order, which shall be made available to the parties. A copy of any record of findings of fact or of admissions shall be sent by the court office to Children's Court Guardian Agency or the relevant Court Children's Officer.

8. IN ALL CASES WHERE DOMESTIC ABUSE HAS OCCURRED

- 8.1 Following any determination of the nature and extent of domestic abuse, whether or not following a fact-finding exercise, the court may, if considering any form of contact, residence or other involvement in the child's life of the parent who has been determined to have perpetrated domestic abuse, consider-
 - (a) whether it would be assisted by any social work, psychiatric, psychological or other assessment (including an expert safety and risk assessment) of any party or the child and if so (subject to any necessary consent) make directions for such assessment to be undertaken and for the filing of any consequent report. Any such report shall address the factors set out in paragraphs 9.1 and 9.2 below, unless the court directs otherwise; and

- (b) whether any party should seek advice, treatment or other intervention as a precondition to any contact order being made and may (with the consent of that party) give directions for such attendance.

9. FACTORS TO BE TAKEN INTO ACCOUNT WHEN DETERMINING WHETHER TO MAKE A CONTACT ORDER IN ALL CASES WHERE DOMESTIC ABUSE HAS OCCURRED

9.1. When deciding the issue of contact the court should ensure that any order for contact does not expose the child to an unmanageable risk of harm and will be in the best interests of the child.

(1) In the light of-

- (a) any findings of fact,
- (b) admissions; or
- (c) domestic abuse having otherwise been established,

the court should apply the individual matters in the welfare checklist with reference to the domestic abuse which has occurred and any expert risk assessment obtained.

(2) In particular, the court should in every case consider any harm-

- (a) which the child as a victim of domestic abuse has suffered due to that domestic abuse; this may include harm caused to the child by the impact of the domestic abuse on the parent against whom the domestic abuse is, or was, directed; and
- (b) which the child is at risk of suffering if a contact order is made; this may include any harm which the child is at risk of suffering due to the impact of the domestic abuse on the parent against whom the domestic abuse is, or was, directed.

(3) The court should make an order for contact only if it is satisfied that the physical and emotional safety of the child (including safety from the harm caused by the impact of domestic abuse on the parent against whom the

domestic abuse is, or was, directed) can, as far as possible, be secured before, during and after contact.

9.2 In every case where a finding or admission of domestic abuse is made, or where domestic abuse is otherwise established, the court should consider the conduct of both parents towards each other and towards the child and the impact of same on the child. In particular, the court should consider –

- (a) the effect of the domestic abuse on the child and on the arrangements for where the child is living;
- (b) the effect of the domestic abuse on the child and its effect on the child's relationship with the parents;
- (c) whether the parent is motivated by a desire to promote the best interests of the child or is using the process to continue a form of domestic abuse against the other parent;
- (d) the likely behaviour during contact of the parent against whom findings are made and its effect on the child; and
- (e) the capacity of the parents to appreciate the effect of past domestic abuse and the potential for future domestic abuse.

10. ORDERS UNDER ARTICLE 179(14) OF THE CHILDREN (NORTHERN IRELAND) ORDER 1995

10.1 In every case where a finding or admission of domestic abuse is made, or where domestic abuse is otherwise established, the court should consider whether an order under Article 179(14) of the Children (NI) Order 1995 would be appropriate, even if an application for such an order has not been made.

10.2 An Article 179(14) order is available to protect a victim of domestic abuse where a further application would constitute or continue domestic abuse. A future application could be part of a pattern of coercive or controlling behaviour or other domestic abuse toward the victim, such that an Article 179(14) order is merited due to the risk of harm to the child or other individual.

11. DIRECTIONS AS TO HOW CONTACT IS TO PROCEED

- 11.1 Where any domestic abuse has occurred but the court, having considered any expert risk assessment and having applied the welfare checklist, nonetheless considers that direct contact is safe and beneficial for the child, the court should consider what, if any, directions or conditions are required to enable the order to be carried into effect and in particular should consider –
- (a) whether or not contact should be supervised, and if so, where and by whom;
 - (b) whether to impose any conditions to be complied with by the party in whose favour the order for contact has been made and if so, the nature of those conditions, for example, by way of seeking intervention (subject to any necessary consent);
 - (c) whether such contact should be for a specified period or should contain provisions which are to have effect for a specified period.
- 11.2 Where the court does not consider direct contact to be appropriate, it should consider whether it is safe and beneficial for the child to make an order for indirect contact.

12. REVIEW

- 12.1 This Guidance shall be reviewed after six months in operation by the Lady Chief Justice in liaison with the Senior Family Judge, the Recorder of Belfast and the Presiding District Judge (Magistrates' Courts) and thereafter shall be subject to periodic review as required.

THE RIGHT HONOURABLE DAME SIOBHAN KEEGAN
LADY CHIEF JUSTICE OF NORTHERN IRELAND
30TH JUNE 2025