

## **CHAPTER FOUR PROTECTION FOR CHILDREN AND YOUNG PEOPLE EXPERIENCING DOMESTIC ABUSE**

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The overview of the prevalence and impact of domestic abuse on children and young people highlights the significance of protection – keeping children safe. The review of children’s perspectives literature reveals ‘being safe’ as one of two key concerns for children themselves; the second is ‘having someone to listen to them’, with safety often a prerequisite to children feeling able to speak to someone about domestic abuse.

Three key themes emerge on the issues of protection. Firstly, no one organisation is responsible for keeping children safe. Effective multi-agency collaboration is required. Secondly, protective action needs to focus on intervention with the perpetrator. Thirdly, the protection of children is separate but linked to the protection of their mothers. Each of these areas will be discussed in more detail.

### **Pathways to Protection and Multi-agency collaboration**

A problem has arisen in Western countries responding to domestic abuse whereby the safety of children is considered to have been secured by a referral or notification to the statutory child protection authority. In countries where there is mandatory reporting and domestic abuse is specified, child protection systems have been overwhelmed (Humphreys, 2007; Edleson, 2004). In Australia, for instance, the level of reporting (notification) has doubled in a seven year period and much of this has been due to increased numbers of children living with domestic abuse who have been reported (AIHW, 2006). A similar problem has been identified in Scotland where referrals have never been higher, leading to a recommendation that all cases of domestic abuse involving children should not be automatically referred to the Reporter (Scottish Executive letter to Chief Executives, 2007). In 2006-7 the Scottish Children’s Reporters Association (SCRA) received 66,785 non-offence referrals of which at least 18,004 were for domestic abuse (an increase of 5,000 domestic abuse referrals from 2004/5): a snapshot report of two weeks of police incidents in November 2006 (ACPOS, 2007) revealed 45% incidents had children in the family, of those children were present in 70% of incidents and 91% were referred to SCRA. The high number of referrals, and small proportion going to a Children’s Hearing, suggests that concerns could be dealt with more quickly and appropriately by earlier action by agencies that provide help directly, unlike SCRA who determine whether the child needs help *compulsorily*. The point is made that child protection systems which are overwhelmed with referrals are not necessarily in a position to respond positively to children living with domestic abuse. A review by the children’s commissioner for Tasmania made the following statement:

*“While introduced in Tasmania and elsewhere to increase the referral net for child protection referrals and improve child safety, mandatory reporting has had the unintended negative consequences of overloading the statutory system without necessarily improving child safety.” (Jacob and Fanning, 2006, p.59)*

Clearly, protocols which recommend that wherever children are affected by domestic abuse a referral to the statutory authority is required are proving to be ineffective. Nonetheless, there are

a group of children living with domestic abuse who are at significant risk of harm and require the intervention of state authority and protection. The earlier overview of the research evidence shows that some children living in households where there is domestic abuse, or having contact with perpetrators, will be killed or seriously injured. Differentiating these children from others who can be safely supported in the community is not straightforward (Humphreys, 2007).

The evaluation and experiences gleaned from the Scottish Domestic Abuse Pathfinder projects will provide very significant evidence and assistance to other countries struggling with this issue (see <http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec> for further information on the Pathfinder). The UK and Australia are also developing research projects which are still in their early stages<sup>5</sup>. In other parts of the UK, work is progressing in some areas. Warwickshire for instance has developed work with the DAMAT (Domestic Abuse Multi Agency Team), in which police, the specialist domestic abuse support project (WDVSS) and child protection workers<sup>6</sup> come together to assess and provide support to children and families where domestic abuse has been identified (see <http://www.warwickshire.police.uk/needhelporadvice/violenceathome/damat> for info.).

Some areas are developing a focus on work with the most dangerous and high risk offenders. The Cardiff MARAC (Multi Agency Risk Assessment Conferences) process has been positively evaluated for work with high risk situations of domestic abuse. The child protection workers in that evaluation commented that it had been helpful in creating protection for children in these families (Robinson, 2004). A similar model is being piloted in Scotland and it is noteworthy that the North Lanarkshire MARAC pilot showed that of 100 cases, 70% involved children, and that currently repeat victimisation is sitting at 17%, compared to the Strathclyde police rate of 40% (evaluation forthcoming). Potentially, a greater focus on children's needs in relation to the MARAC process may be required. One of the advantages of the MARAC is that the risk created by the perpetrator is central to the risk to the child. This is not always the case in social work practice in this area, which has a tendency to create too much focus on the mother and not enough on the perpetrator risk (Humphreys, 2007). A further project in Australia, the DART project, concentrated again on the most chronic and high risk families through intensive case management and action by a team of child protection workers and the police and showed very positive and cost effective results (see findings in p.13 of [http://www.austdvclearinghouse.unsw.edu.au/PDF%20files/Newsletter\\_24.pdf](http://www.austdvclearinghouse.unsw.edu.au/PDF%20files/Newsletter_24.pdf)).

The child protection overload highlights the need to recognise that children will only be adequately protected if their needs are secured through strong multi-agency partnerships which provide a powerful network of protection: one which rivals the power of the perpetrator to have his needs and demands prevail.

Integrated or 'whole of government' domestic abuse strategies are now widespread, as exemplified by the National Strategy (Scottish Executive, 2000). Action to implement such strategies recognises that responding to domestic abuse involves co-ordinating complex systems

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<sup>6</sup> 'Child protection workers' is terminology used to refer to workers with a statutory brief to intervene in cases of child abuse even if they may also carry a broader remit of work in the children and families area.

at both strategic and operational level. The evidence base is developing to show that such strategies can be effective (Chung *et al.*, 2004; Holder, 2001; Pence and Shepard, 1999). However, there is also evidence to show that a government strategy is only as effective as the strength of its implementation at local or regional level. The Home Office commissioned research on the effectiveness of the crime and disorder reduction partnerships indicated that these local partnership were at very different stages of development and effectiveness (Home Office, 2004). Some long-standing multi-agency forums (Leeds Interagency Partnership; Hammersmith and Fulham Community Safety Partnership; Cardiff Women's Safety Unit), have moved to high levels of co-ordinated action which can demonstrate both increased criminal justice responses as well as strong endorsement from women about their sense of safety (Robinson, 2003; Hester and Westmarland, 2005). The protection of children is not necessarily the focus of these multi-agency partnerships. It is most developed where there is high level championing of the child protection and child prevention agenda within the domestic violence partnership (see for instance Cheshire Domestic Abuse Forum <http://www.cheshire.gov.uk/domesticabuse/Children.htm>) and more recently the MARAC evaluation for Cardiff (Robinson, 2004).

The research on multi-agency co-ordination suggests that a note of caution is required. Co-ordination in itself is not a goal and is only worthwhile if it secures greater levels of safety and well-being for women and children affected by domestic abuse and that perpetrators are held accountable for their violence (Mulroney, 2003). This is not always the case. The first UK research on multi-agency working did not provide full endorsement for this approach (Hague and Malos, 1996). This research found that the development of domestic abuse forums could be resource intensive and in some instances only resulted in a 'talking shop' for professionals, rather than showing demonstrable evidence that women and children were better protected and that there had been an increase in effective intervention with perpetrators. Other research has also shown that the increase of professional involvement through multi-agency forums in some areas also brought with it a decrease in the accountability mechanisms and inclusion of women survivors in participating in the directions for service development (Hague *et al.*, 2003).

Many formulations have been developed on the steps that are required to ensure that the extensive time spent on multi-agency co-ordination is goal directed and effective (Mulroney, 2003). There are many similarities. Given that the Duluth Model has been extensively evaluated, their template for developing an integrated systems' response is listed below:

- Develop a common philosophical framework
- Create consistent policies and procedures which coordinate and standardise the intervention actions of practitioners involved in a community response
- Monitor/track cases from initial contact to case disposition to ensure practitioner and offender accountability
- Coordinate the exchange of information, inter-agency communication on a need-to-know basis, and inter-agency decisions on individual cases
- Provide resources and services to victims and at risk family members to protect them from further abuse
- Utilise a combination of sanctions, restrictions and rehabilitation services to hold the offender accountable and to protect victims from further abuse
- Work to undo the harm to children

- Evaluate the coordinated community response from the standpoint of victim safety and the goals of the intervening agencies (Pence and Shepard, 1999).

While the steps to design an integrated strategy are complex, some underlying principles need to be identified. It is when these principles are made explicit that some of the reasons for conflict and ‘structured’ misunderstandings between workers and organisations can be seen and the factors which require significant worker and organisational change clarified. Principles have been set out by Burke (1999, p. 264) based on her work in a community service organisation which worked explicitly with men, women and children where there were frequently issues of both child abuse and domestic abuse. They reflect and address the hierarchies of both gender and inter-generational power.

- Safety and protection of children
- Empowerment and safety for women
- Responsibility and accountability of perpetrators of violence

A fourth principle which addresses the issues of recovery needs to be added.

- Attention to strengthening the relationship between mothers and children and other family members.

This fourth principle recognises the potential link between mothers and children and the fact that domestic abuse is frequently an attack on this relationship and relationships with other family members which need addressing in the aftermath of violence (Humphreys *et al.*, 2006a).

Helpfully, Burke (1999) has suggested that the principles form a hierarchy when there is a conflict of interest. For example, should there be a dilemma between the principle of child safety and that of the empowerment and safety of women, *which even after high level support is unable to be addressed*, then the safety of children remains paramount due to their level of vulnerability. Similarly, if there is a conflict of interest or resourcing pressures, the safety and empowerment of women needs to be placed as a priority over potential work with men. In the first instance, however, it is attendant upon agencies to develop complex working practices which respect and work with all principles, whether from within their own organisation or through multi-agency working. This actually demands a change of culture in many organisations who have traditionally had a ‘siloes’ or specialist focus on perpetrators, adult survivors (usually women), or children. The challenge of an integrated strategy lies in ensuring that a more holistic practice develops within a multi-agency context.

### **A focus on perpetrators**

Child protection intervention has been the subject of extensive criticism for its focus on women as mothers rather than men as fathers (Scourfield, 2001; Featherstone and Trinder, 1997). This problem takes on particular significance in the domestic abuse situation where there is both an adult victim, who is usually (though not exclusively) the child’s mother, as well as a child victim. The lack of intervention with the perpetrator has been a consistently depressing theme in

most research on the child protection system's response to domestic abuse (Mullender, 1996; Findlater and Kelly, 1999; Humphreys, 2007; Irwin *et al.*, 2002; Holt, 2003). It clearly requires a cultural and practice shift which has been flagged in the Child Protection Audit and Review (Scottish Executive, 2002a), which recommends a greater emphasis on men to challenge them about their behaviour and to assist them in changing it (Section 8.45). It recommends that the approaches developed by criminal justice social work services in work with men who use violence are skills that should be shared with childcare and health professionals.

A raft of intervention is required which involves child protection as well as the police, courts and community sector workers. A number of measures are discussed.

### ***An agreed risk assessment, risk management and safety planning tool***

The development of an agreed risk assessment, risk management and safety planning tool to be used by agencies involved in domestic abuse intervention to assist in the development of high levels of multi-agency co-operation focused on the perpetrator can provide a potential starting point (Scottish Data Capture Tool (being tested in pathfinder areas 2007-8); Robinson, 2003). To date, the tools have tended to focus on shaping police front line practice rather than exploring the multiple ways in which risk assessment and risk management tools can be deployed to develop domestic abuse intervention more broadly (Humphreys *et al.*, 2006b).

For instance, it can provide the leverage for a widespread training initiative. The implementation of the SPECCCS+ tool in London and West Yorkshire involved the training of 23,000 police across London, and 5000 police plus 1500 support staff in West Yorkshire. Some areas explicitly used it as a basis for joint or multi-agency training (Humphreys *et al.*, 2006b).

Other areas have used risk assessment and risk management as the basis for finding a common language and approach to domestic abuse within the multi-agency collaboration (Victorian Department of Communities, 2007; Robinson, 2004). The development of the Cardiff and South Wales MARACs showed evidence of high level multi-agency working, drawn together through the risk assessment and risk management tool to target the most dangerous offenders. Significant benefits for children were noted by the child protection workers involved (Robinson, 2004). This latter example is one of the few cases where the link between the risk assessment/risk management tool and child protection has been made, though work is progressing to create joint child and adult risk assessment in some jurisdictions (Scottish Data Capture Tool (being tested in Pathfinder areas 2007-2008); Victorian Department of Communities, 2007). The focus on the dangerousness of the perpetrator provides a somewhat different focus to current child protection practice where the risk assessment frameworks tend not to create such an emphasis (Humphreys, 2007).

### ***Underpinning child protection intervention with a civil protection order***

A significant intervention which promotes a focus on the perpetrator lies in underpinning child protection intervention with a civil protection order. This provides leverage and safety, not only for women and children but also for child protection workers. It is a strategy used very

effectively by Burke (1999) as the first stage in contracting with families where child abuse and domestic abuse is an issue. In Australia, it is also strongly supported through child protection guidance (see Department of Human Services, Victoria, 2005) and legislation (e.g. Western Australia *The Acts Amendment (Family and Domestic Violence) Act 2004*), though the Australian context has the advantage of police or child protection workers with powers to take intervention orders on behalf of the woman and/or child (Humphreys and Kaye, 1997). This is not a power available in other countries and is a significant prevention strategy and particularly useful when women are disempowered and frightened. Orders can be written, such that separation is not a requirement, but it provides police with extra leverage should violence re-occur.

### ***Development of the use of exclusion conditions***

A further development in the use of civil intervention orders is the development of the use of exclusion conditions on orders that allow women and children to stay in their own homes and require the perpetrator to leave. Such orders prevent some of the potential harm created through homelessness and the constant disruption to the lives of children including their schools, peer support and family networks (Mullender *et al.*, 2002). In some European countries, this is now the major front-line response to incidents of domestic abuse, particularly in the Germanic countries of Austria, Germany and Switzerland. In Scotland, women can apply for an exclusion order under the *Matrimonial Homes (Family Protection) (Scotland) Act 1981*: the protection provided through this Act was extended through the *Protection from Abuse (Scotland) Act 2001* ensuring more women had access to interdicts (banning partners/ex-partners from certain behaviours) and an attached ‘power of arrest’. The power of arrest is said to “go some way to attaching criminal powers” (Cavanagh *et al.*, 2003, see 8.8) should interdict orders or exclusion orders be breached. Furthermore, the *Children (Scotland) Act 1995* allows for the ‘local authority’ to apply for an exclusion order should the child be at risk of significant harm, a potential route to avoid the financial and other “burden on victims of abuse to pursue actions” (ibid.). To date exclusion orders and their use where there is domestic abuse have not been monitored or evaluated in Scotland. However, where these practices have been developing in England and Australia, it is clear they require very significant support and monitoring of the perpetrator and higher levels of house security<sup>7</sup> to ensure compliance and safety (Edwards, 2003, p.7). The high levels of co-ordinated case management required suggest that they may need to be part of specialist ‘sanctuary projects’ rather than part of mainstream service provision – at least in the early stages of developing an integrated domestic abuse strategy.

In reality current practice is such that a child’s safe haven will often not be their own home (Stafford *et al.*, 2007; Edgar *et al.*, 2003). For a proportion of these families that may never be a safe option. Access to appropriate refuges, housing and support services are therefore key in ensuring women and children’s safety, support and security remains a priority through their sometimes numerous moves (Edgar *et al.*, 2003; Fitzpatrick *et al.*, 2003; Stafford *et al.*, 2007), and a major issue for children themselves (see Chapter Three).

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<sup>7</sup> Such as security improvements on offer through Edinburgh’s ‘Safe as Houses’ Pilot as part of the Scottish Government’s Innovation Fund in avoiding homelessness (evaluation forthcoming 2008).

### ***Apprehension of the perpetrator and a consequence for his behaviour***

The apprehension of the perpetrator and a consequence for violent and abusive behaviour remains the most effective child protection strategy. This involves high quality policing, consistent prosecution, appropriate judgements, and strong support for adult victims within the justice process (Holder, 2001). In other words, a scaled up, integrated criminal justice response to which child protection workers, particularly through evidence gathering can provide specific support is a significant aspect of working with children where there is domestic abuse. The evaluations of specialist domestic abuse courts suggest that these courts can make a difference to the rate of prosecution and to the level of victim support provided. However, the response is complex and dependent upon good quality policing, evidence gathering and strengthening victim support (Stubbs, 2005). A critical overview of the strengths and weaknesses of specialist courts using a range of international examples is provided by Stubbs (2005). An example lies with Scotland's Domestic Abuse Court pilot in Glasgow which showed an increase in guilty pleas, convictions, quality of evidence, fast tracking and crucially safety and participation of the victim (Reid-Howie, 2006). The court pilot is part of a system that includes the rare integration of a specific child/young person's advocacy and support service as part of the specialist victim service (ASSIST -Advice, Support, Safety & Information Services Together)<sup>8</sup>, and the accompanying development of the MARAC approach including professionals related to children, women and perpetrators.

### ***Men's behaviour change programs***

The development of men's behaviour change programs has seen widespread development in the US, Canada, Australia and parts of England, Wales and Scotland. They remain controversial. Concerns arise about their effectiveness in stopping violence, the priority of resources in the sector, and whether they may actively contribute to violence if women return or stay with violent men on the basis that they are attending a men's behaviour change program (mbc program) (Laing, 2002). Evaluations and overviews of work in this area point to a number of areas which are of importance (Laing, 2002; Hester *et al.*, 2007).

A shift in evaluation has occurred from a focus on a specific program and its success or otherwise to evaluating the program in the context of the wider intervention system. This change in focus has been driven by the longitudinal, four site evaluation undertaken by Gondolf (2002; 2004). The critical finding in this study was that 'the system matters'. There seemed to be little difference in the effectiveness of different approaches and length of the programs (three months to nine months). Gondolf (2002) argued on the basis of the evidence that the effectiveness of the shorter program was that it was a pre-trial diversion program in which any breach was met with court involvement and there was regular court review. However, the Gondolf (2004) evaluation also suggests that there was a significant program effect. That is, attendance at the men's

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<sup>8</sup> Initial evaluation (Robinson 2004) reports positive responses from women and children to the children's service and makes recommendations for improvement, since then it has been further developed.

behaviour change programs was more effective than a simple arrest and put on probation response even if there was decisive court action. This was a similar finding to that Dobash *et al.* (1999) in their evaluation of the two Scottish projects: the CHANGE project based in Stirling and the Domestic Violence Probation Project in Edinburgh. A program effect was shown which went beyond the effectiveness of criminal justice sanctions. Their evaluation was based on partner reports about the reduction of violent behaviour, the frequency of violence episodes and use of other forms of coercion and control.

The upshot of this evaluation is that strengthening the response of the criminal justice system to men who use violence needs to be a priority in the development of mbc programs rather than focusing on shifts and changes in the program itself. Such a focus supports the attention to the integration of the criminal justice system to create a consistent response to violence across policing, prosecution, the court response and the probation and mbc program response (Holder, 2001). There is also some suggestion that an enhanced criminal justice response is also dependent on the availability of a mbc program as many judges and magistrates want a suite of sentencing options available to them. Men's behaviour change programs need to be one of those options (Holder, 2001).

The results of the Gondolf seven year study indicate that referral to gender-based, cognitive-behavioural programs seem to be appropriate for the majority of men (Gondolf, 2004, p.623). Within all four programs there were about 20% of violent men who showed no program effect. It appeared that these were not men who showed a particular constellation of risk factors or a particular personality type. Rather these were men who had very unassertive female partners and who the system dealt with poorly, allowing them to consistently 'get away with it', experiencing few consequences for their behaviour.

The evaluation by Gondolf (2004) shows a similar finding to Dobash *et al.*, (1999), who on the basis of an overview of 30 programs concluded that 50-80 percent of men who attend programs remain violence free for up to one year or more after program completion (p. 109). Based on re-conviction rates and partner feedback, the Gondolf study suggested that the effect of the program may take some time to take effect. Their evaluation showed that men could continue to re-assault during and immediately at the end of the program, but that over time there was a marked lessening of the use of violence and other forms of power and control. Thus, 50% of men had physically re-assaulted their partners during the 4 year follow up, but that at the 30 months follow up point, 80% had not re-assaulted in the past 12 months.

Questions also arise as to whether the mbc programs cut the level of physical assault but other tactics of power and control increase. In a New Zealand evaluation study of three community based violence prevention programs for men, most of the women stated that the men's abuse decreased over time, that there were positive changes in the men's behaviour and this they attributed to the men's participation in the program. When interviewed three months later, they maintained the same view. (McMaster *et al.*, 2000). Referring to the above evaluation, McMaster and Wells state that 'the belief that the men's emotionally abusive behaviour gets worse as their physical abuse reduces was not, on the whole supported in this research' (2003, p.254)

The question of mandated or non-mandated programs is one which has been given considerable attention. To some extent this has been construed as an unhelpful dichotomy. The overview of Australian perpetrator intervention (REUGV, 2004) argued that few perpetrators are genuine volunteers to mbc programs. They postulate a continuum from a social mandate (pressure from partners, family, friends, and social sanctions) through to legally mandated diversion programs, to programs where there is mandate to attend a program as a condition of sentence following a criminal offence (p.24).

There are some strong arguments which have been put forward for non-mandated programs. Burton *et al.* (1998) in their evaluation of the Domestic Violence Intervention Program (DVIP) in London argue that there are too few men who come through the full court process to sentencing and that these men represent some of the most violent men who may be least responsive to help. Hester's research on attrition within the criminal justice system indicates that of incidents reported to the police only 25 percent result in arrest (2006) and that based on prevalence data only 12 percent of domestic abuse incidents are actually reported to the police in the first place (Walby and Allen, 2004). It is an argument also put by Gondolf (2002). His study actually showed that the men who were not under a legal mandate to attend (either pre-court or as part of a sentence) were twice as likely to drop out as those men who were court referred. These men also re-assaulted their partners at a significantly higher rate at the 15 month follow up (44% vs 29%) (p. 119). Nevertheless Gondolf points to the fact that too few men come through the court system and that the rate of voluntary men offending is nevertheless better than if there had been no program (66% were not re-assaulting).

It is also essential that the issues and consequences of violence for men as fathers are addressed (Rakiil, 2006) both in the group program curricula, as well as with other resources such self help books on parenting, directed specifically at abusive men. For example, *Journeys in Fatherhood* (Roseby, 2005). This aspect of the work has tended to be under-developed in the majority of men's behaviour change programs (Bennett and Williams, 2001), though there are some exceptions (see Chung *et al.*, 2004; Wheeler, 2006), and Scotland's Caledonian Perpetrator Programme Model will have an emphasis on men as fathers and the impact of their violence on children (forthcoming). Most men who use violence and abuse, even when they separate will continue to have contact with children often in a fathering or step-fathering role. While the Family Court provisions in Scotland are more protective and robust than in most jurisdictions (see the *Family Law (Scotland) Act 2006* amendment to *Children (Scotland) Act 1995*), they are yet to be evaluated and the extent to which child contact is being ordered or informally agreed between parents is currently unclear. For many abusive men, fear of losing contact with their children, is a key incentive towards changing their abusive behaviour.

Standard parenting programs and behaviour management programs are not appropriate for these men as the issues of impact and consequences of their past abusive behaviour towards children need to be addressed. They also often have very little insight into the effects of their behaviour on children and considerable work may need to be undertaken for men to take the first steps in confronting the effects of their violence and abuse on children (Harne, 2004).

A further persistent debate in the sector lies in the extent to which mbc programs should be linked to support programs for women and children. The Duluth Model on which most of the

Australian and UK programs draw is unequivocal in its stance that on both ethical and efficacy grounds a women's support program needs to run alongside the mbc program. The evaluation of the DVIP and Women's Support Service program showed clearly the benefits from the proactive support for women (Burton *et al.*, 1998). Similarly, the Australian models argue strongly that the primary focus of all projects needs to be the safety of women and children and that mbc programs need to hold onto this explicit focus and not fall into primarily therapeutic models for men which are about 'sharing and caring', losing their explicit focus on men's violence and intervention which support desistance and safety (REUGV, 2004). Evaluations suggest a range of benefits that include not only desistance by men, but providing women with support which they otherwise would not have accessed (including professional women who do not usually contact services), space to do other things while he was at the program, and the legitimacy to leave or look after their own needs knowing that the man was receiving help (Burton *et al.*, 1998). A key issue is that a women's support programme situates mbc programs within the wider domestic abuse intervention system and guards against the isolation of mbc into a siloed service area for men.

In summary, men's behaviour change programs need to be integrated into the wider intervention system which includes the criminal and civil justice system, work which addresses the issue of men as fathers, and women's and children's support programs.

### ***Worker safety issues***

Worker safety issues are an essential aspect of child protection work where domestic abuse is an issue if intervention is to focus on the perpetrator (Stanley and Goddard, 2002). The situation is seen most starkly in both Australian and UK child death enquiries, where a continuous theme is that child protection workers avoided situations in which they were afraid of a violent man in the child's household (Pahl, 1999). An overview of enquiries in the UK led O'Hagan and Dillenburger (1995) to make the following statements:

*"Violent men consistently dominate the 35 inquiry reports produced since 1974, and have, with few exceptions, been responsible for the deaths of the children in those reports"*  
(p.145)

and that,

*"It is obvious ... how the avoidance of men can and often does constitute an abuse of women, but avoidance also seriously exacerbates the paramount task of protecting the child."* (p.146)

Such data highlight the centrality of worker safety to addressing the safety of children where there is domestic violence.

The point is clearly made that effective child protection work for children affected by domestic abuse requires carefully co-ordinated intervention which focuses on the perpetrator. It is a central, not peripheral, aspect of work.

## **The links between women protection and child protection**

The earlier section on the research evidence in relation to children and domestic abuse makes clear the links between women and children's experiences of domestic abuse. This raises particular issues for responding to the child protection and child abuse issues for children.

Firstly, there is a major structural problem which lies at the heart of a problematic child protection response. This is namely that there is both an adult and a child victim. Inadequate responses at a strategic level to this issue consistently create problems for front line workers (Humphreys and Stanley, 2006). Ideally, two workers are needed: one to focus on the issues for children; and one to focus on the issues for women. This model has been developed in the US with marked success in programs such as AWAKE at Boston Hospital (Bragg, 2003). The strongest development of this model has occurred in Sweden through the 'women's peace' reform package, sanctioned through an amendment to the *Social Services Act 2002*, that explicitly states that the social service agencies have a responsibility to support abused women when there are child protection issues (Humphreys and Carter, 2006, p.28). Other models rely on close co-operation (not a co-located, integrated service) between the specialist domestic violence sector and child protection workers. Without the recognition that abused women require a support service in their own right, the ability for them to respond appropriately to the child protection needs of their children may be limited.

Secondly, children often come to the notice of child protection and reach the threshold of concern when the health and well-being of their mothers is undermined to the point where it impacts on their parenting. English *et al.*, (2003) refer to this 'indirect' effect as the most damaging aspect of domestic abuse for the 146 children that were in their study. Unless this attack on the mother-child relationship is understood and addressed by the workers involved, the domestic abuse may fall into the background and may not be recognised as a primary issue which needs attention (Humphreys *et al.*, 2006a). Instead, the case is re-categorised as one of neglect as a result of parental substance use, or parental mental health problems.

At one level, the identification of problems of substance use, trauma and depression can be helpful if they bring in the raft of adult services required. At another level, this may usher in a new set of problems. Traditionally the links between child protection and these adult services are poor, with little priority being given to a referral from child protection workers to these services, in spite of the risks to children (Kroll, 2004). Major problems exist if the adult services do not have workers trained in understanding the link between domestic abuse and the 'symptoms of abuse' such as depression and trauma (Humphreys and Thiara, 2003). Instead, the issue of domestic abuse can continue to be lost, and issues such as depression are treated without attention to the root cause which may in fact be continuing.

Thirdly, child protection workers in the absence of resources and strong multi-agency collaborations may understand the only option for safety when children are living with domestic violence is to encourage/pressure the woman to separate taking the children with her (Hester *et al.*, 2007; Scottish Executive, 2002a; Scottish Executive, 2002b). A group of women and their children certainly can find higher levels of safety and protection once they leave. However, there

is also significant evidence which shows that separation is not a panacea for the cessation of violence. Approximately one third of separated women continue to experience violence, harassment and abuse (Walby and Allen, 2004). Worryingly, men who are most violent when living with women continue to be the most violent following separation. This includes both physical violence (Morrison, 2001; Burgess *et al.*, 1997) and serious psychological abuse (Davis and Andra, 2000; Mechanic *et al.*, 2000). Child contact arrangements provide the greatest opportunity for the continuation of post-separation violence with children continuing to be exposed to both verbal and physical violence (Buchanan *et al.*, 2001; Aris *et al.*, 2002).

Separation is also a time of increased danger (Wilson and Daly, 2002; Richards, 2004). Child protection workers and child protection conferences have not necessarily understood this dynamic and have not created the essential safety plans and support which can make a separation strategy safer than staying at home, possibly with a civil protection order in place. Importantly, evidence gathering from child protection professionals about the domestic abuse is required to sustain the claim of domestic abuse in a family law proceeding. This aspect of evidence gathering and advocacy is now an essential aspect of child protection if children are to have a modicum of protection in the child contact arrangements (Brown and Alexander, 2007).

In Scotland, the *Family Law (Scotland) Act 2006* amendment to *Children (Scotland) Act 1995* potentially provides greater protection for children and women living with domestic abuse than in other jurisdictions: in relation to court orders relating to parental responsibilities etc.

*“...the court shall have regard in particular to...(a) the need to protect the child from— (i) any abuse; or (ii) the risk of any abuse, which affects, or might affect, the child; (b) the effect such abuse, or the risk of such abuse, might have on the child; (c) the ability of a person (i) who has carried out abuse which affects or might affect the child; or (ii) who might carry out such abuse, to care for, or otherwise meet the needs of, the child; and (d) the effect any abuse, or the risk of any abuse, might have on the carrying out of responsibilities in connection with the welfare of the child by a person who has (or, by virtue of an order ... would have) those responsibilities...”*

*Abuse includes — (a) violence, harassment, threatening conduct and any other conduct giving rise, or likely to give rise, to physical or mental injury, fear, alarm or distress; (b) abuse of a person other than the child; and (c) domestic abuse; “conduct” includes — (a) speech; and (b) presence in a specified place or area...*

*Where — (a) the court is considering making an order ...(b) in pursuance of the order two or more relevant persons would have to co-operate with one another as respects matters affecting the child, the court shall consider whether it would be appropriate to make the order.” (Section 24, amendment to orders under Section 11 of the *Children (Scotland) Act 1995: protection from abuse*)*

Advocacy to ensure that these safeguards are available to children requires both knowledge of the law and support for women to demand the attention and implementation of this section of the law. At this stage there has not been research which looks at the implementation and effects of this legislation. In other jurisdictions a number of initiatives are being evaluated. For instance in

England the evaluation of forms which flag the issues of domestic violence at the application stage is being investigated (Harrison and Aris, forthcoming) while in Australia the role of tighter case management by the Family Court where there are serious allegations of actual child abuse has been positively evaluated, though the study did not look closely at situations of domestic abuse (Higgins, 2007). The overview of different initiatives to manage disputed child contact, often where there is domestic abuse indicates that the evidence base remains thin with specialised projects often showing high influence and low data to support the rhetoric of success (Hunt and Roberts, 2004).

## *Summary*

*Keeping children safe requires an integrated system of protection. A number of key points are evident*

- *Reporting of all children affected by domestic abuse to the Reporter or to the statutory child protection system has not provided an effective response to this issue*
- *Intensive case management of high risk cases has been evaluated positively*
- *Multi-agency projects are most effective when they direct all efforts to improved outcomes of safety and well being for adult and child victims. This will include effective intervention with perpetrators*
- *A shift to higher levels of multi-agency collaboration requires agreed principles for intervention*
- *Effective child protection requires effective intervention with perpetrators*
- *The protection of children and the protection of their mothers is linked when there is domestic abuse*
- *Attention needs to be given to strengthening the mother-child relationship which will have been undermined by the domestic abuse*
- *Separation is a time of increased danger and requires careful planning. The need to continue to protect the child post-separation and through supervision of any child contact requires evidence and potentially shifts traditional child protection practice*

## Directions for Good Practice – protection

It is suggested that consideration is given to the following:

1. Shift to a higher level of multi agency collaboration through the development of goal directed, effective and accountable multi-agency domestic abuse partnerships that ensure children's safety and well being is a central aspect of the agenda. This would require:
  - a set of agreed principles (see the principles outlined)
  - an evaluation/monitoring system that produces evidence that women and children are better protected and effective intervention has taken place with perpetrators
  - participation of women and children in service development to address established need
  - the collection, management and sharing of coordinated domestic abuse data for the purposes of developing effective local strategies.
2. Address the lack of comprehensive coordinated national domestic abuse data in Scotland, a particular gap noted is in relation to prevalence (including data from and about children and young people)
3. Draw together the evidence from the literature review with the evaluation findings from the Scottish pilots of different aspects of the system in relation to intervention with children/women/perpetrators<sup>9</sup>, to support and develop a more integrated and effective response to domestic abuse. Particular attention needs to be given to the strategies for working across 'siloed' service responses
4. Develop shared risk assessment, management, and safety planning across professionals. This requires specific tools that bring both adult and child risk assessment *and* planning together, and a multi agency Scotland-wide training initiative to ensure this levers practice change and improves interventions
5. Scale up the integrated criminal justice response including wider consideration of domestic abuse courts and their benefits, strong victim support and an emphasis on high quality policing and evidence gathering –not only from the police but from child protection workers also

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<sup>9</sup> Such as published evaluations of Glasgow's Domestic Abuse Court and ASSIST, the Working with Men Project and forthcoming evaluations of the North Lanarkshire MARAC, Edinburgh 'Safe as Houses', Tayside Multiple and Complex Need Project: substance misuse and domestic abuse, Children's Services –Women's Aid Fund national evaluation.

6. Further develop intensive case management of high risk domestic abuse perpetrators across Scotland, building on the MARAC approach and pilots, linking the severity of risk to women to that of children, and establishing a greater focus on children's needs
7. Increase intervention with perpetrators from a wider range of agencies and specifically in relation to child protection, including sharing of skills in tackling violent men whilst ensuring worker safety. The use of civil protection orders to underpin child protection intervention may be a practice development that could be piloted more systematically
8. Further develop access to and integration of accredited domestic abuse men's behavioural change programmes *as part of* an integrated system with criminal and civil justice systems. Programmes need to be linked to women's and children's support programmes, and address the issue of men as fathers. The evidence would suggest that both court ordered and non-court ordered programmes should be accessible
9. Develop strong multiagency *integrated* interventions that rival the power of the perpetrator in order to enable more women and children to stay in their own homes safely: increased use of exclusion orders linked to house security measures, monitoring of perpetrators, support to women and children, robust and linked criminal and civil justice system
10. Review the knowledge, use and effectiveness of exclusion orders and related/protective court orders available to protect women and children experiencing domestic abuse in Scotland. For the proportion of children where compulsory measures are deemed necessary, the role and effectiveness of Scotland's Children's Hearing System in protecting children experiencing domestic abuse could be considered further
11. Recognise that many women and children will need a place of safety outwith their original home. The development of safe and appropriate refuges, support and housing according to Scotland's own recommendations remain a priority, with steps to minimise disruption of home, networks and schooling to children
12. Evaluate the implementation and the effectiveness of the amendment to the *Children (Scotland) Act 1995* in relation to safe contact, including the accessibility, safety and effectiveness of supervised and unsupervised contact in these circumstances. The role of evidence from child protection workers should be part of the evaluation
13. Consider models to support abused women when there are child protection issues

14. Utilise evidence from the literature review, forthcoming evaluations and the getting it right principles to test and develop a new integrated approach for Scotland through the *Getting it right for every child* Domestic Abuse Pathfinder and expertise of the delivery group

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