

# "Totally Invisible"

The experiences of domestic violence and abuse victims/survivors and children engaging with private law family court processes in Northern Ireland.

## Foreword

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## Foreword

Since taking up this post, I regularly hear heart-breaking and often distressing experiences from domestic abuse victims navigating our private law family court system post separation. These experiences paint a troubling picture of a court system that, while intended to be a neutral problem-solving arena, is frequently being used as a tool for ongoing domestic abuse. The adversarial nature of hearings, protracted proceedings, a 'pro-contact' culture, and repeated applications are serving as weapons for perpetrators to exacerbate trauma and undermine the safety and well-being of victims and their children. A recurring theme running through these experiences is of a system where the voices of the children affected are often obscured or minimised, with limited opportunities for meaningful involvement and where victims describe feeling 'totally invisible'.

Central to our family court system is the undisputed principle that decisions must be taken in the best interests of the child. Whilst Northern Ireland does not have a legislative presumption of parental involvement as is the case in England and Wales, this report clearly demonstrates that a similar approach is guiding decision making, and contact with both parents is generally understood to benefit the child except where there is strong evidence that it would be harmful to their safety and well-being. In short, the starting point for decision-making is a presumption of contact. In England and Wales, the dangers and drawbacks of this presumption have been recognised and the government has indicated its intention to repeal it.

As our understanding and recognition of domestic abuse has grown it is increasingly clear that children are not mere bystanders within a domestic abuse context but quite often victims themselves, suffering emotional, psychological and physical harm. Exposure to an abusive parent post-separation may further perpetuate that harm, leaving children living with the consequences of contact decisions long after they have been taken

in court. It is the voices of those children impacted by such decisions, and their desire to be heard, that has led to this research before you.

The conclusions laid out within the report paint a stark, if perhaps not surprising, picture of the shortcomings of the current private family court system which regulates contact between parents and children.

The findings are derived from a comprehensive analysis of how processes impact on children and non-abusive parents, drawing on evidence from justice, health and legal professionals, support agencies, the judiciary, and perhaps most importantly from the lived experiences of victims and children themselves. The bottom line is that the current system for determining contact arrangements is not conducive to putting the needs of the child first, and risks causing further harm to children through forced contact, lengthy proceedings, minimising the voices of young people and failure to understand that abuse and coercive control affect children directly.

This report is a watershed moment for family justice in Northern Ireland. Children are telling us that they are being harmed by their experience of contact proceedings. We have a duty to listen to what they are telling us and, most importantly, to act. Doing nothing is simply not an option – things need to change and they need to change now.

It is clear that there is significant work required to integrate our improved understanding of the impact of coercive control into risk assessments and family proceedings more broadly.

The adversarial nature of proceedings is enabling acrimony and further abuse to dominate cases over the wishes and needs of the child. There is also a gulf to be overcome between professionals and children themselves as to how and whether they are truly giving children a voice and acting in their best interests.

Children are clear that they want to be informed about the process, and understand how decisions are made and how their opinions are factored into that. This can only be attained by doing family court business differently.

We need a new model for contact proceedings, drawing on the good practice developed in other jurisdictions that have already been grappling with the same issues and shortcomings in their own systems. Implementing a child-focused, trauma and risk informed approach which draws on the strengths of our legal system, but removes the conditions which are enabling further abuse of adult and child victims of domestic abuse, will ensure Northern Ireland is meeting its obligation to the safety, well-being and best interests of the children who have been impacted by domestic abuse.

The first step on that path for this office will be to seek the formation of a cross-departmental, multi-agency working group to explore what a new private family law system which puts the safety and well-being of domestic abuse victims and children first might look like for Northern Ireland.

I am grateful to the researchers at the Centre for Children's Rights in Queen's University Belfast for delivering this comprehensive study.

Thanks are also due to the stakeholder organisations and agencies, members of the judiciary, and legal professionals, who gave up their time to share their own expertise and professional experience of the system.

Last but by no means least, I would like to personally and sincerely thank every victim and survivor of domestic abuse who shared their experience of the family courts with the research team as well as those who have contacted our office since its inception to share their concerns.

Particular thanks are owed to the young people who contributed to the research, both through sharing their own lived experiences and guiding the research as part of the Children & Young People's Advisory Group (CYPAG).

Those young people who are members of the SAY project supported by Women's Aid Federation NI have been truly courageous in speaking up, sharing their traumatic experiences, and telling us the change they wish to see.

To [Alex, Cherry, Jess, Kera, Lara, Niamh, Olivia and Rory](#), I am eternally grateful to every single one of you for your bravery, your honesty, and your commitment to make things better for the next generation of children and young people who engage with the family courts.

I sincerely hope that this research will provide the catalyst for change that many have long campaigned for and that most importantly victims and children deserve.

## **Geraldine Hanna** **Commissioner Designate for** **Victims of Crime NI**



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