



Ministry
of Justice

Assessing Risk of Harm to Children and Parents in Private Law Children Cases

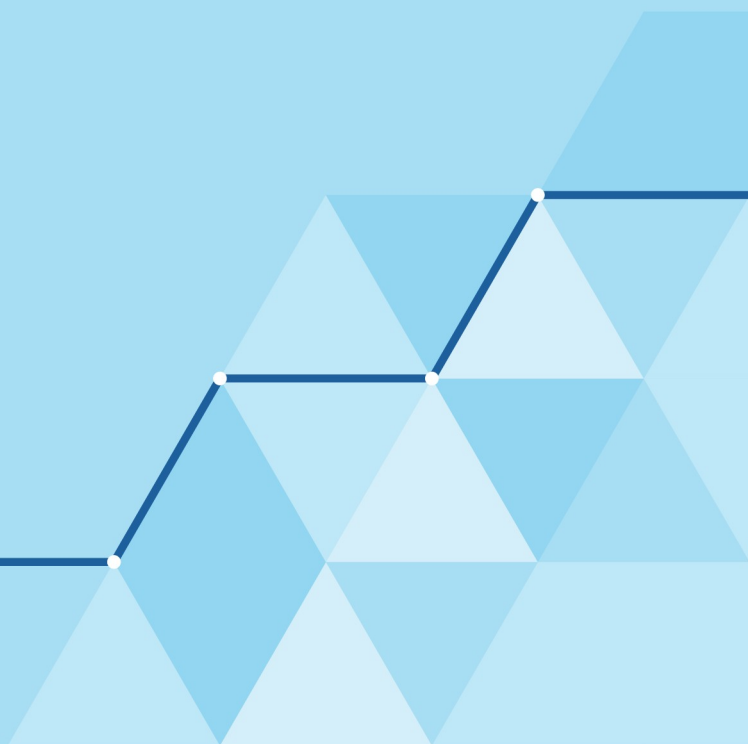
Annex - Integrated Domestic Abuse Courts

May 2023

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Introduction

The Government is committed to system-wide reform to transform how survivors of domestic abuse are treated in the family courts. As part of the work to achieve this aim, in February 2022 the Ministry of Justice (MoJ) launched the Integrated Domestic Abuse Court (IDAC) pilot to test a more investigative approach to private family law proceedings in Dorset and North Wales.

Known as 'Pathfinders', these pilots commenced on 21 February 2022 and an evaluation will be completed and published in 2024. This note provides an update on pilot implementation following the first year of operation.

Background

In June 2020, the Ministry of Justice published ‘Assessing Risk of Harm to Children and Parents in Private Law Children Cases’ Report (the ‘Harm Panel Report’) which called for widespread reforms to the family court system. It heard evidence that many domestic abuse victims felt like they were being re-traumatised by the current ‘adversarial’ system.

In response to this report, the government committed to pilot a reformed approach to child arrangement proceedings, delivering the 2019 Conservative manifesto commitment to “pilot integrated domestic abuse courts (IDAC) that address criminal and family matters in parallel” and piloting a more investigative approach to the family courts.

This investigative model has been taken forward in the form of the Pathfinder pilots, which are testing a less adversarial and more investigative approach to managing private family law cases.¹ Through this model, the court will identify families’ needs earlier and work with both adults and children, as well as external agencies like local authorities, the police and schools, to understand their circumstances and help them to reach an agreement without the need for multiple hearings. A review stage, carried out after an order has been made, will aim to ensure that court orders meet the welfare needs of the child and help to reduce the number of cases that return to court.

The design of the pilots was undertaken by a number of groups from across the family justice system and related stakeholders. In addition to the Private Law Advisory and Pilots Group (which included members of the judiciary, Cafcass, HCMTS and the Ministry of Justice) stakeholders such as the Family Justice Young People’s Board, academics, police, the Domestic Abuse Commissioner, and charities such as Women’s Aid, Welsh Women’s Aid, SafeLives, Respect, JUSTICE, Centre for Justice Innovation, and the Nuffield Family Justice Observatory worked on the development of the pilots.

Through the pilots we aim to improve the experiences of children and families by:

1. Improving the Family Court experience for all parties, particularly parent victims of domestic abuse and their children; improving children’s experience of and (appropriate) participation in the court process.

¹ The One Family One Judge model of IDAC is not currently being piloted in Dorset or North Wales due to insufficient throughput of cases and numbers of cross-ticketed judges, as well as the complexities involved in the work.

2. Delivering a more efficient court process which reduces delays whilst ensuring that all orders are safe and appropriate to the case.
3. Reducing the re-traumatisation of domestic abuse victims, including children, that may be experienced during proceedings.
4. Reducing the number of returning cases through a more sustainable court order.
5. Adopting a multi-agency approach to improve coordination between the Family Court and agencies, such as local authorities and the police, and the way allegations of domestic abuse and other risks of harm are dealt with.

Pathfinder Pilots

The pilots were launched on Monday 21 February 2022 in Bournemouth and Weymouth in Dorset, and in Caernarfon, Mold, Prestatyn and Wrexham in North Wales. In these courts, the usual Child Arrangements Process (CAP) has been suspended and replaced with the revised three stage IDAC process for relevant cases. This revision was introduced through the [pilot Practice Direction 36Z](#).

There are three stages to the new model:

1. Information gathering and assessment – involves a proportionate, child welfare focused approach to actively investigate the impact of issues presented in the application (or any additional information gathered during this phase) on the child. This stage is focused on the development of a Child Impact Report which summarises the issues for the court gathered through engagement with parties, children (where appropriate) and relevant agencies. Domestic abuse support services are engaged to conduct DASH risk assessments² where appropriate.
2. Interventions and/or decisions hearing – following review of the Child Impact Report, the court must then exercise its discretion as to how to enable the application to proceed to a conclusion. This may involve the court recommending the parties pursue non-court resolution, the court ordering further investigation of issues (such as through a fact-finding hearing), the court ordering family interventions (such as periods of supervised contact), or the court being able to make a final order (either by consent or decision of the court).
3. Review stage – the final phase of the process, intended to take place 3 to 12 months from the point at which the final order was made, is the review stage. The review is a means of contacting the parties, including children when appropriate, to determine how the order is working for them. The review is focused on the safety of the parties and children and is used to direct and sign-post families to post-court support. It is not intended to check adherence to court orders, to offer further legal advice or to facilitate complaints about the court process.

² The Domestic Abuse, Stalking and Honour Based Violence Risk Identification, Assessment and Management Model is a consistent and simple tool for practitioners who work with adult victims of domestic abuse in order to help them identify those who are at high risk of harm.

This revised process applies to all cases that involve an application for a section 8 order³ or an application for an enforcement order⁴ within the pilot courts. All other courts continue to run the CAP. Further details about the process can be found by reviewing the pilot Practice Direction 36Z.

³ Section 8 orders (referring to the relevant section of the Children Act 1989) include child arrangement orders (determining who a child should live or otherwise spend time with), prohibited steps orders (preventing the other parent making a decision about the child's upbringing) and specific issue orders (determining a specific question about how a child is being brought up).

⁴ Enforcement orders to ensure a parent complies with a court order that has previously been granted.

Early indicators of success and progress towards goals

Through regular engagement with the Pathfinder courts, and partners working to deliver the pilot, we have begun to monitor how well the pilots are delivering against the core IDAC goals.

The assessment below provides early insights from regular engagement with and feedback from pilot partners. It is not based on system monitoring data or formal research and evaluation. Formal evaluation and monitoring is ongoing and will conclude in 2024. It should also be noted the current pilot courts are not representative of all courts in England and Wales. Longer term research and evaluation is required to understand the full impact of the pilot and how this impact may differ for different individuals and organisations involved in the process.

- The Child Impact Report, and closer working with partner agencies, is felt to centre the needs and welfare of the child at the heart of the new model. By focusing on the child's welfare much earlier, and adopting an investigative, problem-solving approach where safeguarding checks indicate it is safe to do so, the Child Impact Report helps centre the child within proceedings and helps families and the court to consider the impact of the situation on the child(ren).
- In addressing important questions around a child's needs and those of their parents, the Child Impact Report is enabling legal gatekeepers and judges to make evidence-based decisions about how the case is going to proceed. It is helping to focus the case on the core issues for the child(ren) and their welfare and not on the wider disputes parties may have.
- Through changes to the practice direction, the pilots also enable earlier engagement with children within proceedings. It is allowing their voice, and their wishes and feelings, to be heard early and centred within the process. Where appropriate, the Pathfinder pilots are seeking opportunities to engage with children and are supporting their participation throughout proceedings. They are also developing child-focused information on the new process.
- Being able to engage with children and families in more depth earlier in the process, and working closely with local domestic abuse agencies, is felt to be improving the understanding of and focus on domestic abuse and harm. While domestic abuse was considered when raised under the CAP, the new model has brought a much more active focus on domestic abuse and protecting children and families from harm.

- When domestic abuse is alleged or identified as a concern within a case, a DASH risk assessment is generally completed by a local domestic abuse agency.⁵ When completed, they form a core part of assessments reviewed by the court, such as the Child Impact Report. Partners feel they are helping to bring a clearer understanding of the risks of domestic abuse to victims and survivors earlier in the court process.
- Pathfinder partners are reporting closer partnership working with local domestic abuse agencies and alongside the DASH risk assessments are providing victim survivors with access to support services. Partners feel this revised way of working is helping to support more victims to access domestic abuse services. Local domestic abuse agencies involved in the pilot have noted that they are supporting victims and children previously not known to them and continuing to provide support through their wider services.
- The role of the case progression officer is seen as a welcome and significant factor of the revised model. Many pilot partners feel the case progression officers have helped to support and manage expectations of parties, especially those who are not represented, through their calls at the start of proceedings. In some cases, this may have helped reassure parties and given them a greater understanding of the court process.

⁵ This requires the consent of the individual and so may not happen in all relevant cases.

Next steps

Pilot Rollout

We have adopted a phased approach to the IDAC pilots. The first phase allows the Pathfinder courts to develop and implement the revised investigative IDAC model to best meet the needs of families and children within their jurisdiction. This allows for a period of designing and small-scale trialling of potential solutions to aspects of the detailed pilot.

The evaluation of Pathfinder will be designed to ensure we can make the best use of learning around model implementation and delivery to support phase two.

Evaluation of Pathfinder Pilots

The evaluation of the Pathfinder pilots will focus on understanding how the revised process has been implemented in the two court areas, what is working well and what is needed to ensure successful operation of the model.

It will involve a process evaluation that seeks to understand how the revised model works at an operational level, mapping in detail how it is being delivered on the ground, and understanding the differences between the pilot sites. It will explore experiences of operating the pilot from the perspectives of its actors, identifying its perceived benefits and critical components for successful delivery, lessons learned and good practice.

A value for money assessment will be undertaken to understand the costs and potential savings associated with the Pathfinder pilots and consider how viable this cost is to rollout further.

We will also explore the experience of children and families who have been through the Pathfinder courts to understand their experiences of the new model and how well their experiences align with the goals of IDAC.

This research will enable informed decision-making about the continuation, improvement and future rollout of the core model, providing evidence of the ways in which the Pathfinder model achieves the core policy goals.



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