

# DOMESTIC VIOLENCE AND CHILDREN

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When we talk of domestic violence we need to be clear about the definition. In 1975 the Royal College of Psychiatrists described the problem in terms of women who had suffered serious or repeated physical injury from the men with whom they lived. One writer described battering as 'repeated attacks and multiple blows', and another as violence 'physical or psychological inflicted on a spouse without her consent'. It is clear that there is a different definition for a different purpose. The perception of the police and criminal agencies will be based in the main upon whether a criminal offence has been committed, for example contrary to ss 18, 20 or 47 of the Offences Against the Person Act 1861. So far as civil proceedings are concerned, then the definition must fit within the legislation, ie the Domestic Violence and Matrimonial Proceedings Act 1976 or the Domestic Proceedings and Magistrates' Courts Act 1978 or within the general law of tort. Perhaps the definition of domestic violence should be seen in a much wider context. When it is viewed by a social services department which has the responsibility for children in need within its specific area, and when decisions have to be made whether or not to exercise any child protection powers, it could be looked at in terms of the effects of exposure to domestic violence, as well as whether there has been actual violence or a threat of it.

## SIGNIFICANT HARM

For the social services department to have the ability to take any type of court action concerning domestic violence there must be some evidence of significant harm to the children. All those who work within the field of child protection will be aware of the definition of significant harm within s 31 of the Children Act 1989 (see, also, 'Significant Harm', Smith [1994] Fam Law 197 and 'Significant Good', Smith [1994] Fam Law 550). It is an all encompassing phrase which covers not only physical ill-treatment or sexual abuse but also impairment to a child's physical, intellectual, emotional, social or behavioural development. The definition of 'significant' has been considered widely, and it is clear that it must be more than simply a minor shortcoming in the help and care provided to the child or a minor defect in the physical, psychological or social development which does not have or is not likely to have any serious or lasting effect upon the child. It seems clear, therefore, from looking at these

definitions that domestic violence directed against a child, or the threat of it, could be regarded as significant harm: but what of the situation where children witness violence rather than being the direct victims of it? It has long been recognised that child protection networks are necessary to deal with physical and sexual abuse of children. There are long-established procedures derived from *Working Together* (HMSO) and through policies created by social services departments to deal with those issues.

## CHILDREN WHO WITNESS VIOLENCE

So far as children who witness violence are concerned it has tended to be the case that women who are abused by their partners are expected to be responsible for the protection of their children. Clearly, social services departments have, in the main, concentrated on children who are the direct victims of violence rather than those who are victims through witnessing violence between their carers. It is often the case that children who have witnessed violence between their carers may also be harmed by other factors. It may be that the issue of children witnessing violence is part of a much wider picture where children are suffering harm within a particular home environment. In those cases, the issue may be considered as part of the wider picture of harm. It can be the case where there are no clear other reasons for social services' intervention that children who witness severe domestic violence between their carers are left unprotected by any child protection agencies, and it is simply the mother who has care of the children who is to provide protection, if any.

There is now increasing evidence amongst members of the psychiatric profession that children witnessing severe violence inflicted on a member of their family show signs of post-traumatic stress disorder. We will all be familiar with the term post-traumatic stress disorder in the context of disasters. It is a less familiar term in the context of children witnessing severe violence. Post-traumatic stress disorder may be diagnosed in children as in adults if certain symptoms which can be related to a particularly stressful event(s) manifest themselves and persist for more than just a few weeks. Amongst the symptoms which may manifest themselves are flashbacks to the event, disturbing images, the avoidance of memories of the incident, recurrent dreams, regression in development, bedwetting, and withdrawal. These symptoms are not

a checklist and no one case will be the same as any other. Some of the symptoms mentioned may be directly attributable to other forms of significant harm, and caution should be taken.

Research on women in refuges with their children has resulted in comparisons being available between children in non-violent homes and those in violent homes. Among the children in violent homes there is a tendency for more behavioural problems, particularly aggressive behaviour, rebelliousness and delinquency, more emotional problems such as depression, phobias and obsessions, more academic under-achievement, poor school attendance, and other social problems. It has been found that children who are the uninjured witnesses of violence, rather than those who have been the direct victims, show different symptoms. Children who are the direct victims tend to focus to a greater extent upon their own pain and suffering. Research has also found that children react differently to violence dependent upon their age and gender. Pre-school children in refuges showed a high degree of minor health problems, while older children tended to feel more guilty and found difficulties in coping with conflicts of loyalties.

It is notoriously difficult to predict future violence but the best indicator is past behaviour, and patterns tend to be consistent within violent families. This has long been recognised in child protection work and as a result of previous inquiries into child abuse.

#### THE ROLE OF SOCIAL SERVICES

The question, therefore, is whether the social services department and other agencies involved in child protection work, whether in the statutory or voluntary sector, should take a more interventionist role. Social services departments are under a duty, by virtue of the Children Act 1989, to take steps to avoid children being taken into care and to provide services under s 17 of that Act. There is a need to work positively with a parent, taking a protective stance to assist the direct victim and the indirect child victims. The parental victim may be encouraged to apply for an injunction or seek assistance from a women's refuge or from the housing department. The local authority through the key social worker should assist with such steps and consider requesting assistance from other departments or agencies under s 27 of the Act.

But what of the situation where the parental victim is reluctant to take any advice for the protection of the children and fails to see any harm to them? It may be necessary to call a planning meeting and/or a case conference and seek legal advice at the same time. Consideration should be given as to whether to apply for a court order – a child assessment order, a supervision order with directions, or ultimately a care

order. It is possible to apply for a child assessment order if there is reasonable cause to suspect that the child is suffering or likely to suffer significant harm, and an assessment of the state of the child's health or development, or of the way in which he has been treated, is required to enable the applicant to determine whether or not the child is suffering or is likely to suffer significant harm and it is unlikely that such an assessment will be made that will be satisfactory in the absence of such an order under this section. The benefit of a child assessment order is limited by virtue of its 7-day maximum duration but it could potentially be used to obtain evidence from an experienced child psychologist or psychiatrist who specialises in the effects of domestic violence on children who witness it, and post-traumatic stress disorder. The order could enable the child to be placed away from home with or without contact to the family until the assessment is completed. A supervision order or interim supervision order could also be an option and a direction sought enabling a child psychiatrist or child psychologist to see the child with or without the responsible parent. Directions against the responsible parent can only be attached if they are agreeable to the same but if they fail to agree and it is clearly in the child's interest for the work to be done, then it may be possible to apply for a care order so possibly overriding the responsible parent's refusal. Older children may refuse to be seen by a psychiatrist or psychologist and this could nullify any potential benefit of a court order. This is likely to be more applicable with children in the 10 to 18 age bracket but could include other children.

#### ACTION OF OTHER BODIES

Other steps that might be taken to protect children include accurate recording of incidents of domestic violence by the police and any other agencies who are a party to the incident; good communication links between all statutory and voluntary agencies involved in domestic violence; preparation of joint strategies between the statutory and voluntary sector; a specific policy by the social services departments to deal with children who witness domestic violence; improved education and public awareness, and improved awareness of resources amongst all those involved in domestic violence work including solicitors in private practice.

#### A LIST OF DEMANDS

The issue of children witnessing domestic violence together with a whole plethora of other issues around the issue of domestic violence were considered at a conference in Walsall on 18 October 1994 organised by Walsall Domestic Violence Forum. It produced a

shopping list of demands from all those involved in dealing with domestic violence, including the victims:

- shared commitment of all agencies written into joint policy statements;
- a full time coordinator to be first place of contact for victims;
- a directory containing important and useful information and contacts to be produced and supplied for the benefit of other agencies and for the victims;
- key workers in all agencies providing information and training and interpreting skills;
- increased information availability at key places, particularly those solely available to women, for example, well women clinics;
- improved use of existing networks and facilities;
- support to all victims of violence regardless of gender and age and ethnicity;
- more opportunity for agencies to liaise, meet and formulate plans such as a one-stop shop for victims of domestic violence as operates in Islington;
- the availability of advocates for victims of domestic violence should be assured and policies which support positive action encouraged.