

Exploring How Victim-Survivors of Domestic Violence and Abuse Experience Navigating the Irish Family Law System in Guardianship, Custody and Access

Research Report

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Chapter One

Introduction

1.1 Introduction

While many families manage to resolve matters of custody, access, and maintenance following family breakdown without significant or lengthy recourse to the Courts, families living with domestic violence and abuse (DVA) can find themselves navigating the Family Law system in the District Courts, often for protracted periods of time. Far from providing ‘a vaccine against domestic violence’ (Jaffe et al, 2003: 29), the research evidence clearly confirms that domestic violence and abuse persists and can escalate dangerously where the adult relationship ends. Furthermore, international evidence confirms that the prevalence of DVA in family law cases is disproportionately high, with allegations or findings of DVA recorded in approximately 49-62% of cases. Court systems can therefore be interacting with adult and child victim-survivors who are actively managing increased risks of harm and danger. Despite the ongoing safety and welfare concerns in cases involving DVA, there continues to be an overwhelming focus on the impact of discontinued parent-child relationships following parental separation, with continued contact with the non-resident parent rarely if ever denied. However, the evidence on risk and harm associated with post-separation contact in the context of DVA suggests that caution should be exercised against an assumption or presumption that contact is almost always in the child's best interest. When this assumption is unquestioned, contact decisions may result that do not adequately consider the risks posed by the abusive parent, arguably prioritizing the abusive parents’ rights over children's safety. A simultaneous question is raised about the inclusion of children in the decision-making process on contact. Although it is claimed that children and their needs are the central consideration in the child contact debate, how their individual needs and wishes are ascertained and represented in the decision-making processes is less clear.

In Ireland legislation has been amended through the Children and Family Relationships Act 2015 to explicitly include domestic violence as a consideration the courts (sec. 31/3) must have regard to when determining the best interest of the child. It is however unclear how this legislative change is being applied and whether it has made any impact to the outcomes. This same Act also makes provision for determining and conveying the child’s views (Sec 32/1 (a) and (b)) and there is a need to assess how effective this system is in achieving its stated objective; to meet the ‘Best Interests of the Child’.

There has been limited Irish research to date however that examines both the supporting factors and challenges for victim-survivors of domestic abuse, including children, who are navigating Ireland's Family Law systems. Three empirical studies of direct relevance to this present study were all conducted prior to the more recent amendments to Irish the Family Law (system Holt, 2009; Mahon & Moore; Murphy & Holt, 2013). There has been some, but again limited, examination of how children's voices are heard in Irish courts, as is children's legal entitlement. The One Family Commissioned study on 'Contact Time for Infants and Very Young Children' (McCaughren, Holt, Parkes & Gregory, 2022) is of interest to this present research, specifically the focus on how the voice of the child is ascertained and represented in family law proceedings in Ireland.

Addressing significant gaps in the Irish social and legal context, the overarching aim of this study is therefore to explore how victim-survivors of domestic violence and abuse, including children, experience navigating guardianship, custody and access proceedings in the Irish Family Law system. The objectives of this study are to:

- Understand the experiences of, and impacts on, adult victim-survivors of domestic violence and abuse who engage with custody and access proceedings in District Courts.
- Understand the experiences and outcomes for children with a specific focus on how their views are ascertained and represented.
- Illuminate the predominant enablers or and barriers to safety and support, as experienced by adult and child victim-survivors in this context.
- Achieve a sample diversity in order to identify and include additional intersecting factors.
- Identify models of evidence-informed good practice that can inform recommendations going forward.

To achieve the aims and objectives of this study, an exploratory sequential mixed-methods research design was employed, where each research activity's findings inform the structure and design of successive activities [Creswell & Plano Clark, 2011; Teddlie & Tashakkori, 2009]. Aiming to achieve a 360-degree investigation of this understudied area in the Irish context, and informed by a comprehensive review of the international literature relevant to the topic under investigation, this multi-method study sampled from a diverse range of actors (victim-survivors, children, professionals/practitioners) across the following stages and methodologies:

1. **Phase One** involved two large surveys:
 - a. Survey of specialist frontline domestic violence professionals
 - b. Survey of adult victim-survivors
2. **Phase Two** involved qualitative focus group and individual interviews:
 - a. Focus Groups with a broad range of health, social care and legal professionals
 - b. Individual interviews with adult victim-survivors
 - c. Individual interviews with children aged 9-17
 - d. Individual interviews with aged out minors aged 18-24
3. **Phase Three** Family Law 'Case Study' involved interviews and observation
 - a. Non-participant observation of family law courts in both rural and urban settings
 - b. Individual interviews with judges, solicitors, barristers and relevant court personnel

Having introduced the aims and objectives of this research, this chapter will proceed to explore issues of prevalence and definition, provide the national and international legal and policy context to this report, highlighting select aspects of the Irish constitutional and legislative framework most relevant to GCA proceedings in the context of DVA.

1.2 Reflecting on Definitions and Prevalence

Across numerous jurisdictions, legal instruments and empirical papers, a variety of terms are used, sometimes interchangeably, to describe the nature of abusive intimate partner relationships. These terms include 'Domestic Violence', 'Domestic Abuse', 'Intimate Partner Violence/Abuse', 'Coercive Control', 'Interpersonal Violence', 'Violence against Women', 'Domestic Terrorism', 'Gender-based violence', and 'Family Conflict'. Until relatively recently, the term domestic violence dominated the narrative on this issue, very much influenced by criminal justice perspectives and focused primarily on discrete acts of physical violence. Recent decades have witnessed an expansion in the breadth and depth of our understanding of domestic violence as a process and a pattern of control and coercion that can include but is not confined to physical violence (Barnett, 2020). Widely recognised as contributing greater insights into the nature of domestic violence, coercive control is understood to involve a pattern of domination that includes tactics to isolate, degrade, exploit, and control (Stark, 2009). Some key definitions are presented here as they are relevant to this report:

Firstly, the United Nations Declaration on the Elimination of all forms of Violence against Women (UN General Assembly, 1993), describes violence against women as:

Gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty (1993: Article 1 of the Convention).

Including a number of the aforementioned terms, Zero Tolerance, The third National Strategy on Domestic, Sexual & Gender-Based Violence (2022-2026) stated that:

‘Domestic Violence (DV), often referred to as domestic abuse or intimate partner violence (IPV), is a human rights abuse and a form of gender- based violence with its roots in gender inequality. The Istanbul Convention defines domestic violence as all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. The exertion of coercive control is a key component in this process.’

(Department of Justice, 2022, p.11)

This definition is informed by the Council of Europe (Istanbul) Convention on preventing and combatting violence against women and domestic violence (2011), article 3 (b) and section 39 of the Domestic Violence Act (2018), the offence of Coercive Control.

For the purpose of this report, the term ‘domestic violence and abuse’ (DVA) will be employed throughout, unless direct quotation from empirical studies dictates otherwise. We consider that the term ‘domestic violence and abuse’ is a more inclusive term that considers all forms of abusive behaviour and is therefore more reflective of survivors lived experience.

Accepted globally as a public health concern and a serious human rights violation impacting individuals, families, and communities around the world (World Health Organization, 2021; Devaney, Bradbury-Jones, Macy, Øverlien & Holt 2021), DVA is also acknowledged as a highly gendered issue, with women disproportionately affected as victim survivors and men primarily identified as perpetrators (Barnett, 2020; Cunningham & Anderson, 2023; Graham, Jun, Kim, Power, Devaney, Frederick & Betz, 2024). While it is broadly accepted that official statistics underestimate the scale of

the problem, the World Health Organization (WHO) estimates that about 1 in 3 women globally have been subjected to some form of physical or sexual intimate partner violence (World Health Organization, 2021), and 20 % to 75 % of women will experience at least one psychological violence in their lifetime (Garcia-Moreno & Stockl, 2017).

In a pan European study conducted by the Fundamental Rights Agency (2014), almost one in three Irish women (31% or 470,157 women) reported experiencing some form of psychological violence by a partner; 15% of Irish women (227,495 women) reported experiencing physical or sexual violence by a partner; and 6% reported experiencing sexual violence by a partner (EU-FRA 2014). The more recent FRA/EIGE Eurostat report (2024) reported a lifetime prevalence rate across the EU-27 of 17.7% for women who had experienced physical violence or threat and or sexual violence. The lifetime prevalence rate for women who experienced. The survey reported a prevalence rate of 22.7% for Ireland for these categories. This prevalence rate increases significantly when psychological violence is included – 31.8% for the EU-27 and 35% for Ireland¹. The Irish Central Statistics Office (CSO) Sexual Violence Survey (2022) found that the proportion of adults who experienced sexual violence in their lifetime was 40%, with higher levels for women (52%) compared with men (28%); four times more women (21%) than men (5%) reported experiencing non-consensual sexual intercourse over their lifetime and 25% of women experienced sexual violence as an adult with a partner. While there is no prevalence data on children’s experience of living with DVA in Ireland, the global pooled prevalence² of childhood exposure to physical domestic and family violence as a victim or witness is reported to be 17.3% and 16.5%, respectively (Whitten, Tzoumakis, Green & Dean, 2023).

Intersectionality, a framework rooted in Black feminist scholarship, was developed to emphasize that the experiences of Black women differ from those of white women or Black men (Crenshaw, 1989). Adopting an intersectional lens in research offers valuable insights into how various social positions and power imbalances intersect, leading to unique forms of oppression (Thiara et al., 2011; Crenshaw, 2013). Coined by American feminist Kimberlé Crenshaw, intersectionality highlights the multiple axes of identity—such as race, class, gender, sexual identity, and ability—that individuals and groups may face discrimination along. It also examines how these overlapping forms of oppression influence people’s lives (Corus & Saatcioglu, 2015; McCall, 2005). Two recent Irish authored publications are relevant to this current research project. The first study by Flynn et al. (2024) provides, for the first time in an Irish context, much needed insights into the experiences and perspectives of disabled

¹ https://eige.europa.eu/publications-resources/publications/eu-gender-based-violence-survey-key-results?language_content_entity=en

² Pooled prevalence or incidence refers to the practice of combining data from multiple studies to estimate the overall prevalence or incidence of a particular outcome or condition

women as victim-survivors of DVA³. The second paper by Gregory et al., also published in 2024 in the international Journal of Family Violence, reports on a study exploring the experiences of children with a disability, of post-separation contact where there has been a prior history of DVA.

1.3 Legislative and Policy Context on Children’s Participation

Ireland can be regarded as progressive in comparison to other European states when it comes to embedding Children’s Rights enshrined in the United Nations Convention on the Rights of the Child into domestic policy and legislation. The *National Strategy on Children and Young People’s Participation in Decision-Making 2015-2020* (Department of Children and Youth Affairs, 2015) was the first of its kind in Europe and laid the foundation for these efforts, ensuring children’s views are considered in various decision-making areas including community, education, health and well-being, and of relevance to this report, a voice in decisions made affecting them in legal settings. The updated *Policy Framework for Children and Young People 2023-2028* builds on the 2015-2020 (Department of Children, Equality, Disability, Integration and Youth, 2023) strategy, strengthening the inclusion of children’s participation across sectors.

Laura Lundy’s Participation Framework (2007) has been instrumental in shaping Ireland’s approach to children’s rights. The model defines children’s participation first and foremost as a right and consists of four elements: space, voice, audience, and influence. Hub na nÓg, established in 2007, as a national centre of excellence and coordination in children and young people’s participation in decision making, plays a key role in promoting children’s participation by providing support and resources to statutory and non-government agencies who are committed to giving children a voice in decision making. In collaboration with Lundy, Hub na nÓg developed the *National Framework for Children and Young People’s Participation in Decision-Making* (Department of Children, Equality, Disability, Integration and Youth, 2021) which sets out guidelines to support agencies in strengthening opportunities for child engagement and that children can actively contribute to the development of policy, including family law matters⁴.

The recognition of children’s participation in decision-making has gained significant traction in Irish family law proceedings. The *Participation of Children and Young People in Decision-making Action Plan 2024-2028* (Department of Children, Equality, Disability, Integration and Youth, 2024) calls for a structured approach to integrate children’s views into legal and administrative decisions, aiming to

³ <https://www.womensaid.ie/app/uploads/2024/10/Disabled-Womens-Experiences-of-Intimate-Partner-Abuse-in-Ireland-Research-Project-Report.pdf>

⁴ A good example of this is the Empower Kids Project established by Barnardos in 2020 (Costello & Holt, 2024).

empower young people to engage meaningfully in decisions about their lives. Of note, Action Area 6 sets out a number of actions to ensure children’s participation in court and in the courts system including an opportunity to be heard, including younger children (aged 0-6 years) to be given the opportunity to express their views and have them considered in legal processes impacting them⁵. Support and preparation are also factored in to build capacity in participating in legal matters which includes educational input for both children and access for professionals engaging with children in this space to the online module on the Participation Framework⁶.

Despite progress made in a legislative and policy context, the positioning of children as rights-holders in practice is often not fully realised. Ranta (2023) emphasises the need for adults to provide children with time and the necessary resources to enable them to shape and contribute effectively to their educational and learning needs by including their perspectives. However, a prevailing conception of children as vulnerable particularly those from marginalised communities can prevent as Lundy (2025) argues a recognition of them as having agency and thus impacted on their position as rights-holders.

1.4 DVA as a factor in Guardianship, Custody and Access proceedings in Ireland: Constitutional, Legal and Policy Frameworks

*The woman said she had to battle the man in the family court and he was granted access to his two children. She said she felt he used this access to continue his control over her and that there should be a link between the family and criminal courts in such cases... He should not be allowed access to the children,” she said.*⁷

(The Irish Times, 3rd March 2025)

The very recent quotation above from a victim survivor of DVA highlights the significant tension that exists in the Irish family law courts trying to ensure that post-separation there is some continuity in the relationship between a non-resident parent and child, even in cases where there is DVA. The Irish legal and constitutional framework places a strong emphasis on ensuring the well-being and best

⁵ Ensure that children and young people, including younger children (aged 0–6years), are afforded the opportunity to have their views heard and are given due weight in decision-making in legal processes directly in a manner that best suits the child’s needs, or supported appropriately by parents, advocates and/or guardians ad litem.

⁶ Work to incorporate the online module on the Participation Framework: National Framework for Children and Young People’s Participation in decision making into relevant professional learning structures and accreditation for legal professionals, court officials and professionals engaging with children and young people in the context of the justice system

⁷ <https://www.irishtimes.com/crime-law/courts/2025/03/03/man-who-forced-partner-to-carry-doorbell-camera-jailed-for-five-years-for-coercive-control-and-assault/> (Date accessed: 3rd March 2025). In this case, Nolan J noted “There is a pattern of physical violence, a pattern of verbal violence, a pattern of totally controlling her, a pattern of assaulting her and a pattern of humiliating and ridiculing her,” he said, adding that the woman would “suffer long term effects”. He sentenced the perpetrator to five years imprisonment.

interests of children in custody and access cases, but in the context of DVA, balancing these concerns with the safety and protection of all parties involved is crucial. Irish family law, policy, and practice have undergone significant change over the past decade, not only in the context of DVA, but also in the context of listening to children in matters affecting them in the post-separation context. Indeed, it is well understood that by nature, DVA matters can be extremely complex, particularly where there are children involved. Oftentimes, family law disputes are brought before the family law court which is tasked with deciding on custody and access arrangements where there may or may not be confirmed DVA. In challenging cases of this nature, the role of the law and its administration becomes increasingly important not only in terms of protecting the safety and welfare of adult and child survivors, but also in the context of maintaining family relationships where possible in a manner that is children's rights compliant. This section of the introductory chapter will consider the current international and national law and policy frameworks which should underpin decision-making in family law proceedings concerning children in guardianship, custody and access proceedings where DVA is a feature.

1.4.1 International Children's Rights, Family Relations and Protection from Abuse

Notwithstanding the challenges identified by Holt, McCaughren and Parkes (2023, p.155) of 'achieving a first world principle of ascertaining and representing the voice of the child in family law proceedings in Ireland, within the confines and restrictions of a third world family law infrastructure', Irish family law and policy is currently undergoing a tidal wave of reform, which has recently been underpinned by the Department of Justice Family Justice Strategy 2022-2025⁸. Indeed, the past decade alone has witnessed a proliferation of changes in Irish Family law and policy including in guardianship, custody and access and in the area of DVA.

In the context of children's rights specifically, many of these legal changes are attributable to Ireland's international legal commitments under the UN Convention on the Rights of the Child 1989 (CRC) to which Ireland is party since 1992. The CRC is a holistic document which embraces both the civil and political rights of the child as well as the social, economic and cultural rights of the child. It sets out minimum standards of children's rights which countries like Ireland must achieve in order to be CRC-compliant. The UN Committee on the Rights of the Child, the international monitoring body which is responsible for overseeing the CRC's implementation worldwide, has provided much guidance to countries in order to support the successful recognition and protection of children's rights. The Committee has identified four guiding principles of the treaty which underpin the successful

⁸ <https://www.gov.ie/en/collection/4790f-family-justice-strategy/> (Date last accessed: 07/03/2025).

implementation of all CRC rights. These include: (a) the principle of non-discrimination (Art. 2 CRC); (b) the best interests principle (Art. 3 CRC); (c) the right to life, survival and development (Art. 6 CRC) and; (d) the principle of respect for the views of the child (Art. 12 CRC).

More specifically, in cases where there is familial separation and DVA is an issue, the CRC obliges States to take account of other children's rights provisions which are worth noting: Article 19 (1) CRC which provides:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Also relevant to custody and access decisions made where there may be a potential risk to the wellbeing of the child is the requirement to ensure that children are not separated from their parents forcefully, except in cases where it is determined that such separation is necessary to protect the best interests of the child.⁹ Article 9(1) expressly acknowledges that separation from a parent may be necessary in cases involving abuse or neglect of the child by a parent, or one where the parents are living separately and a decision must be made as to the child's place of residence. Where decisions of this nature are being made, it is critical that the child "...shall be given an opportunity to participate in the proceedings and make their views known" as required by Article 9(2) and supported by Article 12 CRC.

The need to protect a child's relationship with a non-resident parent is also protected under Article 9(3):

States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

The protections afforded children in maintaining a relationship with both parents post-separation in the context of custody and access specifically, are further supported by the European Convention on Human Rights 1950 (ECHR) at European level.¹⁰ For example, Article 8 (1) of the ECHR which provides that (1) *"Everyone has the right to respect for his private and family life, his home and his*

⁹ Article 9 (1) CRC.

¹⁰ This treaty has been partially incorporated into Irish domestic law under the European Convention on Human Rights Act 2003.

correspondence” has been recognised to protect the relationship between a parent and child for example¹¹.

In the context of DVA specifically, Ireland ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) on 8 March 2019. The Istanbul Convention has been referred to as “...the most far-reaching international treaty to tackle violence against women and domestic violence” and has sparked a significant amount of legislative, policy and practical change in the Irish context which will be explored below.¹² The Istanbul Convention recognises ‘...that children are victims of domestic violence, including as witnesses of violence’¹³ as well as ‘...the different manifestations of all forms of violence covered by the scope of this Convention, their consequences on children’¹⁴. In the context of custody and visitation rights for children, Article 31 states:

1. Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account.
2. Parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.

1.4.2 Family Law Policy Developments

In recent years, Ireland has witnessed major legal policy development in the area of private family law in particular. These policy changes have had a significant impact, not just on the current operation of the system but also in terms of planning for future systemic change. The Family Justice Strategy 2022-2025, developed by the Family Justice Oversight Group, has been instrumental in underpinning much of this change. Informed by a wide consultation process where the input of relevant stakeholders, the public, as well as children and young people was sought and provided a vision of what a modernised family justice system should look like. This has resulted in a number of significant developments

¹¹ *DK v. PIK* [2022] IECA 24

¹² Some of the most important legislative developments include the adoption of: the Criminal Justice Female Genital Mutilation Act 2012 (the FGM Act) in 2012, introducing the offence of Female Genital Mutilation; the Domestic Violence Act (“the DV Act”) in 2018, criminalising coercive control and forced marriage, and aiming to align more closely the civil remedies available to victims with the standards of the convention; and the Criminal Law Sexual Offences Act 2017, adopting a definition of rape based on lack of consent.

¹³ Preamble, Council of Europe Treaty Series - No. 210, Council of Europe Convention on preventing and combating violence against women and domestic violence <https://rm.coe.int/168008482e> (Date accessed: 10/03/2025).

¹⁴ Article 13 (1), Council of Europe Treaty Series - No. 210, Council of Europe Convention on preventing and combating violence against women and domestic violence <https://rm.coe.int/168008482e> (Date accessed: 10/03/2025).

recently including: a Family Courts Act 2024;¹⁵ Department of Justice commissioned papers on a Review of the Role of Expert Reports in the Family Law Process, June 2024¹⁶ and on Parental Alienation 2023;¹⁷ Joint Committee on Justice Report on Enforcement of Court Orders relating to Child Maintenance, Access and Custody, July 2023;¹⁸ Consultations with Children and Young People for the Family Justice Oversight Group;¹⁹ and a Department of Justice report into the Operation of the *In Camera* Rule in Family law Proceedings in Ireland.²⁰

Policy development in the area of domestic violence in particular has been gaining increasing momentum over the past 15 years. As far back as March 2010, the then Minister for Justice, Equality and Law Reform, Dermot Ahern T.D., introduced the first Irish Strategy on Domestic, Sexual and Gender-based Violence²¹. In 2016, the Minister for Justice and Equality - Frances Fitzgerald T.D., launched the Second National Strategy on Domestic, Sexual and gender-based Violence 2016 - 2021 and Action Plan which was agreed by the Government on the 13 January 2016²². Most recently, the third National Strategy on Domestic, Sexual and Gender-Based Violence (“the third DSGBV Strategy” also referred to as Zero Tolerance)²³ and its implementation plans, has been widely welcomed as it seeks to address the four strategic pillars outlined in the Istanbul Convention: prevention, protection, prosecution and co-ordinated policies²⁴.

1.4.3 How the Law has developed over time in response to DVA

There is no context in an intimate relationship in which domestic violence is permissible....A party to an intimate relationship should never have to live in the fear and/or with the

¹⁵ <https://www.irishstatutebook.ie/eli/2024/act/48/enacted/en/print>

¹⁶ <https://www.gov.ie/en/department-of-justice/publications/review-of-the-role-of-expert-reports-in-the-family-law-process/>

¹⁷ Department of Justice (2023). Parental Alienation: Policy Paper. Available at: <https://www.gov.ie/en/publication/5c5c5-parental-alienation/> [accessed 3 July 2023]

¹⁸ Department of Justice, Review of the Enforcement of Child Maintenance Orders (Department of Justice, December 2023) <https://assets.gov.ie/278918/23cc1edf-65ab-4ede-b929-ca02733a7f4d.pdf> (Date accessed: 12/03/2025).

¹⁹ Fullerton D., and McGrellis S. (2022). Report on the Consultations with Children and Young People for the Family Justice Oversight Group <https://hubnanog.ie/wp-content/uploads/2024/04/Report-on-the-Consultations-with-Children-and-Young-People-for-the-Family-Justice-Oversight-Group.pdf>

²⁰ Parkes, A; McCaughren S., Burns, K., D’jalma Torres Sánchez, M; The Operation of the *In Camera* Rule in Family Law Proceedings (Dublin: Department of Justice, Q3 2025).

²¹ <https://www.gov.ie/en/policy-information/9e169-dsgbv-strategies/>

²² <https://www.gov.ie/en/policy-information/9e169-dsgbv-strategies/>

²³ <https://assets.gov.ie/289239/8397af6a-eb2e-48d7-a0df-cf72c91d103b.pdf> (Date accessed: 11/03/2025).

²⁴ To complement the various legislative and policy measures recently adopted, there have also been a number of measures designed to tackle violence against women. These include: the setting up of divisional protective units (DPUs) in An Garda Síochána (the police), who specialise in the investigation of serious forms of domestic violence and sexual violence; the funding by the state of two national telephone helplines operated by women’s rights groups providing support and counselling to rape and domestic violence victims in a wide range of languages; and the adoption by the police of a risk-evaluation tool to evaluate the risk of domestic violence victim.

actuality of domestic violence being perpetrated upon that party. There are no ‘ifs’ or ‘buts’ in this regard, no exceptions, no mitigating circumstances. Domestic violence and/or the threat of domestic violence (even where no actual violence ensues) is always unacceptable.²⁵

The latter quotation from a judgment five years ago is representative of a cultural shift in how DVA is considered in the privacy of the family home. Ireland has a chequered history in terms of providing accessible and suitable supports for victim survivors of DVA, particularly children. For many reasons including the historically strong constitutional protection afforded to the privacy of the family under Article 41 of the Constitution, there was a palpable reluctance on the part of the State to intervene in cases where there was DVA. Indeed, the first piece of Irish legislation which provided for protections in cases of physical domestic violence and abuse did not appear on the Irish statute books until the late 1970s and provided a time limited protection where abuse was found to have occurred.²⁶ While case law in the area of DVA under the earlier pieces of legislation is scarce, one of the most well-known Supreme Court cases concerning DVA is that of *OB v. OB* [1984] IR 182.²⁷ Indeed, the latter case is illustrative of the very restrictive stance taken towards the granting of the harsher remedy of the barring order under the 1981 Act. In this case, a majority of the Supreme Court refused to grant the applicant wife a barring order for verbal and economic abuse carried out by her husband.

O’ Higgins CJ, for the majority was of the view that the children were exposed to a tense atmosphere in their home, this was due to the situation which existed between their parents. While the Court acknowledged that there were many examples of the husband being rude and insensitive, sometimes

²⁵ X v. Y [2020] IEHC 525, at para. 47

²⁶ For example, Section 22 Family Law (Maintenance of Spouses and Children) Act 1976. The 1976 Act provided for an order to remove and bar a spouse from a shared residence. It was of a gender-neutral nature and was based on safety and welfare of spouse or any dependent child. However, an application could be made by a spouse only and for a maximum length of three months, renewable. In 1981, the 1976 Act was replaced by the Family Law (Protection of Spouses and Children) Act 1981 which provided greater detail on the protections available and enforcement of any orders. It introduced extended barring order (up to 12 months) and allowed for the removal of spouse and prohibited them from entering the home of the applicant spouse/children. Powers were granted to Gardaí to arrest without warrant a person they had reasonable grounds to believe was in contravention of a valid order. The protection order was introduced for the first time to provide protection in the period between application for and determination of barring order so that respondent “not use or threaten to use violence against, molest or put in fear the applicant spouse or the child.”

²⁷ This case concerned a case whereby a wife was granted a barring order against her husband in the District Court (Feb 1981). The husband appealed this to the Circuit Court who discharged the order in June 1981 and so the husband then returned to the family home. The wife later applied for a barring order before the High Court (March 1981) which was eventually heard in June 1982. The Order was granted in High Court; the husband then appealed to the Supreme Court whereby the appeal was upheld 2:1 (O’ Higgins CJ & McCarthy J; Griffin J dissenting)

Infront of the children, none of these amounted to serious misconduct which would rise to the standard of domestic violence. Indeed, this judgment made clear that

...serious misconduct on the part of the offending spouse – something willful and avoidable which causes, or is likely to cause, hurt or harm not as a single occurrence but as something which is continuing or repetitive in its nature. Violence or threats of violence may clearly invoke the jurisdiction.²⁸

Both the 1976 and 1981 Acts were strongly criticised for only providing relief to applicants who were in a marital relationship.²⁹

The Domestic Violence Act 1996 repealed the 1981 Act and being broadly welcomed at the time, sought to expand the scope of protection for domestic abuse beyond the marital family. The 1996 Act provided for four types of domestic violence orders: (i) Safety Order; (ii) Barring Order; (iii) Interim Barring Order; and (iv) Protection Order. Section 6 of the Act provided that the Health Board could apply for an order under the 1996 Act in limited circumstances. As the years progressed the Domestic Violence Act 1996 was subject to much criticism, discussion and debate, and was subject to amendment in 2002.

Together with the many areas of family law and practice that have witnessed change in recent times, one of the more significant areas of legislative change was the introduction of a new Domestic Violence Act 2018. Partly in response to the criticisms levelled at its predecessor in addition to the commitments upon ratification of the Istanbul Convention, the Domestic Violence Act 2018, repealed the 1996 Act and came into effect on the 1st January 2019. While it largely reproduced the orders under the Domestic Violence Act 1996, it also introduced a new emergency barring order and broadened the categories of who could apply for orders. The emergency barring order now provides additional, short-term protection to some parties traditionally omitted from the scope of full and temporary barring orders. Coercive Control was also introduced into Irish law for the first time under the 2018 Act. Section 39 of the 2018 Act provides that a person commits an offence where he or she knowingly and persistently engages in behaviour that:

- (a) is controlling or coercive
- (b) has a serious effect on a relevant person,
- (c) a reasonable person would consider likely to have a serious effect on a relevant person.

²⁸ *OB v. OB* [1984] IR 182, at 189.

²⁹ Under the 1976 and 1981 Acts, non-marital victims could only seek redress through the criminal law or civil injunction, comparable to married victims prior to the 1976 Act. Bergin-Cross, C., *Anomalies of the Domestic Violence Act 1996 and the Need for Reform* Irish Journal of Family Law 2013, 176(4), 117-123, at p.117.

The Act also says that the requirement of a 'serious effect' means behaviour that causes the person to

(a) Fear that violence will be used against him or her

or

(b) Serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities.

While the Act fails to clearly define domestic violence, section 5 sets out a lengthy list of factors to which the court must have regard when making a decision to grant any orders. This list provides guidance for the Court and includes: the history of violence of the respondent, the effect of the respondent's behaviour on the applicant and/or any dependent person, animal cruelty, substance abuse, economic dependence of the applicant on the respondent and also includes scope for the court to take into account any non-specified issues it considers relevant.

Section 11 of the 2018 Act empowers the Child and Family Agency to make an application for a domestic violence order on behalf of an applicant or a dependent person who is not in a position to make an application for themselves where:

...there are reasonable grounds for believing that, where appropriate in the circumstances, a person would be deterred or prevented as a consequence of molestation, violence or threatened violence by the respondent or fear of the respondent from pursuing an application for a safety order, a barring order or an emergency barring order on his or her own behalf or on behalf of a dependent person...

However, there is no provision for the CFA to make a direct application to protect a child victim independent of their parent. Moreover, it is important to note that under Section 12, the court retains the power to make a care order or supervision order where it is deemed necessary in accordance with the facts of the case. In the context of domestic violence proceedings, it is significant that the Court also retains the power to make one or more of the orders under section 11 of the Guardianship of Infants Act 1964 if it appears to the court to be proper to do so. The latter section relates to orders concerning guardianship, custody and access of the child³⁰. Section 33(1) of the Domestic Violence Act

³⁰ Guardianship of Infants Act 1964, Section 11(1) Any person being a guardian of an infant may apply to the court for its direction on any question affecting the welfare of the infant and the court may make such order as it thinks proper.

(2) The court may by an order under this section—

(a) give such directions as it thinks proper regarding the custody of the infant and the right of access to the infant of his father or mother;

2018 provides that if any of the orders are breached a criminal offence will have been committed with a maximum penalty of 12 months' imprisonment and a fine.

However, despite the many positive changes that have occurred in the legislative and policy contexts in recent times, gaps in protection arguably remain for children and young people who live with DVA in their home. There are many DVA cases which have been heard before the higher courts in Ireland by way of appeal for example, where the evidence has pointed to incidents of DVA having taken place in front of the children, but the children themselves are not referred to as victims of abuse. A case in point here is that of *X v. Y* [2020] IEHC 525, where from the facts detailed in the High Court judgment, the evidence referred to in the judgment appeared to suggest that the abuse which grounded the interim barring order in the court of first instance, took place in front of the children. The High court noted that "Ms X maintains that while Mr Y was in the house ..., the children were being adversely affected by Mr Y's behaviour and the ongoing tension between Ms X and Mr Y."³¹ Evidence cited in the High Court judgment also included reference to: "[Two of my children]...were in the house and witnessed this incident, I was so frightened by [Mr Y's]...actions that I telephoned the Gardaí". In this case, Barrett J in the High Court confirmed the interim barring order granted by the Circuit Court in respect of a wife but made no reference to its impact on the children concerned. In this case, it appears that no order was made on behalf of the dependent children and access arrangements for the husband were put in place. Interestingly in the case of *A v. B* (2020) IEHC 610, the applicant, in the context of an appeal of a judgment for proper provision in the Circuit court, also '...asked of the court that it also issue a barring order against Mr B':

I say that our children suffer stress and anxiety...[owing] to the respondent's behaviour. They have come home from access on numerous occasions in a distressed state where the respondent has told them [that] they are only 'pawns in a game', he is going to sell their home and he doesn't care where they live....³²

(b) order the father or mother to pay towards the maintenance of the infant such weekly or other periodical sum as, having regard to the means of the father or mother, the court considers reasonable.

(3) An order under this section may be made on the application of either parent notwithstanding that the parents are then residing together but an order made under subsection (2) shall not be enforceable and no liability thereunder shall accrue while they reside together, and the order shall cease to have effect if for a period of three months after it is made they continue to reside together.

(4) In the case of an illegitimate infant the right to make an application under this section regarding the custody of the infant and the right of access thereto of his father or mother shall extend to the natural father of the infant and for this purpose references in this section to the father or parent of an infant shall be construed as including him; but no order shall, on such application, be made under paragraph (b) of subsection (2).

³¹ [2020] IEHC 525 at para. 5.

³² *A v. B* (2020) IEHC 610 at. para. 8.

The judge noted in this case that “it will be clear from all that the court has recounted and said ...that the court is of the opinion that there are reasonable grounds for believing that the safety or welfare of Ms A and her dependent children requires that it issue the barring order sought”³³. The court granted the barring order in this case until further order of the court³⁴.

International research³⁵ has long established that children who live with DVA are not only at significant risk but it impacts them well into adulthood. Yet, in Ireland children under the age of 18 years cannot apply for protections under the Domestic Violence Act 2018 in their own right, an issue that has been highlighted as problematic over many years.³⁶ The former Special Rapporteur on Child Protection, Geoffrey Shannon, has also recommended that children who are victims of DVA should have the power to apply for civil orders under the Domestic Violence act 2018, ‘having regard to their age and maturity’³⁷. Indeed, currently applications must be specifically made on behalf of children as ‘dependents’ and are not looked into as a matter of course where there are children of an applicant deemed eligible to be granted an order. As a result, in the absence of a willing and able applicant to apply on their behalf, children are left without protection under the 2018 Act. This is despite several requests for stronger legislative protection for children, based on comprehensive submissions from Women’s Aid and Barnardos, the content of which was considered at the second stage Seanad Debates.³⁸

1.4.4 Voice of the Child in Domestic Violence Proceedings

Consistent with the position set out in respect of guardianship, custody and access proceedings, the need for the views of the child to be considered in DVA proceedings is set out under Section 27 of the Domestic Violence Act 2018. This section provides that where a barring order or a safety order is being sought on behalf of a child, the court may, having regard to the age and maturity of the child, ascertain the views of the child before making a decision concerning whether the order should be granted. In cases where the court considers that it is necessary, it may appoint an expert to ascertain and convey the views of the child to the court. In the context of producing a court report, the expert must ascertain the maturity of the child and where the court deems it necessary, the expert must determine whether

³³ *A v. B* (2020) IEHC 610 at para. 56.

³⁴ *A v. B* (2020) IEHC 610 at para.60.

³⁵ The international evidence is presented in chapter two of this report

³⁶ Bergin-Cross, C., 2013. Anomalies Of the domestic violence act 1996 and the need for reform. *Irish Journal of Family Law*, 16 (4), 117–123, p.120. Law Society of Ireland. *Recommendations for Amendments to the Domestic Violence Bill 2017* (Dublin: Law Society 2017) at para. 3.2.

³⁷ Eleventh Report of the Special Rapporteur on Child Protection, (Dublin: 2018) <https://assets.gov.ie/27444/92175b78d19a47abb4d500f8da2d90b7.pdf> p.278 (Date accessed: 11/03/2025).

³⁸ Dáil Éireann Debate, *Domestic Violence Bill, 2017: Second Stage [Seanad] 15 December 2017*. Dublin: Stationary Office. Available at: <https://www.oireachtas.ie/en/debates/debate/dail/2017-12-15/3/> (Date accessed: 10 March 2025).

or not the child is capable of forming his or her own views on the matters which are subject to the proceedings. The expert must report on the child's capacity to the court³⁹. Where the court does not require a capacity assessment to be carried out or the expert carries out an assessment and determines that the child has capacity to form views on the subject matter of the proceedings, the expert shall

- (i) ascertain the views of the child either generally on those matters or on a specific question on which the court requests the child's views, and
- (ii) (ii) furnish a report to the court setting out the views of the child ascertained.⁴⁰

When the court is deciding whether or not to make an order for a child under the Act, the court shall have regard to the following:

- (a) the age and maturity of the child;
- (b) any previous report made under this section in respect of the child;
- (c) whether the making of the order will assist the expression by the child of his or her views in the proceedings;
- (d) the best interests of the child.⁴¹

The legislation also notes that the cost of an expert will be borne by a party/ parties to the proceedings in such a manner as the court specifies⁴². Moreover, the court is not precluded from making a further order to appoint the same expert or a different expert to perform the function of ascertaining the views of the child in the proceedings⁴³.

The court has the authority to impose restrictions or conditions on access, such as requiring supervised contact between the abusive parent and the child. This ensures that while the abusive parent may still have access to the child, the contact is monitored to protect the child from harm. In some cases, the court may require the abusive parent to attend therapy or anger management courses before granting

³⁹ Domestic Violence Act 2018, section 27 (4)(b).

⁴⁰ Domestic Violence Act 2018, section 27 (4) (2) ©. Under subsection 5 of section 27, the expert can be called as a witness in such proceedings.

⁴¹ Domestic Violence Act 2018, section 27 (3).

⁴² Domestic Violence Act 2018, section 27 (7).

⁴³ Domestic Violence Act 2018, section 27 (8).

access. The court may also order a child contact assessment to evaluate the appropriateness of contact between the child and the alleged abuser.

1.4.5 Custody and Access proceedings and Domestic Violence

It is not uncommon for highly contentious and emotive cases of relationship breakdown to end up before the Irish courts, particularly where there are disputes concerning custody and access. In such scenarios, where there are allegations of DVA, whether proven or otherwise, this adds an additional layer of complexity for the courts to contend with. While there are legal frameworks in place to support the Courts in resolving such disputes, the reality is that individual judges must rely on their own experience in assessing the evidence before them, while exercising their discretion in each case. The current operation of the *in camera* rule means that little is known about how many of these decisions are made on a daily basis in the lower courts, thus resulting in a limited understanding as to how and why particular decisions are made.

What is very clear however, is that where a child is the subject of guardianship, custody and access proceedings, it is a constitutional and legal imperative that the best interests of the child are the *paramount consideration*.⁴⁴ The family courts are given broad discretion in determining what is in the child's best interests, with an emphasis on maintaining a positive relationship with both parents unless there is evidence to suggest otherwise. However, in cases where there is DVA, this presumption of shared custody and access may be challenged, as DVA should be considered a significant factor in determining the best interests of the child.

Another integral aspect of making a determination as to a child's best interests, is the need to factor in the authentic views of the child as part of this process. The need to incorporate the views of children capable of forming views in guardianship, custody and access proceedings is reflected under Article 42 A.4.2 of the Irish Constitution 1937, which states that, once the child's views are ascertained, they should be given due weight in accordance with the age and maturity of the child concerned⁴⁵.

To some extent, the Children and Family Relationships Act 2015 (CRFA 2015)⁴⁶, provides the legislative detail required for the best interests principle and the voice of the child to be effected in law in family

⁴⁴ According to Article 42 A. 4 1 of the Irish Constitution 1937, provision shall be made by law to ensure that the best interests of the child are the paramount consideration in such cases.

⁴⁵ Article 42 A.4.1 also takes account of the best interests principle as protected under Article 3 CRC, and in respect of the voice of the child, Article 42 A 4.2 almost mirrors 12(1) of the CRC which states:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

⁴⁶ This Act came into force in January 2016.

law cases. Section 45 of the 2015 Act⁴⁷ gives further expression to the principle that in any guardianship, custody and access proceedings, the best interests of the child shall be ‘the paramount consideration’.

What is particularly significant in cases where DVA may be a feature however, is the list of factors to which the court must have regard when determining in such cases what is in the best interests of the child. In the context of DVA specifically, there are a number of these which are of particular import. Section 31 (2) (h) of the CFRA 2015 refers to any harm which the child has suffered or is at risk of suffering, including harm as a result of *household violence*, and the protection of the child’s safety and psychological well-being. Some guidance is provided under the Act concerning what constitutes household violence:

... ‘household violence’ includes behaviour by a parent or guardian or a household member causing or attempting to cause physical harm to the child or another child, parent or household member, and includes sexual abuse or causing a child or a parent or other household member to fear for his or her safety or that of another household member⁴⁸.

In this context, the court must consider household violence that has already taken place or is likely to occur in the household of the child, or any household where the child has been or is likely to be. The court must also take account of the impact or potential impact of such violence on:

- (a) the safety of the child and other members of the household concerned;
- (b) the child’s personal well-being, including the child’s psychological and emotional well-being;
- (c) the victim of such violence;
- (d) the capacity of the perpetrator of the violence to properly care for the child and the risk, or likely risk, that the perpetrator poses to the child.⁴⁹

Thus, it is clear, that in the context of protecting the best interests of the child in custody and access proceedings, the child’s safety and protection from harm must be a priority in all cases. Where abuse is alleged to be present or has been found to be present, the courts must consider whether continued access or shared custody would place the child at risk. In addition, the legislation makes it clear that

⁴⁷ This amends section 3 of the Guardianship of Infants Act 1964.

⁴⁸ Section 31(7) Guardianship of Infants Act 1964 as inserted by section 63 Children and Family Relationships Act 2015.

⁴⁹ Section 31 (3)(1) Guardianship of Infants Act 1964 as inserted by section 63 Children and Family Relationships Act 2015.

a parent's conduct should only be considered where it is directly relevant to the child's welfare and best interests. Thus, this would appear to suggest that it is up to an individual court to determine whether or not it is safe and in a child's best interests to have contact with a parent who has engaged or has allegedly engaged in DVA.⁵⁰ In cases where there is household violence, the court must try and ensure that any unreasonable delays are avoided since this is contrary to the best interests of the child⁵¹. Section 31 (6) requires the Court to try to ensure that the court shall facilitate children in expressing their views but must take care to ensure that such views are not unduly influenced by anyone or in the alternative, the court can make an order for a section 32 report.

Section 32 reports

Section 32 of the Guardianship of Infants Act 1964 (the 1964 Act) envisages two types of reports which a court may order to include the voice of the child into family law proceedings. However, it is currently not clear under what circumstances each report will be ordered. Moreover, the court assessors who currently undertake the section 32 reports are a wholly unregulated profession with no quality assurance or regulatory framework governing their operation. Given that this is a mechanism which has been relied on to a large extent by the Irish judiciary as a means of including the voice of the child in family law cases, this lack of robust regulation is highly problematic. The problematic nature of the Court reports in Ireland has already been subject to much criticism from various quarters.⁵²

Section 32 1 (a)

Section 32 (1)(a) of the 1964 Act⁵³ is wider in scope than section 32 (1)(b) reports and refers to an expert report on any question affecting the welfare of a child.⁵⁴ Unlike in the case of section 32 (1)(b), those eligible to undertake the section 32 (1)(a) 'welfare report' for the court are currently not specified. There are several different areas assessed under this provision which are listed under section 31 (2) of the 1964 Act⁵⁵. Unlike the section 32 (1)(b) reports, there is no maximum fee structure set out in regulations or otherwise for these welfare reports. This lack of regulation regarding the fee structure has unsurprisingly led to practitioners setting their own fees for undertaking these reports.

⁵⁰ Section 31 (4) Guardianship of Infants Act 1964 as inserted by section 63 Children and Family Relationships Act 2015.

⁵¹ Section 31 (5) Guardianship of Infants Act 1964 as inserted by section 63 Children and Family Relationships Act 2015.

⁵² Department of Justice, Review of the Role of Expert Reports in the Family Law Process (Dublin: Department of Justice, 2024) <https://assets.gov.ie/295856/f52bb897-bb6f-4fbc-b4de-5aa7fab484f5.pdf> (Date accessed: 12/03/2025).

⁵³ As inserted by section 63 of the CFRA 2015.

⁵⁴ The inclusion of section 32 (1)(a) in the new 2015 Act served to address the anomaly that a welfare report can only be ordered in accordance with section 47 of the Family Law Act 1995, the latter being only available in the Circuit Court and High Court. An important difference between the section 47 report and the section 32 (1)(a) report, however, is that the latter report is specifically dedicated to any question affecting the welfare *of a child*. In contrast, the section 47 report refers to any question affecting the welfare *of a party to the proceedings or any person to whom they relate*.

⁵⁵ (as inserted by s 63 of the 2015 Act)

Section 32 1 (b)

Section 32 (1)(b) of the GOI Act 1964 empowers the court to appoint a 'child's views expert' where it is deemed necessary or desirable to do so.⁵⁶ The purpose of this report is to determine and convey a child's view and it is commonly referred to as the 'voice of the child report'. Section 32 (3) sets out the factors to which the court must have regard when deciding whether it is necessary to appoint a child's views expert. These factors include:

- (a) the age and maturity of the child;
- (b) the nature of the issues in dispute in the proceedings;
- (c) any previous report under subsection (1)(a) on a question affecting the welfare of the child;
- (d) the best interests of the child;
- (e) whether the making of the order will assist the expression by the child of his or her views in the proceedings;
- (f) the views expressed by or on behalf of a party to the proceedings concerned or any other person to whom they relate.

Section 32 (4) states that a copy of the report shall be provided to the parties to the proceedings, and, where a child is not a party to the proceedings, they shall be given a copy subject to the following criteria set out under subsection 5:

- (a) the age and maturity of the child and the capacity of the child to understand the report;
- (b) the impact on the child of reading the report and the effect it may have on his or her relationship with his or her parents or guardians;
- (c) the best interests of the child;
- (d) whether the best interests of the child would be better served by the furnishing of the report to the parent, guardian, next friend of the child or an expert appointed under subsection (1)(b), rather than to the child himself or herself.

The responsibilities of the 'child views expert' are set out under section 32(6) and further detail is provided in the Child's Views Expert Regulations.⁵⁷

⁵⁶ As inserted by section 63 of the Children and Family Relationships Act 2015.

⁵⁷ S.I. No. 587/2018 - Guardianship of Infants Act 1964 (Child's Views Expert) Regulations 2018. See <https://www.irishstatutebook.ie/eli/2018/si/587/made/en/print>. This type of report is more regulated than Section 32 1 (a) with guidance on both the qualifications of experts who can be appointed by the court and the fee structures in place. Those eligible to undertake this work include: a) a psychiatrist who has practised child and adolescent psychiatry for a relevant period; b) a psychologist who has practised child and adolescent clinical psychology for a relevant period; c) a social care worker who has engaged in the practice of the profession of social care worker, as it relates to the provision of social care services to children, for a relevant period; d) a social worker who has engaged in the practice of the profession of social worker, as it relates to the provision of social work services to children, for a relevant period; e) a registered teacher who has

In relation to both the welfare report under Section 32 (1)(a) and the child's views report under Section 32(1)(b), the court can order the report either of its own motion at any time during the proceedings having heard the parties, or on application to it by a party to the proceedings.

When reports are ordered by the court, the reports must be financed by the parties involved, and those entitled to Legal Aid receive some support with the associated costs⁵⁸.

Court assessors

The Children Living with Domestic and Sexual Violence Group's recent Submission to the Family Justice Oversight Group Consultation 2021 highlighted some concerns regarding court-appointed child welfare assessors in the context of cases where there were elements of domestic violence. They drew attention to the fact that *'the quality and experience of the assessors providing the reports can vary'*. They also pointed out that *'In our experience many lack the necessary understanding of domestic and sexual violence, its impact on children and how the abuser can manipulate or intimidate children into expressing views and choices that are to the advantage of the abuser and not in the best interest of the child'*.⁵⁹ This group recommended that *'the reform of the Family Court [should] review the efficacy of the system of use of S47 and S32 reports to meet the best interests of the child'* (2021, p. 5).

Section 47 Reports

Prior to 2016⁶⁰, the only mechanism in which an expert report could be ordered to present the child's views to the court was a section 47 report.⁶¹ This type of report is only available in the Circuit and High Courts⁶². Similar to a section 32 (1)(a) report as discussed above, an expert can undertake a section 47 report to assess *'...any question affecting the welfare of a party to the proceedings or any other person to whom they relate'*. It is important to point out that where an expert is appointed to facilitate the expression of the views of the child, the accompanying fees and expenses of the expert concerned must be borne by the parties to the proceedings⁶³.

taught children for a relevant period. The prescribed fee structure differs based on whether or not the expert is required to furnish a report on the views of the child (i.e., section 32(6)(c)). A fee of €240 is prescribed where such a report is not required. A higher fee of €325 applies where such a report is required. Where the expert is called as a witness, they are entitled to seek a maximum of €250 in expenses in respect of their appearance before the court. (<https://gsba.ie/main/wp-content/uploads/2019/01/LAB-Voice-of-the-child.pdf>).

⁵⁸ Houses of the Oireachtas Joint Committee on Justice and Equality Report on Reform of the Family Law System, October 2019, https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-24_report-on-reform-of-the-family-law-system_en.pdf. (Date accessed: 12/03/2025).

⁵⁹ Children Living with Domestic and Sexual Violence Group, 2021, p. 5.

⁶⁰ Children and Family Relationships Act 2015 came into force in January 2016.

⁶¹ Under section 47(1) of the Family law Act 1995

⁶² While section 26 of the Guardianship of Infants Act 1964 (as inserted by Section 11 of the Children Act 1997) extended section 47 to apply to District Court proceedings, this section lay dormant on the statute books and was never commenced.

⁶³ This is significant as section 47 reports are very costly. While the cost for section 32 reports can be less, it can still pose a barrier to children being heard indirectly in this way to legal proceedings affecting them.

Section 20 Reports

Also relevant to family law matters where DVA is an issue is the possibility of a section 20 report under the Child Care Acts 1991 (as amended). Judges can request that a section 20 report be carried out by a social worker where there is a concern over the welfare of the child:

‘...the court may, of its own motion or on the application of any person, adjourn the proceedings and direct the health board [HSE/Tusla] for the area in which the child resides or is for the time being to undertake an investigation of the child's circumstances’.

Any report provided by Tusla in this respect will consider whether or not a care order or a supervision order should be applied for in respect of the child; Tusla will provide any assistance deemed necessary and will take whatever other action concerning the child it considers appropriate. As part of the section 20 reporting process, the HSE should enquire into the views of the child concerned⁶⁴.

1.4.6 Protecting Privacy: *In camera* rule versus transparency

The *in camera* rule has been a prominent feature of the Irish family law system. Its function is to protect the privacy of the parties and any children to whom family law or child care proceedings relate⁶⁵. A Department of Justice report into the operation of the rule in both private and public family law proceedings, due for publication in the coming months, has revealed the significant challenges that have arisen because of a strict application of the rule in family law cases as experienced by families as well as professionals working in the system. In family law matters where DVA is a feature, the operation of the rule has had an even greater negative impact.

1.4.7 Challenges in Addressing Domestic Abuse in Custody and Access Cases

Significantly, in 2023 the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent human rights monitoring body mandated to monitor the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “the Istanbul Convention”) by the parties to the convention, issued its first baseline evaluation report on Ireland’s implementation of the Convention⁶⁶. In cases where custody and access decisions are being made concerning children, GREVIO has found that family courts often fail to take DVA into account in Custody and Access

⁶⁴ HSE, Court: Best practice guidance (June 2013), See:

https://www.tusla.ie/uploads/content/Court_Report_guidancedoc.pdf, p.26, date last accessed: 10/03/2025).

⁶⁵ Part 2 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013 amends section 40 (Proceedings heard otherwise than in public) of the Civil Liability and Courts Act 2004 to allow bona fide representatives of the media to be present, researchers, and legal professionals to gain access to valuable information on the operation of family law.

⁶⁶ Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report Ireland, GREVIO/Inf(2023)22, Adopted by GREVIO on 26 October 2023, 14 November 2023, <https://rm.coe.int/grevio-s-baseline-evaluation-report-on-legislative-and-other-measures-/1680ad3feb> (Date accessed: 10/03/2025)

proceedings, and that maintaining contact with the perpetrator of DVA is often presumed to be the best interest of the child regardless.

Consequently, GREVIO have strongly recommended the Irish Government to ensure that ‘...all incidents of violence covered by the scope of the Istanbul Convention are taken into account and that in the exercise of any visitation or custody rights, the rights and safety of the victim and her children are safeguarded’. GREVIO have made several important recommendations in this regard which include:

- a. issue dedicated guidelines for judges and legal practitioners and provide adequate training to ensure that they are able to recognise and take into account that being exposed to all forms of violence against a mother jeopardises the best interests of the child and renders the child a victim in his/her own right;
- b. pursue current efforts to improve co-ordination and co-operation between family courts and criminal courts, as well as with specialist services that assist victims of violence and their children and with other relevant professionals, and/or ensure that family courts conduct their own screening;
- c. incorporate risk-assessment and management procedures into the determination of custody and visitation rights and restrict these rights when this is necessary to guarantee the safety of the mother and child;
- d. inform all relevant professionals that are consulted on and/or that issue decisions on custody and visitation rights of the absence of scientific grounds for the so-called “parental alienation syndrome”, through adequate training and awareness raising;
- e. ensure that children are not removed from non-violent parents and placed in foster care;
- f. provide safe premises where supervised visits can take place, and ensure a sufficient number of professionals trained in violence against women to accompany the supervised visits;
- g. take measures to ensure that mediation is not proposed or recommended by solicitors or experts employed by courts in proceedings dealing with separation, custody and visitation rights where there is a context of domestic violence, and that victims are not pressured, even indirectly, to participate in such mediation.⁶⁷

⁶⁷ Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report Ireland, GREVIO/Inf(2023)22, Adopted by GREVIO on 26 October 2023, 14 November 2023, <https://rm.coe.int/grevio-s-baseline-evaluation-report-on-legislative-and-other-measures-/1680ad3feb> (Date accessed: 10/03/2025) para. 194.

Despite the legal provisions in place to protect children and victims of DVA, there are still challenges in practice. One significant challenge is that victims of DVA may be reluctant to report the abuse for fear of losing custody of their children or facing backlash from the legal system. The emotional and financial toll of DVA can also make it difficult for victims to pursue legal action or seek protection. Additionally, the legal process can be lengthy and costly, and not all victims of abuse have access to legal resources. Furthermore, there is a concern that the legal system does not always adequately address the complex dynamics of DVA. For example, the courts may not always have access to the necessary information, such as medical or psychological evaluations, to make fully informed decisions about custody and access. This lack of information can lead to decisions that inadvertently expose children to further harm.

While the law presumes that both parents should be involved in a child's life, DVA significantly alters this dynamic by placing the safety of the child and the abused parent at the forefront of legal decision-making. Irish courts have a wide range of powers to address the risks posed by DVA, but challenges remain in ensuring that the legal process is accessible and effective in protecting victims and children. Ongoing improvements in the legal framework and implementation and increased public awareness of the issues surrounding DVA are crucial steps toward ensuring that the rights and safety of victims and children are protected in family law proceedings.

1.5 Relevant International Context

In this final section to chapter one, we provide a brief overview of the current debates on parental alienation and a select overview of international best practice models

1.5.1 Parental Alienation

A 2023 report⁶⁸ by the UN Special Rapporteur on violence against women, Reem Alsalem, brings attention to the concerning relationship between custody cases, violence against women, and violence against children. Specifically, the report highlights the misuse of terms like 'parental alienation' or what the author asserts are similar 'pseudo-concepts in custody cases' and how they often lead to ignoring domestic violence in legal proceedings. Coined in the 1980's by the American psychologist Richard Gardner who claimed that children alleging sexual abuse during high conflict divorce cases were impacted negatively by 'parental alienation syndrome' caused by their mothers (Gardner, 1987), Gardner's theory has been extensively critiqued for the lack of any scientific and empirical basis,

⁶⁸ <https://unwomen.de/wp-content/uploads/2023/06/G2307018-Report-of-the-Special-Rapporteur-on-violence-against-women-and-girls-its-causes-and-consequences-Reem-Alsalem-2023.pdf>

dismissed by medical, psychiatric and psychological associations and removed from the International Classifications of Diseases by the WHO in 2020 (Barnett, 2020; Meier, 2020). GREVIO (the expert body monitoring the implementation of the Convention) cautioned that professionals take on board the lack of scientific foundation for the term Parental Alienation Syndrome (PAS), specifically highlighting the dangerous use of the term in child contact cases⁶⁹. Furthermore, the Platform of United Nations and regional independent mechanisms on violence against women and women's rights, also call for the rejection of PAS.⁷⁰ Despite this unequivocal discreditation, it has nonetheless maintained considerable traction in family court settings internationally, widely cited and employed with 'misplaced legitimacy' (UK Family Justice Council Guidance⁷¹, 2024, p. 5) to discredit allegations of DVA and sexual abuse. Mindful of the risk of adding legitimacy to the concept of 'parental alienation' by using the term, the UK Family Justice Council Guidance document simultaneously refers to a child's unexplained 'reluctance, resistance and refusal' (RRR) to spend time with a parent.

Drawing from a large body of empirical research and submissions to her report, Asalem (2023, p. 5) asserts that use of the term parental alienation becomes a 'self-fulfilling prophecy'. Once parents are considered to be 'alienating', credible allegations of DVA are discredited significantly. Viewed by the court as attempts to manipulate the child and alienate the father instead of recognising genuine concerns for safety, the resulting ill-informed and biased custody/contact decisions can have catastrophic implications for children and their mothers. With the gendered nature of DVA established earlier in this chapter, it is perhaps unsurprising that the research indicates a gender bias in terms of how parental alienation is applied, disproportionately impacting women. For example, Leonetti's (2023) systematic review of the parental alienation construct in the Californian family law courts illustrates the prevalence of gender discrimination. Specifically, it documents how violent men make claims of parental alienation in the California family law courts to deflect and cover up their violence, while domestically abused mothers are silenced and discredited. Leonetti's (2023) research concludes that the alienation concept has become a tool for denying the existence of both DVA and child abuse and neglect, based on presumptions of best interests and prevailing implicit gender associations, rather than valid forensic investigation.

⁶⁹ 1 GREVIO, Third general report on GREVIO activities, Council of Europe, June 2022, page 54

⁷⁰ The Platform of United Nations and regional independent mechanisms on violence against women and women's rights [2019] 'Intimate Partner Violence against Women is an Essential Factor in the Determination of Child Custody, Say Women's Rights Experts' https://previous.ohchr.org/Documents/Issues/Women/SR/StatementVAW_Custody.pdf

⁷¹ <https://www.judiciary.uk/wp-content/uploads/2024/12/Family-Justice-Council-Guidance-on-responding-to-allegations-of-alienating-behaviour-2024-1-1.pdf>

Acknowledging the considerable tension associated with the concept of ‘parental alienation’, the Guidance report published in December 2024 by the UK Family Justice Council⁷², cautions that these tensions can polarise opinion in a way that can be counterproductive to children’s best interests, specifically detracting focus away from the voice of the child. Quite apart from our legislative obligation to listen to the voice of the child as discussed in a previous section, there is ample research evidence that actively listening to children and meaningfully engaging their participation in decision-making processes, can best inform decisions for the child’s safety and welfare (MacDonald, 2017). Research however also highlights the issue of selective attention to child’s voice, depending on how closely aligned the child’s voice is to the prevailing assumption in family law on their best interests, with Irish research showing that children are listened to if they want contact and overruled if they do not want it (Holt, 2018). While this is discussed in further detail in the literature reviewed in chapter two, Asalem (2023) considers that the invocation of parental alienation can result in custody decisions that expose children to ongoing risk, compromise their safety and undermine their emotional and psychological well-being. Asalem (2023, p. 8) further concludes that the failure to address the issue of DVA in child custody/access cases is a fundamental violation of the rights of the child and of the principle of the best interests of the child.

Adopting the Association of Clinical Psychologists (CP-UK) definition that asserts that ‘parental alienation is not a syndrome capable of being diagnosed, but a process of manipulation of children perpetrated by one parent against the other through what are termed as alienating behaviours’, the UK Family Justice Council Guidance (2024, p. 8) asserts that three elements need to be clearly established before it can be concluded that Alienating Behaviours have occurred. These include:

- 1) the child is reluctant, resisting or refusing to engage in, a relationship with a parent or carer; and
- 2) the reluctance, resistance or refusal is not consequent on the actions of that parent towards the child or the other parent, which may therefore be an appropriate justified rejection by the child (AJR), or is not caused by any other factor such as the child’s alignment, affinity or attachment (AAA); and
- 3) the other parent has not engaged in behaviours that have directly or indirectly impacted on the child, leading to the child’s reluctance, resistance or refusal to engage in a relationship with that parent.

⁷² As per footnote 68 above

With the research evidence indicating that Alienating Behaviours which impact on the child's relationship with the other parent are actually rare,⁷³ the Guidance document concludes therefore that findings of Alienating Behaviour are also relatively rare, despite increasing numbers of allegations being made. This would suggest a serious lack of rigour in the process of assessment and arrival at a finding of parental alienation. Echoing the concern raised in an earlier section about the lack of regulation of court appointed assessors in Ireland, Asalem (2023, p. 16) also cautions against unregulated and unqualified evaluators who can benefit from a 'lucrative endeavour' whilst subjecting adult and child victim-survivors to 'intrusive, inappropriate and retraumatising psychological assessments and employ judgemental and dismissive attitudes towards victims of domestic violence' (ibid, p. 15).

Returning to the Irish context, the Department of Justice commissioned policy paper on 'Parental Alienation' (2023) also refers to parental alienation as a highly contested concept, with debates surrounding its existence, its relationship with domestic, sexual and gender-based violence (DSGBV), its prevalence, and its significance in the family justice system. The 2019 Oireachtas Joint Committee Report acknowledged parental alienation as a serious issue, but also acknowledged that this recognition is problematic due to the lack of systematic data, clear definitions, and challenges in assessment. While the research and consultation process touch on the issue of amendments to the legislation, the policy paper concludes that legislation alone cannot address the complexities of family law disputes, and premature legislation could have negative consequences for DSGBV victims and children's best interests. The report emphasises the importance of reducing conflict in family justice proceedings and suggests that actions attributed to parental alienation can be addressed through measures like addressing coercive control, emotional abuse, and difficulties with custody and access orders. Implementing the Family Justice Strategy 2022-25, with reforms in expert reports, training, family supports, and data collection, is seen as a better approach.

1.5.2 Exploring International Best Practice

In May 2017, an International Symposium was convened at the Inner Temple in London, the aim of which was to identify best practices for dealing with allegations of DVA in family law proceedings concerning post-separation arrangements for children. Experts from Australia, New Zealand, Sweden, Spain, the USA, Canada, England and Wales, Scotland and Ireland were invited to present papers about policy and practice in their jurisdictions, with the Symposium organisers particularly interested to

⁷³ https://www.uwl.ac.uk/sites/uwl/files/2024-04/Alienating%20behaviours_v3.pdf

capture the success or otherwise of specific approaches and good practices models in these jurisdictions. A key message emerging from the Symposium was ‘not of the existence of a wealth of better options, but of widely shared common problems, which persist across a range of different legislative and practice configurations’ (Hunter et al. 2018, p.402). Of particular interest to this present research, two major obstacles to the ‘effective implementation of any measures designed to ensure safety from domestic abuse’ (ibid) clearly emerged. Firstly, the presence of a pro-contact culture in the family justice system and, secondly the inadequate provision of services and systems to support children and parents, and to promote judicial and practitioner expertise in understanding and addressing issues of abuse, were found contributing significantly to undermining initiatives designed to support the safety of victim-survivors.

Three approaches to achieve positive change in the underpinning culture and resourcing issues were also identified. These include firstly the adoption of a human rights framework for determining contact disputes involving allegations of DVA; secondly, the adoption of trauma-informed practice by family justice systems and practitioners; and thirdly, the development of integrated services that can take a holistic approach to addressing DVA, focusing on the needs of the whole family as a whole, rather than just the legal matter raised in family law processes.

Concurring with Hunter and Choudhry (2018), it was notable in our search for ‘best practice’ how much activity is currently taking place in this arena to document the failings of systems whilst making proposals for improvements. This process may have been instigated by the UN Special Rapporteur on violence against women, Reem Alsalem, who has highlighted the urgent need for reforms in Family Court systems to better protect women and children from domestic abuse. In an extensive report on this issue⁷⁴, she concluded that Family Court systems worldwide are being impacted by ‘*deeply embedded gender bias*’ which is leaving women and children vulnerable to violence and ‘*immense suffering*’. Her report emphasised that during custody battles, family courts often dismiss credible allegations of domestic abuse, including coercive control, physical, or sexual abuse.

Advocating for judges and evaluators ‘to move away from focusing on the identification of behaviours that are contested within the discipline of psychology and towards a focus on the specific facts and contexts of each case’, the report calls for:

- Recognition of domestic abuse: Courts should take allegations of domestic abuse seriously and ensure they are thoroughly investigated.

⁷⁴ <https://unwomen.de/wp-content/uploads/2023/06/G2307018-Report-of-the-Special-Rapporteur-on-violence-against-women-and-girls-its-causes-and-consequences-Reem-Alsalem-2023.pdf>

- Training for judges and lawyers: Legal professionals should receive training on the dynamics of domestic abuse and its impact on victims.
- Support services: Providing support services for victims of domestic abuse, including legal aid, counselling, and safe housing.
- Child-centred approaches to ensure the views of the child are sufficiently and independently represented and where possible, that children are facilitated to participate in such proceedings.

Hunter and Choudhry's (2018, p. 560) concluding assertion that while 'poor practices may easily be identified in day-to-day operation in many jurisdictions, best practices tend to remain theoretical, inchoate or novel', may still hold currency in 2025. Despite extensive efforts to identify international best practice models, only four were identified. All other examples were considered as fractional efforts to improve responses to cases involving DVA but did not add up to a whole systems model. The following is a summary of these models.

*New York state – specialist domestic abuse courts*⁷⁵

A single family dealing with DVA may have to appear in several different courts criminal and civil, involving multiple judges, lawyers, and a myriad of different court-related agencies and service providers at the same time. As a result, each court learns only a piece of the story of the involved family. Decisions are made without all relevant information and there is the potential for judges to issue inconsistent or conflicting orders (for example a barring order and to facilitate contact). Moreover, each additional action in separate courts creates inefficiencies and often results in piecemeal resolutions that permit dangerous situations to continue and for the family's needs to go unaddressed.

More than sixty counties in New York state have implemented an Integrated Domestic Violence (IDV) Court; this approach—sometimes referred to as a 'One Judge, One Family' model—places all the issues involving a single family before one judge. This innovation is intended to offer an opportunity to address inter-related family problems in a comprehensive manner, provide integrated service delivery and improve both court efficiency and informed judicial decision-making. IDV Courts are specifically designed to promote 1) victim safety and defendant accountability; 2) informed judicial decision

⁷⁵ <https://www.criminaljustice.ny.gov/ofpa/domviolcrtfactsheet.htm>

making; 3) consistent handling of all matters involving the same family; 4) efficient use of court resources; and 5) a concentration of social services that include domestic violence and child victim advocacy agencies. It also aims to prevent the abuser from being able to manipulate the two legal systems to their advantage such as angling for a withdrawal statement to halt criminal proceedings in exchange for reduced hostility in the family court proceedings.

Limited research and evaluation on this model have to date presented mixed findings. Comparing outcomes across a number of categories for DVA courts versus conventional courts, Cissner, Labriola and Rempel (2013) reported that while DVA courts significantly reduced the average case processing time for DVA cases when compared with conventional courts, their impact on conviction rates and incarceration rates was only moderate.

Pathfinder Courts, England & Wales⁷⁶

These are still at the embryonic stage in England and Wales; a successful pilot has been implemented and the next stages are still in development. Two Pathfinder Courts were established in North Wales and Dorset to improve information sharing between agencies such as the police, local authorities and the courts; to provide better support and safer outcomes for child and adult victims and survivors; and to introduce a problem-solving approach that places the child at the centre. Whilst formal evaluations are still pending, each site has been a source of extremely positive feedback from parties to proceedings, court staff and members of the judiciary.

The positive feedback focuses on the following aspects of the model:

- New practice directions which allow for earlier child impact assessment in comparison to national courts.
- New DVA assessments as part of an initial report utilised to ascertain the extent of domestic abuse in cases.
- The presence of case progression officers who allow for ongoing support and assist with effective management of complex proceedings.
- Strong links with specialist DVA organisations who provided practical, emotional and signposting assistance. The provision of holistic support for parties throughout proceedings has also been extremely beneficial in reducing the stress of the Family Court for families.

⁷⁶ <https://domesticabusecommissioner.uk/blogs/how-private-law-pathfinder-pilots-are-addressing-domestic-abuse-survivors-experiences-of-the-family-court-process/>

*Child-centred Family Law Strategy, Canada*⁷⁷

This is not a model as such but a wide-ranging strategy dealing with Family Law in general. Nevertheless, DVA is addressed as part of the strategy and evaluation has shown the following outcomes in such cases:

- **Risk Assessment:** The strategy emphasises the importance of assessing the risk of harm to children and parents in cases involving DVA. This helps ensure that appropriate protective measures are put in place.
- **Protective Orders:** The strategy supports the use of protective orders to safeguard victims of DVA and their children.
- **Support Services:** Providing access to support services, such as counselling and legal aid for victims of DVA.
- **Training for Professionals:** The strategy includes training for family law professionals to help them recognise and respond effectively to DVA.
- **Collaboration with Agencies:** Working with other agencies and organisations to provide a coordinated response to DVA.

Interestingly, it is the only identified measure that specifically addresses the issue of child support and enforcement making sure that payments are fair, timely, and enforced effectively. This has been achieved through the introduction of Maintenance Enforcement Programs (MEPs), with federal government playing a key leadership role in supporting such enforcement.

Fractional best practice examples

The examples below illustrate some steps which have been taken internationally to try and provide a better response to Family law cases involving domestic violence. As these are largely piecemeal changes, they have rarely been subjected to any independent evaluation (except where noted) but they do address many of the issues identified as barriers by the victim-survivors in this study.

Fractional changes to improve parts of the system include:

- **Specialised training for Judges and court staff**

This commonly involves ensuring that judges and court staff receive dedicated training on the dynamics of domestic violence, including understanding coercive control and the impact on children.

⁷⁷ <https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/08/ccfls-sdfae/p6.html>

This currently occurs in Australia⁷⁸, the Great Lakes Region in Africa⁷⁹, Kosovo⁸⁰, Serbia⁸¹ and parts of the USA⁸².

- **Use of risk assessment tools**

This involves implementing standardised risk assessment tools to identify the level of danger to victims and children, which can inform decisions about custody and access. From available information, it isn't always possible to discern what risk is being assessed and to what extent the results are given weight. Nevertheless, the use of risk assessment tools is widespread in Canada⁸³, England and Wales⁸⁴ and parts of the USA⁸⁵.

- **Fact-Finding Hearings**

This involves conducting thorough fact-finding hearings to determine the validity of abuse allegations before making any custody or visitation decisions. This is in use in Australia⁸⁶, China⁸⁷, England and Wales⁸⁸ and Japan⁸⁹.

- **Support Services**

There are numerous examples of Family Courts putting in place measures to improve access to support services such as counselling, legal aid, and advocacy for victims of domestic violence

- **Protective Measures**

A range of protective measures have been introduced by Family Courts across the globe, including some in Ireland, albeit not consistently. Measures include supervised access, restraining orders, and safe exchange locations to ensure the safety of victims and children as well as separate waiting areas in the court itself.

⁷⁸ <https://www.njca.com.au/tailored-programs/>

⁷⁹ <https://www.icglr.org/images/Publications/sgbv%20paper%20judicial%20response.pdf>

⁸⁰ <https://rm.coe.int/tot-training-resource-tool-eng/1680a1ac57>

⁸¹ <https://serbia.un.org/en/273069-digital-pioneer-fight-against-domestic-violence>

⁸² <https://www.ncjfcj.org/family-violence-and-domestic-relations/jedi-dv/>

⁸³ https://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/rr12_8/a.html and <https://www.schliferclinic.com/wp-content/uploads/2021/04/PROJECT-ENHANCED-SAFETYFINAL2021.pdf>

⁸⁴ <https://www.dashriskchecklist.com/>

⁸⁵ <https://www.domesticshelters.org/resources/risk-assessment-tools>

⁸⁶ : <https://conferences.com.au/fact-finding-in-family-law-disputes/>

⁸⁷ https://www.iafl.com/media/5199/chinese-family-law-aplpi_203_kohtz.pdf

⁸⁸ : <https://www.rightsofwomen.org.uk/wp-content/uploads/2023/12/a-guide-to-fact-finding-hearings-final.pdf>

⁸⁹ <https://www.courts.go.jp/english/vc-files/courts-en/file/2015guide-to-the-family-court-of-japan.pdf>

1.6 Conclusion and outline of the report

This chapter has introduced the research and provided the national and international legal and policy context to this report, highlighting select aspects of the Irish constitutional and legislative framework most relevant to GCA proceedings in the context of DVA. The next chapter situates the report in the context of the international evidence base.

Chapter Two

Literature Review

2.1 Introduction

Accepted globally as a public health concern and a serious human rights violation impacting individuals, families, and communities around the world (Devaney et al., 2021; World Health Organisation, 2020), domestic violence and abuse (DVA) is a highly gendered issue, with women disproportionately affected as victim survivors and men primarily identified as perpetrators (Cunningham & L. Anderson, 2023; Graham et al., 2024). The negative impact across women's physical, sexual, mental and reproductive health and well-being has been extensively considered, with long-term health implications extending even after the violence and abuse has ended (Garcia-Moreno & Stöckl, 2017). The impacts of DVA span physical and mental health, and the abuse can be ongoing (Feder et al., 2011; Katz, 2019; Trevillion et al., 2013). Physical impacts are documented to include central sensitivity syndromes (CSS), chronic lower back pain and headaches, irritable bowel syndrome and reproductive health implications (Chandan et al., 2021; Spearman et al., 2023); with mental health impacts reported to include experiences of depression, anxiety, suicidal ideation, and substance abuse (Dalgarno et al., 2024; McManus et al., 2022). Minoritised women are further disproportionately impacted by DVA, which can result in additional unique needs (Thiara & Harrison, 2016). How men experience being victims of domestic violence has been written about since the 1970's (Steinmetz, 1978), with recent decades providing insight into severity and patterns of abuse and help-seeking (Machado et al., 2016; Malihi et al., 2021). Kim et al.'s (2024) mixed-studies systematic review of the literature provides a useful interrogation of the help-seeking behaviours of men who are victims of DVA perpetrated by female partners. Finally, Shorey et al.'s (2023) qualitative systematic review provides a consolidated insight into the experiences of domestic violence in heterosexual women, concluding that while these experiences have remained consistent over the last two decades, more complex forms of abuse have emerged, including technology facilitated abuse, demanding more complex and nuanced responses.

Previously understood as silent witnesses or secondary victims of domestic abuse, the last quarter of a century has witnessed considerable expansion of the depth and breadth of interest and subsequent knowledge on how children experience living with DVA. Located against the backdrop of a scholarship on children's rights (Morrison et al., 2020), children are now understood as being both actively involved in the family's lived experience of domestic abuse and also impacted by that lived experience (Katz, 2022). Furthermore and grounded in early feminist understanding of domestic abuse as a 'double

intentioned' form of abuse involving a dual attack on women and child (Kelly, 1994), we take as a starting point that the abuse of mothers needs to be understood also as an abuse of children, with undermining and attacking of the mother-child relationship a common feature of how families experience living with DVA (Alexander et al., 2022; Maher et al., 2021).

In response to the aims and objectives of this research study and in order to inform the methodological approach to the study, the focused international literature review sought to identify and synthesise the available empirical evidence in response to the following two questions:

1. What are the experiences of adult victim-survivors of DVA of family law processes and outcomes in contact/access cases?
2. How do children experience being heard [their views and experiences ascertained and represented] in family law proceedings in contact/access cases involving domestic violence?

Before moving into the strategy employed to conduct this narrowly focused analysis, the next section provides an important broader empirical backdrop to contextual issues concerning how DVA is experienced by both adult and child victims, how this experience impacts on parenting and importantly what the implications are for the post separation period. It is important to note that throughout this chapter, we draw largely upon literature from English speaking countries whose Family Court systems are roughly in alignment with Ireland. Furthermore, the available literature primarily concerns the most common type of case to be found in the Family Courts in these jurisdictions, namely heterosexual parents where the mother has been the primary care giver and the parent seeking contact is the abusive father (Johnson, 2006). Other variants of this do appear within the Family Court system but these are the exceptions to the norm.

2.2 Background: Some critical consideration: appreciating the importance of context

2.2.1 How children experience living with DVA

Acknowledging that there is no 'single voice of childhood', there is however a compelling evidence base on how children experience living with DVA which indicates they are 'significantly affected by this exposure' (Skafida et al., 2022, p. 1). Noble-Carr et al.'s (2020) review of qualitative research on children living with DVA illustrated how children experience isolation, powerlessness, sadness and fear, with negative impacts on their general health and well-being. With the impact of some of these effects considered possibly enduring, there is growing concern about longer-term neurological effects on children (Callaghan et al., 2018, p. 1553). Children are also at significant risk of being direct victims of concurrent child abuse where they are living with DVA (Chan et al., 2021) and similar to their mothers,

coercive control is also central to how children experience it (Katz, 2016). With the intention of ‘controlling, intimidating, humiliating, degrading, exploiting and isolating an intimate partner’ (Katz, 2019, p. 1831), coercive control creates an atmosphere of fear, where free expression may be dangerous and with negative impacts on the mother-child relationship.

Research engaging directly with children about the everyday-ness of their experience of living with DVA, tells us in their words and through their eyes, that children hear and see so much more than adults in the main ever consider – particularly non-abusive parents who are trying to protect them. Moving away from previously held views that children are only impacted if they are awake, if they are in the room, if they were hurt themselves, we now know, largely from research with children, that living with DVA is embodied, something they experience with all of their senses – ‘they hear it, see it and experience the aftermath’ (Överlien & Hydén, 2009, p. 480). Exactly how they hear it, see it and experience the aftermath, has been poignantly illuminated by the Empower KIDZ project in one of their first You Tube animations⁹⁰. Captured in this animation is a powerful sense of how children experience living with DVA through all of their senses, and how this is for children an embodied experience they live through in a very small world of fear, anxiety, pain, sadness – or as one participant in the animation poignantly asserts ‘we feel it in all of our bones’. Regardless of whether children described the violence as being “subtle and insidious [or] explicit and explosive,” Noble et al.’s 2020 meta-synthesis identified a unifying theme across children and across studies that violence and abuse ‘was always there’ (Berman, 2000, p. 117) and had a relentless and enduring presence in children’s lives.

Viewing impact for children through a developmental lens, abuse during pregnancy can result in long term serious impacts including premature birth and low-birth weight (Donovan et al., 2016), higher maternal stress levels, placental damage and infections, with an increased risk of postpartum depression for mothers (Halim et al., 2018). A meta-analysis conducted by Madigan and colleagues (2018) identified an association between prenatal stress and heightened risk for child emotional problems, including depression and anxiety. Research also raises concerns for brain development in utero (Hiscox et al., 2023). Moving into the infant and toddler stages of development, empirical evidence suggests increased irritability and poorer sleeping (Alessi & Hearn, 2007); increased fear and hyperarousal (Zeanah & Gleason, 2015) and regression in toilet and language development (Mueller & Tronick, 2019). With a comprehensive discussion on attachment, domestic violence and very young children available (McCaughren et al., 2022) it is none the less important to highlight as Noonan and

⁹⁰ <https://www.barnardos.ie/our-services/work-with-families/childhood-domestic-violence-abuse/cdva-practioners-resources/cdva-what-children-young-people-have-to-say/>

Pilkington (2020) have done, that the experience of DVA was significantly associated with problematic attachment development. Negative impacts and outcomes can progress with the child as they develop into later childhood and adolescence, with studies identifying children presenting with difficulties engaging and interacting with other children (Lamela et al., 2021). Referring specifically to externalising and internalising behaviours, Butjosa et al. (2024) found a significant proportion of these behaviours reaching the 'clinical significance' threshold.

With the empirical evidence identifying the significant role that positive mother-child relationships play in supporting children's recovery from living with DVA and indeed the role that responsive mothering plays in promoting children's resilience (Fong et al., 2019), some brief attention to the research highlighting how abusive men purposefully manipulate, undermine and attack the relationship between the mother and child is required (Heward-Belle, 2016; Humphreys et al., 2006; Thiara, 2010). The next section selectively reviews the research evidence on mothering and fathering pre-separation.

2.2.2 Parenting in the context of domestic violence and abuse

Reflecting the deficit lens focus of much earlier research (see for example Holden, 2003; Levendosky et al., 2000), Austin et al.'s (2019, p. 499) systematic review of interventions for women parenting in the context of DVA, suggests that the stress and fear associated with living in this abusive context, combined with the negative social, emotional, and physical health consequences of victimization, may compromise women's parenting capacity. McIntosh et al.'s (2021) research supports broader evidence that maternal abusive trauma and unresolved loss during pregnancy and the postpartum period, can impact on the emotional aspects of caregiving. In a climate of DVA, the preoccupied and frightened mother may misread the infant's distress and behave in a subtle or overt manner that is confusing and otherwise disorganizing for the infant (Judd et al., 2018). Noonan and Pilkington (2020) similarly concluded from their systematic review and meta-analysis of the evidence on the association between IPV and the attachment of infants, children, and adolescents to their primary caregiver/s, that infants are at a higher risk of attachment disruption when exposed to IPV. This is consistent with attachment theory identifying infancy as a critical period for developing attachment (Bowlby, 1973). It is also consistent with the notion that infants are more dependent on primary caregivers and therefore more likely to experience IPV as a threat (Kobak et al., 2015).

While this risk of insecure attachment formation underscores the importance of early intervention in health care settings, Buchanan (2018) however has noted the limitations of applying attachment theory to mother-baby relationships in contexts of DVA. Highlighting that while attachment theory

shines light on mother-baby attachment relationships by allocating them to one of four categories, Buchanan notes however that three of these four categories are negative. Buchanan argues that attachment theory tends to ignore the wider contexts in which these relationships take place, specifically the context of “sustained hostility” in family homes, generating fear and tension, making constant demands and criticism, limiting mothers’ opportunities to form relationships with their babies, and potentially leading to distance and strains in mother–child relationships (Buchanan, 2018). As one participant in her study stated: ‘I was too busy protecting my baby, I didn’t have time to attach with him-to cuddle him, to play with him’.

Moving away from what has been termed viewing mother-child relationships through a ‘deficit’ lens, Katz (2019) and Lapierre et al. (2018) call for a better understanding of maternal protectiveness based on the lived experience of women and children. Echoing this call, Maher et al. (2021, p. 660) asserted that despite evidence that they are acting to protect their children, mothers experiencing domestic violence are often judged negatively, where persistent and often unchallenged ‘accounts of mothers as endlessly responsible for and responsive to their children animate persistent discourses of mother blame in a wide range of contexts’. Countering these persistent mother-blaming accounts, Buchanan et al.’s (2013) earlier study of 16 mother–infant relationships similarly found that women protected children in many ways not generally recognised as protective, and further found that thinking protectively was a constant process. Katz (2015) and Izaguirre and Calvete (2015) similarly highlighted the myriad of ways that mothers and children surviving DVA can seek opportunities to maintain levels of closeness in their relationship and promote each other’s wellbeing, including open communication. Overall, this research confirms that both mothers and children are active in developing mutual relationships and are capable of promoting each other’s recovery if supported by professional help (Katz, 2015).

Participants in Fogarty et al.’s (2019) Maternal Health study placed high importance on providing consistency and stability in their children’s life, highlighting the need for interventions which both acknowledge the challenges mothers face in creating stability and supporting them in achieving this. Women’s efforts at ‘protectiveness’ emerged as a key theme in Buchanan’s (2018) research with 16 women from diverse communities, in Australia. Women described holding the babies close when it was safe to do so and keeping them safe out of harm’s way at other times, picking up and acting on the baby’s cues when the baby was frightened or dealing with the threat first and then providing comfort to the child.

'Assaulting mothering' is conceptualized by (Heward-Belle, 2017, p. 375) as 'embodying a diverse array of tactics intended to control and regulate women's mothering experiences, identities, and practices before and during pregnancy, childbirth, and thereafter. These tactics, which include physical and sexual violence in addition to other tactics of coercive control, are specific to women's experiences of becoming and being mothers. These deliberate attacks emerge clearly in the narrative of participating perpetrators in Heward-Belle's (2017) research who state: "I was trying to be hurtful and I was being abusive deliberately"; "Why her mothering? It was just to assert power over her . . . attacking something . . . that probably means the most to her" (Dennis and Scott, in Heward-Belle, 2017, pp. 381-382). Common tactics used by domestically violent men to assault and attack mothering described by Dekel and Abrahams (2023) in their study of 16 domestic violence victim-survivor mothers across three provinces in South Africa, include weaponising children against her (Monk & Bowen, 2021); undermining maternal authority, directly abusing children, withholding resources and threatening to report her to Child Protection Services. Lapierre et al.'s (2018) research on children and young people's experience of DVA and their relationships with their mothers, also found that these tactics may serve to alienate children from their mother, who may be the one protective relationship the child has. Children's awareness of abuse in the home and their ability to articulate the attacks on their mothers and on them, is clearly highlighted in Lapierre et al. (2025) scoping review of the literature. Interestingly, and echoing Katz's earlier (2016) study, Lapierre et al.'s (2025) review concluded that children's awareness was not limited to physical violence but were also able to describe tactics of control. In this way, DVA can be understood not just as an assault on the mother, but as equally damaging to any children in the household. Winfield et al.'s (2024) Canadian qualitative study of safety strategies used by mothers and children to keep each other safe, found mothers and children reassuring each other as they worked towards leaving the abusive relationship. This is particularly important as Katz (2015) and others assert that a positive mother-child relationship is deemed as one of the most important factors when considering the recovery of children from domestic violence.

The refocusing of attention onto men who perpetrate domestic violence raises concerns about parenting capacity, but also as Smith and Humphreys articulate, highlights little 'positive evidence about the ability of this group of men to be constructive fathers' (Smith & Humphreys, 2019, p. 157). Indeed, the tactics of assaulting and attacking mothering as described above, challenge the notion that men may be abusive to their partners or ex-partners but remain good fathers. Maintaining a strong focus on entitlement rather than responsibility for fathering, Broady et al. (2017, p. 335) concluded from their research with men attending a perpetrator programme, that men were either unable to understand the impact of their behaviour on their children or unwilling to accept their compromised

parenting capacity. Both of these outcome scenarios are problematic when we also consider the earlier work of Bancroft et al. (2012), and Harne (2005), describing fathers who perpetrate domestic abuse as having high levels of hostility and anger, low self-esteem and a poorly developed sense of identity that results in neediness, dependency, self-absorption, a lack of trust in others, and an inability to see the impact of their violence on their children (Bancroft et al., 2012), or to see violence towards women as child abuse (Hearn, 1998).

Australian research also noted heightened rates of physical abuse of children (Heward-Belle et al., 2019), with physical violence ranging from what Heward-Belle (2016) terms instrumental to uncontrollable violence, with equally destructive impacts on children described. Also detailed in negative impacts across Khaleque's meta-analysis (2017), is the hostility in abusive men's parenting which is found to correlate with negative impacts on children's self-esteem and emotional regulation capacity. Labarre et al. (2016) further noted that domestically abusive men to be less responsive to their children's needs with compromised ability to connect emotionally with them. With the research evidence reporting children frequently describing their fathers as controlling and overreactive (Holt, 2016; Katz, 2016; Øverlien, 2014); and abusive fathers themselves describing difficulty controlling aggression and violence towards their children (Strand et al., 2015), it would seem reasonable that caution might be applied to any consideration of father-child contact in the post-separation period.

2.2.3 Post-separation contact in the context of a prior history of domestic violence and abuse

The rationale for post-separation contact for children when their parents separate or divorce is grounded in a wealth of empirical evidence on both the positive impact of father involvement and indeed the potentially deleterious impact on children's relationships with their parents and their adjustment and general well-being post-separation (Lamb, 2018). Fathers are increasingly recognised in the literature as a potential resource to their children and the recognition of the potential positive contribution that fathers can make to their children's development has positioned father involvement as highly advantageous when considering child outcomes (Palkovitz, 2019; Rodrigues et al., 2021). While Lamb's (1975) earliest work in this field remains considerably influential to this day, subsequent empirical and theoretical contributions to the field of knowledge continue to support Lamb's earlier conclusions regarding the significant role of fathers in children's lives. Such evidence correlates positive father involvement with positive outcomes for children's emotional, social and academic development (Baker et al., 2018); self-regulation (Han et al., 2021); children's nutrition, play, exercise and, eventually, their own parenting behaviour (Ladge & Humberd, 2022); reduced asthma and obesity, and improved cognition and mental health (Allport et al., 2018). The evidence on children's mental well-being

similarly positively correlates with paternal sensitivity to children's emotional regulation and externalizing problems.

The corollary therefore of the above evidence is a concern with reduced well-being for children when parents separate and decide to no longer live together (Amato, 2000). Steinbach (2018) correlates separation and divorce with children's problematic attachment relationships, reduced emotional and financial support; and an overworked, stressed and potentially less and/or un-available mother. Providing a related perspective, Bowlby argues that 'optimal outcomes for most children do not start with separated parents' (Bowlby & McIntosh, 2011, p. 549); rather, children involved in family law proceedings are at risk of suboptimal attachment due to their family life experiences being compromised or indeed, due to negative experiences of divorce or separation. Also approaching any conclusion with caution, Liu et al. (2021) caveat that without positive father-child relationships and fathering practices, increased father involvement could potentially be harmful for child adjustment. Concurring with this, Lamb (2018) concluded that the evidence consistently finds that outcomes for children are better when positive and supportive relationships are maintained with both of their parents.

The quality of the interaction and engagement that fathers have with their children is therefore what predicts positive outcomes for children and not the quantity of time spent with them. In fact the evidence challenges the automatic conflation of father involvement and children's best interests, arguing rather that the critical factor impacting child well-being and predicting child adjustment is the quality of parent involvement, not the extent of such contact (Holt, 2016; Steinbach & Augustijn, 2022). Holt's (2016) review of the literature on 'Quality Contact' concluded that the frequency of contact is a poor substitute for relationship quality, and that a narrow numeric focus on contact time ignores the qualitative and relational aspects of the contact experience. Trinder et al.'s (2006) earlier assertion that quality and meaningful contact requires more than the legal regulation of family relationships, is also borne out in Steinbach's more recent (2024) examination of the differences in child outcomes between those children who experience joint physical custody (JPC) and sole physical custody (SPC) arrangements.

Holt's (2016) literature review concluded that there is no one solitary magic ingredient that makes contact work or not work, rather, the interplay of independent yet interdependent factors that interact dynamically is found to influence contact outcomes. Significant among these factors however are fathers' attitudes and commitment to post-separation parenting; his parenting capacity and style, including the capacity for flexible responses to children's changing needs; and his ability to separate out parenting and partnering roles. Relational factors including the quality of the parent-child

relationship, both pre- and post-separation, and the inter-parental relationship and capacity for co-parenting are also important factors influencing the quality of the contact experience. Holt (2016, p. 98) concludes by cautioning, however, 'that those same features deemed critical for quality contact may be compromised where there has been a prior history of domestic abuse, with this history identified as a potential contraindication to healthy and meaningful relationships'. Almost a quarter of a century earlier, Pryor and Rogers (Pryor & Rodgers, 2001, p. 3) assertion that 'the mere presence of fathers is not enough' still holds currency. Staying with the early 2000s, this introduction to the literature review is mindful not only of quality engagement but also of the 'context' within which child and parent relationships occur. To that end, our focus on quality contact is grounded in Featherstone and Peckover's (2007, p. 189) assertion that 'father involvement needs to be located contextually, and that context involves domestic abuse'. The critical importance of this attention to context comes into sharp view when we consider the empirical evidence on post-separation contact in the context of a prior history of DVA.

Post Separation Contact as a catalyst for ongoing abuse and control

Echoing Jaffe et al.'s (2003, p. 29) well-worn caution that separation is not a 'vaccine against domestic violence', Morrison (2015, p. 275) is among an international army of scholars concerned with the risks of ongoing abuse of women and children that continues post-separation (Arai et al., 2021; Barnett, 2020; Katz et al., 2020; Lapierre et al., 2022; Shorey & Baladram, 2024). Closing the door on their abusive relationship, many victim-survivors find that separation opens another door to an array of new challenges including heightened risk of abuse and reduced social and economic resources (DeKeseredy et al., 2017). Dobash and Dobash (2015, p. 39) argued that abusive men are simply 'changing the project from attempting to keep her within the relationship to destroying her for leaving it'. With children considered the 'tie that binds parents together long after they cease to be partners' (Elizabeth, 2017, p. 186), a robust body of research has identified that separation is a risk factor for lethality and continued or worsened DVA where child contact arrangements provide court authorised opportunities for abuse to continue (Khaw et al., 2018). Tactics of post-separation abuse can include the weaponizing of children, including neglecting children as an attack on mothering, using children to track the mother's whereabouts, threats to harm children and custody stalking (Spearman et al., 2023). Over two decades of research on child contact in the aftermath of DVA consistently identifies the handover of children as a time of increased risk for women and children (Radford & Hester, 1996; Thiara, 2010); and contact as a route to continue manipulation of children (Barnett, 2020; Rogers & Berger, 2022), with children who do not have contact with abusive fathers reporting feeling safer and more secure (Holt, 2018).

Research further highlights the at best inadequate parenting skills of some domestic abuse perpetrators, with children's basic welfare and comfort needs neglected during contact visits (Harrison, 2008; Holt, 2011). Lapierre et al.'s (2025) scoping review of the literature reaches a number of conclusions on children's relationships with domestically abusive fathers, not least the fear of their fathers that children articulate. Furthermore, this review highlighted children's assertion that fathers needed to take responsibility for their actions, to be accountability for the harm they had caused as a first step towards the rebuilding of any trust (Lamb et al., 2018). It is important to highlight as Lapierre et al.'s (2025) scoping review has done, that research with children about their experience of living with domestic violence and abuse, consistently confirms their ability to clearly articulate their experiences and their viewpoints, giving examples to support those views (Holt, 2018; Lamb et al., 2018). What is less clear from the literature is the extent to which those views and experiences are ascertained and represented in family law proceedings when decisions about their future contact with an abusive parent are being made.

The route out of living with DVA for many victim-survivors and their children can involve navigating the family court/family law system, seeking to protect themselves and their children from further abuse. However, as the literature attests, often running concurrently with the application for protections under domestic violence legislation, applications for custody and access can also be made by the abusive parent, which many scholars conclude can result in custody outcomes that compromise the safety of victim-survivors and their children. An emerging empirical scholarship on DVA and post-separation contact further concludes that despite the established correlation between domestic abuse and child abuse, and between post-separation contact and continued abuse, contact is rarely denied, with the process of navigating the family law system described as secondary victimization (Holt, 2020; Khaw et al., 2018; Laing, 2017; Miller & Manzer, 2018; Zeoli et al., 2013). The international practice of the presumption of contact continues to trump this empirical evidence in the overwhelming majority of cases (Hunter et al., 2018). Adhering to 'deeply embedded ideologies' (Macdonald, 2016, p. 847) regarding the role of fathers in children's lives, not only fails to consider the risk that DVA poses to child safety but serves further to marginalise children's welfare (Callaghan et al., 2018). Thiara and Humphreys (2017) caution that the drive towards father involvement has resulted in the ongoing presence or 'absent presence' of abusive men in children and mothers' lives. Concurring with this caution Morrison (2015) asserts that a preoccupation with making contact happen may result in contact decisions that do not fully assess the risks posed by a father who perpetrates domestic abuse.

In their paper setting out seven key points to consider when ensuring contact is safe[r] for children, James-Hanman and Holt (2021) similarly caution against an overriding assumption conflating ongoing contact with children's best interests, where father involvement becomes inevitable, despite evidence

of past father abusive behaviour or indeed lack of evidence of fathering capacity (Thompson-Walsh et al., 2018). Concurring with Humphreys and Bradbury-Jones (2015, p. 233) that this lack of attention to ongoing harm to children post-separation represents a 'profound shortcoming of the safeguarding responses', James-Hanman and Holt (2021) also echo this critical point that a meaningful father-child relationship is simply not attainable in the context of ongoing abuse. Finally, while it is claimed that children, their needs and best wishes are the central consideration in the child contact debate in family law proceedings, how their individual needs and wishes are ascertained and represented in the decision-making processes is less clear. The final section briefly addresses these concerns.

2.2.4 The voice of the child in family law proceedings

Reflecting a commitment to honour the principle of 'listening to the voice of the child', a substantive theme within the UNCRC concerns children's participatory rights, including the freedom to express an opinion, to have a say in matters affecting their lives and a right to make their voices heard in matters that concern them. Apart from children having this right under international law to be heard in decision-making processes affecting them, it is also well accepted that there are distinct benefits to facilitating this, both for the child concerned and decision-making processes in society more generally. Importantly, this includes hearing children in decisions about child contact in family law proceedings. For example, while Saracostti et al. (2015) argue that children's participation impacts positively on self-esteem, McCafferty and Mercado García (2023) further suggest that such participation improves decision-making processes and leads to better outcomes (Heimer et al., 2018). While a clear and consistent rationale for this participation in decision-making is grounded firmly in their rights and such participation is also found to result in positive outcomes, research on family law proceedings shows how children's views can still be undermined, ignored or not even sought in decisions about them (Tisdall, 2016). A few concerns contributing to an outcome where children's views are ignored, undermined or simply not sought in the context of family law demand some further exploration.

While the Convention on the Right of the Child (2009) explicitly states that children have the right to express their views from the age at which they are capable of forming them, Gerdtz-Andersen's (2021) review of the literature on legal processes in different countries and continents, highlighted considerable variation with respect to the age at which children were given that opportunity. Common across all jurisdictions reviewed was that children under the age of seven years of age were not given the opportunity to express their views in child welfare proceedings and rarely in child custody proceedings. Further, while children over seven years of age were more often included in the decision-making process, it was less clear whether the child's view carried any weight or was simply noted. Reporting on 'Views of the Child' reports, Birnbaum (2017) also confirmed seven or older as the age cut off for children's involvement in this initiative in Canada, while ten years of age or older is the

inclusion criteria for children to have an opportunity to engage in Child Inclusive Conferences (Banham et al., 2017) in Australia. Commenting on the absence of any definition of ‘capacity’ within Article 12 or indeed guidance on how to go about measuring it, Henderson-Dekort, van Bakel and Smits’s (2022) analysis of the literature on capacity concludes that an understanding of what capacity entails is needed so that participation of children can be ensured. While the authors note that across jurisdictions confidence in children’s capacity seems to increase with age, there is however no concrete reason why particular ages determine capacity. While Tisdall (2018) observes that when the term capacity is utilised in the literature, it is often not defined, Daly (2020) argues that this ambiguity is a problem as capacity is then defined in individual family law settings in individual jurisdictions.

Linked to debates about capacity, an emerging bank of literature also raises concerns about children being exposed to undue influence, with questions raised about a child being pressured or manipulated to express a certain view in family law proceedings (Tisdall, 2016). Tisdall et al. (2021, p. 17) carefully consider this ‘construction of the influenced child’ and suggest it is located firmly in concern for ‘children’s perceived vulnerability to both adult pressure and adult manipulation’. The authors consider however that such constructions potentially undermine children’s participation. In some jurisdictions, concern with undue influence is such that opportunities to engage via the Child Inclusive Conference (Banham et al., 2017) and the Views of the Child reports (Birnbaum, 2017) are not open to children who it is considered ‘would not be able to give unbiased feedback’ (Banham et al., 2017: 157).

Almost 25 years ago, Kelly and Johnston (2001, p. 250) cautioned that allegations of parental alienation had become “a fashionable legal strategy in numerous divorce cases in which children are resisting contact with a parent, without due regard for possible historic reasons for such resistance within the marital home nor for the children’s relationship with both parents” (p. 250). In the intervening period, Chester (2022, p. 363) observes that claims of parental alienation are being made ‘with ever increasing frequency in custody cases in the U.S. and world-wide’, with an accompanying ‘lucrative and burgeoning industry of “expert” witnesses primed to testify on the issue’. Another worrying trend across the US reported on by Chester (2022) concerns the use of unregulated reunification therapy programmes for children who reject contact with a parent. With a nascent evidence base to support reunification therapy (Chester, 2022), Kleinman (2017) contests the ethics of this therapy, while Chester ‘s (2022) analysis of the case of 12-year-old Jane highlights the harm to children when confirmed allegations of abuse are ignored by the court and their abuser is given court sanctioned access to them. Reflecting on the high volume of cases presenting before the court, Chester (2022: 364) observes that reunification therapy ‘holds out the promise of a solution’, a risky practice when courts struggle to identify when children have legitimate reasons to reject a parent.

Despite the fact that the American Psychological Association does not recognise reunification therapy as an evidence-based treatment, Chester (2022) observes that it has nonetheless become a catch all solution for busy court rooms with reunification therapists commanding considerable discretion regarding how this “therapy” is conducted.

Related to the earlier point about capacity, Tisdall (2016: 373) makes an interesting observation about children’s increasing capacity and skill in expressing their views resulting in decreasing weight given to those views as they are not considered ‘authentic’. Citing both empirical evidence and case law, Tisdall (2016: 373) concludes that courts experience difficulty dealing with children’s views, if children are considered to be ‘emotional, inconsistent or manipulated’. Given the high percentage of cases before the court where there is a history of DVA, Tisdall (2016) and others consider that children are likely to be distressed and emotional and as such may have their concerns discounted and their views dismissed. Drawing on the work of Bordonaro and Payne (2012) on ‘ambiguous agency’, Tisdall (2016: 365) cautions that children’s views and perspectives may be sidelined or classified as something else (for example parental alienation), when their views challenge adults ‘normative views’ on their best interests. At the risk of being reductionist on what is a very complex issue, Holt (2018) posits that decades of evidence raises two clear concerns about how the voice of the child is ascertained and represented in the family law context. Firstly, there is evidence that selective attention is given to children's wishes grounded in concerns about children's capacity – they are listened to if they want contact and overruled if they do not on the grounds of age, capacity and maturity, because why else would they not want what is considered unquestionably to be in their best interests (Holt, 2018)? Secondly, a lack of specialist training in the tactics, dynamics and impact of DVA can lead to what Chester (2022) terms ‘neutral’ professionals failing to recognise the legitimate reasons that child may have for rejecting a parent. When the conclusion to a child’s resistance to contact with an abusive parent is parental alienation, children are not heard and report their disempowerment (Tisdall et al, 2021). Chester (2022: 379) and others call for stringent uniform requirements for ongoing and specialized training in child abuse, domestic violence and trauma’, for all judges and court appoint professionals.

Focusing on the manner in which children’s views are ascertained and represented, we are mindful of Schofield's (1998) caution that listening to children is more complicated than simply obtaining their views. To that end, the evidence concurs emphatically that children’s experience of participation is very much dependent on the methods used⁹¹ and the professionals tasked with capturing those views. Orr, Dickinson and Smythe’s (2024, p. 176) qualitative study exploring the experiences of young people

⁹¹ See McCaughren, Holt, Parkes & Gregory (2022: 65-66) for a comprehensive account.

with professionals as they navigate the family law system in New Zealand, identified the power of the professional who can engage in 'extraordinary listening about the young person's experience of what matters to them', whilst also creating a space where trust is built and where 'mutual authenticity can exist'. Considering the UNCRC requirement of our obligation to facilitate capturing the view of the child 'capable of forming a view', Skjørten and Sandberg (2019) remind us that this includes both verbal and non-verbal forms of communication including facial expression, play and artwork. Concurring that children can 'speak' in a variety of ways and not simply through words, Parkinson and Cashmore (2020) assert that such participation requires careful scaffolding by competent professionals, with the onus being on the professional's capacity and competence and not the child's. A critical ingredient in that scaffolding Parkinson and Cashmore (2020) suggest, is giving children clear and accessible information to help them understand the process. Importantly, children participating in Dimopoulos et al.'s (2025) study capturing their experiences of participation in decision making about their lives after their parents separation, highlighted the importance of adequate time being given by the professional to the process of trust building, with agreement among the children that meeting professionals on more than one occasion was important in that trust building process. Considering that facilitating children's participation in family law proceedings is about more than having 'a bigger voice more of the time' (Carson et al., 2018, p. 68), the analysis of the children's narratives in Dimopoulos et al.'s (2025) study suggests that children's right to participation can only be operationalised if three conditions are met – they feel listened to, heard and understood. Concurring with the findings on trust and time, Tisdall (2016) cautions however that practice that asks children in front of their parent 'don't you love them' is not going to create a safe and trusting space for children's participation. Similarly, the one-off meetings with assessors and court reporters can only ever provide an 'event based' snapshot of children's views at one point in time. Tisdall (2016) also cautions that such reports run the risk of being one layer of interpretation of children's views - a layer that is then re-layered when the court completes their interpretation of the assessor's interpretation.

Acknowledging the inevitable tensions between protecting a child's best interests and recognising a child's participation rights (Tisdall et al, 2021), the evidence from research conducted with children loudly asserts that when children are given the opportunity to participate in meaningful and child-friendly ways, their competence to participate in the discussion about their experiences – their past and future – is evident (Callaghan et al., 2018; Holt, 2018). The research highlights that children and young people believe strongly in their right to be heard but do not necessarily want the power to decide post-separation/divorce arrangements, particularly when that involves making choices between their parents: the critical difference between having a voice and having a choice (Holt, 2018). Holt et al.'s (2023, p. 94) qualitative study with children focused on their experience of participation in

Irish child protection and welfare services, found that children ‘did not necessarily expect adults to follow their wishes, but they certainly wanted to have their wishes heard and respected’. Indeed, Križ and Skivenes (2017, p. 19) argue that efforts at participation that do not engage with children can be criticised as ‘window dressing’. A final point on children’s right to participate concerns children’s right not to participate. To that end Gerdtz-Anderson (2021) reminds us that expressing views is a choice for the child rather than an obligation. Concurring with this, Parkinson and Cashmore (2020) posit that we need to always be mindful of the child’s right not to be heard, appreciating that there may be many reasons why children may not want to participate in the decision-making process.

2.3 Overview of the methodology employed for conducting the literature review

Starting with the research aims and objectives, two questions were formulated as outlined earlier in order to narrow the literature search to include relevant empirical material on both adult and child victim-survivor experiences in the context of the family law system and DVA. These questions are as follows:

1. What are the experiences of adult victim-survivors of DVA of family law processes and outcomes in contact/access cases?
2. How do children experience being heard [their views and experiences ascertained and represented] in family law proceedings in contact/access cases involving domestic violence?

Adopting a systematic approach to the literature review, key search terms were determined for each question. A comprehensive outline of this process is provided for in Appendix 1

2.4 Findings

The findings of the international literature review are presented now for each question. The detailed extraction tables for each question can be found in Appendices 2 & 3.

2.4.1 Findings Question One: What are the experiences of adult victim-survivors of DVA of family law processes and outcomes in contact/access cases?

Four clear themes emerged from the review and analysis of the thirty-five papers included in the sample for question one. These themes are as follows:

- **Theme One:** Secondary victimisation of the adult victim-survivor as a result of their engagement with the family law system;

- **Theme Two:** Perpetrator use of the family law system to maintain power and control over both adult and child victims;
- **Theme Three:** Impacts on the adult victim and associated impacted on mother child relationships arising from theme one and two;
- **Theme Four:** Recommendations for reform arising from the above three themes.

Theme One: Secondary victimisation of the adult victim-survivor as a result of their engagement with the family law system

Secondary victimization is defined as the additional harm and sense of betrayal experienced by victims of traumatic events when the responses they receive from formal or informal supports are inappropriate. This concept is often applied to victims of various types of violence, particularly focusing on how they are treated by the systems intended to support them, such as the criminal justice or family law systems. The notion extends beyond the original trauma, highlighting the injustices that occur to victims after a traumatic experience, often involving disbelief, minimization of their experiences, and victim-blaming attitudes from professionals. Gutowski and Goodman's (2020) study is one of many papers in this review that addressed the issue of the secondary victimisation of the adult victim-survivor as a result of their engagement with the family law system. The findings from their qualitative research with 19 mothers living in the USA are helpfully located within a framework of six distinct clusters. Drawing on all other literature reviewed that is considered relevant to this first theme, Gutowski and Goodman's (2020) six cluster analysis provides a useful framework to locate this discussion in. In this first theme we focus largely on the first three of Gutowski and Goodman's (2020) six clusters as clusters four to six are more relevant for theme three and four of this section of the literature review.

Cluster One of Gutowski and Goodman's (2020) analytic framework addresses the challenges survivors of intimate partner violence (IPV) face when entering a court environment that implicitly assumes the absence of trauma. This environment often requires them to be in shared physical spaces with their abuser, which can be triggering and distressing. The studies reviewed considered that these court environments ignored victim survivor safety and well-being (Rathus et al., 2019), provided opportunities for abuser manipulation and with fear extending into their daily lives due to ongoing threats and stalking behaviours by their abusers (Roberts et al., 2015). Giving evidence in court, a significant part of engaging in the court environment, was further experienced as retraumatising for victim-survivors, particularly when being cross-examined by their abusers raised the process of 're-telling their trauma' to a whole new level (Douglas, 2018; Wilde et al., 2024). Cluster One also includes when participant distress trauma is overlooked by professionals who fail to recognise or validate the

abuse dynamics at play. Such lack of understanding of the dynamics of violence and abuse emerges across the papers reviewed, with Feresin et al.'s (2018) study on the mediation process finding DVA being overlooked and father-child contact supported and promoted even when sexual abuse of the child was validated. Further, the authors conclude from their findings that where both parents are held equally responsible for the violence in the family, secondary victimisation of mothers and their children flourish in the context of persisting perpetrator control. The disconnect in DVA cases between what judges understood is going on and what victim-survivors are actually experiencing, many authors attributed to professionals prioritising physical violence over coercive control (Douglas, 2020); the absence of DVA informed screening practices (Ogolsky et al., 2023); and a failure to recognise litigation abuse (Romero & Staudenraus, 2024).

Cluster Two of Gutowski and Goodman's (2020) framework of analysis focuses on the obstacles that DVA victim-survivors may encounter when trying to communicate their stories of abuse within the family court system. Key aspects of this cluster include the significant financial barriers that women may experience, hindering their ability to present their cases effectively. This includes a lack of resources for legal representation compared to the abuser. This issue resonates in the testimonies of participants in Douglas (2020), where strict eligibility criteria for legal aid and limited availability of legal aid can result in significant financial hardship arising from the enforced necessity to use private lawyers. Unable to afford these services, we see participants under pressure to settle matters quickly to minimise costs and yet these costs were found to contribute to a devastating cycle of post-separation poverty.

Further obstacles to having their story heard, Gutowski and Goodman (2020: 448) term as 'systemic, psychological and relational'. An example provided of systemic obstacles concerns being cautioned by legal representative not to talk about DVA as it will be used against them, which also emerged in Rathus's (2019) study focusing on family report writers (court assessors or evaluators). A key finding here was the minimisation and dismissal of accounts of abuse, with these professionals reported to shut down conversations about past violence, only focusing on the present and the future. With the assessment process experienced as silencing and dismissive, resulting psychological and relational barriers can ensue, where victim-survivors experience lack of empathy and understanding, a ubiquitous theme also identified in Roberts et al.'s (2015) study. Across numerous papers we see conclusions that these professional responses effectively reinforce the abusers' tactics of silence, shame, secrecy and resultant lack of accountability (Francia et al., 2019; Laing, 2017; Romero & Staudenraus, 2024). With little understanding of DVA resulting in victim blaming, fear and anxiety concerning court outcomes and retaliation from their abuser made it challenging for victim-survivors to articulate their experiences. The research reviewed overwhelmingly underscores the relevance of

these fears, with the third cluster confirming fears in addition to the [re]positioning of victim-survivors as the problem, primarily through what Dalgarno et al. (2024, p. 286) term parental alienation 'as a mechanism of its own social reproduction [where] any behaviour, event or situation could be described as an indicator of alienation'. Living in this 'alienation self-fulfilling prophecy' was maintained by ingrained court perceptions that 'pushed [mothers] into an escapable PA trap' (ibid).

Cluster Three of Gutowski and Goodman's (2020) framework addresses the largely traumatic experience for victim-survivors arising from the interactions with court professionals and processes. Emerging from this interaction, narratives of abuse are more often than not dismissed, trivialised or rewritten, pathologising the mother while biased in favour of the abusive father (Roberts et al., 2015). Miller and Manzer (2018) comment on the literature which reviews the patriarchal orientation of the family court system, highlighting how male-dominated institutions, particularly the judiciary, reinforce gendered norms that adversely affect women, especially those who are victims of DVA. Through a gender normative lens however, courts can operate under assumptions about motherhood, which define "good mothers" through passive and compliant behaviours. This patriarchal view can lead to biased outcomes where mothers are held responsible for child well-being while simultaneously undermining their ability to protect their children in safe environments. The authors also consider how male dominated institutions may reproduce gender imbalances and bias by tolerating abusers' manipulative tactics and overlooking their abusive behaviour.

Taking this a step further however, several authors reviewed caution against the emergence of parental alienation (PA) as a counter-allegation to child abuse or welfare concerns, with child abuse/welfare concerns mostly directed *at* fathers and PA concerns mostly directed *by* fathers (Dalgarno et al., 2024). Described as 'a weapon to trap, silence and pathologise and harmful to women's health' (Dalgarno et al., 2024, p. 285), and as more harmful an experience for mothers than the original abuse, PA allegations are understood to unleash a chain of events that trap, silence and control mothers and children. To that end, Elizabeth (2020, p. 120) reflects on the presumption that contact is in the best interests of the child, supporting a process whereby 'PA inflected custody laws' are grounded in 'normative care regimes' that promote a high level of father involvement. Fathers who seek post-separation contact are therefore positively regarded, even when histories of abuse and violence prevail. Mothers are also normatively constructed within custody laws and expectations to facilitate and support such paternal involvement. Good post-separation mothering involves the active facilitation of this paternal involvement (Francia et. al., 2019). In DVA cases however, Elizabeth (2020, p. 118) describes the 'delicate dance in which mothers run the risk of being regarded as obstructive, hostile and alienating if they speak up about violent and/or coercively controlling behaviours directed at them [or] against their children'. That 'delicate dance' occurs on a very fine, almost invisible line,

which once crossed can render mothers as ‘unfriendly, obstructive, hostile and/or alienating’ (Elizabeth, 2020, p. 121). Making sense of entrenched parental positions post-separation, Elizabeth (2020) asserts however, that the interpretative frame used to reach that understanding, simply creates only one possible reason for the entrenched positions – the alienating ‘no-contact’ mother. Not only does this frame obliterate the history of abusive fathering behaviour and therefore his risk presence, PA also serves to silence abused mothers for fear that any concerns about protection, however grounded in valid experiences, are misinterpreted as indicators of alienation. In this way, PA becomes what Elizabeth terms ‘a tool of gender governance’, operating quite powerfully thereafter through mothers ‘self-policing and self-regulation (ibid, p. 126). In this ‘delicate dance’, the implications for the safety of both mothers and their children are significant and concerning (Laing, 2017). Responding to these complex challenges, Khaw et al. (2018, p. 4321) described mothers adapting to the system as they ‘*had to play the game according to their rules*’ . . Adapting to the system involved agreeing to various things to satisfy professionals, managing their emotional presentation least they be construed as ‘unstable’, changing their behaviour to avoid giving any ammunition to the abuser to use in court and conforming to the rules of what many considered was a game.

Theme Two: Perpetrator use of the family law system to maintain power and control over both adult and child victims.

Douglas (2017, p. 85) surmises that engagement in legal systems and litigation by victim-survivors as they seek safety and closure on their abusive relationships post-separation, can inadvertently create a ‘perfect storm’ of opportunities for ongoing and often legally justified methods of coercive control and abuse. Drawing on Miller and Smolter’s (2011, p. 647) definition of ‘paper abuse’ as ‘frivolous’ legal motions that are an ‘extension of traditional [intimate partner abuse] tactics’, Gutowski and Goodman (2023b) describe legal abuse as a form of coercive control where abusive partners use the processes of the court to maintain power and control over victim-survivor. Involving threats and manipulation through legal and legitimate channels, this can exacerbate feelings of helplessness and fear which are critical factors in developing mental health issues like PTSD (as discussed in theme three below). Romero and Staudenraus (2024) suggest that perpetrator legal or litigation abuse may involve little or no violence, yet further exert abuser control over former partner and children’s lives.

Participants in Douglas (2017, p. 88) reported former partners engaging in endless adjournments to cases, which were usually granted but meant that final orders could not be made. As evidenced in Crosse and Millar’s (2017) study in Ireland, tactics may include intimidation in court waiting rooms or during mediation processes, stalking behaviours including monitoring, unwanted contact and subtle breaches of protective orders. Exerting and extending power and control post separation was identified by participants in Crosse and Millar’s (2017) study to include making false allegations against

their ex-partners, such as claims of child abuse or neglect, as a way to manipulate child protection services and further intimidate their ex-partners. This not only diverted attention from the abuser's own behaviour but also created additional challenges for the victim. Elizabeth (2015) considered that post-separation legal disputes provide a perfect mechanism through socially legitimate channels to attack women's care time with their children. Psychologically manipulated attacks and intimidation can include tactics such as threats related to custody or financial support. Similarly, threatening to seek custody of children to intimidate their ex-partner, can instil fear and anxiety regarding the potential loss of parental rights. Threats that undermine parental rights can also include the abuser threatening to file and actually filing of child neglect reports, threatening to withhold and actually withholding financial/maintenance payments. These strategies illustrate how perpetrators can manipulate the legal system, not just as a means to contest legal issues but as a calculated method to reinforce their control and undermine the wellbeing of their former partners following separation.

The changing nature of perpetrator coercive control is illustrated sharply in Ellis et al.'s (2021) quantitative research which engaged with women living in shelter accommodation in Canada. Of particular interests to this theme of perpetrator use of coercive control in the post-separation period, the authors highlight that across the sample they engaged with, while there was a clear decrease in physical violence post-separation, coercive control by their former partner was reported by 97.5% of their sample. Asserting that historical violence and coercive control often predict future violence after separation, the authors suggest that legal proceedings can further intensify the risks for victim-survivors. Through vexatious and repetitious petitions for modifications to custody or access, the abuser can reinforce their dominance in the victim's life. Exploiting the system in this way can perpetuate a cycle of continued control and abuse long after the relationship ends.

A significant finding of Wilde et al.'s (2024) scoping review involved perpetrators prolonging court cases to create financial strain and reduce mother-child contact. This manipulation contributes to feelings of disconnection and overwhelm among mothers. The notion of 'systems abuse' is highlighted, wherein continued legal proceedings serve as tools for coercive control and financial abuse. Natalier (2018) also asserts that coercive control that manifests in withholding child support is a form of economic (financial) abuse. As a well-established form of coercively control behaviour both pre and post separation, Natalier (2018) surmises nonetheless that there are two elements to that – economic control (preventing women's resource acquisition) and economic exploitation (appropriating or depleting their resources). Both forms of economic abuse can persist post-separation through non-compliance with maintenance payments and vexatious litigation involving multiple and unnecessary court attendance with expensive legal fees and inability to work. Engaging with 31 female victim survivors of DVA in Australia in in-depth qualitative interviews, 29 of the 31 participants in Natalier's

(2018) research reported that they either received no payments, partially paid payments or were irregularly paid maintenance payments. Participants asserted that while these payments were court ordered, those orders were not enforced. This form of economic abuse was said to ‘constrain women’s already limited financial choice and life chances’ Natalier (2018, p. 131). While often understood or analysed as a financial issue, Natalier (2018) however urged attention to it as a deliberate attack on mothering and mothers’ protective and caring capacities. Participants in Douglas (2020) similarly shared stories illustrating how abusive ex-partners often utilised tactics of control to contribute to women’s legal debts. These tactics included adjournments, refusing to disclose financial information, serving documents late or not at all, and making multiple applications that women had to prepare for and respond to.

Gutowski and Goodman’s (2023a) Legal Abuse Scale (LAS), a 14-item psychometrically sound measure of legal abuse also conceptualises legal abuse as a form of coercive control. Factor analysis identified two subscales. The first subscale, *Harm to Self/Motherhood*, encompasses behaviours such as causing distress through in-person court proceedings, undermining custody arrangements, threatening the safety of children, and disparaging the survivor’s parenting abilities. The second subscale, *Harm to Finances*, involves threats and actions aimed at seizing assets and withholding financial support, such as child support. Additionally, the validity of the measure is reinforced by significant associations between legal abuse and its subscales with experiences of intimate partner violence (IPV) and the use of children as tools of abuse. Finally, Romero and Staudenraus (2024) conclude that individuals who have been abusive may also resort to outright lying to professionals in an effort to manipulate how the relationship and family dynamics are perceived. Perpetrators often cultivate a charming public image, which complicates the process for victims to seek help and be taken seriously. The accused abuser may distort the truth, attempting to discredit the survivor by altering the narrative of abuse, both within their social circle and in legal settings.

Theme Three: Impacts on the adult victim and associated impacted on mother child relationships arising from theme one and two.

Across the literature reviewed, the findings suggest that mothers navigating these situations bear a significant emotional burden because they must balance their children's needs for fatherly contact with their own safety and the realities of ongoing conflict and control (for example Archer-Kuhn, 2018; Archer-Kuhn et al., 2024). This emotional burden can manifest itself in a number of different ways. With the overwhelming majority of the literature reviewed focused on mothers as victims and father as perpetrators, three sub-themes are identified from our analysis: the emotional burden of managing

contact; the impact on mothering and the mother-child relationship; and the impact on mothers physical and mental well-being.

- **The emotional burden of managing contact**

The literature reviewed highlights how mothers experiencing domestic violence often face a profound emotional burden when managing contact with their abusive co-parent in shared parenting arrangements (Archer-Kuhn et al., 2024). Emerging from Elizabeth's (2019) research with 12 mothers who participated in her exploratory study, was an overwhelming sense of powerlessness. This was exacerbated through an entanglement of the intense emotions the mothers were experiencing in response to losing care time with their children, with the concerns and anxieties they held over the risks they perceived the children's fathers posed to the children's safety. A concern expressed by one of Elizabeth's (2019) 12 participants '*How do you hand your kid over to someone you don't trust?*', was grounded not only in concerns about parenting capacity and parenting quality (also mentioned in Gutowski & Goodman, 2023a; Rathus et al., 2019) but were also located in a solid pre-separation history of absence of paternal involvement in the children's lives. Lacking the basic parenting skills, participants in Rathus et al.'s (2019) study also gave examples of specific abusive paternal behaviours during contact that incited fear in mothers and inhibited their ability to heal from the trauma of DVA. Bearing the emotional burden of managing contact for participants in Archer-Kuhn's (2018) study, involved being and feeling compelled to facilitate contact even when that contact posed risks to their children's safety and was experienced as a contraindication to their mothering instincts. Coaxing children out the door for contact, dealing with their emotional stress while on contact and when they returned home, was all work that Elizabeth (2020, p. 124) described being 'performed against the background of an ever-present threat that she could face the ire of the court for being an alienating mother'. Children also reported distress with enforced contact in Elizabeth's papers (2017, 2019, 2020), meaning that loss, grief and distress were therefore mutual experiences that mothers and their children shared. This had implications for the mother-child relationship, as the next sub-theme explores.

- **The impact on mothering and the mother-child relationship**

Participants in Laing's (2017) qualitative study in Australia asserted that ongoing abuse of their children through court sanctioned contact with the abusive father, served to disable the mother's innate responsibility to protect her children, resulting in deep-seated feelings of guilt, ultimately undermining the mother-child relationship. Responding to children's distress and difficult behaviour following contact, mothers described efforts to compensate for these difficult experiences that included 'nice post-contact activities to minimise the aftermath of contact' (Laing, 2017, p. 1326). Laing's (2017) findings were echoed in other papers reviewed, including Francia et al.'s (2020) qualitative study, also

based in Australia, where participating mothers described outcomes for themselves and their children following navigation of family law systems as casting a long dark shadow in the post-separation period, with long term consequences on mother-child relationships. The experience of having their parenting 'pulled to pieces' in court, their safety concerns not believed or taken seriously, and court orders used by their former partner to undermine their credibility and parenting capacity, were all features of this long shadow (Francia et al., 2020, p. 113). Powerless to protect their children, mothers in Gutowski and Goodman's (2020, p. 451) study shared that they felt like failures as mothers.

- **The impact on mothers physical and mental well-being.**

A thread connecting much of the research reviewed concerned the impact that navigating the family law system and the ensuing experience of secondary victimisation had on their physical and mental well-being. Reporting the profound distress and deteriorating mental health they experienced, secondary victimisation was associated with elevated symptoms of PTSD and depression (Douglas, 2018; Gutowski & Goodman, 2023b), long-term psychological impacts from fear, helplessness and anxiety (Wilde et al., 2024); insomnia, poor concentration, excessive tiredness and diarrhoea (Gutowski & Goodman, 2020); and long-term and life-altering psychosocial consequences to contend with outside of the courtroom (Gutowski & Goodman, 2020). While Douglas (2018) asserted that significantly poorer mental health is common amongst DVA survivors long after their abusive relationship ends, participants in Dalgarno et al. (2024) reported that they rarely experienced health professionals understanding their health issues as trauma responses to the legal proceedings. Rather they asserted that health responses medicalised and pathologised their stress responses to legal proceedings.

Gutowski and Goodman (2020; 2023b) discussed the concept of institutional betrayal (also referred to as judicial betrayal), with participants in their 2020 study not only perceiving their experiences with the court process as impeding access to safe outcomes, but also as causing emotional harm. The authors consider that the concept of institutional betrayal helps frame these experiences. Initially coined by Smith and Freyd (2014) to describe the sense of 'betrayal' survivors may feel when they trust or depend on an institution that in turn fails to respond appropriately to a traumatic experience, institutional betrayal operates either through acts of omission, involving a failure to prevent mistreatment, or through acts of commission, such as insensitive responses to trauma disclosures. Reflective of a profound sense of systemic failing among survivors with negative custody outcomes, participants in Gutowski and Goodman (2020) described diminished trust in the family court system that they stated failed to protect them, describing this system as 'broken'. Even where participants achieved an outcome they were happy with from the family law system, they still poignantly described the trauma they endured as a result of a process that failed to acknowledge their experience, causing

fear, humiliation, powerlessness, a sense of worthlessness, or a formal PTSD diagnosis. Utilising the term 'judicial betrayal' in their later study, Gutowski and Goodman (2023b) assert that judicial betrayal occurs when judges fail to act or recognise when legal or litigation abuse is happening. The findings of this later study indicates that judicial betrayal significantly exacerbates the effects of legal abuse on the mental health of survivor-mothers by mediating the relationship between legal abuse and negative psychological outcomes, retriggering trauma, diminishing survivors' sense of safety, and undermining their expectations for support. This underscores the importance of judicial awareness and intervention in protecting the mental health of survivors who navigate the family court system

Theme Four: Recommendations for reform arising from the above three themes.

While only a small number of the papers reviewed for this study concluded with some recommendations across a broad platform of policy, practice and legislation, there was nonetheless concordance regarding the suggested recommendations. A systems response that is 'trauma-informed' was recommended by a number of papers, with certain elements of that response also echoed across many other papers. Drawing on the findings as reported in the three preceding themes, Bradshaw et al. (2023, p. 118) suggested that a trauma-informed system would prioritise the importance of all professionals across all systems that victim-survivors engage in, understanding the 'dynamics and sequelae of traumatic experiences'. The authors assert that this appreciation of dynamics and impact could militate against the clearly documented experience of re-victimisation as reported in theme two. Applying this trauma-informed lens to the discussion, this section highlights the recommendations emerging from this review, across three broad areas: Processes; Practice; and Procedures.

- **Processes**

A number of studies highlight the need for structural changes to the physical space of the family courts. Participants in Douglas (2018) for example stressed the importance of having safe waiting areas in courts to reduce the chances of victims encountering their abusers while entering, waiting, and leaving the court. While this issue is partially addressed by creating waiting spaces that ensure separation between parties involved in DVA cases and identifying separate entry and exit points for them, the authors make the valid point that many courts were not designed with DVA in mind, and separate waiting areas and entry points may not be available. Other actions that might mitigate against this include staggered attendance times and screens used in waiting areas to prevent parties from seeing each other. Drawing on the learning from speciality courts settings like the drug courts which follow a trauma-informed philosophy and practice approach, Miller and Manzer (2018, p. 4562) assert that the evidenced success of these courts is in part down to 'well informed judges who are instrumental in demanding and instituting top-down changes'.

Ease of access to information on the proceedings, processes, resources and supports available is also a clear recommendation across many of the papers reviewed. Bradshaw et al. (2023) suggest that when victim-survivors enter family court proceedings, they should be given access to resources such as information on affordable legal assistance, the family court process, co-parenting management, DVA agencies, and support groups, citing as an example, the toolkit provided by the Custody Awareness Collaborative (Hailes, 2018). This should also include ongoing support for mothers and children following the decision of the court and regardless of the custody outcome (Khaw et al., 2018). Bradshaw et al. (2023) and Gutowski and Goodman (2020) highlight the importance of victim-survivors having an automatic entitlement to an advocate or peer supporter to accompany them throughout the court hearing. A number of papers raise the issue of access to both affordable and quality legal assistance, correlating that access with improved outcomes for victim-survivors (Miller & Manzer, 2018). Bradshaw et al. (2023) concluded from their research that there is a clear need to transform legal practice to ensure victim-survivors experience a compassionate response from their legal representation, without which Gutowski and Goodman (2020) suggested they are simply unable to have their story heard. Finally, enhanced access to technology when giving evidence was recommended by a number of studies as a significant step towards the promotion of victim safety and reducing victim trauma when telling their story of abuse in close proximity to their abuser (Coy et al., 2015; Douglas, 2018; Wilde et al., 2024).

- **Practices**

Miller and Manzer's (2018) recommendation above for the development of DVA specialist courts, is dependent they argue on judicial training on the dynamics of DVA. Feresin et al. (2018) helpfully suggest reference to the Istanbul Convention as a powerful document that underscores professional responsibility to be trained and informed about the dynamics of domestic abuse and to consider perpetrators accountable for their violent acts. The recommendation for training for key professionals emerged as a strong theme across many papers reviewed (Khaw et al., 2018; Gutowski, & Goodman, 2020; Wilde, et al., 2024). The long-term impact on participating parents in Francia et al.'s (2019) study included a devastating emotional and psychological aftermath from their engagement with a system that lacked understanding of their experiences. To counter this, Bradshaw et al. (2023) and Dalgarno et al. (2024) argue for the necessity for professionals who are knowledgeable about abuse dynamics and the effects of trauma on a survivor's presentation and memory in order to assess and screen for DVA. Both identifying and understanding the dynamics of DVA within family systems, they argue, can help prevent legal abuse, reduce the need for survivor mothers to alter their demeanours in court, and support decision-making that enhances children's safety. Furthermore, this ultimately ensures a more

supportive experience for survivors entering family court processes. A thorough understanding of the coercive and controlling dynamics in relationships involving DVA requires time and early preparation however (Douglas, 2017). This includes reviewing background materials such as applications, affidavits, and other statements. Douglas (2017) cautions that insufficient preparation time is shortsighted and can lead to delays, poor decision-making, and endangerment of those the legal system aims to protect. Douglas's (2018) findings on memory loss in victims due to mental trauma or traumatic brain injury are important to consider here as more time may need to be taken to elicit testimony and importantly, that consideration is given to not taking testimony in the presence of the abuser. The need for specific trauma informed trained professionals who write reports for the court was also recommended by Wilde et al. (2024), with participants in Rathus (2019) illuminating how their experiences are invalidated and their risk increased when these professionals are not DVA literate and informed.

The importance of trauma informed responses comes into sharp focus when we consider as Gutowski and Goodman (2020) have done, the impact that positive responses can have on victim-survivors. While participants in this study shared instances of being discounted and disadvantaged, many also recounted examples of court professionals responding sensitively to their experience of abuse. A number of papers also suggest that developing policies, procedures and guidelines that reflect the complexity of DVA, could support best practice (Feresin et al., 2018; Romero & Staudenraus, 2024). T

- **Procedures**

A number of papers call for enhanced legal frameworks to both reduce or minimise the occurrence of secondary victimisation and prioritise the safety of victim-survivors and their children. While Douglas (2017) calls for legal recognition of DVA as coercive control, they also caution that legislative reform may not ensure cultural change in attitudes towards DVA. Khaw et al. (2018) also call for enhanced legal frameworks, where consideration is given to exempting victim-survivors from 'friendly parent' obligations. Dalgarno et al. (2024) conclude from their study that terminology including 'parental alienation' or 'alienating behaviours' be prohibited in family law cases, while participants in Douglas (2018) call for the need to minimise the requirement for them to attend court in order for recovery from the impact of living with DVA to occur. Also included in the recommendations for procedural reform is a call for increased accountability and transparency in family law processes. Khaw et al. (2018) for example suggest that making the custody determination process more transparent can help manage victim-survivor expectations and potentially reduce disempowering experiences. Also calling for increased accountability but focusing on professionals who complete assessment reports for the court, Rathus (2019) recommends the establishment of clear criteria qualifications for these professionals in addition to victim-survivor access to a complaints mechanism so that professionals

can be held accountable if needed. Finally, Wilde et al. (2024) call for the introduction of an independent review body that would randomly review and evaluate family law cases in order to identify risks, inform reform and enhance training needs for all professionals involved. While intersecting issues were largely absent from the literature reviewed, Dalgarno et al. (2024) recommend that specific attention going forward needs to be given to the needs of minoritised communities including black women and women with disabilities.

2.4.2 Findings Question Two: How do children experience being heard [their views and experiences ascertained and represented] in family law proceedings in contact/access cases involving domestic violence?

Notwithstanding the small size of this sample, with only six papers meeting the inclusion criteria outlined above, the analysis highlighted two clear themes:

- **Theme One:** Hearing or Silencing Children; and
- **Theme Two:** The Visibility of DVA & Safeguarding Concerns in Family Law Debates on Child Contact.

Theme One: Hearing or Silencing Children

Despite the recognition of children as competent social actors and the legal obligations to engage them, as per the UNCRC, which advocates for children's participation in legal processes affecting them, analysis across these six papers highlights a very broad canvas of professional practice and subsequently a mixed experience of participation for children in the context of family law disputes. We start with the conclusion of Eriksson and Näsman (2008, p. 271), where the practice their paper has illuminated of hearing children's voices is described as 'deeply disturbing'. While the qualitative research study which is the focus of this paper engages with ten children aged 8-17 years, the discussion on children's participation and agency draws solely from the interviews with two ten-year old boys.

In this paper, key messages to emerge from both boy's narrative concerned the lack of consultation the boys experienced regarding when, how and where these assessment meetings would take place. In the absence of such consultation and the building of trust with the young boys, and with the presence of parents at these meetings, the boys said they did not feel safe and could not express their true feelings about contact with their abusive parent going forward. For one child, the anxiety associated with these meetings physically manifested as illness. Both boys were effectively silenced.

We contrast this silencing of children's voice in the decision-making process with Fotheringham et al.'s (2013) paper reporting on the 'Speaking for Themselves' (SFT) pilot project in Calgary, Canada with the goals of enhancing children's safety, ensuring their voices were heard in custody matters, and prioritising their best interests in legal decisions. The findings suggest that the collaborative approach between legal and therapeutic professionals in supporting children in these situations resulted in enhancing children's emotional well-being, reducing trauma levels whilst also incorporating children's views in the resolution of custody disputes. Importantly, the evaluation with children highlighted that their active participation and experience of being heard increased their sense of control, empowerment and enhanced resilience. Across three papers (Eriksson & Näsman, 2008; Holt, 2018; Fotheringham et al. 2013) it is clearly evident that children were acutely aware of their father's abusive behaviour and also saw themselves as proactive in the maintenance of their relationships with their parents and not as passive recipients. Indeed participants in Holt's research demonstrated both their capacity to form views and also their strong belief in their right to be heard. Where children's views had been sought however, a dominant theme across the papers involved participating children not experiencing those views being heard or respected. MacDonald's (2016, p. 841) content analysis of court files focusing on children's voice, noted the influence of the child's age on the 'weight' attached to that voice. To that end, younger voices were much less likely to emerge in the reports in a meaningful way and in fact 'were usually absent from the recommendations'. Across all of the papers reviewed, the privileging of contact or the presumption that contact was in the child's best interests resulted in a practice of presenting the views of children who wanted contact as unproblematic (MacDonald, 2016). Children who opposed contact were simultaneously viewed as problematic and ignored – or as Holt (2018, pp. 471-472) argues, their views are 'filtered through a professional adult lens, a lens that views this narrative as 'inherently suspect', particularly when it does not conform to the dominant discourse' on best interests. MacDonald's (2017) content analysis also identifies a 'selective approach' taken towards children's voices, where they were more likely to be taken seriously if the child wanted contact but pathologised if they did not. Picking up this concern with an 'inherently suspect' narrative, Morrison et al. (2020, p. 410) found that when children raised concern about the presence of DVA in their lives, they were viewed as articulating adult concerns and perceived as being 'overly involved' or even 'manipulated' and in need of protection from the debate. Morrison et al.'s (2020) metaphor of the 'border' that professionals/the court system attempts to use to frame disputed contact as an adult dispute, illuminates how children's agency can be undermined and their lived reality as victim-survivors of DVA ignored when adults attempt to shield them from issues and processes considered potentially harmful for them. While the reality of their lived childhood

experiences reflect living with DVA, the manner in which this was recognised in court processes that capture their views is debateable and the subject of the second theme.

Theme Two: The [in]Visibility of DVA & Safeguarding Concerns in Family Law Debates on Child Contact.

As has already been established in the first theme on hearing or silencing children, we also present a range of findings across the six papers under the broad thematic heading of ‘the [in]Visibility of DVA & Safeguarding Concerns in Family Law Debates on Child Contact’. Importantly, these two themes are connected, not only by the mechanisms through which a child’s voice is captured and heard but also through the positioning of children, firstly as actors and secondly as actors in the DVA debate. While much around this debate circles back to notions of capacity as discussed earlier, a key concern is grounded in the weight given to those views. Starting with Holt’s (2018) paper, while participating children could clearly articulate both their experiences of and views on domestic abuse and on post-separation contact with their father, it is interesting to note that their views on DVA and fathering were ‘usually discounted’ or filtered through an adult lens.

In a similar fashion we witness the disappearance of children’s expressed experiences of DVA in MacDonald’s (2017) content analysis of the welfare reports completed on those children for consideration in the English family law courts. While MacDonald (2017) observes that analysis of the reports does not clearly indicate what children were asked as part of the process, it is however clear that where children did disclose experiencing DVA, this was not presented as a significant factor in the report and certainly did not ‘trump’ a consideration of ongoing contact with that abusive parent. MacDonald (2017, p. 8) stated that these accounts of violence ‘simply disappeared’ from the final recommendations of the report. Presented as a routine fact in the assessment report, with no consideration that this required follow up or indeed that any consideration needed to be given to making contact safe for children, even the ‘most extreme or serious cases of violence’ were disregarded (2017, p. 9). MacDonald (2017) further commented that reporting or presenting children’s voice in this way, without professional analysis or comment is not only inadequate but it more importantly makes it all too easy to disregard or manipulate those voiced opinions. Returning to Eriksson and Näsman’s (2008) argument that meaningful participation is central to a care perspective, we respectfully question how this care perspective can be realised when the child’s view is not heard or respected and when the risk of DVA the child clearly articulates simply vanishes from the record.

Reflecting on both the positionality of children and the disappearance of DVA, Morrison et al. (2020, p. 410) consider that the circumstances surrounding DVA add a significant layer of complexity, as children are not only relationally connected to their parents but are also deeply affected by the abuse that has occurred and may still be ongoing. For many children commented on in Morrison et al.’s (2020)

study, concerns about DVA prominently influenced their feelings regarding contact with parents. However, the authors caution that the legal system's tendency to separate children's perspectives from parental disputes only serves to underestimate and indeed undermine the nuanced nature of children's experiences, thereby rendering invisible the pervasive presence of domestic abuse in their lives. When children make their views on these 'adult concerns' visible, Morrison and colleagues caution that those children may be seen as 'overly involved', undermining their rights to participation. Although the law seeks to shield children from parental conflicts by excluding them from the legal process, children's testimonies suggest that this exclusion is neither feasible nor desirable.

While traditionally domestic abuse has been viewed as an adult topic and one that adults may struggle to make visible in their conversations with children, the participants in Fotheringham et al.'s (2013) paper reported a positive emotional impact from having adults—particularly their therapists and lawyers—engage in conversations with them and listen to their experiences regarding DVA. The program encouraged children to share their thoughts and feelings about their experiences of DVA, fostering a sense of control and personal power. Many children expressed feelings of hope and empowerment, suggesting that being heard acted as a protective factor against the trauma they experienced. Conversely and as highlighted by Eriksson & Näsman (2008), a disqualifying experience of investigation and one that does not validate their experiences, only serves to increase their vulnerability by positioning them as the 'unprotected victim' (Macdonald, 2017, p. 10).

2.5 Discussion

The contextual focused literature review informing this study confirms the serious extent, nature and impact of DVA on adult and child victim-survivors. It also provides an indisputable evidence base that raises critical concerns for the safety and welfare of adult and child victim-survivors once the adult relationship has ended, with post-separation contact providing opportunities for ongoing and often escalating abuse and violence.

A concurrent yet important debate concerns the voice of the child in any decision-making process, with a wealth of material across multiple domains advocating for the realisation of children's participation rights and an appreciation of their capacity to give 'voice' to their experiences. Taking these two domains together - how children experience living with DVA and how their right to participation is realised in practice - this chapter acknowledges the discourse regarding the voice of the child in decision-making, particularly in custody and access cases, as complex and often contradictory. Although there is a commitment to a framework of children's rights, these rights are frequently overshadowed by welfare concerns in family law proceedings, where the focus has been

primarily on protecting them from involvement in the process. Also overshadowed to the point of invisibility is the history of DVA in the family law decision-making process on contact.

Two specific points are worth highlighting in the conclusion to this chapter. Firstly, while the research drawn on in the earlier section of this chapter confirms children's competence to participate in the discussion about their experiences: their past as well as their future, the nascent evidence base on how children's voices are actually engaged with in that process is stark. Only six papers were identified over the last 25 years that capture the voice of the child in family law proceedings where there has been a prior history of DVA – with only four of those papers directly reporting children's voice. While this could suggest a reticence to include children in research on issues that may distress them; it may perhaps be more accurate to question if the nascent research evidence is actually reflective of a broader belief or assumption in family law cases that it is necessary to increase their protection by limiting their involvement in that process. Inherent in this perhaps, is a paternalistic assumption of knowing, in the absence of any consultation with children, what is in their best interests. While the children whose voices we do get to hear directly across these four papers demonstrate a clear ability to understand and articulate what is happening in their family and importantly what they might want or not want to emerge from the decision-making process, of concern is the now established trend of selective listening, as articulated in the discussion. The absence of the child's voice in this broader debate, however, is closely intertwined with the second point we want to make in this concluding section.

The lack of focus on how adult victim survivors experience navigating the family law system in the context of GCA proceedings and a prior history of DVA also reflects a concerning absence of DVA in these debates. Drawing on a considerable bigger global bank of evidence, the focused review of the 35 papers on how adult victim-survivors experience the journey through the family law system, confirm with disappointing consistency, a judicial pattern of discounting, doubting, or disbelieving women who describe violence and abuse at the hands of the fathers of their children. Of concern, even when significant actors in the family law process believe survivors' stories of DVA, they may dismiss them as unimportant or irrelevant to custody determinations. And so the narrative of abuse, responsibility, blame and accountability gets rewritten with relative ease and remarkable credibility to support the overwhelming drive supporting ongoing contact – at all costs. The costs borne by mothers who challenge these prevailing assumptions by raising concerns for their children's welfare in the context of contact with an abusive parent are high. Notwithstanding the absence of any scientific or other evidence to support the parental alienation debate, the badge of alienation is seemingly easy to achieve but the black mark it adds to the copy book of parenting or mothering capacity can be impossible to erase. Barnett's (2020, p. 126) review of the literature concludes that 'the approach of

courts and professionals was one that attempted to 'fit' or 'shoehorn' domestic abuse into the legal process, rather than the legal process adapting and responding appropriately to the lived reality of domestic abuse'. We conclude this review of the literature by supporting Barnett's assertion and returning to Eriksson and Näsman (2008, p. 272) who cautioned that 'disqualifying and invalidating investigation process directly contributes to the (continued) victimization of children who are already vulnerable'. We would extend this assertion by challenging that the same disqualifying process invalidates and renders increasingly more vulnerable, an already victimised population of adult survivors.

Chapter Three

Methods (abridged version)

‘Real world research is the cornerstone of applied learning, evidence-based policy and informed decision-making’ (Robson & Mc Cartan 2016, p.10)

3.1 Introduction

This chapter provides an outline and summary description of the methodology design and approach employed to realise the aims and objectives of this research project as set out in the opening chapter and reiterated below. This includes a brief outline of the following areas; chosen approach, research design and research methods, sampling decisions and approaches, data collection processes and procedures, and ethical considerations. The unabridged methods chapter is available in Appendix 4 of this report and contains greater detail than presented here.

3.2 Aims and Objectives of the research study

Addressing significant gaps in the Irish social and legal context, the overarching aim of this study is to explore how victim-survivors of domestic violence and abuse, including children, experience navigating guardianship, custody and access proceedings in the Irish Family Law system. The objectives of this study are to:

- Understand the experiences of, and impacts on, adult victim-survivors of domestic violence and abuse who engage with custody and access proceedings in District Courts.
- Understand the experiences and outcomes for children with a specific focus on how their views are ascertained and represented.
- Illuminate the predominant enablers or and barriers to safety and support, as experienced by adult and child victim-survivors in this context.
- Achieve a sample diversity in order to identify and include additional intersecting factors.
- Identify models of evidence-informed good practice that can inform recommendations going forward.

3.3 Research Design

To realise the aims and objective of the study as set out above, this study adopted an exploratory sequential mixed-methods research design, where each research activity’s findings informed the

structure and design of successive activities (Creswell & Plano Clarke, 2011; Teddie & Tashakkori, 2009). In order to elicit a 360-degree investigation of this understudied area in the Irish context, adopting this mixed methods approach, this study sampled from a diverse range of actors (victim-survivors, children, professionals/practitioners), across the following three phases of the research:

Phase One involved two large surveys:

- Survey of specialist frontline domestic violence practitioners
- Survey of adult victim-survivors

Phase Two involved qualitative focus group and individual interviews:

- Focus Groups with a broad range of health & social care, and legal professionals
- Individual interviews with adult victim-survivors
- Individual interviews with children aged 9-17
- Individual interviews with aged out minors aged 18-24

Phase Three Family Law 'Case Study' involved interviews and observation

- Non-participant observation of family law courts in both rural and urban settings
- Individual interviews with judges, solicitors, barristers and relevant court personnel

This research employs triangulation across the three phases outlined above, combining diverse methods and data sources to enhance the depth and credibility of findings (Berg & Lune, 2012; Yin, 2017). By integrating perspectives from practitioners, adult and child victim-survivors, and observations of family law in practice, the study offers a richer, more nuanced understanding of the phenomenon under investigation.

As highlighted in the chapter's opening quote, the research design aligns with real-world inquiry and supports the study's aims to develop a contextually rich understanding of this under-researched area. It explores how adult and child victim-survivors of DVA navigate the family law system in GCA proceedings, while also examining the broader systemic processes that shape these individual experiences.

3.3.1 Ethical Approval and Oversight Processes

This study received full ethical and data protection approval across five separate oversight processes⁹². A Research Advisory Committee appointed by the commissioners of the research project, acted in an oversight and advisory capacity to the research team.

3.4 Conducting the Research

3.4.1 Phase One Survey Methodology

Phase one involved two online surveys: one targeting specialist practitioners working in DVA services, the second aimed at adult victim-survivors with experience of the Irish family law system for GCA in the context of DVA from 2015 onwards. The surveys collected both quantitative and qualitative data. Both survey instruments were developed using Qualtrics TM; a secure online survey platform.

Specialist DVA Practitioner survey instrument

The aim of this survey was to collect data from specialist DVA practitioners about their experience of supporting adult and child victim-survivors of DVA in navigating the family law system regarding GCA cases. The practitioner survey was aimed at practitioners working with female victim-survivors and/or their children in dedicated domestic violence services with Safe Ireland affiliation across Ireland. The survey was live on the online survey platform Qualtrics for a period of 14 weeks from the 15th November 2023 until 13th February 2024. Informed consent was obtained via the survey instrument. Based on a sample frame of 400 eligible practitioners, the survey achieved response rate of nearly 50%. Only surveys which were a minimum 80% completed were included in the analysis, which was agreed by consensus of the research team.

- **Participating DVA organisations characteristics**

Practitioners' organisations provided a range of DVA supports and services, including outreach, court accompaniment, visiting support, refuge, national and local helplines, supported housing and dedicated children's support.

- **Sample characteristics**

In total **196** practitioners completed the survey. The average number of years working for practitioners was 8.3 years. The most experienced practitioner had 30 years' experience, the least approximately 6

⁹² School of Social Work & Social Policy Research Ethics Committee, Trinity College Dublin; Data Protection Approval, DPO, TCD; Social Research Ethics Committee, UCC; Tusla Research Ethics Committee; and the Legal Research and Library Services Subcommittee of the Courts Services.

months. Most of the practitioners provided support to adult victim-survivors (n=137, 70.3%), while a far smaller proportion indicated they work only with children (n=13, 6.7%), and the remainder indicated that they support children and their victim-survivor parent together (n=29, 14.9%).

Adult survivor survey

This survey was aimed at all adult victim-survivors. It was launched on 8th January 2024 and was live on the secure online survey platform Qualtrics for 6 weeks until 16th February 2024. Adult victim-survivors who met the inclusion criteria for the study were recruited utilising social media posts shared within multiple networks. Only surveys which reached a minimum 80% completion rate were included in the analysis. This figure was agreed by consensus of the research team.

- **Eligibility criteria**

To be eligible to participate, respondents had to meet the following criteria: i) be a parent or guardian, ii) be a victim-survivor of domestic violence and abuse, and iii) have used family law courts since 2015 for GCA proceedings in Ireland.

- **Survey sample**

This survey had 416 respondents in total. The first question in the survey sought to establish whether the responding victim-survivors were '*mothers*', '*fathers*' or '*others*'. The sample comprised 370 mothers (88.9%), 43 fathers (10.3%) and 3 others (0.07%)⁹³. It is important to emphasise at this point that while proportions for female and male victim-survivors will be presented concurrently in some sections of this report, there is a large difference in the number of respondents in each group, which is important to bear in mind when considering the statistics presented. This difference in the number of female to male respondents was anticipated and is reflective of the much greater number of female victims of domestic violence and abuse both in Ireland and worldwide.

- **Sample characteristics**

The average age of female victim-survivors who responded to the survey was 42.3 years old. The youngest mother to respond was 23 years old while the oldest was 65. The average age for male

⁹³ It was not possible to include the three respondents who indicated '*other*' rather than '*mother*' or '*father*' in the quantitative analyses. However, their qualitative responses were included in the thematic analysis.

victims was 48.7 years old with an age range of 33 years old for the youngest respondent and 67 years for the oldest.

Nearly two thirds of mothers reported that they currently live in an urban location (n=240, 64.9%) with just over a third living in a rural location (n=130, 35.1%). Just over half of the fathers described their current location as urban (n=22, 51.2%) while slightly less live in a rural location (n=21, 48.8%).

The majority of female respondents (n=198, 58.6%) indicated they were living in the Leinster region at the time of their GCA proceedings, with nearly one third living in Dublin. While 27.5% were living in the Munster region, 8.5% (n=30) of the sample living in Cork. For male respondents (n=16, 40.0%,) were living in the Leinster region. However, the majority proportion indicated that they were living in county Cork at the time of their GCA proceedings (n=8, 18.6%).

- **Language, residency status & ethnicity**

The majority of the sample were Irish Citizens (n=357, 86.0%), 9.2% indicated they were EU citizens (n=38), 1.7% were non-EU citizens in Ireland with a work visa (n=7). The vast majority of the sample indicated that English was their first language (n=378, 90.9%). There were 33 respondents (7.9%) who stated that they were fluent in English, although it was not their first language. There were only five respondents (1.2%) who indicated lower levels of English. Of those who answered the question on ethnicity, the two largest groups for mothers were 'white Irish' (n=305, 85.7%) and 'any other white background' (n=33, 9.3%). For fathers 'white Irish' held a slightly lower proportion at 79.1% (n=34) and 'any other white background' accounted for 14.0% (n=6). Ethnicity will be discussed in greater detail in the chapter nine: Intersecting factors.

- **Respondents' children & families**

Responding mothers had an average of 2.2 children; families ranged from a single child up to a maximum of eight children in one family at the largest. There was a similar pattern with the responding fathers. The average amount of children for fathers was 2.1 children, again ranging from a single child up to a maximum of six children in the largest family.

Most mothers reported that the perpetrator of their abuse was also the other parent of all their children (n=307, 83.0%). This figure was even higher for fathers who were victims of violence (n=40, 93.0%). For mothers who had other children, there was a combination of those who had these children before or after the abusive relationship which was the subject of guardianship, custody and

access proceedings. There were some who reported in their qualitative responses that they had experienced more than one abusive relationship.

- **Court proceedings**

In relation to the court proceedings, there were similar figures reported by both female and male victim-survivors, so these are reported collectively. The average year in which proceedings commenced was 2018 (n=416). The earliest date that a case commenced was 2005 (reported to have concluded in 2023), while the most recent case commenced in 2023. More than half of the sample indicated that their court proceedings were ongoing (n=218, 52.4%), the remainder indicated that their proceedings had finished at the time of the survey. The date range for the conclusion of cases of the sample was from 2016 to 2023. Of those who indicated that their proceedings had concluded (n=198, 47.6%); over half of these respondents (n=101, 52.6%) said they have had to re-visit custody/access arrangements through the courts since their proceedings concluded.

Data analysis for DVA practitioners' survey and adult victim-survivors' surveys

Both surveys were designed and conducted using Qualtrics online survey platform. The data were analysed separately using their respective established analysis techniques. For further details on data analysis refer to the unabridged methods chapter in Appendix 4.

3.4.2 Phase Two: Focus Group and Individual Interview Methodology

Focus Groups

A sequential mixed-method approach prescribes building on the findings and gaps from preceding data collection. Focus group interviews were planned with key professionals who were not represented in the DVA practitioner survey. This approach recognises that not all victims-survivors will engage with dedicated domestic violence services.

Focus groups were structured by professional groups and included those with experience of supporting clients who were also utilising family law courts for GCA proceedings. Professionals were invited to participate through a range of gatekeepers identified through the Research Advisory Committee overseeing the project. Focus group interviews were conducted with professionals who provide family supports, a range of professionals from organisations who provide support to various migrant and minority ethnic communities, professionals who work directly with perpetrators, legal professionals

including barristers and solicitors, court appointed assessors who carry out assessments and prepare reports for the court, a number of representatives from various organisations working with the Traveller community, and individuals employed by Tusla. Lastly, a number of professionals who provide support to male victim-survivors to ensure that male victim-survivors’ perspectives of the family law system were represented. Focus group discussions were guided by a semi-structured interview schedule. All focus groups were facilitated by two team members. Table 5 below set out the focus groups, number of participants and when the group was conducted.

Table 1: Professional groups for focus group interviews

FG No.	Area of expertise	Number of participants	Date conducted
FG1	Family support professionals	10	March 2024
FG2	Migrant & minority ethnic professionals	7	March 2024
FG3	Perpetrator programme professionals	10	March 2024
FG4	Legal professionals	5	March 2024
FG5	Male victim-survivors	4	March 2024
FG6	Court appointed assessors	6	March 2024
FG7	Professionals from Traveller organisations	7	March 2024
FG8	Tusla professionals	12	May 2024

Individual Interviews

Semi-structured interviews were the chosen approach for data collection across all individual data sets in this study: adult and child victim-survivors in phase two, and judges and legal practitioners in phase three. Greater detail on the methodological rationale for using this approach to data collection can be found in the unabridged version of this chapter in Appendix 4.

- **Sampling children and young people for interview**

Gatekeepers in key organisations working with children and young people who have lived with DVA were recruited to support the research process and invite, where appropriate, eligible participants to consider taking part. All participating children and young people were recruited by purposive sampling employed by the respective gatekeepers and guided by the inclusion criteria. The gatekeepers starting point in the recruitment process was in passing on clear accessible and written information to the

parent on what the child's participation would involve, in addition to providing clear, accessible and age-appropriate information for the individual children on what their participation would involve. This was an important step in securing their victim-survivor parent's consent to invite the child to participate. The inclusion criteria for children's involvement included the following:

- Children were between 5⁹⁴ and 17 years of age at the point of interview;
- They were no longer living with the perpetrator of abuse;
- They were linked in with support services.

A total of 15 children and young people participated in interview. However, one participant was not included in the analysis. There were several ethical considerations in relation to this interview. A decision was reached by consensus of the research team to exclude this data from the study.

- **Conducting the interviews with children and young people**

While there has traditionally been a concern with protecting children's innocence and vulnerability by excluding them from conversations about difficult sensitive topics like DVA (Øverlien & Holt, 2018), as researchers we took as our starting point that participation can be experienced as empowering for children and young people if these interviews are conducted in a way that is ethically secure, (Øverlien & Holt, 2023). Guided by good practice guidance evidenced in the literature (Arnell & Thunberg 2023; Callagan et al., 2018; Cater & Øverlien, 2014; Øverlien & Holt, 2023) careful attention was given across the research journey of each child including recruitment, informed consent, preparation for and conducting the interview and post interview follow-up. Greater detail in relation to the process of obtaining assent and parental consent, and information relating to format of the interviews is located in the unabridged version of this chapter in Appendix 4.

Interviews lasted between approximately 30 and 60 minutes. All interviews were recorded via Dictaphone, with the participants expressed permission. A number of the children became upset during the interview process, and while all were offered a break or an end to the interview, only one child took a break and then returned to the interview conversation. It is important to note at this juncture that all participating children and young people were assigned false names (pseudonyms), which are used throughout this report. In contrast, non-participating children referenced in quotations and narratives are identified using generic terms such as 'child', 'child 1', 'child 2', or using descriptors like 'son' or 'daughter'. This approach ensures the anonymity of individuals who did not provide explicit

⁹⁴ While full ethical approval was granted to include children as young as 5 years of age, the youngest child in the final sample was 9 years of age.

consent to participate in the study and also helps distinguish between participants and non-participants. See Table 6 below for the final sample of interview participants.

Table 2: Final sample for interviews with children and young people

Participant Number	Pseudonym	Age
Child participant 1	Maggie	11
Child participant 2	Dara	17
Child participant 3	EXCLUDED	15
Child participant 4	Ruth	14
Child participant 5	Roisin	10
Child participant 6	Rae	16
Child participant 7	Megan	13
Child participant 8	Greg	9
Child participant 9	Ruby	13
Child participant 10	Evan	9
Child participant 11	Jude	10
Child participant 12	Alice	14
Child participant 13	Sam	13
Child participant 14	Crea	12
Child participant 15	Aoibhe	16

- **Sampling the ‘aged-out’ victim-survivors**

‘Aged-out’ victim-survivors refers to individuals who experienced GCA processes as children, but who have now reached statutory adulthood being aged between 18 and 24 years at the time of interview. These aged-out individual are in the unique position of being able to reflect on their childhood experiences of GCA processes and decisions now that they are adults. These young adults were recruited using the same gatekeepers and processes for children and young people, information on which can be located in the unabridged methods chapter in Appendix 4. Aged-out victim-survivors who met the inclusion criteria for the study were also recruited utilising social media posts shared within multiple networks. These participants met much of the same criteria participation as adult victim-survivors including that they lived in a household with DVA, that they had self-selected to participate, that they had a sufficient level of English, that they had some experience of engaging with family law processes as children since 2015. All except one interview, took place via MS Teams. A total of six aged-out victim-survivors participated, as illustrated in Table 7 below:

Table 3: Final sample for interviews with aged-out minors

Participant Number	Pseudonym	Age
Aged-out participant 1	Mia	19
Aged-out participant 2	Cara	20
Aged-out participant 3	Luke	20
Aged-out participant 4	Claire	19
Aged-out participant 5	Pippa	18
Aged-out participant 6	Anna	18

- **Sampling the adult victim-survivors**

Adult victim-survivors were recruited across a broad range of agencies working with both male and female victim-survivors of DVA. The required criteria for participation for adult victim-survivors included that they had experienced DVA, that they were a parent, that they had self-selected to participate, that they were not currently living with the perpetrator, that they had a sufficient level of English, that they had some experience of engaging with the family law system since 2015 and that they were connected with a specialist support service and could access support if required following participation in the interview. A total of 24 adult victim-survivors participated. This comprised 23 mothers and one father, please see Table 8 below for the final sample of participants.

Table 4: Final sample for interviews with adult victim-survivors

Participant Number	Pseudonym
Adult participant 1	Sofia
Adult participant 2	Cathy
Adult participant 3	Elaine
Adult participant 4	Megan
Adult participant 5	Shiaria
Adult participant 6	Lucy
Adult participant 7	Aisling
Adult participant 8	Maura
Adult participant 9	Olivia
Adult participant 10	Michaela
Adult participant 11	Petra
Adult participant 12	Sonya
Adult participant 13	Sheila
Adult participant 14	Noreen

Adult participant 15	Leah
Adult participant 16	Eva
Adult participant 17	Alison
Adult participant 18	Tom
Adult participant 19	Jane
Adult participant 20	Lily
Adult participant 21	Millie
Adult participant 22	Prea
Adult participant 23	Kate
Adult participant 24	Samantha

- **Conducting the interviews with adult victim-survivors**

Interviews with adult victim-survivors ranged from 45 to 150 minutes and took place primarily face-to-face in a location of their choice (their home, the service they were linked with or a community-based service in a suitable location). With attention to adult victim-survivor safety, some interviews also took place via MS Teams where that was the preferred option for the interviewee. Some further information on conducting the interviews with adult victim-survivors can be found in the unabridged methods chapter in Appendix 4.

3.4.3 Phase Three

Non-participant observation

Non-participant observation is a tool for studying people in 'real-life' situations. For the purpose of this research, the Family Law Court was the observational site of interest, with non-participant observation conducted in both rural and urban court settings. Additional information and considerations in relation to non-participant observation are presented in Appendix 4.

Approximately 100 hours of observation were conducted. Observation added a rich layer of data to the findings in this research, confirming preconceived notions and challenging others. It raised important questions that were woven into the research design and strategy, providing insights and challenges that would otherwise have gone unnoticed.

The Judges and legal professionals: sampling and interviewing

Following approval from Court Services Legal Research and Library Services, judges currently practicing in family law courts met the eligibility criteria for inclusion in the interview sample frame. Information about the research and an invitation to participate was circulated by the President of the District Court.

All interviews were conducted online via the MS Teams platform and recorded with interviewee permission. The interview followed a pre-prepared interview schedule that had been approved by the Court Services Legal Research and Library Services. See Table 9 below for final sample of interview participants.

Table 5: Final sample for interviews with Judges, legal professionals and court staff

Participant Number	Pseudonym	Profession
Participant 1	LP1	Barrister
Participant 2	LP2	Court Registrar
Participant 3	LP3	Court Registrar
Participant 4	LP4	Barrister
Participant 5	J1	Judge
Participant 6	J2	Judge
Participant 7	J3	Judge
Participant 8	J4	Judge
Participant 9	J5	Judge
Participant 10	J6	Judge

3.5 Analysis / Integration of data

This mixed method methodological approach, which employed multiple data collection methods from multiple sources, yielded a vast and complex amount of data which required careful balancing and ‘holding’ to ensure dominant themes or constructions did not blur or obscure less powerful findings. Data analyses for each phase were undertaken using their respective established analysis techniques. Frequent research team meetings were held to discuss and agree emergent themes from the datasets, and how they linked together. The results from each of the respective datasets were instead combined at the interpretative stage of the research process, then integrated to create a single narrative.

3.6 Ethical Considerations

With an appreciation that the integrity of the project relies on an ethically sound research design and researchers’ ability to conduct research in a safe and ethical manner, considered attention was paid to the ethical considerations involved in this research. The fundamental elements to ethical research are; to do no harm, to ensure consent is fully informed and to maintain confidentiality and anonymity (Gallagher, Haywood & Jones, 2010; Smette, 2019). These fundamental aspects of ethical research are discussed in more depth in the unabridged methods chapter at Appendix 4.

3.7 Research Limitations

While every effort has been taken to ensure robust and rigorous research practices in all aspects of the research design and execution, there are several limitations which need to be considered. A main focus of this research was to achieve diversity in the sample. It was anticipated there could be challenges in phase one which used a survey methodology, particularly as the survey instrument contained many questions and the content related to complex legal processes and systems. It was planned to recruit a more diverse sample during phase two interviews. Indeed, while there were more individuals from diverse backgrounds recruited in this phase, low numbers however for many individual groups meant that comprehensive analysis of their data was limited. Therefore, additional layers of security were enacted to protect the identity of individuals when discussing findings which related to minority group participants. These are explicitly highlighted throughout the report. Furthermore, despite many targeted recruitment efforts, it was not possible to recruit any interviewees from LGBTQI communities.

Additionally, there were many challenges in recruitment of 'aged-out' minor participants. Several attempts were made to recruit more participants for this category. However, these were largely unsuccessful. For these reasons, it was not possible to complete the number of interviews which were originally planned in the research design. Nevertheless, the six individuals who participated in interviews provided thoughtful and deep insights into their lived experiences of GCA proceedings.

Finally, despite many attempts to recruit male victim-survivors for participation in interviews, only one male victim-survivor was recruited. Therefore, to protect the anonymity of the one male participant, it was necessary to combine the data from his interview with the data collected from the 43 male victim-survivors who responded to the survey. The research team believed that to discuss this one interview in detail, could risk the possibility of making this participant identifiable. On this basis, where quotes were used, they were intentionally non-specific to his proceedings.

3.8 Conclusions

This chapter has presented a streamlined overview of the methodological framework employed to address the research aims and objectives. While this summary presents some key components of the research design, it is intended to be a concise guide to the approach used. As referenced throughout this chapter, an in-depth and comprehensive account which provides detailed rationales, descriptions of research processes and contextual considerations is available in the full methods chapter in Appendix 4. This unabridged version offers valuable insight into how the research was conducted and

why specific methods were selected, thereby enhancing the transparency, rigor, and replicability of the study.

Chapter Four

Living with DVA including Coercive Control: The Pre-and Post-separation Story

4.1 Introduction

While the focus of this research is on the participants experience of navigating the family law system in guardianship, custody and access cases, all participating adult victim-survivors spoke at length in interview about their pre-separation experiences. This data gives considerable insight into their own experiences of intimate partner control, manipulation and abuse, and importantly paints a clear picture of how their children experienced both living with and being parented by a domestically abusive parent. This information on pre-separation abuse and abusive parenting capacity provides a critically important contextual backdrop to the post-separation experiences of adult and child victim-survivors, particularly their experiences of navigating the family law system.

Setting out the experiences of mothers and fathers as victim-survivors in separate chapters, this chapter therefore begins with an overview of pre-separation life as described by mothers in individual interviews and supported by their survey responses. The chapter will then present mother's views and perspectives on their post-separation experiences, which is of crucial importance as this is the context in which access/contact and related arrangements occur. It will then move on to explore how access/contact is experienced by mothers and children, drawing directly on the mother's narrative. The experiences of fathers as victim-survivors are presented in chapter seven.

4.2 Forms and Frequency of Abuse in the Pre-Separation Period

Several interviewees described how their partners cultivated public personas which served to mask their identity as a perpetrator of abuse. This portrayal fed into victim-survivors' fears of not being believed. To illustrate, Maura described that her ex was *'Mr. Charming, Mr. incredible; everybody loved him'*. Cathy used the term *'street angel, house devil'* to describe her former partner. This public image of the 'good daddy' Cathy said that he developed to perfection in the small town they lived in. He was *'a park daddy, a walk the street daddy, so he's always seen with them, so then all the aul ones would be stopping me like, 'isn't [ex] a great father'*. Yet the stories of their pre-separation experiences included physical, sexual and emotional abuse of them and their children; financial control and

isolation; and a spectrum of coercively controlling actions including stalking, tracking, monitoring and surveillance. This next section details these abusive experiences.

Similarly, according to the responses left by mothers in the adult victim-survivor survey on pre-separation experiences of abuse, 94.1% experienced emotional abuse (n=348), 92.7% experienced coercive control (n=343), 74.3% experienced financial abuse (n=275), 64.3% experienced physical abuse (n=238), and nearly half experienced sexual abuse (n=164, 44.3%). The complete survey responses on forms of abuse experienced pre-separation are provided in Table 10 below.

Table 6: Forms of abuse experienced by female victim-survivors pre-separation

Form of abuse	N	%
Emotional abuse	348	94.1
Coercive control	343	92.7
Financial abuse	275	74.3
Physical abuse	238	64.3
Damaged your belongings or property	228	61.6
Stalked	199	53.8
Sexual Abuse	164	44.3
Online / digital abuse	138	37.3
Harmed a pet or animal	102	27.6
Other	34	9.2

(n=370, missing=0)

These experiences of pre-separation abuse were strongly echoed in the interview data.

4.2.1 Physical and Sexual Abuse

In addition, 44.3% of female survey respondents (n=164) reported pre-separation sexual abuse, a number of the respondents in the survey explicitly used the term rape (n=12), while many more discussed their experiences of sexual abuse in broader terms, by their former partner prior to separation. This was echoed in the interview data, here Kate described years of serious sexual assault by her former partner who she stated forced her *'to perform different things'* instructing her that *'when a man does you a favour, you'll perform sexual acts or he'll take it out on you and the children'*. These overt threats to harm the children connected to sexual assault and to separation were also evident in the survey responses:

When I told him I wanted a trial separation, he tried to rape me. He used threats of hurting our child to coerce sexual intercourse. (R13 female)

Only one interview participant stated that their abuser was arrested and prosecuted for the offence.

Participants also described physical acts of violence they endured, often witnessed by their children. In this next quote, Leah recalls her daughter who had limited verbal skills, telling the psychologist during an assessment of the time she witnessed her father choking her mother:

I took the little one to her assessment and she was able to tell a psychologist that was doing it about him grabbing my throat – she’s very poor speech, but she was like, ‘Mam, tell –’ and she was doing this to her throat, grabbing her throat – tell the lady’; so (psychologist) had looked at me and goes, ‘Is everything OK?’, and I said, ‘She’s trying to tell you about a time when the ex grabbed me throat’. Leah

Shiaria, who had been married for seven years at the point of separation, described her experience of that time as littered with unprovoked physical violence, when for example she asked a simple question like was an email address .com or .ie. In this next quote, she reflects on the long-lasting impact of that physical violence on her:

‘I was slapped... so many slaps; so many scars all over my body. Every scar has a different story to tell. But some have healed over the time, and there is a big scar inside here [points to her heart]... I think this scar’s forever. Shiaria

Kate gave examples of her former partner restraining her by pinning her into a space or sitting on her chest with his knee on her, pinning her with her arm behind her back – all incidents that her children still recall. *‘He would just completely flip, and then he would go from screaming to whispering; from screaming to whispering’.*

Alongside physical and sexual abuse, Prea detailed a history of coercively controlling behaviours, isolation and financial dependence on her abuse – with her experiences of this control echoing the experiences of the majority of adult victim-survivors in this study. Another participant, Maura highlighted that her experience did not involve physical violence, and while her former partner might be *‘right up in my face, he’d always just get to the point of right there’* but would state *‘Don’t worry, I’ll never hit you’*. That level of intimidation emerged as a key tactic of coercive control, with another

participant Sonya stating *'It was very coercive; it was all psychological control. I'd rather a hiding any day than what that was. It was horrible'*.

The sections that follow present the evidence on a broad continuum of control as evidenced by the adult participants.

4.2.2 Controlling, monitoring and surveillance

A number of the mothers in this study recalled their concerns of surveillance monitoring and control by their former partner when they were still living together. Aisling for example described her former partner as *'very controlling'*, citing examples of him phoning her in work several times a day and following her to restaurants if she was out with friends. Describing him as *'obsessed'* that she was having an affair, Aisling detailed this obsessive behaviour to manifest itself in him going *'everywhere with me. There was no space.'* Aisling also said her former partner had a tracker on her car to monitor her movements, an experience echoed by other participants in this study.

Micromanaging the family's routine and practices also emerged with clarity in this research. Maura for example described her partner deciding everything from household items, to how the children wore their hair, the clothes they wore and mealtime rituals. If any family member did not comply with his stated preferences for any of these practices, Maura said he would *'go in to like a full on rage... so controlling in everything'*.

Financial abuse and control

Many of the participants also detailed very clear examples of **financial abuse and control** as themes running through their pre-separation stories. One participant Sophia talked in interview about having no personal bank account, with her husband controlling the family finances and having the family home in his name. Describing herself as *'fully financially dependent [on him], I wasn't independent'*, Sophia quietly set up her own home based business. However, she said that when her husband found out about it arising from a neighbour praising Sophia's skills, he deducted her weekly allowance to feed the family by the amount she was making with her business. Eventually the effort of getting up at 5am to get ahead on her housework and manage her business orders became too much when she could not benefit from the potential source of income it had promised.

Similar to Sophia above, Kate also spoke in interview of her former partner controlling everything *'he wanted the house to himself; he wanted everything signed over to him; he wanted complete control over everything'*. Kate also described receiving little financial support from him for childcare and

general household costs, resulting in her having to work at night and early in the morning when the children were asleep in order to feed and clothe the children. Kate recalled his instructions to her when they moved into their house:

You'll sign this house over to me. This is my house', you know, 'You're not allowed to bring anybody into the house without prior consent. You're not allowed bring anything into the house without my knowledge and consent, or else I'll throw you out. Kate

Micro-management of the family finances meant that for Leah, she had to produce receipts for everything she bought and also was only given very small amounts of cash that she had to manage very carefully. If she went over the amount she had, she had to borrow from a friend as she explained: *'I can't go back and say it to him cause he'll hit the roof'.*

While a number of mothers in this study described themselves as the primary breadwinner in the family, some of them nonetheless had no control over the family finances, as Olivia explains:

I earned the money – he somehow managed to take control of all of it – and in a not obvious way; he was incredibly subtle. Olivia

Isolation as control

Isolation as a key tactic of DVA also emerged in this study to varying degrees. Maura spoke about constant house moves from one location to another which she identified in interview as compounding her isolation and always occurring when she and/or the children started to make friends and put down happy roots in a new place. For Alison, a process of what she called 'love-bombing' in the initial period of their relationship was combined with a process of isolating her and ensuring she withdrew from family and friends. With her partner telling her that *'He's the only one that cared for me'*, consistent messages that close family members did not care about her as much as he did, led to a very close and intense relationship that shut out other people, leaving the two of them in the relationship very dependent on each other.

Kate similarly talked about isolation from her family who were 'barred' from the family home. Describing her partner as being there to *'lock us in and lock us out'*, Kate asserted her partner surveyed every single movement in the home. Barricading her and their children into the family home towards the end of the relationship, Kate recalled him threatening her that he would take the children and that she would never see them again. While Kate remembered that on previous occasions he had

threatened her with Tusla involvement, towards the end of the relationship, she interpreted threats that she would never see the children again as *'he was actually telling me he was going to kill them'*.

Control over time: Mum as primary earner and carer

Many of the women we interviewed described themselves as the primary caretaker of the children, with some mothers also stating they were sole breadwinners for the family. Leah who stated her husband never spent time with the children, took them to the park etc, described their parenting relationship as *'one-sided. It was all him, him, him'*. She gave examples of her not only being responsible for the household chores and weekly shopping, but she was also expected to have the children with her when shopping and doing those chores. This primary responsibility meant that Leah was never on her own and never had time to really think about her relationship or have time for herself. Aisling similarly combined the primary caregiver with primary breadwinner roles, having to employ a child minder when she was at work even though her husband was unemployed. Like Aisling, Olivia and Alison were also the primary breadwinners with unemployed husbands who did not participate in running the home or with parenting. For the final twelve months or so before they separated, Olivia recalled that her partner threatened he was suicidal so that she never went anywhere without her young child because he was saying he could not cope. For Alison, not only was she the primary breadwinner, she found herself funding the family – rent, food et, while she said whatever money her unemployed partner had, he spent on himself.

Controlling the narrative

So, you had no time to think, no time to question, no time to figure out. He was constantly adjusting the narrative, in order to control constantly. It was like his full-time entertainment.

Olivia

The constant changing of the goal posts or shifting of the narrative as referred to in Olivia's quote above, echo the experiences of many participants in this study. Described by Olivia as her former partner's *'full-time entertainment'* as he seemed to get pleasure from causing her pain, another participant Cathy similarly described her partner controlling her reactions to his taunting, as she outlines here in this next quote:

He'll nitpick at you, and nitpick at you, and when you explode he'll be like 'what are you screaming for?'; he'll never raise his voice, he'll always tell me like you're making that up in your head. Cathy

This control of the narrative was experienced by some participants to include the narrative other key people, like family members and professionals, were convincingly presented with by the abuser. Aisling for example recalled being left with little or no family support *'because of what he has been telling them'*. Aisling gave a chilling example of a day out she had with her children . She arrived home later that day to a situation where family were concerned for the safety of the children because of concerns her partner had raised. Stating that her partner had been fully aware of where she and the children were that day, his *'narrative'* of Aisling's danger to the children *'was all games'*. This narrative of danger extended outwards from the family to include professionals like the family GP and was repeated on other occasions including after Aisling secured the barring order against him. On that occasion, the narrative of her problematic mental health resulted in her GP advising psychiatric care as her husband had convinced them that she *'was crazy'*.

The experience of getting *'so messed up in your head'* was referred to by a number of participants, including Maura who could pinpoint the moment when the reality of entrapment struck for her that she *'had no choices, I had no options, nothing'*, when her partner taunted her with *'I'm sure you would love to leave but you can't'*. In the absence of any family support of her own, another participant, Sheila described a toxic living environment with her abusive partner and his family, where he exercised *'mind control'* over her.

Describing her visceral reaction of shaking when her partner called her on her phone, Cathy described her partner's mental torture of her leaving her questioning her own judgement. Finally, Olivia talked in interview that towards the end of their relationship, her partner *'ripped off the veneer'*, as she explains in more detail in the quote below:

He just ripped off the veneer. Which is how I felt he had no long-term plan of me being here, because he didn't care about keeping up with the veneer; because he'd kept it up for so long and manipulated me and used every tool in the book. The way I would describe him is that every time I started to come up for air and question things, he'd shift the goal posts, the way I describe it to myself sometimes is like I was on a treadmill, and if I started getting a fitness level that I was starting to get comfortable on the treadmill and kind of go, 'Something's not right here', he'd up the incline, and then all of a sudden, you're struggling. Olivia

Kate also similarly referred to her partners *'mask'* slipping from time to time with close family, but that most of the time she believed that he could convince anyone that this was a *"Kate problem"*; that

'Kate's mental'. Kate went on to describe an incident when she was attempting to leave her partner with the children, to illustrate the lengths he went to, to convince others he had done nothing wrong, and she was 'mental':

He was video recording me. He was like, 'Kate, I'm really, really worried about you. Please get out of the car. I don't think you're well and you have our kids in the back of the car. Listen to them; they're really sad and they're really scared. Can you just get out and talk to me?' **Kate**

She went on to explain that when he turned off the video recording on his phone, he asserted:

'See, we can all play fucking mind games, but I just play them better than you. Call the fucking Guards, they won't do anything for you. I am the law.' **Kate**

The cumulative impact of all of these abusive and controlling experiences had implications for mother's mental health and well-being, as the next section outlines.

4.2.3 Impact on the adult victim's mental health

During interview, participating mothers shared their experiences of how living with their abuser had impacted their mental health. Maura for example told us that at one point towards the end of her relationship, that she started to feel suicidal, as she explains:

I just wanted to end it; but then it was like I can't leave my kids with him, you know? So I had a realisation of why mothers killed their children, and that shocked me. That was like my moment. There's no way that I'm hurting my kids. **Maura**

Another participant, Elaine also spoke about a realisation of the impact of this abusive relationship towards the end of their relationship. Disclosing in interview that she had been on antidepressants for 8 out of 9 years of her relationship with her husband, she also recalled how her husband used to:

'play on the fact that I was on these antidepressants...I always thought the brain fog was from the antidepressants, but I now know it can be from abuse, you know, so, and I haven't been on them since.' **Elaine**

Kate talked in interview about the impact on her brain with her partner swinging from verbally abusing her to asking her if she wanted a cup of coffee in a matter of minutes, concluding that *'like any normal person just can't – their brain can't deal with that, because it's way too much, the emotional burden of that'*, recalling her questioning herself *'Am I actually going mad?'*

Participating mothers in this study also raised a number of concerns for their children's safety and welfare arising from their abusive partner and the children's father's behaviour while the family was still living together. The next section presents the findings on child abuse and safeguarding concerns.

4.2.4 Child abuse and safeguarding issues

All of the adult participating in interview made reference to their children's exposure to the abuse perpetrated by their father on their mother, with examples given of children witnessing physical abuse, verbal abuse and with disruption to their lives resulting from the family needing to regularly *'leave the house'* for safety reasons (Eva). Aisling for example recalled the day when Tusla phoned the family home to follow up on a report that had been made about the physical abuse of her children by their father. She describes in this next quote what followed the call:

He lost the plot, and he went for me. And luckily enough, the girls were outside; I didn't think they seen what had happened, but I was cut and bleeding, and (child 1) knew straight away, 'He did that, didn't he?'. You know, and Ruth did see it. She told (child psychiatrist), who was their counsellor, years later, that she had seen it all through the window. Aisling

Sophia also described an incident where her husband was physically aggressive and verbally abusive to her late at night, waking the children who she recalled started screaming and crying. The following day, the School Principal phoned Sophia with concerns for their 11-year-old daughter who had been upset in school, fearful that *'dads gonna kill mum'* and explaining that the school had a duty to pass this concern on to Tusla.

Many participants referred to the impact that living with the abuse had for their children, with one participant Maura asserting that as much as she tried *'to guard them from everything – like, get him into the room and get the kids like go watch a movie or something'*, that there was *'just so much that they were very aware of'*. The awareness of what was going on was also reflected on by Michaela who described her daughter as *'stunted'* socially by the impact of living with DVA, with a professional

organisation engaged with her daughter conducting an assessment of needs but expressing concern for the *'emotional trauma'* that the child appears to be holding on to.

Another participant mother, Petra described her partner *'raping me, my daughter was next to me. She was a baby. And he didn't care if she was there or not'*, concluding that her children had been *'100%'* unsafe because of her husband and that his behaviour confirmed that he *'he didn't care. He never cared about them. So, you can't say you love your child and you do that'*.

Participating mothers also described incidents, often ongoing and not isolated, of the abusive father physically abusing the children. While Aisling described her husband hitting the children *'for no reason'*, Sonya presented concerns she had had when her daughter was only a few months old:

I'd seen him nearly giving her brain rattle before as well. Then he stopped the second I turned around. So, he knew he wasn't meant to be doing that; like he was shaking her too fast. Sonya

With some participants describing this physical abuse as *'physically assaulting the children'* (Prea), many like Lily acknowledged that risk of harm to their children was the final motivator for their leaving the abusive relationship. Lily describes the defining moment of her decision to leave her abuser when he was choking her as she held her three-month-old daughter in her arms:

Because I was worried about her, not about myself... she was in my arms. And that was moment when I said stop, and I come into domestic violent [services] in [place name]. Lily

One participant, Aisling, who talked in interview of her former partner raping her as a regular part of his abusive behaviour towards her, also talked about her daughter disclosing what was subsequently confirmed by TUSLA as inappropriate sexual behaviour by her father. The assessment process that arrived at this finding, also concluded that the abuse of the child represented another tactic of control of Aisling:

It was like all about that it was the means of control – to control me – rather than to actually satisfy himself sexually. If he was doing this to her, he was able to control me. Aisling

While the nature and quality of fathering involvement is discussed in a subsequent section, father absence alongside abusive father presence also emerged from the findings. In addition to the examples

of physical and sexual abuse provided above, some participants also described neglectful parenting behaviour. Aisling and Sonya for example talked about their very young children being left unsupervised. The control tactics of Aisling's former partner were described earlier to include leaving her children alone at night when he followed her if she was out socially with friends. Having secured 'permission' to attend a medical appointment, Sonya describes in the next quote how her former partner would respond to their baby's distress:

She was about maybe two or three months – he left her crying anytime I had to run into town, he be left her with her maybe for four hours – she was only a newborn, but he'd given me permission [to go], [he'd] say, just close the door – he'd just leave her crying on her own – he'd just close the door so he couldn't hear her. Sonya

4.2.5 Considering fathering involvement, father child relationships and fathering capacity

In interview, the participating mothers reflected with the benefit of hindsight on their former partners jealousy of the children, with some also asserting that their former partners never wanted the children. While pregnant, Aisling recalled her partner demanding she find out the sex of her youngest child. When he was not happy with the sex, Aisling said he completely removed himself from the child's care, stating: *'He never, ever, ever picked the child up'*.

Olivia similarly reflected on her pregnancy with her second child, a child she said her former partner had no interest in from the time the pregnancy was confirmed. This lack of interest resulted in her partner encouraging her not to tell anyone she was pregnant (including their eldest child), trying to *'hide me in the house'*, including not wanting her to bring their other child to school, putting pressure on her to give up work and claiming the child was not his. She recalled the day she told the older child about their new sibling and his reaction to her doing that:

He went absolutely ballistic and tried to say to (child 1) that 'your mother's old and the baby may never arrive'. Olivia

All participating mothers were asked in interview to describe their child/ren's relationship with their father. Aisling was one of many parents who told us in interview that their children do not call their father 'Dad', using either his first name or nothing at all. Reflecting on why her children call their father by his first name and not 'Daddy', Aisling gave her eldest child's explanation:

'He might be my father, but he's not my daddy'. Aisling

While Maura did not describe any physical abuse of her children, previous sections have presented how the children had to eat and dress according to their father's wishes, with him controlling everything, including evening family rituals. Should any family member not comply with these routines and rituals, Maura recalled *'he would have like an absolute rage about that'*. If any of the children cried, Maura asserted *'I'm not allowed to comfort them'*.

The impact of the father's abusive presence in the home, his abuse of their mother and them, his control of daily living, relationships and emotional well-being, emerged with clarity from both the mothers and their children's interviews. In this final quote from Kate, we are presented with clear examples of the impact of this pre-separation life:

Sam used to wake up in the middle of the night and actually, like, full blown, like, urinating himself, 'Please don't leave me with him. Please don't leave me with'. Like they actually got terrified of him, do you know what I mean? It was like, you'd walk around the house and there was like three little ducks walking behind you. So we'd all follow – go to the toilet, have a shower; if someone's shoes were upstairs, we would have gone in four. They would not stay in the room with him. Kate

The cumulative impact of all of the above pre-separation experiences provided the impetus for instigating the leaving process. The following section provides an insight into that experience.

4.2.6 Preparing for Leaving

All of the mothers who participated in this study described the period leading up to them leaving their abusive partner as when the extent and nature of abuse *had just gotten progressively worse in the house'* (**Megan**), describing in interview how the combination of responsibility as primary carer for her children, sole breadwinner for the family and escalating abuse including sleep deprivation led her to conclude:

I just can't have him here anymore. I am doing my best, I'm- if this doesn't change, like I'm gonna have a breakdown of some sort, I can't- can't cope anymore. Megan

Pregnancy featured in a number of participants stories of leaving. For two of those participants, some months after the birth of their children, they found out that their respective partners were in other relationships, and with newly born other children in those relationships. For both participants, these revelations initiated the start of challenging processes of leaving their abusive relationships.

Olivia recalled the exact date she left her abusive partner, stating in interview that the date was 'burned into my brain'. While her partner had never been physically violent to her, he had sent concerning messages to her in conversations about family homicide. At the point of leaving, Olivia was six months pregnant with a baby that her partner did not want, concluding: *he was done with me, and he had no interest in the baby*. Concerned for Olivia's safety following her disclosure of domestic abuse, Olivia's maternity social worker called the Gardai who arrived at the house to take Olivia who was six months pregnant and her daughter to a place of safety.

A number of the participants were still living at home with their abuser when they commenced engagement with the family law system, specifically to secure protection and or safety orders. One of these participants, Shiaria, describes her husband's reaction to receiving notification of the order in the post in the following quote:

*He was very furious. So, he went crazy so – he didn't talk, but he has his actions now. So he put three big, big knives there on the table, beside the order he received. And he went and talked to my son, 'Will you sleep tonight? Will you sleep tonight?' – he asked three times – but my son told 'No, no', and then said 'Yes, I'm going to sleep', but he said it in a very, very scared like little voice; 'OK, we all sleep very peacefully tonight', he said. That scared me to the hell. **Shiaria***

Shiaria reported in interview how she was supported by An Garda Siochana to stay safe, her husband was arrested and she attended an emergency weekend court sitting and felt heard by the Judge regarding her concerns for the safety of herself and her son.

In preparation for leaving her former partner and fearing for her own life and that of her children, Kate described how she contacted a friend to give her an email address and password as she had stored multiple videos of her abusive partner abusing her and the children. She said the message to her friend was as follows:

*'So if in the event he does kill us or we end up dead, these are the recordings. Go in and give them –'***Kate**

In interview Kate recalled a terrifying experience of leaving her partner in the car with her children, with her partner following her in his car *'bumper to bumper...he was pushing my car along'*. Kate recalled being on the phone to the Gardai pleading and screaming for help while she describes her children in the back of the car *'just frozen'*. Following guidance from the Guards to proceed to a nearby meeting point, she recalls them advising her to get a protection order but does not understand why they did not charge him with reckless endangerment. Her next quote poignantly reflects her experience:

Why was I forced into a failed system, to actually have to go and present myself in front of a judge, and plead my case that I needed this, when he had broken so many laws. Like, if I was a stranger to him, and he went bumper to bumper – I guarantee you they wouldn't be told to go to court to try and protect themselves. **Kate**

Having secured her protection order, Kate described how her partner threatened her, stating *'Oh, watch this. I'll get you fucking out of this house'*, following up this threat by phoning the Guards who subsequently asked Kate *'what's going on there? (ex-partner)'s* after ringing, really upset, saying he's not allowed into his own house'. While two Gardai did come out to the house, Kate said it was 50 minutes later and a pointless visit as the two Gardai *'didn't have a clue... didn't know the difference between a safety order and a protection order and just kept asking me* whose name was on the deeds of the house'. Encouraging her to leave the home with the children *'for your health and safety of your children'* and promising her he would write up the notes of the incident, these notes were subsequently unavailable to her. Reflecting on the Garda intervention, Kate concluded that they effectively made her and the children homeless.

Finally for many women like Maura, leaving their abusive partner meant *'grabbing whatever I could'* but often arriving at refuge with very few personal possessions or money. Despite being hundreds of kilometres away from her abuser who did not know where she and the children were, Maura recalled still being in fear and worried that no escape was possible, as she explains:

I wouldn't go for a walk with the kids, even just around the neighbourhood, because I was so scared what if he finds me. **Maura**

4.3 Separation as a ‘vaccine’ against domestic violence and abuse

The abuse never stopped after separation, it just changed. (R234, female)

A strength of the adult victim-survivors survey is the number of responses gathered. There were 370 female survivors included in the analysis. These data provide unique insights into post-separation experiences in the context of domestic violence and abuse, which to date have not been explored on this scale in the Irish context. As reflected in the opening quote, this survey data provides robust evidence which strongly refutes the prevailing assumption that domestic violence and abuse ceases once separation has occurred. Rather, 91.4% (n=338) of female victim-survivors indicated that many forms of abuse continued or began post-separation and while guardianship, custody and access proceedings were underway.

The majority of female victim-survivors indicated there had been ‘increases’ for many of the forms of abuse post-separation: for example, increased post-separation emotional abuse (n=189, 57.3%), increased post-separation coercive control (n=183, 57.4%), increased post-separation financial/economic abuse (n=189, 57.3%), increased post-separation stalking (n=142, 55.7%), increased post-separation online abuse (n=88, 44.0%). In fact, the only two forms of abuse where majority proportions had ‘decreased’ were physical abuse (n=109, 49.3%) and sexual abuse (n=92, 82.9%), presumably because of the reduced opportunity to inflict these forms of abuse post-separation. For a full breakdown of the female victim-survivors’ responses to the survey questions relating to frequency of forms of abuse pre-separation (Table 19, Appendix 5) and changes to the levels of the forms abuse post-separation (Table 20, Appendix 6) .

Further evidence of post-separation domestic violence and abuse is represented in the finding that 78.4% of all respondents (n=326) signalled that they experienced ongoing problems and/or abuse from their ex-partner connected with their child/ren’s access arrangements. The next section presents the findings on post-separation contact as a context for ongoing abuse and control.

4.3.1 Managing unsafe contact for the adult victim-survivor

Intimidation and threats whilst handing my child over for court ordered access visits (R346, female)

As reflected in the above survey respondent quote, the task of managing their own safety in the context of post-separation contact was made quite challenging for those participants who had a key

role in making contact happen, including those who were involved in the supervision of access. Elaine described having *'a huge problem with it because it left me open, I was to supervise once a month, and I'd be following him around, you know, like I was a dog, he'd be speaking down to me, he told me to shut up under his breath'*. Having been instructed clearly through the assessors report how she was to behave when on access – *'to be very gentle, cheery and happy, to present as a happy family, and to go along with everything'*, Elaine described this arrangement as *'unreal'* and *'a nightmare'*. This *'nightmare'* included her former partner wanting contact to take place in secluded places where she did not feel safe, where he inappropriately touched her, not respecting boundaries, yet she had to *'put on a happy face, and no matter what he says or does, I've just to go along with it'*. Megan also spoke in interview about her ex-partner using the contact handover point as an opportunity for inappropriate contact, for example hugging Megan when he knew that would breach the barring order and then chastising her in front of the children when she did not want that physical contact, saying for example *'Ah, you know, your mom's not even letting me give her a hug.'*

Physical assault occurring in the context of contact was also reported in both the interviews and the survey. Diverting from her usual arrangement of meeting her former partner at a nearby shop, Cathy described a recent incident where instead she brought the children to his home. This Cathy said gave him the opportunity - *'he dragged me into the house and beat me with a hammer'*. While in their pre-separation lives her former partner would have been physically abusive to her, this post-separation incident was the first time that she said *'he ever left marks on my face'*. While her children were present for this assault, Cathy nonetheless asserted that *'he is an amazing father, that's all you can ask for is someone who wants to be in their kids' lives'*. Another survey respondent also detailed being *'physically assaulted a number of times after I left the relationship [..] with abuse moving more into the realm of psychological and emotional abuse when she secured a safety order'* (R53, female).

A number of participants had developed their own safety strategies over time. Sonya for example described always having her own father with her at handover points so she is not on her own. Eva described the *'norm'* for her and her children to feel safe is to have closed gates and cameras everywhere, being very vigilant and on *'high alert when you're going anywhere that you'd know he's going to be'*. For other participants like Michaela and Lily, this level of vigilance was simply not possible. While in Michaela's case, her former partner still controlled their home security system remotely, Lily's former partner was very much a silent and constant presence in her life as she explains:

He knows everything about me, he driving near my house, he watching me in work. When I finish work he - I saw him. That's every day. He watching me all the time now. I'm in Lidl, he's in Lidl. I am in Tesco, he's in Tesco. He's following. And now he don't touch me, he not choking me, no, but he's always near me. Lily

Commenting that her former partner has not real interest in his daughter but is using contact to control her, Lily says her daughter is simply a tool of control:

Because if I bring her to access, he knows that I am here. I am not [with] other man somewhere, you know? He have to be sure where I am, what I doing. That's my life. Lily

Echoing Lily's view, Sheila also says: '*He still thinks he has that ownership of me*'. **Sheila**

Survey respondents also commented on overt and covert threats that sent the clear message to them that their partner was still in control. The following comment illustrates both the tactics and the impact on these women:

All of the above [forms of abuse] became worse it was difficult as living separated I could not anticipate his mood or action. He became very frightening but knew how to keep within the law, would do things such as open all the car doors and boot so when I got up in the morning I knew he had been at my house but couldn't prove it and seemed innocent. Would send messages asking if I enjoyed my coffee in x place cause he had been watching me, but again very innocent and couldn't prove it to garda (R315, female)

Ongoing control of mothers and their children also involved actions that were experienced as attacking mothering and the mother-child relationship, as the next section explores.

4.3.2 Attacking/undermining mothering/Impact on mother-child relationship

A number of participants talked about the impact that contact time with their former partner had on their child/ren, the narrative of blame against the Mum and her family that the child returned from contact with, the heightened emotional and anxious state that children could return home from contact in, and the overall impact that all of this had on the mother-child relationship.

Some of this narrative was defaming of and negative about the mother with both overt and covert acts of manipulation to bring the child over to the Dad's side. Lily for example said her former partner would say to the child on access '*why your mother not dead when she gave childbirth? I only your best friend, I only love you, your mother born you only for money*'. While this question is posed to the child in front of Lily, Lily feels powerless to say anything as it is his access.

Feelings of powerlessness and guilt also emanated from the survey as mothers reflected on the impact not only on the child but also on their confidence as a parent:

Most distressing was the use of my child to guilt me, manipulate me, threaten me and send death threats to me. It was horrifying to watch my child be brainwashed and manipulated and to be fed a false narrative about what had occurred. I actually considered returning to my abuser as I felt guilty about what my child had to go through as a result of my abuser's behaviour in the post separation period. Seeing the impact of all of this on my child is heartbreaking. (R198, female)

This experience of the whole narrative focusing on Mum being to blame for everything – the family break up, Dad's living conditions, Dad's mental health etc - was a common thread throughout the interviews, as was the concurrent manipulation of the children through promises of toys, games, outings, clothes etc. Also describing her child having an emotional meltdown '*over the tiniest thing*', Maura said that while her daughter really does not want to have a sleepover at her Dad's house, he has made that a condition of taking her to the amusements – which she does really want to do. So as Maura explains:

'There's a lot of this bribery going on' and her 'meltdowns' happen post contact 'because she's had to, the whole time, hold so much in. So she'll come home, she might be crying or she's screaming, or she'll stomp off, we kind of give her that space'

Lily also talked about her former partner arriving for access with a teddy for her daughter to play with. She gets to keep the teddy if she goes with the Dad, but he takes the toy away if she doesn't. Noreen described her former partner 'buying' their son so that he would leave Noreen and move in with his father. Bribing the 13-year-old with a new games consol, an expense Noreen could not afford to compete with, she said her son moved to be with his Dad and the new toy and '*two weeks later the child came home and he never went to him [again]*'.

For another participant Megan, her barring order included her former partner not having any contact whatsoever with her. However, she said that contact time was used by her partner to contact her on her son's phone, stating *'he would just find ways of breaching, but not getting the message of "Seriously, stop."* Megan said that contact time was also used by her former partner to talk inappropriately about his living situation (a homeless hostel) and the dangers associated with that accommodation. So Megan found the children coming back from access both concerned about their Dad who had told them about other residents attacking him and also holding their Mum responsible for the dangers they perceived their Dad to be now facing.

Olivia detailed a similar experience of her former partner manipulating her daughter on contact, which Olivia interprets as him trying to damage her relationship with the child. Olivia described her daughter coming home from the most recent access where she had asked her Dad if he would be coming to her communion celebration the following year. The following is Olivia repeating what her daughter told her that her Dad said:

'Your mother has a piece of paper, that the judge gave her, that if I show up, she'll get me arrested and then you'll have to visit me in prison'. Olivia

While her daughter clearly wants to see her Dad and go on contact visits, Olivia says the return home is difficult as her daughter *'comes back and then she has to detoxify, literally three or four days to detoxify after she came back; then she'd have seven days of OK, and then three or four days of anxiety leading up to the next weekend'.*

Megan also talked about her children's deteriorating behaviour around access time, including her son being physically abusive to her. While her children were referred for interventions in response to these issues, she said her former partner continued his control over the family when he chose to be *'a blocker to any of the support that the kids needed to get. Because first he didn't engage with the different services, and then second, when he did engage, he was more disruptive and was trying to use it as an opportunity to push blame'.*

Saying no to passport applications or not responding to passport applications in time for mothers and children to go on holidays has already been identified as a tactic of control.

Other subtle acts of control and manipulation including buying one child new clothes/toys while on access but not another (the child who wouldn't go on access)(Maura); sending new clothes home with the child who came on access for the child at home who Dad falsely says that he is not allowed to see (Olivia); the child returning from access without her new shoes, so Mum has additional expense (Sheila).

Controlling or blocking Mum's contact with her children while they are on contact with their Dad was another tactic of control emerging from the participants narratives. Cathy said that while she did have phone contact with her very young boys, because of their age, '[you] *don't get much conversation, [they are] looking at the ceiling, but at least you get to hear them*'. Expressing that she finds it very hard living so close to them but not being allowed to talk to them, Cathy explained:

He won't allow me to talk to them, he'd pull them away and they'd be crying, they'd be like I want to see mammy and he won't let you talk to them. **Cathy**

Jane also talked about her son not being allowed to phone her whenever he wants on contact, despite this being included in the court agreement. Sending a phone with her son on contact, her former partner sent her an email saying the phone would not be allowed and that no contact would be happening on his time with the child. In Alison's case, her daughters contact with her was blocked when her former partner turned off the internet and locked all the doors, so their daughter had no way to leave and no means of communication.

The impact on participants of managing this constant control and manipulation alongside managing the impact on their relationships with their children was something that all interviewees commented on. Some participants for example talked in interview about the challenge of managing the abuse while complying with court order. Megan explains:

I mean we're talking 14 or 15 times [breaches of orders]. Physical contact, verbal, texts about nothing to do with the kids. I don't wanna see this man, but I'm bound by court to bring his kids to him each week, so I need this to change. **Megan**

Managing how they respond to these scenarios and learning how to respond differently was also commented on. Describing every interaction with her former partner as 'another stress', Olivia says she has learnt to always stand back from the behaviour and think '*How will the court perceive this? I*

need to be fair, and I need to be reasonable, in the eyes of the court'. So learning how not to react has been really helpful for Olivia and for other participants like Cathy and Noreen.

*It's a roundabout that just never stops, [but] he hates the fact that [it] goes over my head, he hates it, cause he can't get to me. **Cathy***

*I've learned a lot through this process. I've learned that when I show up to pick up my child, when she's not there, I now either put diesel in the car or I'll buy an ice pop or a cheeseburger and I get the receipt. So I have a big bag of receipts now every time he doesn't show up. So I can prove to the judge, cause in the earlier days he was saying I wasn't showing up. So I had to kind of outsmart him on those things because obviously, you just learn as you go along, like. Because the judges still believe him, but when I have the proof that I was there, they have to say, OK. **Noreen***

Participants conceded that these practised methods did not always work for them, with the stress of manipulation and control sometimes requiring medical attention.

While many participants talked about the impact of ongoing abusive control and manipulation associated with contact on their relationship with their child/ren, the final quote is left with Lily:

*And sometimes, like, I missing my relation which I building every day. Because I pushing her. Because I can't say we not, we can't going [on contact]. I can bring her after to cinema or something enjoy this day. That she forgot about this and I do this. But it's very hard [at] nighttime, because she say, Mommy, I can't sleep because 'It' will be in my dream – 'It'. Not dad, It. Mommy I don't want sleep because it come in. Yeah. I don't want sleep because it come in. She never said dad, no. **Lily***

Taking these last two sections together, we can surmise that making contact happen and managing the fall-out from it, took considerable 'work' on the part of mothers. The following section explores this in more detail.

4.3.3 Mothers work making contact happen

*Like as a mother, your gut feeling is, 'The children are not safe with him'; But as a person and a human being, you still want your children to have a father. You don't want them to feel that this is anyway their fault. **Kate***

The sentiment in the above quote from Kate was reflected across all of the interviews with participating mothers, not wanting to *'be a blocker in them having a relationship with him'* (Megan), with clear evidence of the participating mothers putting in considerable 'work' in order to support children's contact with their father. This 'work' could involve a number of different things. Aisling for example sent her children on access with food, toys, colouring materials, games, lego because she said her former partner *'gave them nothing. They sat in a room'*. This 'work' also involved what Aisling called *'parenting them over the phone because he didn't interact with them'*.

For a number of participants like Olivia and a survey respondent, their work to support contact often took place alongside their own terror and fear of their former partner, as these two quotes explain:

I am terrified of him, and as far as I'm concerned, he is dangerous and a threat; but he's her dad, and it's very difficult. **Olivia**

Emotional abuse continued at a higher level and frequently through the children, access times were used to do so including threatening behaviour as it was his only access to me
(R85, female)

Mothers work to make sure contact happened and was safe for their children often involved them securing safe contact arrangements. Lucy for example had secured supervised court ordered contact for her child with her former partner, but the supervised contact service was withdrawn because of the father's behaviour. Engaging with her child's special school, a recommendation was made for another supervisor that Lucy followed up with, introducing her daughter gradually to this new professional in her life before the contact would resume.

Progressing from a place where her daughter refused to engage with her father, Elaine worked hard to ensure the locations for contact were safe and public, but also places her daughter loved going to. This 'work' ensured that her child could be supported to move from being 'terrified' of her father to where she would sit with her Dad, but only with the safety net of her mother also being within view.

An important element of the mothers work in making contact happen however, also involved managing unsafe contact for the child. Unsafe contact was described as involving aggression and abuse, using alcohol or other substances while caring for children, mental health concerns and

attempted abduction. In Eva's case, access arrangements had been agreed through mediation that the children also attended, to ensure they were happy with the arrangements. These arrangements involved Eva leaving the family home for the period of contact time that her former partner moved in for. As Eva was staying close by and the children did not really want to engage with their father, Eva saw them every day and said she usually ended up feeding them as well. With concerns about her former partner's alcohol consumption, it had been agreed through mediation that he would blow into a breathalyser, and he could only take the children if he had not been drinking. Monitoring this was Eva's job who saw the goal posts of responsibility shifting when there were no consequences for her partner breaching a mediated agreement, as she explains:

[It was] going fine until he started turning up drunk and then wouldn't blow in the breathalyser. So then, he was getting more aggressive and things like that, and I went for a protection order.

Eva

Elaine described many concerning incidents involving her ex-partner and his treatment of their daughter. On one occasion when Elaine's parents were facilitating the handover of her child, for contact Elaine's Mum tried to distract a very upset little girl who did not want to go with her Dad, by telling her a story and offering to walk a little further with them in an attempt to calm her down. In an aggressive effort to take the overnight bag from her Granny, Elaine said he '*shoved Mum towards one of the railings to try knock her off her feet*'. While the Guards were called, Elaine said that they '*let [ex] take her because he was the dad*'.

With contact often a time of fear and anxiety for children and with children also often quite distressed because of their father's behaviour, participating mothers also talked about the emotional work for themselves in managing their child's distress whilst also adhering to court ordered contact arrangements and managing their own fear of their abuser. Elaine described an incident again where her child was very upset and her father would not let Elaine comfort her. Elaine described how members of the public tried to intervene and offered her a phone to call the guards as her partner was '*furiously, he was gripping onto [child's] legs, he wouldn't let her down at all*'. Following the S47 report, the visits were paused but daily phone calls were introduced, as Elaine explains:

She [Child's name] would scream at the phone, that she didn't want the phone call, sometimes she'd cower outside the room, they weren't successful but still I was told that I had to go along with them. **Elaine**

Constantly needing to respond to the child's distress with emotional support was also commented on by Olivia who found parenting support she engaged with providing her with a really useful lens of understanding into her child's distress:

*I could see the pattern where I'd be coming up to a court date, and I'm worrying about it – and my hands would come off the wheel of being her mum a little bit. And then she would sense that, and then she would start to act out more, and then I would get more stressed, and so, it allowed me then to at least kind of go, 'OK, Olivia, so you've got to get really good at compartmentalising'. **Olivia***

While Michaela talked about her 12-year-old daughter receiving very abusive texts from her father, Alison described her former partner 'guilting' and manipulating her daughter. Totally committed to supporting her child have a relationship with her father, Alison talked about working hard to support her child to also be '*in control of it, and to take it as – the way she is able to manage it*'. Alison said that herself and her daughter benefitted significantly from a play therapist they engaged with, describing this professional as '*fantastic*'.

Kate described access for her children with her former partner as 'horrendous' with the children telling her that their dad spent the whole time giving out about her. With her children begging and pleading with her not to have to go on access, Kate said that the only thing they got out of contact with their father was fear. The pleading not to have to go Kate said started on the Monday, with access the following Saturday and Sunday. The impact of this anxiety and fear for her children Kate said manifested itself in one child constantly vomiting, another child withdrawn, angry and irritated and her third child very emotional and close to tears all the time. Similarly, one survey respondent commented on the children's return from access:

The children constantly came back from access crying and very distressed. (R14, female)

All of this 'work' mothers described doing to make contact safe for children was firmly focused on what they considered to be in their child's best interest. Reiterating her support for contact, Elaine said she repeatedly asked to her former partner to 'go with the child's pace, she'll let you know when she's ready, please do come and see her, but build up the relationship'. From Olivia's perspective she explained why she engaged with professional help to ensure her child's best interests were the driving concern:

I got private parenting lessons to try and help me cope with – because I was terrified, because it felt very manipulative. And psychologically, I was really struggling with what felt like manipulation, and I wasn't coping well with it. So that's why I did the parenting,' Olivia

For Aisling however, it was not always clear what 'doing the right thing' was, when she feared her children being taken off her if she did not comply with access, an arrangement that clearly distressed her children, as she describes in this next quote:

From last May until December/ early January, I used to go in every second Friday night; I'd go for a walk, leave the girls in the car; – they wouldn't get out of the car – he'd come down and scream at them through the window; I'd come back from my walk and get in the car, like twenty minutes later or half-an-hour later, and we'd leave. Aisling

For all the participants, remaining committed to making contact work had clear implications for their own safety and well-being with contact providing ongoing opportunities for continued abuse, ongoing control and manipulation. Considering that the rationale for post-separation contact is grounded in an understanding that the child's best interests are served by opportunities to maintain and sustain the father-child relationship, the next section considers how father-child relationships are experienced in the post-separation period.

4.3.4 Maintaining and sustaining the father-child relationship through post-separation contact

With the earlier findings raising concern for both fathering capacity and father-child relationships pre-separation, it is no surprise that across all participant interviews, the motivation for fathers seeking access was in the main considered two-fold: to maintain power and control over mothers through contact, combined with a sense of righteousness or ownership over children's time and women's lives.

With no existing relationship with his three-year-old child to sustain or maintain, Elaine concluded that her former partner did not want a relationship with his daughter - *he just wanted her like she was a possession, you know, she is my child, it's just kind of black and white*. Acknowledging that her former partner must love their daughter *'in some kind of way...she's gorgeous; she's funny; she's great to have with you'*, Alison however concurred that her partner wanted her around as *'that sort of trophy for when he has family things'*. Petra similarly asserted that her former partner *'uses his kids as a show. That's it. It's no love in there. He doesn't do nothing with them'*, while Sheila, echoing Elaine's earlier

comments concluded that as her former partner considered his child his possession, he was incapable of understanding how she was feeling.

The section that follows provides a select overview of what was described in interview as safeguarding issues for children occurring in the context of post-separation contact. This data is presented in general terms and not ascribed to individual families or children in order to maintain participant anonymity. In presenting this data, the reader should keep in mind that the purpose of contact is to realise children’s right to a relationship with their non-resident parent – in the majority of cases in this study – their father.

Child safeguarding issues including professional responses to same

The concerns that female participants raised, in both the interviews and the survey, for their children’s safety while on contact with their father, related specifically to physical and sexual abuse, endangerment, neglect and emotional abuse. The survey asked whether children had experienced any forms of abuse from their other parent/guardian before the relationship ended, table X below presents female victim-survivors’ responses to this question.

Table 7: Children’s experience of abuse pre-separation (multiple-response item) as reported by female victim-survivors

Forms of abuse – pre separation (children)	N	%
Emotional abuse	303	82.1
Coercive control	220	59.6
Neglect	214	58.0
Financial abuse	161	43.6
Physical abuse	156	42.3
Damaged your belongings or property	86	23.3
Harmed a pet or animal	47	12.7
Other	37	10.0
Sexual Abuse	30	8.1
Online / digital abuse	25	6.8
No abuse was ever directed at my children	29	7.9

Concerningly, 92.7% (n=331) of female respondents had concerns about their children's safety and 94.8% (n=331) had concerns about their children's wellbeing/welfare while on access and/or in the care of their other parent/guardian. Yet only a quarter of female respondents indicated that their children's access was supervised (n=92, 25.6%). Nearly two thirds of responding mothers said that their children's access involved overnights with their other parent/guardian (n=224, 61.7%). Nearly 200 comments relating to the safety and welfare of children from victim-survivor mothers revealed that many held concerns that their child/ren were going to be subjected to further abuse or neglect while on contact, examples given included emotional abuse, coercive control, manipulation, neglectful or unsafe parenting practices, or other risks relating to alcohol, drugs or weapons.

The survey also asked respondents to rate their children's overall safety at the time of their GCA process using a scale from **1- 10**; where 1 represented '*not safe at all/at risk*' and 10 represented '*very-safe/no risk*'. Victim-survivor mothers scored an average overall safety rating score of **3.7/10** (n=362, SD=2.5). However, the modal response given by a quarter of the sample (25.1%, n=91) was **1/10**, which is the lowest possible rating. These concerns and the professional responses to those concerns are briefly documented in this section. The use of supervision to manage safety concerns on contact is also discussed.

Incidents of **physical assault/abuse** of the children by their father while on contact were alleged by many of the participant mothers. Some of this involved very rough and aggressive handling of very small children or children with limited mobility/disability that left marks and bruises on areas of the children's bodies. The participants reported variable professional responses to their allegations, some very positive and responsive to their concerns and others more dismissive. Even when photographic evidence was provided by a parent or photographic evidence taken by a medic and sent on with a Tusla referral, contact was rarely stopped – at best it was supervised.

In a smaller number of cases, participating mothers alleged their children had disclosed **inappropriate touching and sexual abuse** by their father, prior to their parents separating, with these disclosures being made post-separation. There were many complexities to these cases, including poor professional practice that resulted in procedures not being followed and appeals of confirmed abuse being upheld; where the child was being manipulated by their father and would not follow up an initial disclosure with a statement to the guards and where the Tusla investigation concluded there was no case to proceed with. In all of these cases, contact continued with some intermittent supervision also ordered by the court. In one case where an extended paternal family member of a child was deemed to present

a significant risk of sexual abuse, unsupervised access was granted to the father without any conditions attached as to who in the extended family would also have access to this child. This was successfully appealed by the mother to a higher court.

Concerns about **endangerment** of the children through reckless driving and threats to kill were also reported by two participants in interview – who also said they reported these concerns to An Garda Síochána. Some of these concerns were dismissed, even when there was photographic evidence of children being driven at high speed with no seat belts on. At the point of interview, Tusla was investigating another case where children were in fear that their father was going to kill them.

Participating mothers also raised concerns about the **neglect** of children's needs while on contact with examples given including inadequate nappy changing resulting in a child being 'raw and red' from sitting in dirty nappies; inadequate attention to a diabetic child's insulin alarm going off resulting in insulin levels dropping dangerously; and lack of appropriate and timely responses to children's distress and upset, with very small children left crying without comfort. In one of these reported cases, a mother said she was told by the social worker that she was being neurotic.

Finally, the reporting of nefarious welfare concerns by an ex-partner was reported on by a number of participants, with all of the welfare concerns followed on by An Garda Síochána and/or investigated by Tusla. None of the welfare concerns reported in interview were confirmed following investigation yet caused considerable distress to the children involved. In one case, An Garda Síochána were called to a home more than 36 times over a 6-month period, causing the children considerable embarrassment in their small estate with the whole estate knowing when the police were coming, it was to their house.

In a number of other cases reported in interview, children were reported to have been coached by their father to make allegations against their mother or other extended maternal family members. In all of these cases, the allegations were found to be unfounded, with professional opinions that the children had been coached into making these allegations. In none of these cases of false welfare concerns or false allegations, was there any action taken against the father concerned.

Supervised contact

Supervised contact was ordered by the court in cases where there were concerns for the children's safety and welfare in their father's care or where allegations were under investigation. Difficulties arose with implementing an order for supervised contact with minimal options for many families for

professional services. Where those options existed, they were often expensive and for many participants in this study, the cost of that service fell to the mothers with fathers refusing to pay, even where joint payments had been agreed as part of the court order. For example, both Leah and Lily described court agreed supervised access, with the court agreement that the cost of this is divided between the two parents involved. Knowing that the mothers involved really needed and wanted this supervised contact, in both cases, the fathers stopped their contributions within weeks of the service starting. Both mothers felt that they had no option but to carry this financial burden, with the only alternative, a return to court to request the money.

In a minority of cases, participating mothers were really pleased with child centred and child led access, where supervisors were attuned to the child's emotional state and their comfort in their father's presence, pacing the contact appropriately and on an individual basis, even where contact with this parent was very distressing for the child. Lily provides a clear example of this in the next quote:

I leave [daughter]here [with] this lady bring her stay with her 15 minutes And she play her, and after 15 minutes he come in here. And she teach [child] that she have choice. If she doesn't want stay with him, she leave. She have choice [to] leave room. And after 10 minutes, she is [in] another room. And each time the same story. After 10 minutes when he come in [child] stand and left room and that's it. She not allowed for more time for nothing because child have enough. And she make report that she observing her horrible anxious. Her skin tone is red...like body language. Yes, yes, that she's scared of him. Lily

In the absence of professional supervised access services, family members – or in some cases the victim-survivor themselves – ended up supervising the contact. These arrangements were largely inappropriate and fraught with challenges, not least the ongoing exposure of the adult victim-survivor to the perpetrator they had engaged the family law system to protect them from. Aisling described supervision by paternal family members as 'the worst thing anybody could have ever suggested' as she explains in this next quote:

Because his family obviously, 100%, didn't believe a word of what he did. They didn't believe the kids. They forced the kids to go. His mother and his father would come and they'd pull the kids out of the car, kicking and screaming; they'd chase them up the road; they locked them in. Distressed. Aisling

Another participant, Lucy, described herself as 'lucky' that her sister was willing to supervise her daughters access with her former partner, particularly as this supervised access was ordered by the court in the early days of covid when there were few if any alternatives. While this arrangement continued without incident for about a year, Lucy said that it became more difficult for her sister as details of the former partner abuse of Lucy began to emerge:

*She had found it quite hard to be around him, you know, after all the abuse came to light and my sister said she was struggling - like actually being present with her sister's abuser was very hard, And I know she would do it again in a heartbeat, but that's because she's – family, you know? And it shouldn't have to be that person. **Lucy***

With abusive, aggressive and threatening behaviour by their former partner towards their family or close friends, many participants found that using informal supports to supervise access was simply untenable.

For two of the participants who were interviewed the introduction of professionally supervised contact with no access to or involvement of the adult victim-survivor on the access process, led quite quickly to the father's disengagement with contact. This was despite their applications to court and in cases, lengthy court engagement to ensure the father-child relationship had opportunities to be maintained and sustained. One participant, Shiarra, said her former partner attended supervised access three times, on the third occasion asserting that he was not continuing and stating '*it's a waste of time*'. For the second participant, Megan, at the point of interview, her former partner had never engaged with formally supervised contact and therefore had not seen his children since that order was made. In some cases, as outlined earlier, the children themselves had disengaged with contact and that was facilitated to varying degrees by the court. In other cases, and notwithstanding the fear of threats of alienation that had been made over many years, mothers just said '*I am not doing this anymore, I breached a court order and I let her take a break from going, because she needed it*' (Alison).

The chapter concludes with a brief reflection on quality contact and the father-child relationship as seen through the eyes of Lily talking about her daughter in this next quote:

*She doesn't want speak about her dad, nothing... .. no words. In school or home, if she reading book and there are words 'dad' she omit this word. Sometimes she change for mommy. I never heard word 'dad' from her. **Lily***

The above quote from Lily regarding her daughter's complete refusal to use the word 'Dad' in any context, gives poignant insight into how this child has experienced the role of 'father' in her young life. While this example is a stark illustration perhaps of a child wanting to take control over a relationship that she has absolutely no control over and where she has experienced little attention to her acute fear and terror of this man, there were many similar examples in this present research of children attempting to 'take back control'. In the mothers interviews we heard many examples of children calling their father by his first name and never calling him 'Dad'. In some cases the children had been very young when their parents separated and so they had never had constant and meaningful father present in their lives. In other cases, participants asserted that even when fathers had been physically present in the home when children were growing up, their absence from parenting, their lack of knowledge of the everydayness of children's lives and the void of emotional connectivity with their children, combined with domestic violence and abuse, left many children concluding 'he is not my Dad'. We come back to this issue in the children's chapter.

4.4 Chapter Conclusion

Given that all of these families navigated the family law system as part of their journey from intact domestically abusive family life to post-separation family life where abuse and control is documented to continue, an obvious question concerns the operation of the family law system and process designed to protect them.

The chapter that follows focuses specifically on the tools of the system. These tools refer to the processes and mechanisms which are used to protect victim-survivors, reach an agreement between the parties, enable individuals to engage with the system, or to inform the court to make decisions.

Chapter Five

Tools of the system

5.1 Introduction

Drawing on the perspectives of all adult victim-survivors, specialist DV practitioners and other professional organisations who work supporting families, this chapter will explore some of the ‘tools’ of the legal system. These ‘tools’ include legal aid and private legal practice, mediation, and court assessments and reports such as Section 32s, Section 47s and Section 20s. The operation of the in camera rule will also be considered.

It is important to acknowledge that while victim-survivors are engaging with family law processes there are frequently other legal proceedings running concurrently, which have absolute relevance to their family law proceedings, yet are frequently excluded. This is despite complaints of DVA being substantiated elsewhere, for example existing orders against the abuser or criminal proceedings for assault or breaches of existing orders. This first section will raise some of the issues in relation to concurrent legal proceedings during family law cases in the context of DVA.

5.2 Issues arising in concurrent proceedings but considered inadmissible in family law proceedings

Figure 1 below sets out the proportion of other proceedings which were pending at the time of victim-survivor respondents’ GCA proceedings. There were not dissimilar patterns for female and male victim-survivors observed for most of the categories relating to other proceedings pending at the time of respondents’ GCA proceedings. For example, in descending order, domestic violence orders, maintenance orders, and legal separation/divorce were the most common proceedings for both female and male victim-survivors. However, where there is a stark difference between these groups, it relates to criminal proceedings as either the victim or the defendant. According to female victims, 23.6% (n=86) were involved in criminal proceedings as the victims at the time of their GCA proceedings, while for male victims this figure is 4.7% (n=2). However, for criminal proceedings where the victim-survivor is the defendant, the inverse has been observed; here, 20.9% (n=9) of male victim-survivors report being involved in criminal proceedings as the defendant, compared to only 1.9% (n=7) of female victim-survivors.

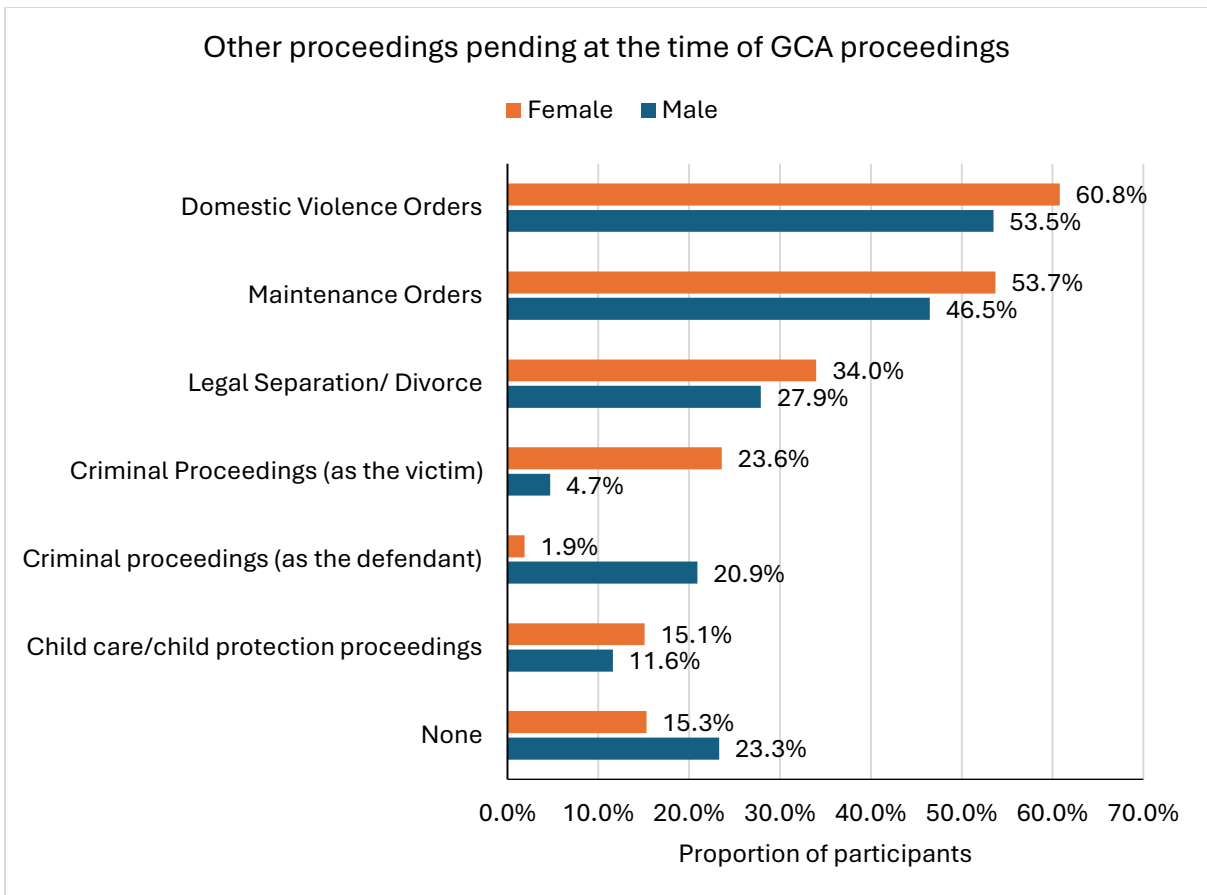


Figure 1: Bar chart of other proceeding pending at the time of GCA proceedings (multiple response item)

Specialist DVA practitioners were also asked to estimate what proportion of their clients had DVA proceedings underway at the same time as guardianship, custody and access proceedings. DVA related proceedings refers to proceeding for protective orders or criminal proceedings, including breaches of orders. Nearly one third of DVA practitioners who answered this question indicated that their clients ‘always’ have DVA related proceedings underway that the time of their GCA proceedings (n=46, 31.3%). Full responses are shown in Figure 2 below.

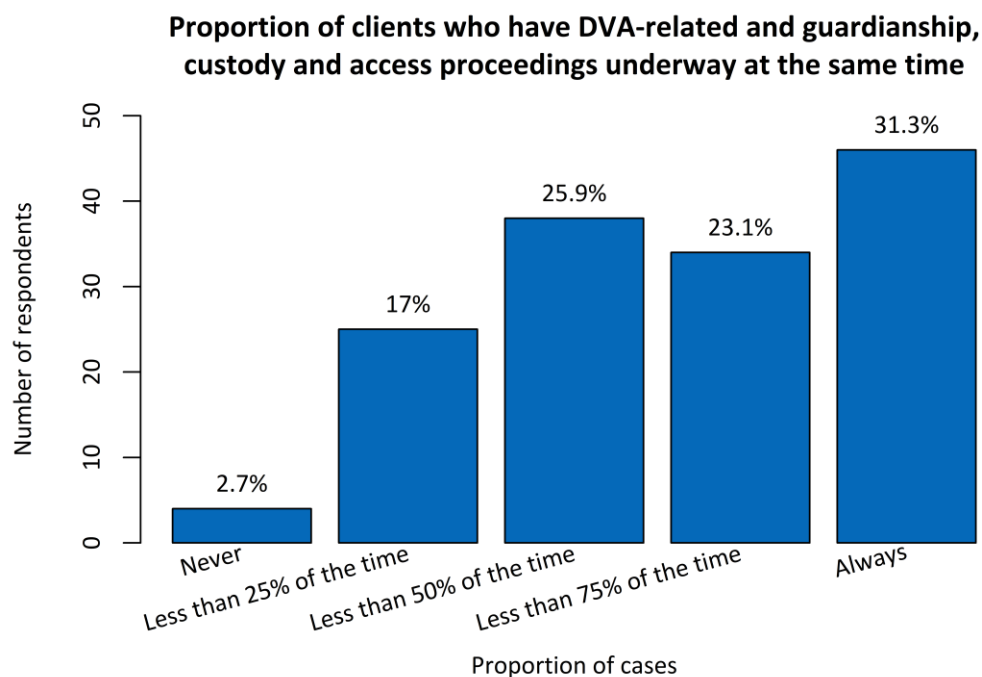


Figure 2: Proportion of respondents' clients who have DVA-related proceedings underway at the same time GCA proceedings

A strong theme to emerge from the qualitative responses shared by specialist DVA practitioners was the failure of decision-makers to consider other proceedings and orders related to DVA in victim-survivors' family law proceedings. Here, practitioners raised issues around adult and child safety when criminal proceedings against perpetrators for breaches of protective orders, or assaults on victim-survivors were inadmissible to family court.

In my experience a major challenge to the wellbeing of child survivors is the disconnect between court systems i.e. the family court and criminal court. Children being forced to engage in access arrangements with a parent where criminal charges are pending but not admissible under the system. (DVPR54)

The fact that criminal proceedings cannot be reported to family court are a barrier to safety.(DVPR46)

Many DVA practitioners perceived that judges do not adequately consider safety in their decisions regarding access in the context of DVA, as this next quote illustrates:

*The main challenge and barrier is a refusal to acknowledge or hear fear for safety - there are many cases where a judge while in the same hearing may grant a woman a safety order, they will also grant weekly access with no regard to how this will occur safely. There is also no room within these processes to discuss and allow for consideration of how abusive parents will USE access, or custody/guardianship processes as a means only to further harm, abuse and indeed control the 'adult survivor' (or victim where they are still in fear and experiencing abuse).
DVPR136)*

Corroborating these assertions, several victim-survivor respondents to the survey shared their experiences of criminal proceeding being precluded from other family and civil proceedings, as the next quote illustrates:

*All happened [concurrent legal proceedings] at the same time, was very stressful and difficult, was not allowed to state what happened in the different courts. I would be brought into court for access but as the criminal case was pending I was not allowed to state my safety concerns as it has not been ruled on. When he injured my daughter I was not allowed to take a criminal case as there was family law matters pending and therefore that incident was discussed there and ultimately dismissed. **(R315, female)***

There were several female victim-survivor respondents who disclosed that their criminal proceedings were used as bargaining tools in proceeding, as this next quote depicts:

*In order to get an [DV] Order put in place to stop the stalking and threatening behaviour, I had to agree to drop the criminal complaint against the abuser, the allegation of assault was used as a bargaining tool by the abuser's solicitor. I did not want to drop the complaint but was left with little choice as the Safety Order agreeing to stop the stalking etc was of more importance, but I should not have had to choose. Criminal and Family Court proceedings should be kept separate and one should not impact the other. **(R329, female)***

Professionals in the focus groups raised similar issues, also stressing that as applications for DVA, access and divorce/separation are dealt with separately, it can make it difficult for the judge to see the complete picture. When the same judge is not overseeing all of these separate yet related proceedings, the relevance of the DVA for the other proceedings may not be clear, as this legal practitioner explains:

The judge who'd been sitting there up until quite recently would have taken a very particular view in relation to separating out the domestic violence cases from the custody and access. Those would have been dealt with very much in isolation, and the judge would have been very conscious of no crossover feeding into the access and custody application, to the prejudice of the person who possibly is the respondent in domestic violence proceedings. (FG4 – Legal professionals)

It was suggested that to be able to see connections between these proceedings, individual judges need to be involved in all aspects of each case, or to be provided with information on these related components, as this next professional suggests:

I think it's more down to the judge not having the time to go through the case from start to finish or if there is even a GAL [guardian ad litem] report done and there's recommendations made, the judge, it's like he's not reading the paperwork or he's not reading the recommendations. He's going with his own opinion, and he mightn't know the whole case. (FG5 – Professionals supporting male victim-survivors)

5.3 Domestic Violence Orders

As referenced above, a high proportion of victim-survivors have simultaneous proceedings for Domestic Violence Orders⁹⁵ at the same time as GCA proceedings. Domestic Violence Orders are utilised to protect adult and child victim-survivors from an abuser by formally setting out the parameters for their behaviour. Some orders direct a person to stop committing further violent acts or threats against victim-survivors, others can also direct them to leave the home. In the event of a breach of an order, An Garda Síochána hold the power to arrest. If there is no order present, and no obvious crime has been committed, they may be unable to execute an arrest. In order to obtain a DV order from the court, victim-survivors must demonstrate that they are in fear and/or at risk of potential harm from their abuser. Of those who took part in the survey, over half of male victims indicated that they did not hold any DV orders while involved in GCA proceedings (n=23, 53.5%), while there were a quarter of female victims without any DVA order (n=93, 25.4%), as illustrated in Figure 3 below.

⁹⁵ For further information on Domestic Violence Orders please see:
<https://www.womensaid.ie/get-help/your-rights-options/domestic-violence-orders/>

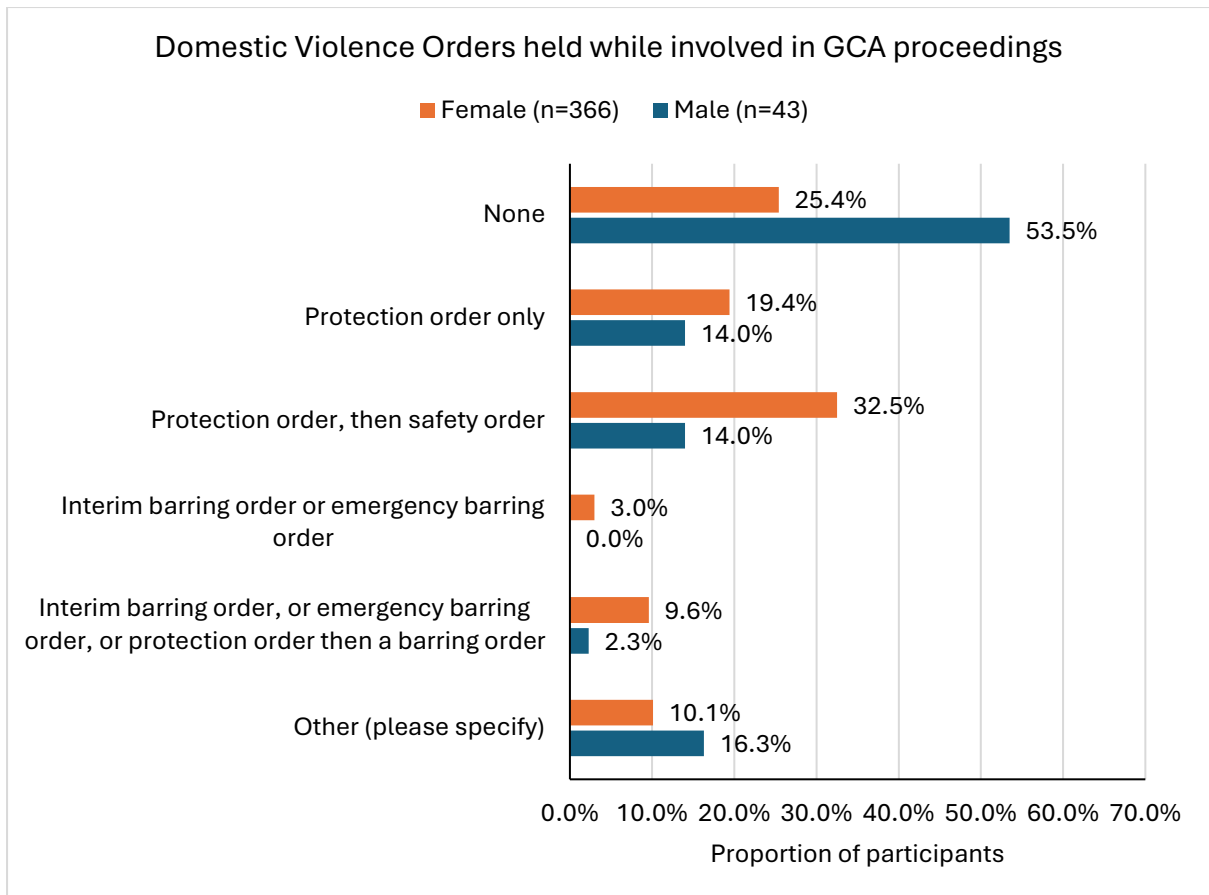


Figure 3: Bar chart of Domestic Violence Orders held while involved in GCA proceedings

Figure 3 above also illustrates the proportion of female and male victim-survivors' who held Domestic Violence Orders while they were involved in GCA proceedings. The majority of female victims indicated that they held a *'protection order, and then safety order'* (n=119,32.5%), while for male victims the corresponding response was 14.0% (n=6). A percentage of respondents indicated they held a *'Protection order only'* which suggests that either a safety order was not granted, or the application for a safety order did not progress.

Of those who indicated they did not hold any domestic violence order as presented in Figure 3 above (e.g. female = n=93, male n=23), we sought to establish the explanation for this. These results are set out in Figure 4 below. Notably, according to approximately one quarter of respondents, they were unaware that they could apply for a domestic violence order (n=5, 23.8%, , male; n=23, 25.0%; female). Over half of male victims (n=11, 52.4%) indicated that they did not think they needed an order, which is a considerably bigger proportion compared to female victim-survivors (n=20, 21.7%).

For those who were not granted a domestic violence order, we asked respondents to give further details. Answers provided included reasons such as there was insufficient proof to obtain an order (although it was not always clear who had determined this), for others they had already left the family home, some indicated that they believed they could not obtain an order as they had not lived together.

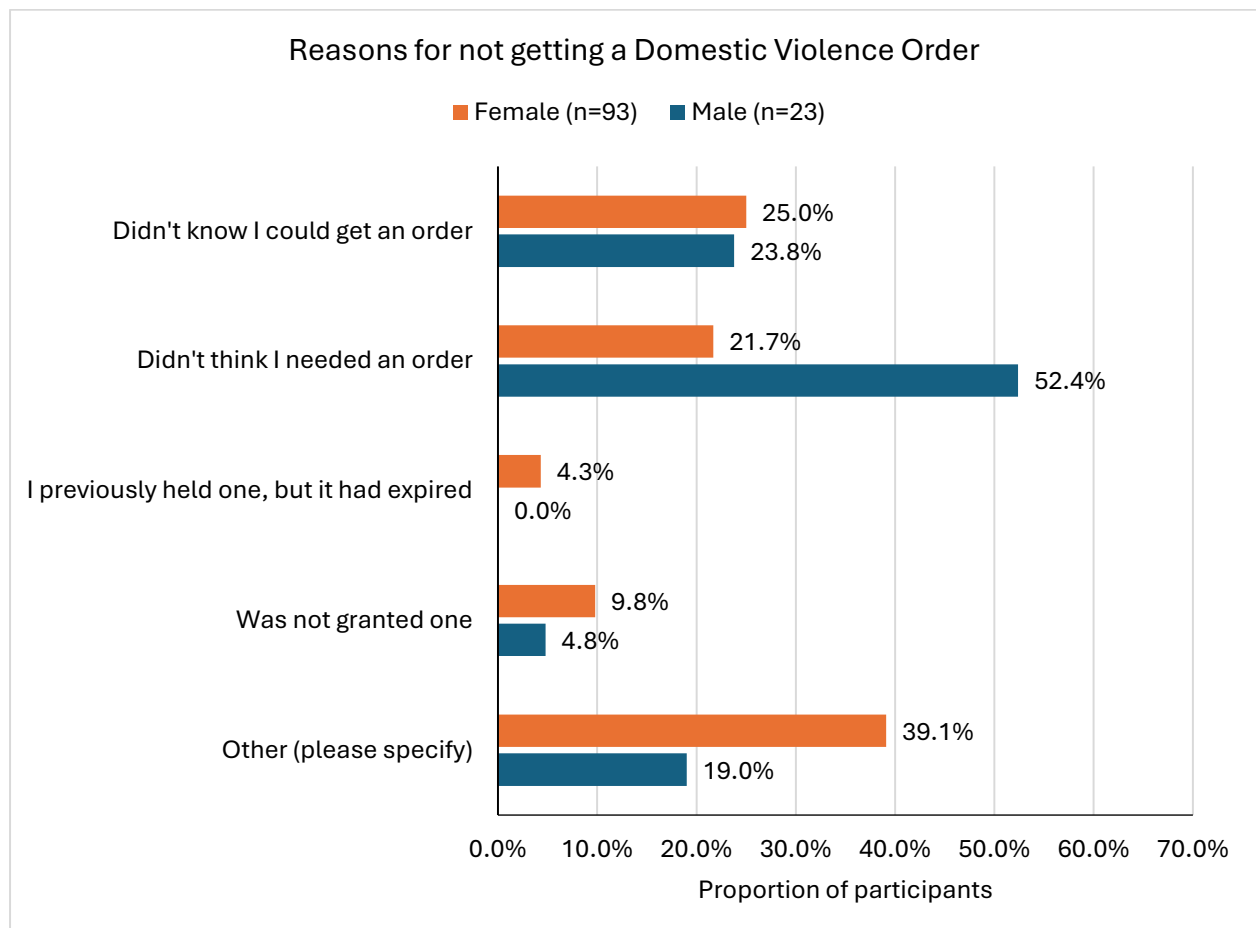


Figure 4: Bar chart of reasons for not getting a Domestic Violence Order

In the comments, nine victim-survivors mentioned that they were issued an ‘undertaking’ instead of a DV order. While this practice involves perpetrators swearing under oath not to threaten, instil fear or cause harm, undertakings do not give the Gardai the power to arrest. Several respondents revealed that they had accepted the undertaking instead of pursuing a DV order. In fact, several indicated that their application for a DV Order was used for negotiating and subsequently bargained away:

I was also advised by my legal team they would use safety order hearing as a bargaining tool.
(R60, female)

A number of victim-survivors explained that they were told not to pursue their order by solicitors and/or members of An Garda Síochána because of the high threshold to meet for an order, as this

respondents quote illustrates ‘Told not to bother by solicitor and guards as too difficult to get better to try solve informally which didn’t work’ (R40, female). Or as this next quote illustrates, DVA was dismissed as being conflict:

Judge was very dismissive towards the abuse I endured. She said it was ‘tit for tat and takes two to tango.’ I had text messages as evidence which she wasn't interested in, so I don't feel comfortable going forward with the safety order. (R71, female)

Of interest to this study and as set out in Figure 5 below, while the majority of respondents (n=218, 74.4%) (n =16, 80.0%, male and n=202, 74.0%, female) stated that the judge was aware of the DV orders during GCA proceedings, 13.0% of all responding victim-survivors (n=38) (female, n=36, 13.2% and male, n=2, 10.0%) indicated that the judge on their case did not know there was an order in place.

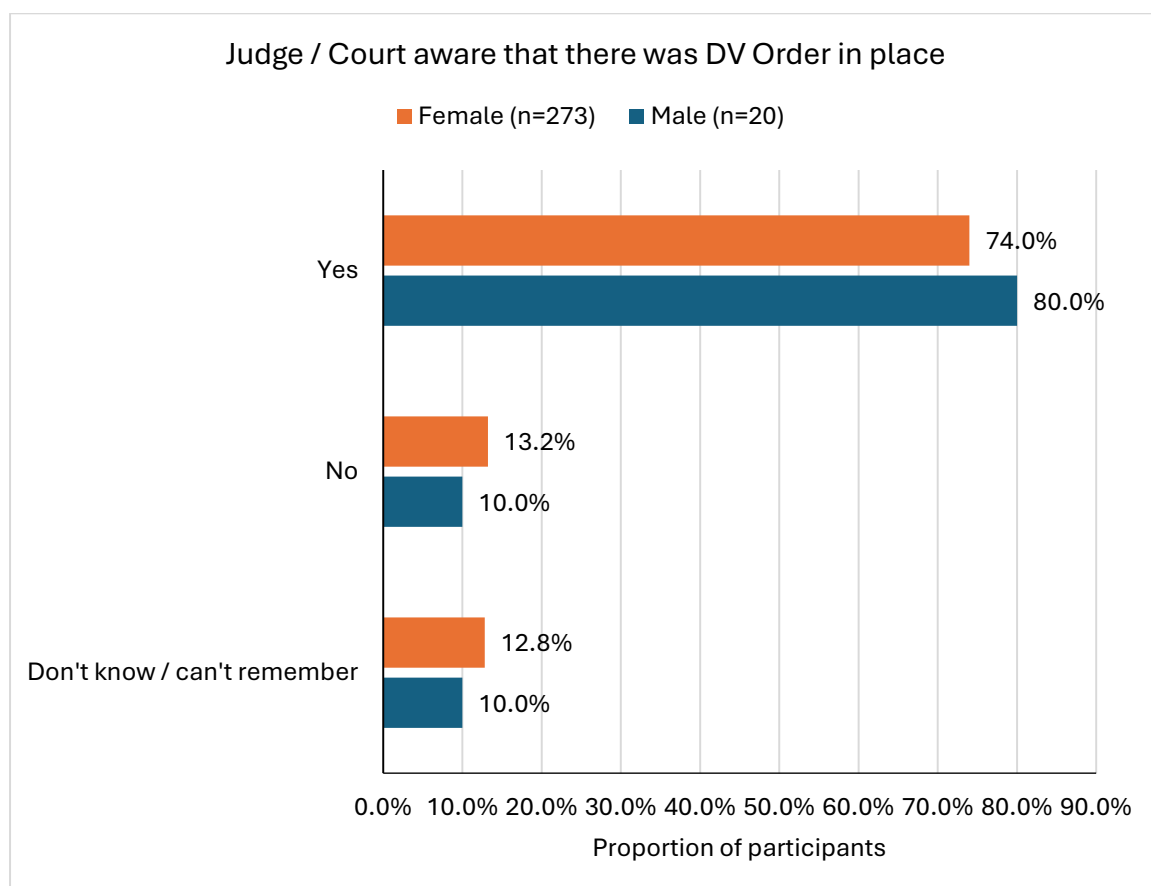


Figure 5: Bar chart of whether Judge/Court was aware of Domestic Violence Order during GCA proceedings

Commenting on the judges’ lack of knowledge of the DV orders in place, one respondent stated:

This was something I could not understand. My legal team did not tell the judge, and I could not understand why. I was quietened by them, not allowed to speak in court, hushed by them. It was bizarre. (R400, female)

However, for others it was perceived that the DV Orders were acknowledged, but it did not seem to impact on their proceedings, as this mother shared:

Both judge and psychologist were aware of DV and Orders in place but insisted that what happens between me and him is nothing to do with the child and is separate. (R315, female)

Emerging from the focus groups with various professionals was a concern with the variable level of proof required across the judiciary that the victim-survivor has experienced DVA to be granted a DV Order, as well as whether DV is considered in GCA proceedings, as this legal practitioner explains:

Some judges will genuinely expect to see evidence of either actual injuries or actual recordings of threatening behaviour or - because you will inevitably end up in a 'He said. She said.'- and it's bridging that gap between the different judges over what they might reasonably expect. (FG4 – Legal professionals)

5.4 Legal representation

5.4.1 Survey respondents' representation

For their GCA proceedings, the largest proportion of survey respondents reported using only privately funded legal representation (n=185, 45.2%). Legal Aid was reported to be the sole source of representation for nearly a third of victim-survivors (n=128, 31.3%). Another 3.9% (n=16) of respondents reported that they represented themselves in court without professional legal representation. Lastly, just under a fifth used some combination of Legal Aid, privately funded legal representation and self-representation (n=80, 19.6%), see Figure 6 below.

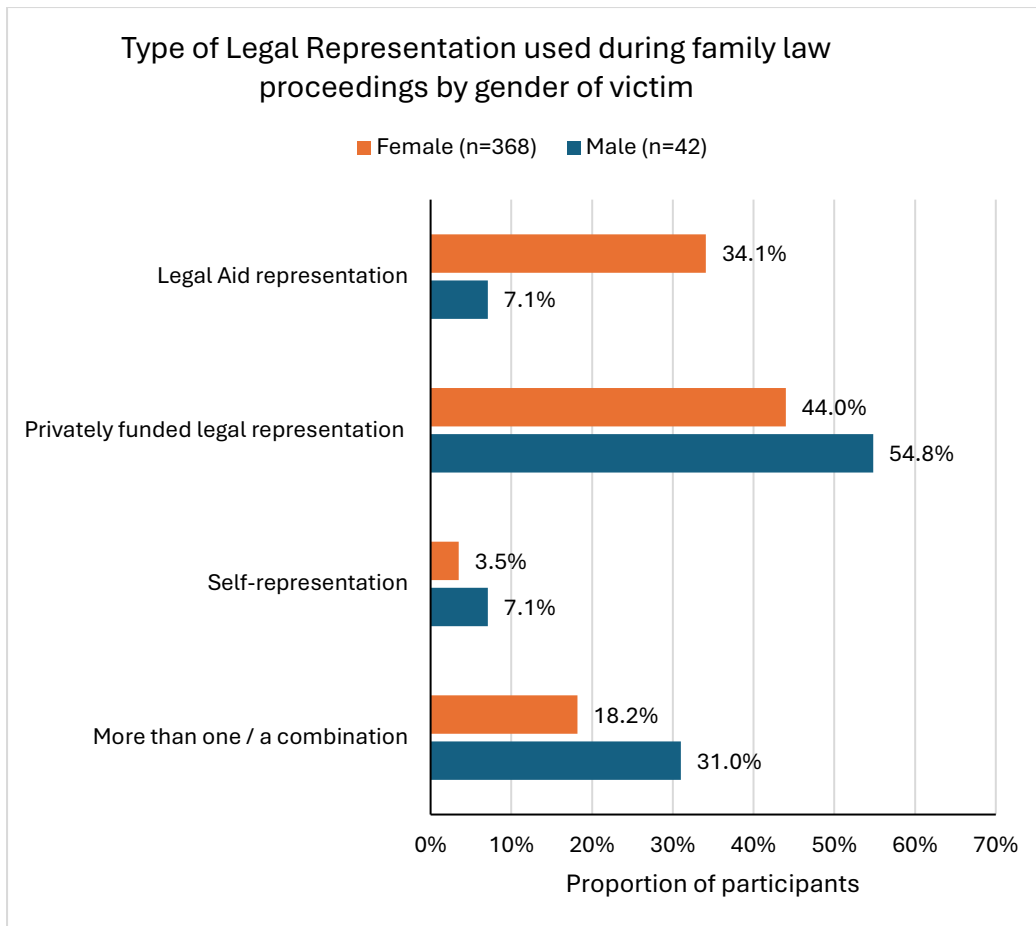


Figure 6: Type of legal representation used by victim-survivors during GCA by sex

5.4.2 Perpetrators' representation

More than half of respondents indicated that their abusers had utilised only privately funded legal representation (n=229, 57.7%). Nearly a quarter of respondents indicated that their abuser utilised Legal Aid only for their representation (n=96, 24.2%). A further 5.8% (n=23) reported that their perpetrator represented themselves in court, however notably no female perpetrators were reported by respondents to self-represent. Figure 7 below, breaks this data down by the sex of the victim-survivor.

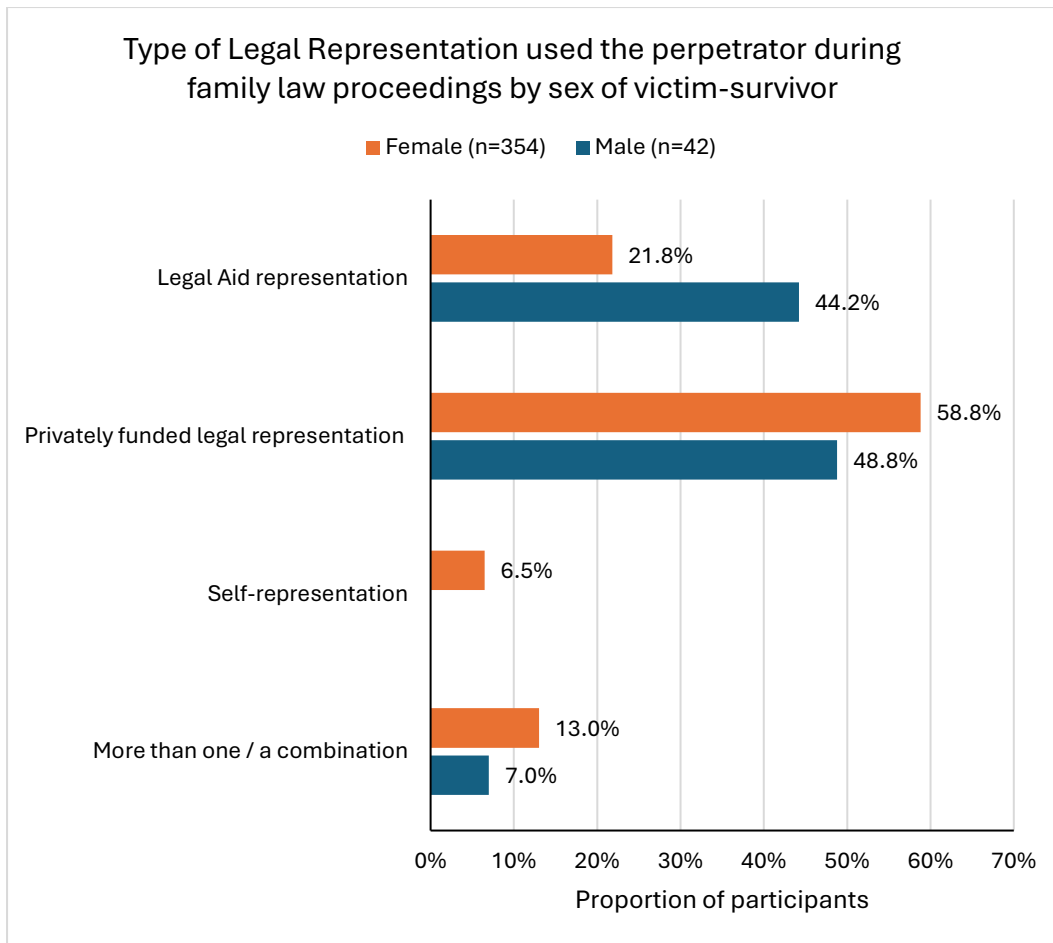


Figure 7: Type of legal representation used by perpetrator during family law proceedings (by sex of victim-survivors)

5.4.3 Experiences of legal representation

There were positives and negatives described by survey respondents and focus group participants relating to both private legal representation and free Legal Aid. These included threats of repeated court action, difficulties with accessing legal representation and issues with the length of the proceedings.

Difficulties with accessing legal representatives

When asked to rate their clients' experiences of securing free legal aid representation and private legal representation, the responses from DVA practitioners were mixed. These ratings were made on a 10-point scale with **1** being **'not good - lots of issues'** and **10** being **'very good – no issues'**. The average rating of clients' experiences securing both free legal aid representation and private representation are displayed in Figure 8 below.

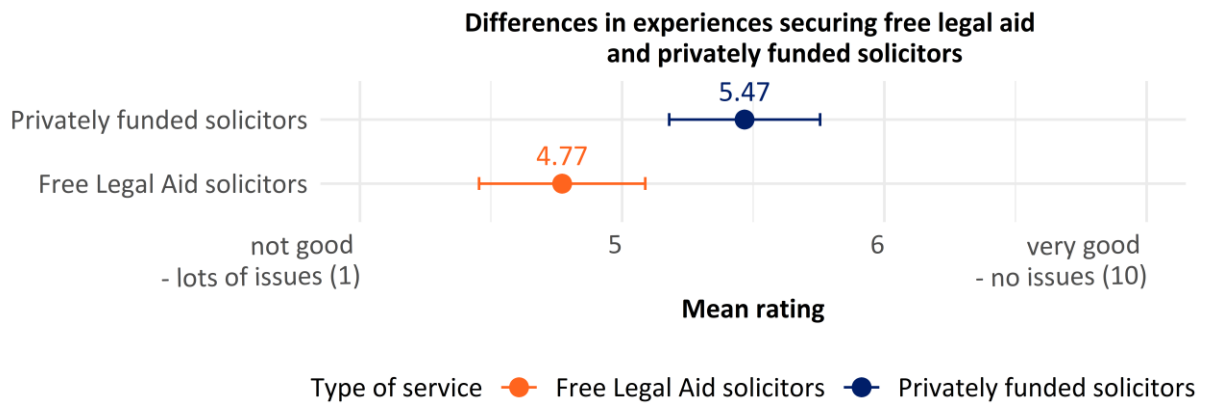


Figure 8: Comparison of ratings of experiences securing free legal aid and privately funded solicitors

Figure 8 shows the mean ratings of clients' experiences securing Legal Aid and private representation using a 10-point scale, as above. Practitioners provide an overall average rating of **4.8/10** (n=175, SD=2.0) for their overall experiences of clients securing Legal Aid, while privately funded solicitors received a slightly higher rating of **5.5/10** (n=167, SD=1.9). However, the modal response for Legal Aid was **3/10** (n=37, 21.3%), while private solicitors were **6.0/10** (n=36, 21.3%). These statistics suggest that DVA practitioners perceived that on average there were less issues securing private legal representation than Legal Aid. Given that in the adult survivor's survey, female victim-survivors were seen to rely heavily on Legal Aid, issue with accessing representation could impact negatively on them.

In the qualitative responses, practitioners revealed that accessing both types of representation could be problematic, however, Legal Aid solicitors were referenced more frequently here too. Some practitioners noted that access was easier in some geographic locations, or that contacts and relationships were important in this regard. These next two practitioner quotes demonstrate this:

In my local area, the panel of private solicitors, accepting Legal Aid, is very small and is reducing all the time. (DVPR52)

Again, this massively depends on the LAB [Legal Aid Board] responsible. We have made good contacts with local Legal Aid solicitors who take on our client's cases if we ask them to. However, we have rarely had much help from LAB [Legal Aid Board] to source a solicitor. (DVPR185)

Practitioners commonly reported that the demand for Legal Aid solicitors was greater than the availability which made it difficult for their clients to access representation. Several practitioners suggested that a contributing factor could be lack of incentives for solicitors to take Legal Aid clients or dissatisfaction with remuneration practices from the Legal Aid Board. This next quote touches on some of these issues:

Solicitors have told me that they are not willing to take legal aid as they do not get paid for the amount of work they do as cases are often adjourned any number of times. One solicitor told me that other solicitors are afraid to take legal aid cases as they are being canvassed/lobbied by other solicitors not to take legal aid cases until the legal aid board agree to pay them appropriately. (DVPR116)

Costs associated with legal representation

Notwithstanding the greater choice, the costs associated with private legal fees were described as being 'extortionate' (R14f & R24f) or a 'money making racket' (R239f & R400f). Some respondents described getting into significant debt or even losing their homes to cover courts costs. The burden of cost was specifically mentioned by those who were just marginally above the low threshold for legal aid, which currently stipulates that applicants must have a disposable income of under €18,000 per annum. In agreement, nearly three quarters of specialist DVA Practitioners surveyed indicated that they believed the eligibility criteria for Legal Aid is too restrictive or too strict (n=137, 73.7%). Victim-survivor respondents reported struggling financially, as their incomes were slightly too high to be eligible, yet not high enough to afford their legal representatives' fees. In fact, there were several female victim-survivors who disclosed that between legal fees and the time required to attend court for hearings, they had to give up their employment. This situation was not disclosed by any male victim-survivors. These next two respondents' quotes provide an example of some of these issues:

I had recently returned to work, I had to pay private solicitor when my ex brought me back to court to vary access because he refused to accept my childcare arrangement and interfered so much with my new job that I then had to leave it. I would like to be working but unfortunately I am trapped with very limited childcare options and ongoing court proceedings which I couldn't afford if in employment. (R10, female)

I'm work[ing] full time so could not get legal aid. I am classified as the working poor. (R388, female)

Threat and cost of repeated court action

Many victim-survivors disclosed how these cost implications were exacerbated by perpetrators' actions which aimed to inflict post-separation financial abuse by repeat summoning to court. Additional examples of financial abuse provided in victim-survivors' comments were unfair division of legal costs, not paying ordered maintenance, and having to secure legal representation for repeated summonses. These next quotes from two survey respondents illustrates a few of these experiences:

My experience has left me terrified for future court proceedings. The number of times I have been brought to court has now left me with a financial debt and enabled a new control technique for him. As a result, I now have no option but to increase the access to an unsafe amount for my son due to the threats of being taken back for a breach of an order. Costing me €2500 each time. As he has legal aid, the court system is easy for him to use as an abuse tool. All he has to do is remain unemployed and he can continue to get free legal aid. (R332, female)

I have always been eligible for legal aid as my income is limited on disability payment, but legal aid solicitors kept telling me that my ex was engaging in a level of litigation that legal aid doesn't cover. I had to switch to privately funded representation and have thousands of euro in debt now. (R151, female)

Length of proceedings

Additionally, many specialist DVA practitioners substantiated that the protracted length of legal proceedings with possibly multiple adjournments, could also negatively affect victim-survivors' financial situations because of the impact on their ability to work and earn money. The following quote provides an illustration:

It has been a long-drawn-out process with no improvement. It has come at a huge financial and emotional cost. It is not fit for purpose and does not work in the best interests of children whatsoever. (R211, male)

Professionals in the focus group also discussed the financial burden for victim-survivors; highlighting inequality for those without financial resources, as the next quote explains;

Like people who are financially constrained, then they're not kind of in the open market for lawyers the way an individual who would have financial resources available to them, that like

if they don't like their client, their solicitor, they can just fire them. (FG2 – professionals working with migrant and minority ethnic communities)

Notwithstanding the cost, a number of practitioners indicated that those who can afford private representation will have access to greater choice:

Greater freedom of choice, the most important factor, in my opinion, is a trust and belief that your representative has listened, understood and will represent you as best you can. When you pay privately, you will have a better choice in who fits this criteria (sic) for you. (DVPR19)

Issues with legal aid

While free Legal Aid obviously does not have the same cost implications, victim-survivor respondents frequently described other challenges, such as difficulty in getting in contact with their appointed Legal Aid representative to discuss their case ahead of court dates. When in court, interactions were often reported to be rushed or occurred just before going into the court room, compounding feelings of not being heard or understood by legal representatives. Several DV practitioners indicated that they believed an oversubscription of legal aid services meant that legal representatives could not give adequate attention to each case:

Solicitors appear to have very little time to give to clients as they're always rushing between clients - not [enough] opportunity to fully understand or appreciate the lived experience of the client before them. (DVPR86)

Some victim-survivors indicated that they did not believe that Legal Aid offered a service which was on par with private legal representation, as this quote from the online survey illustrates:

You get what you pay [for], unfortunately I had 'free' legal aid, which was abysmal. (R81, female)

Some DVA practitioners echoed comments left by victim-survivors. One practitioner noted that their 'clients spoke of Legal Aid not returning calls and been made to feel like a nuisance for phoning, especially as they say that it makes them feel second best'. (DVPR12)

A number of DVA practitioners shared their experiences of solicitors who engage in both private and Legal Aid work, suggesting that those who can pay receive better service than those on a Legal Aid certificate from the same solicitor, as this practitioner describes:

I have experienced clients working with solicitors who are receiving legal aid, and that same solicitor with other clients who are paying privately. There is a marked difference in the service that clients receive. (DVPR110)

Issues relating to poor service and high costs led a number of victim-survivors to self-represent in family court. This next quote from a respondent, illustrates her decision to self-represent herself following a negative experience with her legal aid solicitor:

I went for self-representation after access was agreed to obtain a safety order. I had no faith in my solicitor. She was very difficult to deal with. She wanted me to provide the documents to allow her seek payment. She wanted no engagement. Her secretary told me that each of these cases were like wedding cakes. All identical. Except for a different cake topper. Hence no meeting was required. The solicitor would meet me 15 mins before the case was heard. She was horrendous to communicate with and postponed the case month after month. It was finally heard when I sent her a text stating I wanted to reapply to the legal aid board for another solicitor. [...]. I found that she felt my request for a safety order to be excessive and wouldn't proceed. She used it as a bargaining tool. (R112, female)

5.4.4 Legal representatives' understanding of DVA

The survey asked respondents if they felt that their legal representative(s) understood their experiences of DVA while they were involved in GCA proceedings. Notably 39.7% (n=147) of female victim-survivors, and nearly half of male victim-survivors 47.6% (n=20), reported that they felt their legal representation 'never' understood their experiences while representing them for GCA. For the respondents who indicated some level of understanding about their experiences of DVA from their legal representatives, the majority proportion for each response was for 'privately funded legal representation'. Here, half of all the respondents who felt 'sometimes' understood by their legal representative were referring to private funded representation (n=83, 50.9%). Of those who selected feeling 'always' understood by their legal representatives; well over half of these responses were ascribed to private representation (n=39, 57.4%). Figure 9 below sets out the full responses to this question by sex of the victim-survivors.

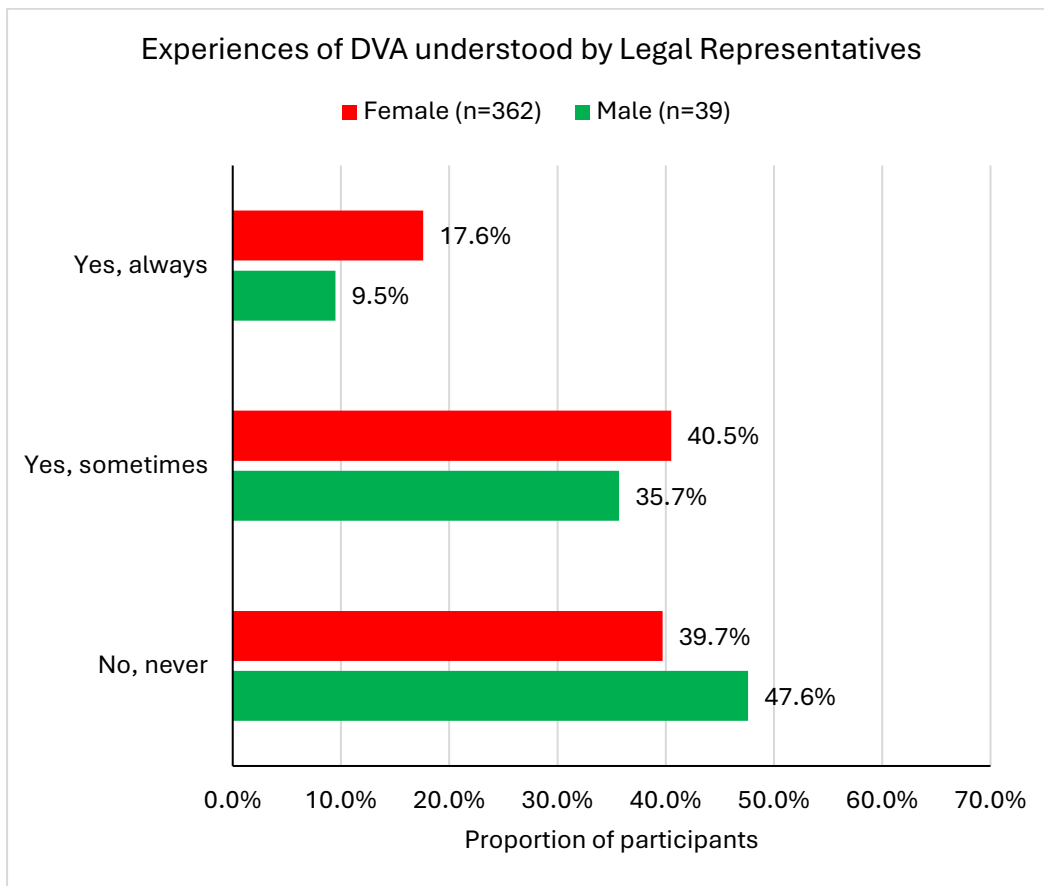


Figure 9: Were experiences of DVA understood by legal representatives by sex of victim-survivor

A lack of understanding about non-physical forms of abuse, including coercive control, emotional and financial abuse were conveyed in the responses. This next quote from a female victim describes how her experience of DVA was undermined because she did not experience physical violence:

It's actually really horrific to think about that experience however, the court and everyone in it including my legal aid solicitor made sure that I felt like a silly woman, a burden on the system, that he was a great man because he didn't hit me. (R1, female)

Specialist DVA practitioners were also asked to rate legal aid and private representatives' understanding of DVA dynamics. These ratings are shown in Figure 10 below.

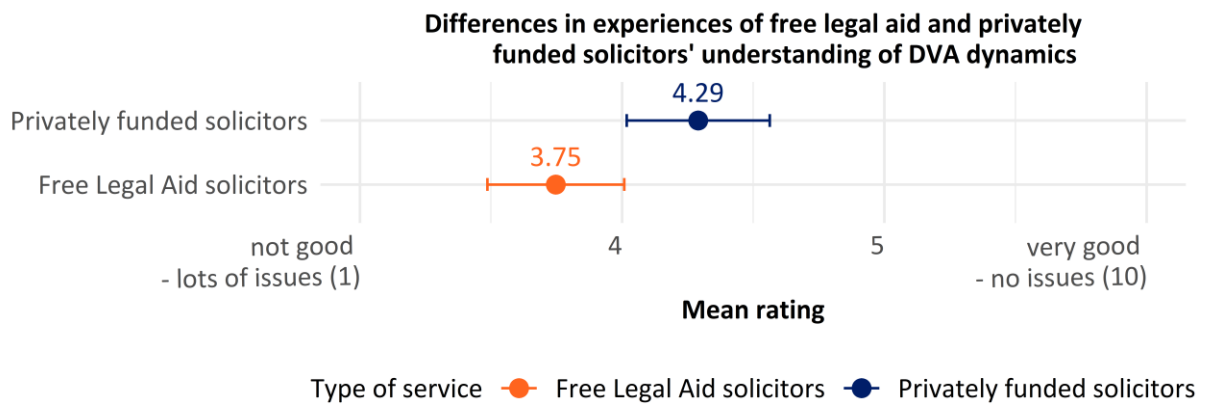


Figure 10: Comparison of ratings for free legal aid and privately funded solicitors' understanding of DVA dynamics

Using a scale from 1 to 10 where 1 is 'not good – lots of issues' to 10 'very good – no issues', the average rating of free legal aid solicitors' understanding of DVA was **3.8/10** (n=174), while privately funded practitioners were on average rated slightly higher at **4.3/10** (n=162). However, neither score suggest a deep understanding of the dynamics of DVA from either type of legal representation.

Poor or variable understanding of the dynamics of DVA in relation to custody and access decisions and its impact on children were also discussed in the focus groups, as this practitioner explains:

Like how disrupted their worlds are with access two or three times a week. The pain in the tummy the night before going to access, the disruption all day that day in school, the kind of worry about the access that night, and then the recovery for it, and often, I don't think it's seen at all. (FG8 – Tusla professionals)

Professionals in the focus groups also discussed what they considered to be stereotypes and bias about DVA, both in court and in society more broadly, which can hinder fair treatment of victim-survivors. As this next quote explains, professionals suggested that these stereotypes relate especially to victim-survivors not been taken seriously, particularly where the dominant narrative is that children need both parents, resulting in an undermining of experiences of abuse in court:

We have issues in relation to people that are genuine victims of domestic violence, perhaps downplaying what they've suffered or minimising it, so that it's very hard to portray, I suppose, as the matter unfolds before the court, it's very hard for the alleged victim or for the person

seeking the relief to adequately convey to the court what they've experienced. (FG4 – Legal professionals)

Participants specifically mentioned that prejudices and misconceptions about DVA are a barrier in legal professionals.

We're definitely hearing a lot more around solicitors accusing victims of domestic violence, of parental alienation and that's caused like a huge stir in the courts (FG1 – Professionals providing family support)

5.5 Mediation

Mediation is another key feature of the family law system. While mediation has many benefits, strong concerns over its appropriateness in the context of DVA have been raised. 68.2% of all adult victim-survivors reported that mediation was suggested to them by a professional (n=281). A solicitor was the most common professional to suggest mediation (n=126, 45.0%), followed by a judge (n=45, 16.1%).

One third of all respondents to the online survey reported that they engaged with mediation during their GCA process (n=140, 33.9%). Over a third of victim-survivors who used mediation during their GCA proceedings, said that they did so because they wanted to do it (n=47, 34.3%), while a further 19.0% (n=26) said that their legal representative encouraged them, and they wanted to engage with the process. Nearly a fifth of respondents reported that a Judge had suggested that mediation was attempted first (n=27, 19.7%). However, of note, there were 5.1% of the sample who said that their ex-partner 'forced' them to engage with mediation (n=7) and another 5.1% who reported that their ex-partner's legal representation had 'strongly insisted' on mediation (n=7). This potentially suggests that some level of coercion was involved in the decision to engage in mediation for 10.2% of victim-survivors (n=14). All of these respondents were female victim-survivors. This is illustrated by the following quote: *'We were given no choice by the judge and solicitors, I felt I had to do it, 400 euro wasted, knowing it was pointless'* (R356, female).

The survey asked respondents to rate the usefulness of mediation at this time, where **1** was '**not useful at all**' to **10** '**very useful**'. Victim-survivors who used mediation gave an average rating of **1.8/10** (n=133, SD=1.7). Respondents were invited to leave additional comments on the usefulness of

mediation if they so wished, with 97 victim-survivors choosing to do so. The vast majority of quotes stated that mediation was either not helpful or useless: *'useless, complete failure to engage'* (R384, male) or *'Not useful. Coercive control not widely understood, nor is dealing with manipulation and compulsive lies'* (R263, female). Overwhelmingly, victim-survivors expressed that their former partner and abuser did not engage with the process or did not adhere to what had been negotiated during mediation. A more positive comment described how the mediation process was good, yet the perpetrator complicated matters, as this respondent explains:

I found the mediator excellent, and the process was good too, however two weeks after a mediation agreement was signed, I received another court summons from my child's father.
(R214, female)

Some victim-survivors felt that the mediators did not understand the dynamics of DVA. Several victim-survivors disclosed that perpetrators were abusive to them or the mediators, during mediation. *'Ex-partner was threatening and abusive in meditation, mediation service withdrew'* (R195, female). One male victim-survivor who stated that he *'was hopeful we could work out a plan for maintenance and access'* (R303, male), described that the mediator would not however accept that he was not the abusive party. Several others described how mediation was terminated once the mediator realised that it was an abusive relationship.

In addition, the survey asked victim-survivors to rate their feelings of safety while engaging with the mediation process: 133 respondents provided average rating of **3.0/10** for safety during mediation. Again, we asked respondents to leave additional comments around their feelings of safety during mediation. 60 victim-survivors left comments, the vast majority of which asserting that they did not feel safe during mediation, whether in-person or online (during Covid). In addition, many comments described feeling distress or threatened from their engagement with the mediation process, as these comments elucidate:

Mediation put me at risk and I was further abused and it was a waste of time, just an avenue for perpetrator to control and further abuse victim and play mind games. **(R180, female)**

The mediator just sat there while my ex-partner verbally abused me and made numerous of accusations while I was trying to focus on seeing my child and spending time with them. It was a horrible experience, and the mediator just let it happen. (R398, male)

Two thirds of specialist DVA practitioners had experience of their clients using mediation (n=129, 66.2%). Mirroring the mainly negative perceptions mediation from victim-survivors, DVA practitioners rated mediators' understanding of the dynamics of DVA an average of **3.6/10** with a modal response of **2.0/10** from a quarter of responding practitioners. Figure 11 below represents the full response to this question.

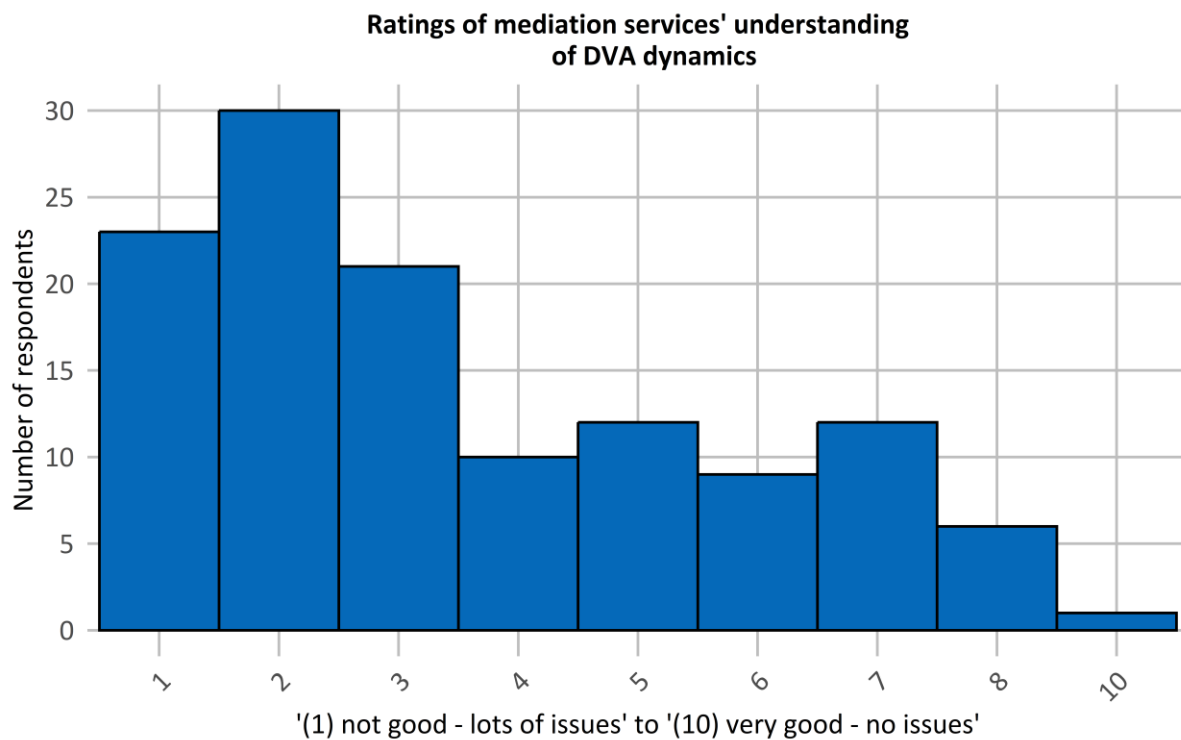


Figure 11: Ratings for mediation services' understanding of DVA dynamics

When asked to comment on their ratings of mediators' understanding of DVA dynamics, the following concerns were noted by two practitioners:

There seems to be no awareness with mediation services around understanding domestic abuse and coercive control and the impact it has on victims. In fact, some stories I have heard feedback from were appalling where the victim was made apologise to the perpetrator for making him 'angry' and causing him to be violent. (DVPR135)

Many clients who have felt coerced by legal systems to engage with mediation with their perpetrator have highlighted to me that they felt that mediators unwittingly colluded with their perpetrator and minimised their (and their children's) experience of domestic abuse. In my experience, a client never reported feeling that there was good outcomes following engagement with mediation. Many have advised that the experiences created more opportunities for the perpetrator to instil further distress and fear. (DVPR95)

Overwhelmingly DVA practitioners did not believe that mediation was safe or effective in the context of DVA. The limitations of mediation as an intervention in the context of DVA was also discussed in the focus groups with one practitioner providing the following insight:

I know mediation doesn't always work, especially where it's domestic violence. In situations it's impossible, if there's barring orders in place because maybe there's – and if there's coercive control there - so it's going to be very difficult. But I just think adversarial system again. There's always a winner and a loser; that's kind of what it's meant to be like. So again, nobody's going to come away happy. (FG5 – Professional supporting male victim-survivors)

When practitioners had more positive impressions of mediators, this related to the mediators understanding that the process may not be appropriate. However, there were a few professionals who emphasised their belief that mediation could still have potential for increasing safety for children:

It actually can be appropriate even in domestic violence situations because the discussions that you have with Mom and Dad can be done via shuttle mediation in separate rooms. They don't have to actually be sat in the same room together. (FG5 – Professional supporting male victim-survivors)

5.6 Court Assessment and Reports

Other 'tools' of the system include a variety of assessment processes and reports which can be undertaken by a range of professionals, if instructed to do so by the court. These reports include a 'Child welfare report' Section 32 (1) (a) Guardianship of Infants Act 1964 as amended; 'Voice of the child' Section 32 (1) (b) Guardianship of Infants Act 1964 as amended; Welfare report (as it relates to the child/ren), Section 47 report, Family Law Act 1995 as amended; Social work report, Section 20,

Child Care Acts 1991 (as amended). Professionals and victim-survivors were consulted about their experiences and perceptions of the court assessment processes and the court reports which are used by judges in their decision-making processes. Some key findings are presented below.

Specialist DVA Practitioners in dedicated support services hold a wealth of knowledge and experience from working with many adult and child victim-survivors over the course of their professional careers. Most of the specialist DVA practitioner respondents indicated they had experience of their adult and child clients being interviewed and assessed by experts to prepare reports for the court (86.7%, n=163). However, notwithstanding the legislative requirement for children’s voices to be ascertained, and in particular when it is alleged that there is DVA within the family, 41.0% of respondents (n=171) indicated that no court reports or child welfare reports were prepared for the court during their GCA proceedings. For the remaining respondents (n=245, 58.9%) some type of court report(s) and/or welfare report(s) were prepared. Respondents’ answers broken-down by type of report are presented in Table 11 below.

Table 8: Types of court report or child welfare report prepared during GCA proceedings as reported by victim-survivors

Name of court report or child welfare report prepared	N	%
Child welfare report, Section 32 (1) (a) Guardianship of Infants Act 1964 (as amended) (District Court)	47	19.4
'Voice of the child report', Section 32 (1) (b) Guardianship of Infants Act 1964 (as amended) (District Court)	63	26.0
Welfare report (as it relates to the child/ren), Section 47 Family Law Act 1995 (as amended) (Circuit Court / High Court)	50	20.7
Social work report, Section 20 Child Care Acts 1991 (as amended)	23	9.5
More than one type of report in different courts *	34	14.0
I am not sure / I don't remember	25	10.3
	242	100.0

(N=245, missing=3)

5.6.1 Specialist DVA practitioners' perceptions of how reports factored into the decision-making process

We asked practitioners to rate their overall experience of how these reports are factored into the Judicial decision-making process in guardianship, custody, and access proceedings using a scale from **1- 10**; where 1 represented 'not good – lots of issues' and 10 represented 'very good – no issues'. The results are presented in Table 12 below. It is apparent from these results that practitioners perceived that there were issues with the way these reports are factored into judicial decision-making. In particular, the 'voice of the child' 32 1 (b) reports and section 47 reports received the lowest scores of **2.0/10** from the majority proportion of practitioners for each question and an average practitioner rating of **3.6/10**. Section 20 reports which are conducted by social workers under the 1991 Child Care Act, received the highest rating with an average rating of **4.3/10** and a modal response rating of **6/10**.

Table 9: DVA Practitioners' overall experience of the manner in which reports are factored into the Judicial decision-making process in GCA proceedings

Report type	Average Rating (SD)	Modal rating (%)	n=
Child Welfare Report, Section 32 (1) (a)	3.6/10 (1.9)	4/10 (20.4%)	142
'voice of the child reports' Section 32 (1) (b)	3.6/10 (2.1)	2/10 (21.8%)	110
Section 47 report, Family Law Act 1995	3.6/10 (1.8)	2/10 (19.4%)	72
Section 20, Child Care Act 1991	4.3/10 (2.1)	6/10 (18.6%)	97

5.6.2 Understanding of the dynamics of DVA

Using the same rating system, practitioners were asked to rate the extent to which the experts preparing these reports understood the dynamics of domestic violence and abuse, including coercive control. It is apparent from the average rating and modal response rating that practitioners perceive there is a lack of understanding of the dynamics of abuse from those charged with preparing these reports. Table 13 presents these results.

Table 10: DVA Practitioners' overall experience of the extent to which the experts preparing reports understand the dynamics of DVA (inc coercive control) as it relates to GCA proceedings

Report type	Average Rating (SD)	Modal rating (%)	n=
Child Welfare Report, Section 32 (1) (a)	3.2/10 (1.8)	3/10 (25.0%)	140
'voice of the child reports' Section 32 (1) (b)	3.1/10 (1.8)	2/10 (26.6%)	109

Section 47 report, Family Law Act 1995	3.3/10 (1.7)	2/10 (24.6%)	69
Section 20, Child Care Act 1991	3.7/10 (2.0)	2/10 (22.4%)	98

5.6.3 Perceptions relating court report and child welfare reports

The court appointed experts' lack of understanding about the dynamics of DVA that was alluded to by DVA practitioners echoed strongly in the data gathered from victim-survivors. Issues relating to court reports and child welfare reports were raised by many victim-survivor respondents to the survey throughout the survey. Importantly, if these reports were conducted by an expert who respondents perceived to be qualified to undertake the task, or the assessor appeared to understand the dynamics of DVA, then perceptions about the reports and their impact were positive. However, these positive experiences were in the minority in the survey data. Yet what these positive experiences demonstrate is the potential impact these reports can have for victim-survivors when they are conducted by an adequately qualified or informed professional. These positive experiences and enablers will be explored in greater detail in chapter eleven on 'Enablers and Supports'. However, this next quote illustrates a positive perception:

The section 47 report was the only reason the DA was taken seriously. If it wasn't for the assessor fully understanding the extent of the abuse and the effect on the kids the courts would have awarded him much more access. The only reason my kids are safe are that the section 47 assessor understood what was going on and her report. If it was left into the courts they would have been left in danger. (R157, female)

Fieldwork Notes Urban court: When Section 32 reports are clear and effective

The Judge in this case consulted a Section 32 report prepared for the court by an assessor. When the court was addressed by the presiding Judge, they declared that the children had made it clear to the assessor that they did not want to see their alleged perpetrator parent. Based on this report, the Judge discharged the access order and extended an existing safety order.

However, far more frequent were victim-survivor respondents' negative perceptions and experiences. In fact, several victim-survivor respondents questioned whether the professionals appointed by the court were qualified to conduct assessments and prepare reports for the court as the following respondents' quotes explicate:

At the expense of 4k, by a professional who does not legitimately have the degree they advertise. And, the parents are only allowed to be read the report. They cannot take notes, much less have a copy. Everything is secret. (R18, female)

Waste of time, completely inexpert and biased and very expensive 'professional'. (R384, male)

Correspondingly, many specialist DVA practitioners surveyed expressed strong views over whether the professionals charged with carrying out assessment and writing reports were suitably qualified to undertake the task. These sentiments are depicted in the following practitioners' quotes:

What is meant by experts? Often these court appointed psychologists have no training in domestic abuse. Children report being made to feel guilty for not wanting to see perpetrator fathers. These practitioners are placing children at risk. Judges rely too heavily on these reports. How could a practitioner possibly understand a family from a couple of hours of stressful interviewing. (DVPR183)

In my experience it is the way in which the details are interpreted or glossed over, recognised as significant or missed entirely, where there is adequate or inadequate training, support and [facilitation] for them [regarding Section 20]. (DVPR140)

Moreover, notwithstanding DVA practitioners' expert knowledge, which could be drawn on to inform assessments in complex cases involving DVA, two thirds of practitioners surveyed indicated that their professional views were 'never' sought to inform decision-making processes in relation to GCA proceedings in the context of DVA (n=121,67.6%). The most prominent theme to emerge from comments left by 47 DVA practitioners in relation to this question was that typically it was the woman herself who could request a letter of support, which may or may not be taken on board in her GCA proceedings by a range of named professionals including legal representatives, social workers or judges. There was only one DVA practitioner who explicitly indicated that court ordered assessors sought input from them. Meanwhile, general inconsistencies were highlighted in relation to social

workers, judges, or legal representatives seeking DVA practitioners' professional views in relation to GCA proceedings.

Fieldwork Notes Urban court: Assessor's lack of understanding of domestic violence and abuse

In this case the victim-survivor took the stand to give evidence. This evidence portrayed an extremely coercively controlling relationship. The case appeared to be complex and protracted. Mum claimed that the child did not want contact with dad (alleged perpetrator), she also expressed worries about levels of coercive control that the child might be subjected to during access given her lived experience of his behaviour. An assessor who had prepared a Section 32 report gave evidence to the court. This report noted that although the child had said they did not want to see their father, the assessor had concluded that this was most likely the mother's influence as the child had interacted well with the father while at the assessor's office. The assessor recommended that should the child be kept from seeing their father, it would lead to long-term negative consequences for the child which may stop the child forming other meaningful relationships in the future. On hearing this the mother broke down, she told the court she did not want to this to happen to her child and that she would facilitate access if it was in the child's best interest. There did not appear to be any acknowledgement or understanding that the child could be subjected to ongoing coercively controlling behaviours during any access visits.

One of the most frequently raised issues by DVA practitioner respondents to the survey was the lack of voice children have in proceedings, even with these dedicated reports whose primary purpose is to ascertain their views. Again, many respondents indicated they believe this issue is compounded by a poor understanding of DVA and children's needs among these professionals, combined with an emphasis on the rights of the abusive parent over safety considerations for the child. As this next quote shows:

I believe the system does not keep children safe. Fathers' rights are more important than children's rights regardless of how abusive a father is he will always get access to his children.

(DVPR80)

This was echoed in data gathered during focus group interviews. Here, various professionals shared the same perceptions of DVA practitioners in relation to children's safety being under-prioritised, as can be seen in this next quote:

The child had communicated that they didn't feel safe, they'd communicated that they felt worried and scared, and that was used as the court report, but it didn't stop access in the interim. So, you know it should be acted upon when that information is gathered. (FG1 – Professionals providing family support)

Many DVA practitioners perceived that children's wishes were dismissed even when the court solicited their views, or a voice of the child report was submitted. Another insight expressed by a number of DVA practitioners is that when a report is ordered, the child may not be free to be honest with the assessor arising from fear of their abusive parent in relation to threats made or potential reprisals. Many DVA practitioners also asserted that often when a child expresses a clear preference against access with the abusive parent or voices safety concerns, contact is nonetheless ordered. The reports available were seen by many practitioners as being ineffective or used inappropriately, with some suggesting that Section 32 reports are ordered when a more objective investigation into child safety issues is required, such as a Section 20 Report.

Additionally, some DVA practitioners also felt that the voice of the victim-survivor parent was marginalised in the compilation of reports, as these quotes express:

Listen to mothers. Mothers know their children. [Section 32(1)(b)] (DVPR183)

Often does not include the woman's experience of the perpetrator tactics, power and control [Section 32(1)(b)] (DVPR151)

The highly contested concept 'Parental Alienation Syndrome' was a strong theme to emerge from the victim-survivor survey data in relation to court ordered assessments. Many female victims described being accused of parental alienation by their abusers, frequently espoused by court appointed assessors. Several female victim-survivors shared that they were either warned by their legal representatives not to raise their experiences of DVA for fear of it being countered with allegations of 'parental alienation', or they had already been accused of parental alienation for doing so:

I was told by my team not to bring it up as he was using Parental alienation as a tactic to remove the children from my care. I was told that allegations are one of the signs of PA [parental alienation] (R272, female)

A section 47 report which stated that there was parental alienation where there was none. They just picked something to destroy me with and it did destroy me for over 2 years as I couldn't function as it was 100% lies and they threatened that my children would be forced to live with him for 3 months and no phone contact. There was not even 1% of truth - a total and utter set up by my husband's legal team to distract from his barring order. (R368, female)

Interestingly, and somewhat conversely, male victim-survivor respondents described being subjected to parental alienation by female perpetrators. From the comments left by male victim-survivors about alienation, it appears they believe that female perpetrators leveraged their position as primary care givers to cause harm to the father-child relationship by restricting contact. The following selection of quotes represent a female and a male victim-survivor's experience of parental alienation during GCA:

I was accused of PA and so it was decided that my child's voice was not her true voice. They said I had manipulated her and they took her away by force against her wishes for 5 months with no contact. (R238, female)

Judge ignored my call that my son was being alienated against me and did not act on it. (R33, male)

However, what is notable is that regardless of gender, perpetrators appear to utilise any opportunities at their disposal to inflict abuse and exert control, whether that is (ab)using the court system, or their children, to target their victim.

Fieldwork Notes Urban court: Voice of the child

In one case the Judge was observed questioning whether a Section 20 report was required to which the solicitor stated no and no question was made of it again. Several other cases were delayed due to reports.. in one case a barrister who was awaiting a Section 20 report had their case was adjourned.. delays to section 32 reports were common particularly when parent(s) were awaiting legal aid certificate. In another case the Section 32 report is noted as having been received by the court and judge comments that the recommendation is made very clear in it. Neither legal side has read the report yet and so the court registrar makes copies for them and the matter is let stand to allow them time to read it. A mother brings in to court a handwritten letter by her teenage child

stating their wishes on contact with their father, while the judge reads it and states it is merely 'hearsay' it does appear to be taken into account in the final decision. Another case with Tusla involvement and a Section 20 report completed the child was invited to come to court to talk to judge but had declined.

5.6.4 Cost of assessments and reports

As alluded in an earlier quote, many victim-survivor respondents left comments which described how the cost for conducting assessments and preparing reports were extremely high. Indeed, some respondents perceived that the costs associated with the reporting process were extortionate, describing them as *'a farce and a money-making racket.'* (R192, female). Findings in relation to high costs for assessment and reports were corroborated strongly in both the DVA practitioners' survey and the focus group interviews with professionals.

Furthermore, some victim-survivor respondents described how their abusers had tried to block reports or interfere with the assessment process by refusing to cover their share of the costs, or by not engaging with the process, as can be seen in the next quote:

Ex-wife refused to attend until literally threatened by a judge that she would be jailed if she did not. She then tried to stop the report being released. (R83, male)

Time spent

In addition to issues of cost raised by victim-survivors, many DVA practitioners highlighted concerns over quality. Many practitioners surveyed indicated that they perceived inconsistencies in relation to the amount of time spent preparing these reports (Table 14). Some DVA practitioners believe the time spent preparing reports was *'too long'* while other believed it was *'too short'*. However, there were few practitioners who indicated that they believed the time spent was *'appropriate'*.

Table 11: DVA Practitioners' perceptions on the amount of time spent preparing reports

Report type	Too short	Appropriate	Too Long	Don't know
Child Welfare Report, Section 32 (1) (a)	40.3% (56)	4.3% (6)	35.3% (49)	20.1% (28)
'voice of the child reports' Section 32 (1) (b)	50.9% (54)	4.7% (5)	15.8% (31)	15.1% (16)
Section 47 report, Family Law Act 1995	41.7% (30)	8.3% (6)	27.8% (20)	22.2% (16)

Section 20, Child Care Act 1991	39.8% (39)	16.3% (16)	22.4% (22)	21.4% (21)
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Qualitative responses from practitioners help to explain these inconsistencies and gather deeper insights. Where DV practitioners said that the time spent was ‘*too long*’, they were generally referring to a delay in the report being delivered and were not necessarily referring to the time spent on the case. Where respondents said that the time spent on reports was ‘*too short*’, they were in that case generally referring to what they considered was inadequate time, for example, spent speaking with the child. Some comments revealed elements of both too little time with the child and too long time to conclude their report. The following quotes from DVA practitioners highlight some of these issues:

Again, takes too long - can be months and in the meantime child suffers -waiting and possibility still having to visit A/P [abuser/perpetrator] and not wanting too. (DVPR92)

I feel that an hour[']s interview is too short a time to gather the information needed to make such important decisions, about a child safety and wellbeing going forward. Particularly as the local judge rules according to the recommendations. (DVPR52)

I believe many of [these] reports are copied and pasted, some of [these] reports take place over the phone. (DVPR80)

Fieldwork Notes Urban court: Access maintained while reports are delayed

In this case there had been a lengthy delay in preparing a Section 20 Report, which Tusla formally apologised to the court for. Mum explained that the child did not really know the father as he has been largely absent for many years. Mum further claimed that the child did not want any phone calls or other contact with him. The father claimed that this was untrue. Mum offered to bring the child into the court to speak with the Judge. However, the Judge stated that they did not want to speak with child directly, that the child’s wishes should be established by a professional. Mum is instructed to ‘encourage’ phone calls and facilitate access until the report process is concluded. The case was adjourned until after the summer recess.

Level of detailed gathered for assessment and reports

There was a higher consensus from practitioners in relation to the level of detail collected for the preparation of the reports. Approximately two thirds of practitioners surveyed believed that there was 'not enough' detail collected by the experts who prepare reports for the court: This was consistent across all types of reports surveyed, as can be seen from Table 15 below.

Table 12: DVA Practitioners' perceptions on the amount detail gather for preparing reports

Report type	Not enough	Appropriate detailed	Too detailed	Don't know
Child Welfare Report, Section 32 (1) (a)	64.2% (88)	9.5% (13)	2.9% (4)	23.4% (32)
'voice of the child reports' Section 32 (1) (b)	69.4% (75)	10.2% (11)	1.9% (2)	18.5% (20)
Section 47 report, Family Law Act 1995	71.4% (50)	11.4% (8)	1.4% (1)	15.7% (11)
Section 20, Child Care Act 1991	68.4% (52)	30.3% (23)	1.3% (1)	-

In addition to not enough detail, many practitioners also considered that inadequate information or misinformation could result in inaccurate or misleading conclusions and decisions, as this respondent explains:

Abysmal. Again, no supporting evidence. Writing into report misinformation stated by Alleged Named Abuser, with no fact-checking. Judge then takes this as fact as it has been written by Guardian ad Litem. No complaints process when this happens [Section 32(1)(a)]. (DVPR155)

Fieldwork Notes Urban court: Depending on 'deficient' reports

During this case the presiding Judge reviewed a Section 32 report in chambers, on returning to the courtroom they addressed the parties present noting, 'well, it doesn't actually capture the voice of child, so it isn't much help'. When the parties had been excused, the Judge further explained that there was a new agency conducting Section 32 reports and the courts had 'high hopes' for this new service, but the Judge disclosed that to date many of the reports submitted to the court had been 'deficient' which was 'disappointing'.

Lastly, several victim-survivors who responded to the survey perceived that not being able to have a copy, or even sight, of the report on some occasions as wholly unacceptable. This victim-survivors words capture this sentiment:

Make it transparent, remove the in camera rule. Stop the section 32/47 reports by self-appointed "experts" and make any reports transparent, we aren't allowed read the reports or have a copy of them? (R151, female)

This issue was also raised by professionals in DVA practitioner survey and the focus groups; some of the issues with not having access to the report are highlighted by a participant in a focus group discussion:

And oftentimes, the person who's going in doesn't get a copy of that report either. So, they're on the steps or something and it's being read out to them, or they're being told when they're going to court. So they don't have access sometimes going into the court, until they actually get in there. (FG5 - Professionals supporting male victim-survivors)

5.7 In camera rule

The in camera rule, as mentioned above, is the mechanism used to protect the privacy of the parties involved in family law cases. However, rather than providing protection, many victim-survivors who responded to the survey believe that it compounds abuse and causes harm. Several victim-survivors shared their perception that protection was afforded to judges, legal professional and abusers, and not those who are most vulnerable. Here one victim survivor describes her belief that the in camera rule facilitates abuse at the hands of the court:

In my opinion women are leaving abusive situations to be abused in the court room by judges that are protected by the in camera rule. I was lucky in that the judge I had dealt with the safety order and maintenance issues too and believed me. (R359, female)

A lack of transparency in relation judicial decisions and oversight was raised by both victim-survivors and professionals as a harmful practice. This next quote from a DVA practitioner elucidates:

One of the difficulties is the "In camera rule" we only hear from the women the inconsistencies that are taking place with individual judges that are overworked and making hasty decisions at the end of a long day. (DVPR98)

This means there is no mechanism to compare or contrast judicial practice against that of their peers or in the context of previous decisions, which can allow questionable practice to go unchallenged. This is further corroborated by this next victim-survivor's quote:

In camera proceedings protect bad judges and their blatant abuse of the law and rights of people. (R94, male)

Additionally, the in camera rule can act as a barrier to support for victim-survivors, which prohibits DVA support workers from accompanying their clients into the courtroom for GCA proceedings, as this DVA practitioner explains:

The in camera rule does not allow DV support workers to be in the room during access/custody/guardianship hearings. This rule allows no transparency of judges decisions/rulings which I feel is essential to insure a just/fair hearing for survivors. The role of the DV support worker I feel is not acknowledged or recognised by the court, including our expertise and judgement. (DVPR63)

However, as this next victim-survivor highlights, the in camera rule can have serious ramifications in other jurisdictions by not allowing relevant information to be admissible in proceedings: *'I am effectively gagged in [different country] courts because I am bound by the in camera rule of the Irish Family court (R366, female), and possibly affording a perpetrator the upper hand.*

In the victim-survivor survey there were calls to abolish the in camera rule, as it has intended consequences, as summed up neatly in the next quote:

The in camera rule protects abuser, legal professionals and judges, it does not as it purports to do, protect children. (R197, female)

5.8 Conclusion

This chapter has explored the perspectives of adult victim-survivors, specialist DVA practitioners and a diverse range of professionals in relation to the 'tools' of the legal system. While it is apparent that the functions of these various 'tools' should be to support victim-survivors to engage with the legal system, avail of protection, and to inform decision-making of the court, it is also apparent that there are frequently unintended consequences which arise from their use in the context of DVA, particularly if it is possible for perpetrators to manipulate these tools to exert control with the intention of causing disruption or harm. Strikingly, there is strong consensus across the study participants on the various aspects which are problematic, suggesting that there are many issues with the use of these tools and processes when DVA is also a factor. The findings presented in this chapter suggest that many 'tools' are not appropriate or safe for use with adult or child victim-survivors. Furthermore, the findings in this chapter have highlighted systemic issues which enable perpetrators to evade detection or receive validation from outside sources which compounds victim-survivors' experience of not being seen,

heard or believed. The next chapter will explore how adult victim-survivors experience these tools in action on their journeys through the legal system, ultimately culminating in secondary victimisation arising from their engagement with the family law system in the context of domestic violence and abuse.

Chapter Six

Navigating the Family Law System as ‘Secondary Victimization’

It's a horrific experience in which victims are repeatedly retraumatized and huge expense. It is essentially a stage for the abuse to continue. Everything from the physical space to the legal language used to the time frames involved show no consideration whatsoever to the children or victims. (R102, female)

6.1 Introduction

This next chapter explores female victim-survivors' journeys through the legal system in relation to guardianship, custody and access in the context of domestic violence and abuse. For the vast majority of female victim-survivors who participated, this journey was experienced as traumatic and resulted in secondary re-victimisation over and above the abuse inflicted by their abusers.

This chapter charts the journey of the participants through the family law system, primarily drawing on the rich stories and lived experiences shared by the 23 female victim-survivors who participated in an interview. However, these experiences also potentially reflect the experiences of the 370 women captured in the online survey. For this reason, relevant data from these many female victim-survivors will be showcased as a preface to the main body of this chapter.

The chapter then starts where many women's physical entry point to the system commences, arriving at the court building. We follow their experiences of encountering at best poor and at worst problematic understandings of DVA and coercive control held by key professionals in the system. These understandings were experienced alongside a process where their abusers used the legal system to continue to perpetrate power and control. Experiencing the process as negatively gender biased, this chapter also presents how the participants entered the world of parental alienation and concludes with participant reflections on the 'relentless' process of family law proceedings that some victim-survivors were still navigating with their children.

6.2 Reflecting on the Journey through the Family Law system: Survey Respondents

The survey asked respondents; "*what (if anything) was good about GCA proceedings in the family law court in the context of DVA?*". While the purpose of this question was to explore what was working well and what respondents found helpful, a great many respondents did not, or could not, identify

anything 'good' about their experience with the family courts. To elucidate, 306 mothers chose to answer this question, yet 134 mothers explicitly stated that they could not identify anything good about their GCA proceedings in the family law courts, using terms such as; 'no', 'nothing', 'absolutely nothing', 'n/a', 'zero'. However, many other respondents chose to leave qualifying information which was overwhelmingly negative. As these next two quotes from respondents illustrate, many victim-survivors believed they were ignored and that theirs and their children's experiences of domestic violence abuse were undermined or disregarded to the point of placing the blame on them as victims:

Absolutely nothing. It was really traumatic, and I was made to feel like I was the problem for wanting to protect my children. (R11, female)

Absolutely nothing, was a completely traumatic experience where endless lies were ignored, false affidavits ignored, domestic abuse was ignored, mine and children's voices ignored, all my ex had to claim was parental alienation and courts falling over themselves for him despite the fact he cancelled all access. Maintenance hearings were dismissed more than once, I was belittled by judge in court. (R22, female)

The survey also asked respondents to quantify their overall feelings of safety at this time using a scale from 1- 10; from 1 'not safe at all/at risk' to 10 'very-safe/no risk'. Female victim-survivors gave an overall average rating of 3.3/10 (n=365, SD=2.2). However, the modal response for over a quarter of female respondents was 1/10 (n=95, 26.0%); the lowest rating possible indicating greater perceived levels of risk. While more than three quarters of female respondents indicated they did not feel safe when in the court (n=286, 77.9%), the majority of respondents also indicated that they did not feel safe in their day-to-day lives outside the courtroom at the time (n=330, 89.9%). Therefore, female respondents to the survey overwhelmingly did not feel safe or protected during their family law proceedings. This is illustrated in the following quotes from the survey:

I never felt safe. I had disobeyed him and disrespected him publicly and he was capable of anything. He made so many threats to me and the baby. I wanted to leave Ireland but was afraid the baby would be returned to him if I did so. (R19, female)

Court system traumatised us all. There is no understanding of DV/CC⁹⁶ and similar amounts of empathy for survivors from start to finish. (R69, female)

⁹⁶ Domestic violence/coercive control

This chapter will now delve deep into the lived experiences of 23 mothers and their children; bringing to life the cold statistics presented above and sharing their rich narratives about the impact of family law processes and outcomes on theirs and their children's lives.

6.3 Experiencing the court infrastructure.

Many of the adult victim-survivor participants in this study recalled their absolute dread in the lead up to their court date, with the fear of encountering their abuser experienced as crippling. Millie, described the impact of this fear and dread leading to her feeling '*really depressed*' the week before her court date, as she explains in this next quote:

I'm scared, actually, I'm personally scared going to the courts when he's there because I feel that he can attack me at any time. Like when have to go to court at the day before or the week before like I'm really depressed. Because I don't feel secure, I don't feel as...security because at times he has even approached me in the court. Millie

Well-laid out plans to minimise contact with their abuser included planning the arrival and departure routes, with Eva explaining '*I have to think about where I park and where he'd be parking. It's where you're walking afterwards*'. Petra's similar strategy of staying outside in her friend's car until the last minute, only provided minimal security for her, as she describes how her former partner intimates her:

But he knows where I park – where my friend park – he come forward, stay there, smile, and I just look like that. My friend can see it. And he's doing this a few times. And I can't do nothing.

Petra

Attending court during the covid-19 pandemic was reflected on by a number of participants, with public health restrictions resulting in adult victims having to attend on their own – Elaine recalls: '*I literally had to go through those doors on my own, each and every time, and I'd be left just sitting there*'. Elaine's feeling of being '*unsafe*' in the court environment were compounded by her feeling '*exposed to him (ex-partner) the whole time*'. Another participant, Lucy, described the courthouse as '*like a zoo*' with the solicitors '*bouncing from person to person*', and with the hours of waiting around, opening up opportunities for her former partner to intimidate her as he is '*just staring at you the whole time – the intimidation is huge – absolutely huge*'.

This experience of intimidation in the waiting space area of the court was shared by the majority of adult victim-survivor participants. In this next quote, Alison describes how her ex-partner used his physical size to intimidate and instil fear:

*I've had it where you have to sit in the foyer; I've had it where he's stood in certain ways so I can see him, and he was like, fully aware of what he was doing, the way he was standing up on the steps – like as if you know, this kind of 'I've got you' – and I was down lower... and you can't get away from it because you have to be there or else you'll miss being called. **Alison***

This fear of what her partner might do was amplified for some participants, including Millie who feared 'there'll be no one to protect me'. Participants specifically referenced the waiting area in the court as providing opportunities for abusers to maintain close proximity to them with negative impact:

*No, I hate it; it's horrible like. He'd be as close to me as you are. I can feel his horrible energy. And it gets me – It gets me fiery. So, emotional. **Sheila***

Describing the visceral impact of being in the same shared public space as her abuser as rendering her 'sick to my stomach', Olivia's strategy was to arrive very early to court on the day of her hearing and queue outside the court house 'early enough to be able to get a room, because there was no way, no way, no way I could cope with being in that shared space downstairs'. Another participant, Maura also benefitted from the private space of an office that her support worker secured for her to wait in until her case was called. Her need for this safe space was not however understood by her solicitor, as she explains:

*My solicitor wouldn't come up there to speak to me; she insisted I had to come down into the foyer to speak to her. So it's like an open foyer and everybody's there. **Maura***

Kate similarly recalled 'begging (solicitor 2), can I not be brought into a room somewhere', to be told that the private rooms were only used by solicitors and their clients for meetings.

The business of the waiting areas across multiple courthouse settings all over the country, with lots of people sitting waiting their turn, was not experienced by the participants in this study as reassuring or as providing a sense of security. This next quote from Eva describes the embodied impact of this fear:

*They intimidate you if they're in the same space. They don't even need to look at you. You can tell they're in a mood when they're walking, you don't even have to see their face. You can feel it off them **Eva***

Eva also described arriving at the courthouse, with nobody 'telling you where to go, you're just stood there. You're frightened to death'. The issue of accessing the toilets safely was raised by multiple

participants, including Olivia who recalled needing her sister to escort her to the toilet and crying '*Oh my God, I can't believe that this happening, that this is necessary; that this is what it has become*'. Another participant, Sonya, who had a history of drug use, described her experience of that waiting area as '*daunting*', the impact of which had her shaking with fear and then subsequently worried that the professionals around her would '*mistake this for withdrawals or something*'.

Moving into the courtroom once their name was called was similarly reported as intimidating, terrifying and disabling for the participants in this study, with some outlining scenarios where they were barely functioning. Describing the courtroom as smaller than her bathroom, with just *one chair in between me and him*, Noreen talked about '*getting flustered*' and not feeling confident that she had the language or the '*terminology*' to answer the questions her former partner's barrister was '*firing*' at her. Alison similarly recalled just '*going blank*' under cross examination, despite preparing for the process for days, including preparing extensive notes. In a similar vein, Lily described herself as '*dead*' in the court room, having '*no words*' and unable to speak due to the intimidation and '*real fear*' that she was experiencing with repeated threats that if she did not agree to access, that her child would be taken off her. The impact of this intimidation was crippling for Lily, experiencing difficulty breathing, she said that she found it '*hard to say anything*'. This paralysing intimidation emerged across other interviews, with Eva concluding:

So it's like fighting with your hands tied behind your back. There's plenty you can say, but you can't say, because they're just going to throw it back at your kids. Your kids are going to get the backlash. Eva

All of the participants described the day in court as endless and relentless, leaving them both physically and emotionally exhausted. The final quote in this section comes from Sheila who poignantly reflects on her experience of this impact:

He can wear me out. He knows that. Really wears me out like; drains me mentally, and then me body's just completely deflated. It's like being in a plastic bag to be honest, when you walk out.....And [he] just flounces around. Sheila

Reflecting on the family law process as 'broken and biased', many participants also detailed the abuse they experienced arising from the system as they navigated their way through. We move on to consider that.

6.4 The Court and its processes as abuse

I think the court system and every judge that I have met have placed catastrophic, experiences on people – court is only a place for liars and actors. The court doesn't have time [and] they're not educated enough. Kate

Echoing Kate's description of the experience of family law proceeding as 'catastrophic', Alison similarly described the interaction in the courtroom as 'horrible', being 'psyched up' by her solicitors as to what is going to happen but its 'almost like a boxing match'. The chaos of the process leads Alison to question how the registrar remembers or even understands what is going on:

So I've had the safety order sent to me with the wrong date on it; and it was sent out to me and my daughter's dad, completely the wrong access, where it took the previous one and layered – almost layered – what the new access was on top of it. Alison

While Prea asserted that she had to 'fight like hell' to get 'a really great outcome' for her children and herself, she was very aware that that is not always guaranteed for women, concluding 'I will never find my peace in the system, regardless of what happens criminally. You can't find your peace in the family courts'.

Participants referred frequently to not being believed – either explicitly or implicitly – and the fear of not being believed as experienced sometimes as overwhelming. For some participants like Sheila, fear of being called a liar prevented her from telling the full truth of her experiences as she figured that people would conclude that she was lying. In Megan's case, not having the language to explain herself resulted in her being 'devastated' when she did not get her barring order, feeling like she was not believed and her experience not validated. While in interview Megan talked about 'sexual assault', she said that in court she was 'embarrassed' to use those words, and that the words that she did use were not 'strong enough for [the judge] to understand what was happening'.

The experience of the system as 'abusive' was broken down into a number of sub-elements by participants. These are discussed below.

6.4.1 Problematic Legal Orders

A number of participants reflected in interview on their experience of a variety of legal orders and legal responses. Focusing specifically on the 'undertaking' that an abuser might commit to doing or not doing certain things, Eva said that initially she was quite happy that her former partner took an undertaking in court to not come near the house. However, when he turned up drunk to collect their

children and she reported this to the Guards, she was informed that they could not do anything as there was *'no order'*. Alison had a similar experience of thinking that she had protection with the undertaking but finding out when in danger because the former partner was at her home, that the undertaking was not worth the paper it was written on. Alison described this experience as follows:

It was like you were just banging on a closed door all the time, trying to explain to people the situation; and again, I felt everything he did was so subtle, that somebody could just be like, you know, 'Ah would you toughen up and just tell him?', you know, or 'Deal with it in a different way'. Alison

Needing to return to court with a list of the *'subtle things'* her former partner was doing, Alison said she did not feel she was taken seriously as her former partner was not physically harming her. This in effect dumbed down her concerns for her own safety where she felt that her experiences of coercive control and abuse did not *'warrant'* a proper order.

Megan considered herself *'lucky'* that she had sought counsel from a relative who is a member of An Garda Síochána as her solicitor was recommending that she go for an undertaking. Her relative advised her that an *'undertaking means nothing, he's given his word, but if he breaks his word, the Guards don't then have power of arrest.'*

6.4.2 A problematic assessment process

The overwhelming account from participants was of a very negative experience of both the process and outcome of assessments. Describing her experience of the assessment as *'a mess'*, Alison explained that it *'is one of the worst things I've ever been through. Ever. Like I sometimes put it down as worse than some of the things that he did, because of what resulted from it'*. In a similar vein, providing a summation of her first experience of a S32 assessor, Lily asserted: *'she destroyed my life for future good'*. The impact of these reports is particularly pertinent when we consider, as the participants did, how much these reports were relied on in the decision-making process in family law cases, in particular the weight judges appeared to give them. Kate for example talked in interview about the significant impact that the assessment report had on her, and on her children's safety because of the influence of the recommendations on her court case. Having met on just one occasion with Kate and her children, the assessor concluded that the *'enmeshed relationship'* between Kate and her children was problematic, setting the tone for the report as Kate explains in this next quote:

So, all of a sudden, the victims are now at fault. We didn't have a healthy relationship. How dare she. I'm entitled to have a parental bond with my children. We've been blamed, we've

been defamed, we've been degraded, we've been demoralised. The children have had no childhood. Kate

Also emerging as problematic, participants highlighted the lack of any consultation that assessors had in the completion of the reports with a range of professionals who could be involved with the family. Aisling talked in interview about a series of reports that had been sent by the schools her daughters went to, by neighbours and passers-by who witnessed or had concerns about the girls' welfare related to their contact with their father. Taking these concerns on board, which included their father physically assaulting his daughters, including attempted strangulation and physical restraint, Tusla recommended supervised access. However, Aisling said that *'the judge – turned around and gave him two kids, unsupervised, without any intervention from anybody. There was nobody going to check up on them as to how they were getting on'*. During the incident where Aisling said the father physically restrained one of the children because she wanted to go home, Aisling also asserted that both a professional supervising the access and the father's sister were there. This 'incident' was named in a report but never written about in detail, and while the supervisor stopped supervising this access, the supervisor was never brought to court to give evidence.

A number of participants also raised questions about how the 'best interests of the child' were defined. Some participants were given a standard explanation of 'best interests', equating those with an ongoing relationship with the father. The fathers expressed desire to have contact was taken as him being a loving father, as Elaine explains:

In the report it stated that her dad wanted 50/50 right now, and that was the goal that we would work to.

This conclusion was reached without any exploration of his involvement pre-separation in her daughter's life or without any consideration of the distress she was displaying currently with access. The automatic equation of best interests with father involvement, left many participants concluding that the assessments were biased and pro-fathers before anyone was spoken to or engaged with. The assessment process was simply to concur with an outcome that had already been decided – the starting point and end point were one and the same – father involvement was critical for best interests to be achieved.

A number of participants also raised concerns about what they perceived to be the assessors lack of interest in or attention to what the mothers described as child safety and welfare issues in the context of the fathers contact with the child. Elaine for example said that she had informed the assessor in her case about multiple incidents where the physical forcing of the child by the father to go on access had resulted not only in her daughter being 'hysterical' but also being bruised *'when he'd be dragging her*

off for overnights'. While Elaine said she shared pictures of these marks with the assessor, none of this was captured in the S47 report, rather Elaine said that she was made out to *'be an overprotective mother*'.

In Leah's case, the assessor not only ignored the safety order Leah had against her former partner when he was trying to force her into a handover exchange, he also refused to take on board information Leah was giving him about the children's fear of being in the car with their father because of his reckless driving. She stated that the assessor responded to these concerns saying *'Oh, you're being ridiculous, Leah*'.

6.4.3 The process of 'agreeing the deal' before going before the judge

All participants described their experience of agreements being made about various aspects of their case, invariably involving a process of negotiating or 'bartering' between the two solicitors, with agreements made between the *'parties outside of court and then the judge [approved/ordered it]'* (Elaine). Some participants said that the process was not really up for discussion, with Eva recalling that:

They get very annoyed at you if you're not trying to sort it out yourselves. You're just trying to protect your kids and it's not taken up as that. You're just vilified for it. Eva

Alison described this as a process of *'bartering for your child'* with participants outlining varying lengths of time being taken to *'hammer out another deal'* as Jane described. Cathy recalled a very brief five minutes in front of the judge following the *'bargaining process'*, while other participants like Jane who never actually met the judge, were nonetheless threatened with *'if you don't agree this, you're going to get sent in with the judge*'. Agreeing the deal was therefore presented as a more favourable option to going in front of the judge. Finally, Aisling spoke in interview about the bargaining process going on for a whole day in the High Court but without agreement being reached. The financial implications of ongoing legal fees in the High Court meant that she ultimately had to agree to everything her former partner wanted, as she simply could not afford another day in that court.

The pressure to agree a deal and agree it quickly, some participants likened to feeling like a *'ticking clock'* (Lucy) where *'you're lucky if you get that half-an-hour'*. This however refers only to the time spent on the bartering process. Many participants talked about the inconvenience and cost of spending full days in court, sometimes with their case never being heard and having to return again yet another day. For those not on legal aid and working, this involved time off work, costs incurred through legal

fees and child minding. Alison concluded that the hours of preparation she had put into the paperwork that was needed for court was pointless when the judge has no time and from her perspective has 'no interest'. Continually having their case pushed back again and again for months at a time, meant that many participants experienced meeting multiple different judges throughout their journey. While participants reflected that different judges could bring different (and more DVA informed) perspectives to bear on their case, the lack of a consistent judicial oversight was also highlighted as undermining judicial understanding of the perpetrator's patterns of power and control. The next section addresses this issue.

6.4.4 Multiple judges impact

Participants described many challenges they experienced arising from the impact of engaging with many different judges. Lucy said that a big challenge for her was the need to explain 'everything from the get-go again', but without as much time, resulting in her having to:

*Condense the most important bits down; but that was extremely hard because you were trying to give past history, which was extremely relevant to what was still going on now, and sometimes judges would say, 'Well, that's in the past; why are you telling me this?'. **Lucy***

Similar to Lucy, Millie described her file as getting bigger and bigger over time, but the length of time the judge has to her case is not expanding, resulting in the following experience:

*They're rushing to just run through it on the surface. They don't really go deep and know the whole history of what has been going on. **Millie***

Maura described how having multiple judges facilitated her former partner manipulating the court process. In front of one Judge, her former partner could 'play his pity party, crying in front of the judge 'I haven't seen my kids', and 'she won't let me see them'. Meanwhile in the absence of consistent judicial oversight, her former partner's erratic payment of maintenance over many years goes unnoticed, with Maura questioning why the judge cannot put these two things together and really interrogate his motivation for contact. Multiple appearances in front of multiple judges also opened up multiple opportunities to relive the trauma of their abuse.

6.4.5 Reliving the story as trauma

*Even though I'd had notes, I had psyched myself up for it for days, but I guess I just found the whole situation – again, really difficult; so difficult to put my words across. **Alison***

Echoing this quote from Alison, many participants described the process of giving evidence as *'terrifying, and you're standing there telling this stranger your story and why you're scared and why you want to have some safety'* (Lucy). Lucy described her former partners barristers as *'really obnoxious guys'* and where *the process of 'being belittled and questioned a million times was absolutely horrific'*. When her former partner started representing himself, Lucy concluded:

Our only contact is through a dedicated e-mail and only for access purposes. So he has no other direct way of communicating with me. So I think he gets an awful kick off of cross-examin[ing] me on the stand. [I feel unsafe] because his aggression comes out straight away. I've done an awful lot of work in the past four years, but it's still extremely triggering. Lucy

Responding to the interviewers questioning if this experience was undermining her recovery, Lucy responded:

Completely, yeah. And I don't think it's fair. But I think when it's an ex cross examining you on a stand, it's personal; you know, it's not a job— like I've been taken apart by solicitors, but you can kind of walk away from it and dust yourself off, because you're going, 'Look, it's their job to try and make bits of you, and to try and trip you up'; but when it's actually someone who has been physically and verbally and, every sort of way, abusive to you, like, it's personal, and they're out to hurt you as much as they can. Lucy

A number of participants including Alison and Kate recalled being before the judge in very distressed states after giving evidence and being cross examined. Both recounted in interview what they experienced as at best unsympathetic responses from the respective judges, as they explain in these next two quotes:

And I was really upset, and crying, and I could remember the judge – and he literally – 'What are you crying for? I'll give you the safety order'. And that's how I had to walk out that day, like as if, 'For God's' – you stupid woman, will you stop? I'll give it to you'. Whereas I was trying to explain. It's hard to look back and it's so long ago; like, that's ten years. Alison

(Judge 1) told me that if I didn't pull myself together – he was giving me five minutes to go outside and pull myself together – that he would be giving guardianship tonight [to] the person who we had a protection order, [against] and had filed for a safety order [against]. So, that didn't make me any less upset like. Kate

6.4.6 Not understanding the processes

I was alone, and I don't know how courts work. I was in fear. I can't explain fear. The worst thing was fear. Lily

As reflected in Lily's quote above, participants in this study highlighted the importance of understanding the processes of the legal system that they were having to navigate, with their confusion and lack of understanding often compounding their distress and enhancing their fear. Aspects not fully understood included how the process worked in court on your hearing day, the paperwork you needed to prepare, what each of the DVA orders meant and the protections provided, what could constitute a breach of an order, amongst many other things. Some participants like Millie, conceded that even when her solicitor explained the process to her, she still did not understand because the process is so complex. Other participants however argued that legal professionals should take some account of victim-survivor nervousness and not assume they have the information and understand what is going on. Sonya for example reflected on her experience, asserting that:

They just never gave me the proper information. They assumed that I knew it. Like, I was told to do what was on the recommendations, [because] it would work out better for me. But then, maybe it was my fault for making an assumption. Like I wasn't told that he [ex-partner] doesn't have to do what the recommendations are. It was just the lack of information, that he didn't have to do what was on the report, while I was advised to agree to everything. Sonya

Megan was one of a number of participants who did not understand, was not told or did not hear that an application for a barring order, an interim barring order, 'triggers something in the system to send out a notification for an actual barring order hearing. Even if you don't get it'. She only realised this when her ex-husband received the notification, and this placed her in considerable danger.

Michaela similarly said that she did not understand that 'when you get a protection order and it's served, that's in place. But, when you get a safety order, and you leave the court with a safety order for the Guards to serve, that protection orders gone. You're not covered in the interim of the two orders being served. That was never explained to me'. In the interim period, Michaela referred to her former partner 'breaching' the terms of the order, but he could not be held accountable for those breaches as the order had not been served. 'So, I would have had double figure breaches if my order had of been served but the order hadn't been served'.

6.4.7 Financial implications of navigating through this process

As mentioned earlier, participants experience significant financial stress and difficulties arising from repeated court attendance, legal fees and associated additional costs including childcare and travel. Prea summarised the experience of many participants stating *'I'm drowning in financial loss from all of this'*. Alison, who was a civil servant, explained that for the days she was summoned to attend court, she would still get paid, but for all other days, she would have to take personal leave or not get paid. Another participant Millie considered herself 'lucky' that her work primarily involved weekend shifts when the court was not sitting, significantly reducing the time she had to take off work as otherwise *'I would have lost my job by now'*. Asserting that she is *'fifteen grand in the hole for court fees'*, Michaela cannot afford any more postponements but has little control over that process, a process Noreen described as *'a complete waste of a day'*.

Compounding the above aspects of the court and its processes that participants experienced as abusive, lack of understanding of DVA and coercive control by legal professionals contributed further to their overall experience of secondary victimisation throughout their journey through the family law system.

6.5 Lack of understanding or awareness of DVA by professionals

There was broad consensus across both survey and interview respondents on the lack of understanding, lack of awareness and/or lack of interest in DVA including coercive control that participants experienced in their engagements specifically with solicitors, barristers, judges and assessors. This poor lack of understanding was reported to lead to poor legal advice and practice.

In the online survey, the greatest percentage, 61.5% of female victim-survivors, reported that presiding judges *'never'* considered their experiences of DVA during their GCA proceedings (n=227). By way of illustration, themes arising from the additional comments shared in the survey are presented below, this provides some explanation for this statistic:

[..] my experiences of domestic violence were often skipped over and ignored in the court.

(R328, female)

150 female victim-survivors left qualifying responses about their experiences of judges considering their family's experience of DVA during proceedings. A strong theme to emerge from these additional comments was victim-survivors' perception that the judge, or judges, presiding over their case did not understand their experiences of DVA. Comments emphasised feeling unacknowledged, dismissed and/or unheard. Some female victim-survivors believed that the court did not want to know about their experiences of DVA, while several others revealed they were instructed not to mention it by their legal representatives.

Correspondingly, the largest percentage, 67.4% of female victim-survivors, also reported that their experiences of DVA were '*never*' taken into account in the decisions made by judges concerning GCA (n=248). As above, additional information which qualified respondents' justification for their answer is presented below:

All breaches of orders happened at handover, the same judge convicted on order breaches and then increased access in the same hearing. (R282, female)

120 female victim-survivors left qualifying responses about whether the decisions made in their case took account of their experiences of DVA. Overwhelmingly these comments illustrated victim-survivors' perceptions that decisions made by the court did not take into account adult and/or child victim-survivors' experiences of DVA.

Many comments revealed that access/contact was a predetermined outcome and experiences of DVA were wrongly categorised as high conflict. Other examples of decisions which did not take account of DVA included three comments where victim-survivors revealed that they were ordered to supervise contact, with one victim-survivor stating the terms of her DV Order were amended to accommodate this. Another mother reported that although her children had made allegations of physical and emotional abuse against their father prior to separation, unsupervised access had been ordered.

6.5.1 Judges, Solicitors, Barristers & Assessors

The victim-survivor survey findings presented above were strongly echoed in the interview data: Elaine talked in interview about her experience of applying for a safety order because she believed her former partner was monitoring her location (including where she was on holidays) and who she was spending time with, because of his communication with her. Following the judge dismissing her application, stating “*as much as I can sympathize with you*”, he said, “*it's not enough*”, Elaine concluded: ‘*they're not reading between the lines, [not getting it] as in, you know, when you've been in that kind of relationship, he might say something, but I know exactly what's behind it*’.

Based on her experiences in court, Maura decided not to pursue protection when her former partner just turned up at activities the children were involved in, and while she knew it was his way of saying ‘*you didn't want to see me, but now I'll force you that you will see me*’, she also knew that she could do nothing about it ‘*because unfortunately the courts don't recognise that. They don't recognise the nonverbal, coercive abuse that happens*’. While Maura had secured a protection order against her former partner, she felt that the burden of proof of DVA was high and only really involved physical or visible assault/injury, as she explains:

I don't think they understand - the emotional impact and the damage that it causes to a person. I think they're oblivious to it, because if you've got a black eye, your black eye's going to heal. And it's like years and years and years of programming, and there's constant abuse happening and I don't think they understand. **Maura**

Lucy spoke of her upset at an order a judge made without adequate attention to serious safety concerns regarding her child's contact with her father, an order that Lucy subsequently successfully appealed. Describing the ordeal as ‘*horrific...it still upsets me*’, Lucy outlines the judge's engagement with her now:

That judge could not have cared less - at times it looked like I was boring him. He never made eye contact with me; he never referenced me by my name. I took the stand; I gave evidence; he never once looked at me; he never took any notes. Nothing. We might as well have not gone into that courtroom that day. I might as well have been a speck of dirt on the floor. **Lucy**

Feeling ignored, sidelined and with her concerns dismissed without consideration was also Michaela's experience, trying to provide the judge with additional information that had not been before the court before. With disclosures of emotional abuse made by Michaela's daughter confirmed by Tusla, Tusla had also been subpoenaed to give evidence. Michaela recalled in interview however that the judge would not engage with this new evidence and would not allow Tusla in the court room to testify. Reporting that this was the third time that allegations and evidence of emotional abuse had been

raised in the context of ongoing contact, Michaela said that the judge *'basically made out that I was a petty ex, that just didn't want him having the kids for any apparent reason'*. Three times this was reported to three different judges who Michaela said told her former partner *'not to do it'*, without any follow through. Michaela concluded that *'the judge just didn't want to know'* as there was no consideration of her child's mental health. Michaela also said she experienced a similar 'push back' with adjournments on her application for a safety order with her former partner continually not showing up to court. Following her becoming very upset in court, the safety order was granted but took approximately 6-8 weeks for it to be served.

Leah similarly reported negative push back from the judge who dismissed her concerns about unsupervised access for the children with their father, as she recalls the judge accusing her:

'How dare you. How dare you stop this man from seeing his kids. His child is dying. His child is sick'. **Leah**

When Leah attempted to clarify that the child was in fact not dying but simply had a communication issue, she said that the judge *'kept shutting me down and said 'you have alienated this man from their life. How would you like if the shoe was on the other foot?'*. Leah's history of DVA with this man was not up for discussion. Furthermore, when supervised access was being discussed and each party was vetoing each other's choice of informal supervisor, Leah recalled the judge responding to Leah's veto stating: *'Oh, you're being ridiculous now at this stage'*, also ignoring the evidence from the Gardai about the people her partner wanted to have as the access person. Leah stated:

The judge wouldn't entertain it. she felt like I was interfering with his access; that I was dead set against his access from get go. [that I had 'played it']. **Leah**

Concurring with many other participants about the need for judicial training and awareness raising, Leah called for judges to receive *'an educational insight into domestic violence. That it's not just all physical; control and mental abuse is just as important as a slap'*.

Focusing specifically on how participants experienced their legal team understanding domestic violence and more specifically coercive control, Maura concluded:

I don't think they understand. I think that the judges and the solicitors should be trained in what to look out for, what to see - coercive control and narcissistic abuse. Because if you don't know the calling card, you don't see it. **Maura**

Prea recalled her distress when she was told there was no case to be brought for the abuse she was experiencing, because as she surmised, there was an absence of physical evidence. Prea recalled

questioning them: *'Did I need to be beaten black and blue?'*. She also recalled the questions she was asked by her legal team: *'Oh, well did you go down to a crisis centre?'*, *'You didn't say anything'*; leaving her feeling *'very unseen'* and wondering *'What is the measure of abuse for coercive control?'*. In interview she also questioned *'what does a victim even look like?'* as she recalled the assessor involved in her case stating:

'You don't present like a victim. You don't look like one. You're intelligent; you're college-educated; you're too forthright and resilient. You're not a victim.' **Prea**

Lucy's experience of feeling 'pressured' by her solicitor to agree to access was an experience shared by the majority of the participants. When asked if she felt that her solicitor took the history of DVA into account when representing her, Lucy said:

I think because I was going through the legal aid system as well, I wasn't taken as serious by this particular solicitor. I think she very much was, 'Uh here's another one now'. **Lucy**

Echoing Lucy's view that being appointed a legal aid solicitor is akin to being *'lobbed with somebody who couldn't care less'*, Maura similarly described her first solicitor as *'just trying to get rid of the case as quickly as possible'* and dismissing Maura's chances of getting a safety order before they ever got to court.

Many participants concluded that their legal team simply did not want to know about the DVA. While the history of the abusive relationship was recorded in Elaine's case file, this history was not included in the evidence to the court, including in the S47 report. Elaine also said that her former partner was never challenged when giving evidence about the history of abuse, stating: *'it still hasn't ever been brought up. Never raised. Never acknowledged'*. Notwithstanding the earlier evidence of some judges apparent lack of interest in the history of DVA, in Elaine's case, it would be hard for this judge to make a connection between her daughters best interest and the DVA issue, when this judge was [or just 'they were'] not informed about the DVA to begin with.

At the end of her legal journey through the family law system, Alison felt that her legal advisors finally understood her experience with DVA, taking however a long time and a very big file for that to happen:

I felt only – it was nearly like, at the very end of the last processes, that he finally understood; so much so that he said things like where I finally felt, 'Oh, finally, he's getting it'. **Alison**

A number of adult participants also referred to what they considered to be a poor lack of understanding of DVA by the assessors they encountered as part of their journey through the family law system. Describing her engagement with the Section 32 assessor as '*possibly my worst experience*', Elaine stated that the assessor's response to her experience of coercive control was disbelief, as she questioned: '*but you said he never hit you*'. Stating that this response left her feeling '*completely discredited*', Elaine further experienced that the assessor did not seem to understand, or was unwilling to consider, that access to her daughter was simply another way for her former partner to continue to control and abuse her. Not only were the dots not being joined, but Elaine concluded that '*the dots weren't on the page... no, there was absolutely no lens [of DVA] at all being put onto it*'. With the disclosed history of coercive control not included at all in the S32 report, Elaine recalled that she:

Wasn't validated at all. I felt very unheard, very unseen. It was miserable to be honest. **Elaine**

Alison similarly felt dismissed and her experiences of DVA considered irrelevant, as she explains:

*Like the vibe from her was horrific like. She picked apart so many things that I said. When I said 'I have a support worker in Women's Aid' – she literally rolled her eyes in front of me, as if 'Here's another [one]'. **Alison***

Sonya similarly concluded from her interaction with the assessor and the subsequent report that the assessment report '*went in his favour more so than mine*'. Sonya said her assessor was not particularly interested in her experience of DVA, '*honing into my medical history*' and in particular into a history of addiction and mental health issues.

6.5.2 Poor legal advice & poor legal practice

A common thread throughout the adult victim-survivor's narrative was the poor legal advice they considered they received and the poor legal practice they said they encountered. Elaine recalled her solicitor advising her not to resist the move to overnight access for her daughter as that is what the judge would want anyway so she would be better off just agreeing to that straight away. Dismissing Elaine's concerns for her daughter who had become very distressed with the daytime access and would now not sleep in her own bed, only her Mum's, Elaine said her solicitor advised her:

To get her straight into her own bed, and if she wouldn't stay there I was to lock her in her bedroom. **Elaine**

At the hearing for access and following the S32 report being completed, Elaine also said she felt very let down by her solicitor who she said did not interrogate the S32 assessment report or raise Elaine's

concerns about how her daughter was currently being treated on access, concerns that had involved the police.

Sophia considered that her solicitor was not informed as she had not read the case file and spent only 5-10 minutes questioning Sophia's partner on the stand. Sophia experienced the Judge as on her partner's side, instructing *'that's enough'* when Sophia tried to talk but giving her former partner the space to allege that he was the one that was being abused and not Sophia. While Sophia said her solicitor had *'tried'* on her behalf, her former partner's solicitor was much stronger in his defence of his client, resulting in a ruling of no protection order even though Sophia said her ex-partner lied.

Describing her experience of navigating the family law system as *'so very traumatic'*, Jane stated that she found *'dealing with the solicitors incredibly difficult'*, expanding on this in the next quote:

[They are] *always telling you to manage yourself in a certain way. Like, you know- -you have to pipe down. Pipe down, or I'd be too piped down, If you ask them why something doesn't add up or why you have to put up with something, then they can very much turn into where they're talking down to you'*. **Jane**

Recalling being told by her solicitor at the last minute that she could not represent her on a specific day, Jane wondered were solicitors trained to interact with their client in a manner that diminished the client, and where clients like Jane do not feel they can challenge or question anything. Jane commented that the inaccessibility of the solicitor through their offices also contributes to the experience of immobilisation as you are left feeling like:

You're pestering them - even when you're paying them, that already puts you in a position where you're this naggy person trying to get someone to help you with something that's ultimately like probably going to affect your whole life every single day. But you're the one who nags, and it's almost like that's the dynamic to begin with. And then you have to be grateful that they gave you the time of day, even though you're paying for the time of day! **Jane**

Also reflecting on the issue of time and money, Kate asserted that she was continually faced with legal aid solicitors refusing to take her case on because it was *'too big, it was the biggest family law file they had ever seen, and they weren't going near it'*. To ensure legal representation Kate said she gave the legal aid solicitor *'five grand to actually take on the case. And then I think I gave him another twelve or thirteen grand after about a year and a half'*, without any improvement in the service she received, concluding that *'they're just all useless'*.

Maura similarly queried was this *'a Legal Aid thing.. that they just want to get you on and off their books as quick as possible*. Maura explains:

You're just a number – you wouldn't speak to the solicitor until like, two minutes before you're going in, and then they'll quickly like, 'blah blah blah blah', which, like, for me, the first year of court was like, incoherent. Because I was still such an emotional wreck. I mean, even the first time I went to go see the first solicitor, I was an emotional wreck, and she even said to me, I have to get myself together. Maura

Maura's experience was recounted by many other participants, with rushed engagement at odds with the participants, many of whom were still living in fear and with trauma and who were given little time to tell their story and understand the process. The advice Maura received from her solicitor was that her ex was going to end up getting access anyway, so she needed to make sure that it did not look like she was trying to keep the children from him. To do that, Maura needed to drop the protection order and that she would not get a safety order as she really did not have enough evidence.

Aisling recalled being told to *'drive away'*, when she called her solicitor in a very distressed state leaving two of her daughters in an access arrangement that they clearly were unhappy with, as Aisling recounts:

I remember driving away, and they pulled (child 3) into the sitting room– she was up on the window – and she was screaming, trying to break the window to get out of the house, and his mother was hitting her. I rang my solicitor and I was like, "I can't leave [her] today"; she said, "You have to drive away"; I was like, "I can't. I can't leave her like this. I can't". 'You have to'. And the little child was four years old, kicking and screaming. Aisling

Despite finding this advice very difficult to hear, Aisling nonetheless believed that her solicitor was *'100% with us'*, particularly when compared to her former partner's solicitor who she described as *'money, money, money; who had never met the children'* and as such Aisling believed *'did not know what she was fighting for. She didn't care that she was putting them through this.'* Seeing this solicitor on a beach one day with her own children, Aisling reflected to herself *'there she was in her perfect life, and she's destroying mine, and my kids. As a mother, you couldn't do that to kids. You just couldn't'*.

While another participant, Lily, talked with great affection for her solicitor who she said *'saved me'*, the same was not true for her experience of her barrister who she also said overtly threatened her to the point that she ended up agreeing to something she did not fully understand, as she explains:

She wasn't good and she going to speak with his solicitor and she make agreement with him. I didn't know that that looks like supervised access. Because I think that we're going for

like...like family therapy. [And] this barrister said. I have to sign, you know... she asked me. 'You didn't want Daddy in your child's life?' And- and when I heard that, I know that I lost this day. Because that was end for me. She was expensive: 1500 for one day. So that's a lot of money. And I paid for that. And she make agreement what he [former partner] wants. Lily

The experience of being dropped by solicitors when their financial situation brought them to the end of the expensive road was reflected on by a number of participants, including Leah who recalled really feeling let down when she thought her solicitor cared but realised he was just in it for the money when he said:

'That's the separation done now. I've got my money; you've got no money. Get onto legal aid; get them to finish the access and everything else. Leah

To add to that disappointment and let down, Leah also highlighted her solicitor's sloppy practice, where the file that was transferred from his office to the legal aid office was missing a lot of evidence Leah had given him.

Many of the participants highlighted the challenge of engaging with legal practitioners and the family law system when the professionals involved either do not know about the DVA or do not want to know. Eva for example asserted that her legal team *'just didn't have the story, they didn't have the facts, they didn't know'* and were not really interested as she felt they considered that individuals in her situation are all the same – contact with the non-resident parent was going to happen one way or the other until the children got *'to a certain age'*. Concurring with this experience, Jane said that while her solicitor was very kind and empathetic to Jane's situation, she was really clear that contact was happening unless there was something really bad to consider, like her former partner being a paedophile - that *'might be taken into consideration for access'*.

Petra recalled the conversation she had with her solicitor when she told him she was taking a case against her former partner for rape. She said her solicitor asked her to think about the impact that this would have on her former partner, saying *'Petra, you can't do that. You can't bring him to the court. He got to spend what, ten/fifteen years, and you got to think about him'*.

6.5.3 Poor experience of general professional practice

Critical of her engagement with Tusla social work when she had sought support with contact arrangements, Cathy concluded that *'Tusla don't care that I get battered, it's only if the kids are being neglected, or if either parent was on drugs, that's the only thing they care about'*. In the absence of

their involvement, Cathy stated that she went a period of months without seeing her children who had been placed by agreement with their father while Cathy underwent medical care because he refused her access.

For another participant, Prea, her description of her first engagement with Tusla social work was also negative, recalling being asked *'Why did it take you so long to leave?'* Prea asserted that this important initial engagement could have been so different if the worker had instead said *'Congratulations. I'm so proud of you, that you stepped out and you did something different'*.

One interviewee was from the Traveller community; to protect her anonymity in case any of the quotes used in other chapters could make her identifiable, she will be referred to as *'Mary'* as an additional layer of security. Mary is a common name in Ireland and within the Traveller community. *'Mary'*, talked in her interview about experiencing racism and discrimination in her engagement with a number of professionals – primarily An Garda Síochána. Stating that she *'had to fight really hard for everything that I have and I never got a positive outcome on anything'*, *'Mary'* talked about an incident where her former partner, a settled man, upset her children with an abusive phone call which she reported to the Gardai. She said her daughter was both angry and upset at the Garda's response to their complaint, dismissing her distress by saying *'He's your father. Like all he wants to do is talk to you'*. *'Mary'* was particularly upset about the impact of this engagement on her daughter who she said asserted *'I'll never go to the guards again'*. With the threat of her children being taken away from her a constant mantra from her former partner who told her *'because you're traveller and you're nobody'*, *'Mary'* recalled a time when she feared that this threat would become a reality, because she believed that *'the Judge wasn't listening. And the guards... they're not trained up right. They don't understand domestic violence'*.

Acknowledging that she has had experience of really supportive Garda practice over many years, Megan nonetheless described one event where she said the Garda *'didn't understand the system'* with regard to responding to breaches of orders. Finding herself *'educating him'* on his legal responsibility to arrest her husband, Megan did speak with his Sergeant as she believed he needed *'extra support in understanding'* this complex area of policing. Megan concluded from this experience of the importance of these first responders or the Garda on the desk in the police station being specially trained as otherwise *'it's a bit hit or miss, because they may or may not know what to do'*.

From her experience of engaging with the family law system, Cathy concluded that if she attended court next week with a scar from an assault, this too would somehow become her fault if she had not gone to the police, with little understanding of the trauma she has experienced, the fear of this man that still paralyses her, believing that *'there is no protection for women, a safety order won't protect a*

woman, the judge, the judicial system won't protect women'. Similar sentiment was expressed by Millie who stated that in the absence of professionals actually understanding how the experience of DVA has affected and continues to affect her, she feels like she is on her own '*fighting this because I feel the court is not, is not fighting for me*'.

6.6 Perpetrators manipulation of the family law system as ongoing tactic of control and abuse

Many participants gave powerful examples of their experience of the family law system facilitating their former partner's ongoing abusive and manipulative behaviours. Michaela for example talked about her former partner continually providing sick notes to avoid court appearances whilst simultaneously appealing decisions in other courts for criminal convictions. Lily was one of many participants who described repeated trips to court for things that should be sorted outside court like the signing of passport renewal forms. While this has a number of implications, not least financial, it also meant for Lily that the process of sorting the passports takes much longer. Again, Lily says '*I have to do what he wants. He doesn't want any compromise*'.

Reflecting on similar experiences, Alison compares this to '*someone pulling me by my hair – being dragged through the courts*'. Asserting that nobody is looking at her ever-growing file and questioning his repeated and manipulating behaviour, the constant change of judges adds to the lack of 'trace' on his patterns of behaviour. Stating that '*there has to be a better way of doing things*'; to be able to see through '*a dad who's really great at playing that story of, 'All I want is my child*', Alison reflected:

I feel the system gave him the power... it gave him such power and such enjoyment, to see him with his black folder, coming in in his suit, he was just buzzing from it. It's so wrong. Alison

Stalling the processes of the court's smooth running involved a further set of tactics that the participants provided examples of, including their ex-partner not having a solicitor when attending court, not bringing a statement of means, requesting updates or not agreeing with options for assessors or psychologists – all of this resulting in a number of postponements and delays to final outcomes.

Olivia, talked about her former partner securing about nine months' worth of adjournments '*for one reason or another*'. On one of those occasions where the case was adjourned, Olivia fully accepted the rationale for that adjournment as it was a new judge who Olivia recalled stated: '*I'm not touching this*', because of the complexity of the case. Every adjournment however had a knock-on effect on Olivia and her children with a long commute to court and additional childcare needed. Olivia also conceded that at times, the judge had to give another four-week adjournment, telling Olivia '*I need to be able to*

demonstrate that he's got due process'. This playing of the system also extended to attempts to intimidate legal practitioners, including her former partner making a complaint against her solicitor which Olivia understood meant that her solicitor then 'couldn't progress [with the hearing], because she might have had to step back as my solicitor'. Attempting to deprive Olivia of a clear source of legal and professional support, Olivia could see clearly 'was a technique he was using to separate me from my solicitor. And she's excellent'.

Complaining about their own solicitor, including 'sacking' them, was also a stalling and controlling tactic of abusers that participants highlighted. In Noreen's case, her former partners sacking of his legal team outside the courthouse resulted in the revoking of his legal aid certificate and a postponement of the case. Alison similarly talked about her former partner having multiple different solicitors, explaining 'each time he wasn't happy with one, he went on to the next'. Funding the solicitors, Alison said he could continue to do this until he was happy he had one that was described as 'cutthroat'.

For many participants, the process of their former partner not showing up for the court sitting and then subsequently requesting a new date, was a common occurrence that was time consuming, stressful and expensive. Not having legal representation was also highlighted as a method of weaponisation where abusive former partners could cross examine the adult victim, as Prea explains during her former partners appeal of the barring order she had secured:

I was about thirty-six weeks pregnant. My ex has remained unrepresented. I think he's gone through seven or eight, criminal and family law solicitors, in the span of two and a half years, because he doesn't like the word 'No' and he doesn't like when they tell him to do something; so he represents himself. So we were in the Circuit Court and he had put me on the stand for about two and a half hours while I was pregnant; never stopped; never took break; nobody asked if I wanted a drink; nobody cared'. Prea

When her barring order was upheld, her former partner entered an application for custody and access, which Prea confidently asserted '*wasn't about the kids; it's never been about the kids; it's about power and control'.*

6.6.1 Counter Orders

Eva talked about her experience of applying for a protection order while her former partner also applied for access, with both applications considered by the judge on the same day. Eva surmised that the more exposure her former partner got to the family law system, the better and more sophisticated he became at controlling the process and using it to continue his manipulation of her, as she explains:

The more and more he went into court and knew that he had the backing of the judges - and his solicitor would say anything for him – and once he got away with lying once or twice on the stand, that was it. It was like fuel to the fire. He knew he could get away with anything. Eva

This continued manipulation of the system Eva suggested included *'hit[ting] me with all kinds of judicial stuff. I had to present (child 1) because I wasn't allowing him near (child 1) – and then it was the barring order [he took against her], and he wanted me to give him maintenance, and he wanted primary care of (child 1).* In Prea's case, she said that her former partner had applied for four DV orders which were served on her. However, these applications were subsequently not granted by the court. Prea described her former partner as *'using the [multiple] courts'* to get at her, and *'Meanwhile, a criminal investigation [against perpetrator] has all gone on in the background'*.

For many participants, the act of separating from their partners or applying for a protective DVA order, was responded to quite quickly with an application for Guardianship/custody/access by their former partner. Alison, for example, referenced her experience of her former partners parents getting involved very quickly, arriving the day after he moved out to present her with a guardianship form for her to sign about their son. Three weeks later she received a summons for court for the hearing of his application for GCA and spent the best part of the following decade, multiple times a year in and out of court on these issues.

6.6.2 Using the contact schedule as 'control'

A number of participants expressed concern about the rigid approach of their former partners to the arranged contact schedule which did not take account of the child's changing developmental needs. Jane for example talked about her son's involvement in sport and that he *'doesn't feel like he can say that he wants to go to a match'*. Being *'locked into an agreement now'*, Jane expressed concern that her son could not take on a summer job, go training or play matches or simply have choice as to how he spends his time without being *'tied'* to the contact arrangements'. Not knowing how she could change the contact arrangements without going back to court and feeding back into what her former partner is good at, Jane expressed:

I think even one point there was like a letter that said that I would have to incur his fees. He actually loves that stuff. He just has that personality as well. He could probably stand up in court all day and talk if people would listen. Jane

Alison recounted a similar story when her daughter was only nine months old and her ex-partner was *'calling and be banging on the door, showing the court order, saying, 'This is my time. Give me the child'*. In the absence of her being able to explain her young daughters changing sleep schedule as she got older, Alison found herself instead having to go back to court to explain the changing schedule to the Judge. Commenting that this seemed like a *'ridiculous'* use of the courts time, Alison could only reason that her former partner *'loved the court language; he'd use words like, 'mitigation' and 'litigation' in his emails. I really feel he thrived on the system. I feel he enjoyed it.*

6.6.3 Using Guardianship rights to control, including issues of consent/breaching an order

Alison gave a further example of her former partner using his guardianship rights to exercise his consent to end what Alison described was a very positive play therapy intervention her daughter was enjoying, as she explains:

That play therapist knew us inside out, and she knew where there were problems, and she knew things that weren't OK. Because of his Guardianship, he had the power to take that away because she wasn't playing his game. I understand why there's guardianship, but for somebody to use their role in that, in a power play way, I don't know how you stop it. Alison

Olivia similarly recalled her former partner withholding consent for his daughter to move schools following their separation and Olivia's move to another geographical area with her children. While their daughter clearly could not continue to attend her former school, using his guardianship rights to withhold consent for the child to attend school, left Olivia with the following choice, the implications of which required yet another return to court:

So, I had to make the choice to keep her out of school, at home with me. I did some homeschooling. I had to make an application to the court to override his consent, in order for her to be registered. Olivia

Olivia went on to detail how her ex-partner tried to use his guardianship right and serve her with papers he said he had filed asking for access to their youngest child. Olivia described the moment when he served her the papers as *'he ambushed me, he used it as an excuse to ambush me'* outside her older child's school at pick up time, where she was never going to make a fuss even though *'it terrified me'*. This was a clear breach of the protection order Olivia had secured and not the first time he had *'pushed'* the boundaries of the order. Olivia said that it took a lot of encouragement and support from the DVA agency she was linked in with, for her to take the step to make a statement to An Garda Síochána – or as the DVA service advised her *'use the tools that are there'*, and the guards

issued the arrest warrant. Olivia then described a long-drawn-out process where her former partner evaded arrest with tactics such as not answering the door, changing vehicles, all delaying the arrest and increasing Olivia's levels of fear and anxiety as she wondered constantly:

What's going to be the trigger, that he suddenly decides he doesn't give a crap about consequences; I'm just too much and he'll take me out'. So, I'm using protection order but also terrified that if he gets arrested, that this will be the trigger for him to actually just come down and kill me. And it sounds incredibly ridiculous, but that's how I feel. Olivia

Again using the word 'lucky' for having the judge she did have hear her case, her former partner received a suspended sentence for the breach, and when it came to the access to the younger child he said he wanted when he served the papers and breached the order, it emerged that he had never filed the papers to begin with. Olivia concluded that this was yet another tactic to intimidate her – just an attack on all fronts. He had put her in fear yet again, dragged her into a court hearing for an access order he had never filed the papers for, with her having to pay for a solicitor for the day, a day in court he never showed up for. On the positive side for Olivia, the fact that her former partner did not turn up for a subsequent court hearing resulted in her getting her barring order for two years, getting primary care of their two children, access to the older child was reduced and Olivia and her children were allowed move back into the family home.

6.6.4 Controlling the interventions and the narrative

There were many examples where former partner delayed the process of assessment and intervention. Lily's experience concerned her former partner constantly controlling both the interventions they engaged with and the narrative around that intervention. The first assessment order by the court was a S32 report which Lily said 'destroyed' her, as it painted a very negative and 'alienating' picture of Lily. This report Lily said followed her around for years to subsequent therapists and assessors, as her former partner wanted that narrative of Lily to prevail. Once the word 'alienating' had been written in ink, Lily believed she had no power to say no to anything, including her former partner requesting a lifting of the in-camera rule so that this first report could be sent on in advance of Lily and her daughter meeting a new intervention or service. Lily explains in this next quote:

I can't say no, of course. I have to say yes for everything what he wants. He chose this family therapist. I can't say no because that will be more trouble after. Lily

Towards the end of the above quote, we hear Lily telling us that her former partner 'chooses' all of the therapists they engage with, securing the courts permission for that to proceed. While Lily feels she

has no choice but to accede to his wishes, one such intervention produces another report which this time favours Lily and identifies the child's fear and anxiety around her father. At the time of interview, Lily was nervously awaiting the next court hearing, fully confident that her former partner will have blocked this report and will continue to control the narrative about her as an alienating parent.

6.6.5 Making child abuse allegations to An Garda Siochana /Social Work

For a number of participants in this study, a powerful tactic of control in using the legal system, involved their former partner making 'welfare reports' to Tusla and/or An Garda Siochana. In interview, Olivia talked about her experience of this 'welfare check' where her former partner called the guards after dropping his older child back from access, to raise concerns about his children safety and welfare. This occurred at 11pm when the children and their mother were asleep – a wasted visit for the guards and a disruption to the family's sleep, when the guards could not identify any welfare concerns.

'Mary', a traveller woman, talked about the referral to Tusla by her ex-partner with concerns about her parenting and the children's safety as bringing her *'to face my fears head on because my biggest fear obviously, will be to lose my children'*. Knowing that due to her cultural and ethnic background, that police and/or social work involvement would be terrifying for her, 'Mary' said her former partner played on that biggest fear, attacking her where he knew it would hurt her most. Having to defend herself against his allegations that she had physically beaten her child with a weapon, 'Mary' said the case was quickly closed once the social work background checks were done with the many services that 'Mary' was actively involved with to support her children and their development.

While 'Mary' said he further coerced her child into making a statement in the Garda station about 'Mary's' abuse of him resulting in her being interviewed and having her rights read to her and subsequently waiting six weeks to hear the case was not progressing, she compared that to her complaint against her former partner for slapping her child across the face (the impetus for her leaving him), when she said she was treated as *'a nuisance. They wouldn't do anything for me'*. She confidently asserted that in contrast, his allegations against her were taken seriously and responded to.

6.7 Applying a gendered lens to the processes women experience in family law proceedings in the context of DVA

A lot of women at the moment in [town name] aren't getting justice because of who is sitting as a sitting judge in there now. I'm very grateful I don't have to go back into that court again, because I think things would be very, very different if I did. **Lucy**

This quote from Lucy sets the scene for what the participating women in this study described as a very 'male dominated process' that was not always experienced as sympathetic to or at times accommodating of, often traumatised, anxious and fearful women. There were many dimensions to this experience.

Alison described a court room which not unusually, contained all men – 'a male judge, male registrar, male solicitors, male Guards', with her on the stand 'absolutely picked apart by his solicitor, where I was shaken, crying', sensing their disdain and impatience with her upset, with an unsaid message of 'Look at the stupid shaken woman, crying about everything'. In the absence of any empathy or understanding, Alison asserts that 'it becomes really difficult to remember what you want to say because you're so emotional - your thoughts are everywhere'. Trying to convey something of the experience of being a mother and having a baby to consider, in this room full of men, Alison used the word 'bizarre'.

Similarly experiencing an all-male court room, Petra also concluded that the legal professionals did not understand her experience as a mother and as a woman, stating 'They don't understand me. And when I try to express, they don't want to listen either'. Feeling not listened to was particularly evident to Petra when her Women's Aid court accompaniment was not with her, as she explains:

I can see his attitude change. It's – even his body language change. When she [DVA worker] wasn't there, he showed me his back. The judge showed me his back and his body language went to my ex, and I said, 'Where's the neutral person in there?' **Petra**

Echoing Alison and Petra's experiences, Eva also talked about being made to 'feel really, really stupid when I was trying to explain something', concluding that both the judge and the legal practitioners are 'sniggering and laughing at you as well'. She gave the example of being goaded by the judge who was suggesting it would be 'lovely' for the former partner to take the children on holiday and then questioning why she would 'have nearly a meltdown on the stand'. Feeling mocked and with her history of abuse not considered relevant, Eva reflects on what she described in interview as 'underhanded ways of trying to get a reaction out of you':

Even the judge is laughing at it as well, laughing across with the barristers. Like he [ex-partner] was telling lies. It's just as if, because it's family law, it's not serious. Eva

Aisling also concluded that both spoken and unspoken messages in court advised her not to be emotional because being emotional was equated with being 'unstable' or could be presented that way by an aggressive solicitor representing her ex-husband. Aisling questions in this next quote how you keep emotion out of a scenario where you fear for your children's safety:

Your kids are being given to somebody who has raped you for years, who's [abused] them, but you can't be emotional. This man raped me, over and over again for years. But I'm supposed to accept, and hand over my most precious things in the world to a man who I know is abusive. Why would you do that? Why would any woman do that? If somebody on the street rapes you, you're not expected to ever have to deal with them again; but if your husband does it, you know, it's, 'Well, now you have to co-parent with him'. Now, how in the name of Jesus does anybody do that? Aisling

With this abusive history causing concern for her children's safety and having to talk on the stand about 'things that were really traumatic, that are really difficult', Aisling recalled the judge questioning her 'what are you crying for?' which made her ask herself 'do they all [legal professionals] think that?'. The opposite reaction seemed forthcoming when abusive men cried or were upset in court - in itself enough to draw sympathy from the judge.

All participants felt that their former partner was heard in court, in reports to the court and in the decisions that were made about DVA orders, breaches and contact orders. Many participants talked about the presumption that contact was considered to be in the child's best interests and that everything after that flowed from that position. Lucy for example was one of a number of participants who was told in no uncertain terms by her legal team that there was little point in her challenging her former partner's application for joint guardianship, because 'if he's here and he's looking for it, they get it'. While Lucy recalled the mantra said to her: 'It's in the best interest of your child to see her dad', Jane was similarly informed by her solicitor that 'the judges are so happy that dads want to see their kids, they'll be like OK to whatever they ask for, which makes absolutely no sense to me'. The overwhelming message Jane received in this regard was that she should be grateful for 'whatever the outcome you get', when the starting point is the presumption of contact.

With this starting point, any objection to this by the participant mothers was understood as unnecessary interference and negativity. Petra reported that her request for some consideration of her former partners behaviour when considering access resulted in the judge 'scream on me a million

time because – for him – I’m making a big deal of something - he scream on me, saying that I’m always negative’. Requesting support from her solicitor, she said she was ‘shushed’, being told, ‘Shh. Don’t say nothing. Don’t say nothing’. Feeling like everyone was against her, Petra said she left the court crying and feeling she had no right to be there and to have a voice. In interview she worried going forward about the risk of challenging anything in court, fearing that she would be arrested.

Lucy also talked in interview of not being heard and feared repercussions for resisting a contact order that she said was ‘*ticking a box*’, summarising the process and outcome of the contact application as follows:

*The dad turned up, he wanted to see the child, he dressed well on that day and he showed a bit of interest, so yeah, ‘You can have whatever you want’. And it didn’t matter what I had to say. No, it was just what Dad wanted, and that was it. **Lucy***

Describing this judge as ‘on another level’ of pro father contact and left with a contact order that she considered very dangerous for her daughter, despite a file of professional letters supporting her position, Lucy had no option only to appeal the decision to the Circuit Court where her concerns were heard and her appeal upheld.

This thread of not being heard and only the father’s voice given airspace in the court was a common theme across the participant interviews. Feeling completely silenced by the court, Aisling outlined the outcome for her and her children, when, due to a complicated process of allegations being dealt with in other legal arena, she was not allowed present her concerns about her former partner’s:

*Mental status, about how he lost his job, the fact that he abused us for years, was never, ever allowed to be used in the court system. But he could say I was insane, I was crazy, I was emotional; he could say I was alienating him. There’s no evidence of any of it, but he was allowed to say all that. **Aisling***

With court ordered contact that her children were very distressed by and actively resisted, Aisling said she was not only silenced, but questioned her own capacity as a mother, berating herself: ‘*I’m not a good enough – I’m not a good’* [mother].

This question of ‘good enough’ standards of parenting also arose throughout the interviews with mothers who all concurred that the standard for fathers was simply wanting contact and the standards for mothers hard to gauge as they experienced the goal posts shifting all of the time. From Michaela’s experience, while plenty of leeway on facilitating changes in access was expected on her part and encouraged by her solicitors: *You have to give in. Or he turns it [against you]*, there were no similar

expectations of her former partner. Michaela gives the example of her former partner asking to see the children on Christmas eve because their daughter was 'very upset' that she would not see him. As this was not in the court order and in any event did not suit Michaela as she had plans with family, she consulted her solicitor who advised her to accede to the request as otherwise "He's gonna use it in court against you. It's gonna look negative on you, so it's a couple of hours, just do it." A few days later Michaela's grandfather died and she asked for a change in contact so the children could attend the funeral. When her former partner said 'no' with no room for negotiation, Michaela contacted her solicitor once and was told to 'stop making a fuss'.

Eva's experience of the 'goal posts shifting' concerned the rising bar of evidence her solicitors seemed to need to take her former partners behaviour seriously as 'evidence' they felt they could bring into court against him. While Eva did feel confident that her solicitor was on her side, she nonetheless expressed frustration with the shifting sands of what constituted evidence, as she explains:

No matter what I had, they'd say, 'well, if we had a conviction or if he got caught for drink driving - 'if we had evidence'. And they got evidence. But it always seemed like the goal posts would go wider and wider when I'd find something and give them something it would be, well, he got caught drink driving, it was in the papers - that wasn't enough. He had to be convicted - even though he's four times over the limit and it was all over the papers. It's only safety that you want, you know, and it's frustrating. Then you get to the stage where you just stop saying it. Eva

Finally, Maura talked about the differing expectations and responsibilities of mothers and fathers before the court. While Maura consistently had to produce a statement of means when maintenance was being considered, her former partner managed always to find excuses for not producing his and his assertion that he was not working was accepted on face value, leaving Maura to conclude:

This is financial abuse again', because like it was three and a half years that I had to do that consistently; not once did he ever bring a piece of paper with what he was earning; he just kept saying 'I'm not working, I'm not working, I'm not working'. Maura

Maura went on to outline how she feels that the burden of responsibility and of proof has always fallen to her, with minimal responsibility in the form of financial support expected from the children's father, as she explains:

I left the home with nothing; why is it that everything has to now come on me, that I have to make a plan for everything? I had to go and get a full-time job, put my kids in school and after

school and everything, so I can take care of them. I think that's where the system is failing mothers. I had to leave; I had to be homeless with the kids. Maura

Professional and court responses to breaches were also highlighted by participants to have a particularly gendered bias to them. While Maura reported her former partner for a breach of her protection order and did get a positive response from the Guards, her experience of the hearing on the breach was quite different, as she explains:

His solicitor completely broke me – like I felt like I was the criminal there; like I had murdered somebody. I would say, it was my worst experience in court. And then because it's a breach of the order, so he has a solicitor; I don't have a solicitor; so nobody's cross examining him. Nobody. Maura

With the outcome of the case being '*they said it was insufficient evidence*', Maura said her partner had made a tactical move with his message to her clear: '*I will still do whatever I want*'. With Maura feeling that she had become the problem, she asserted that she would '*never ever go that route again. Never. Ever. If a woman has a protection order and it's breached and she comes and tells me, my advice would be don't go to court*'. Maura further considered that a complete absence of judicial understanding of '*the emotional impact and the damage that it [DVA] causes to a person*', left the judiciary '*oblivious*' to the impact of '*years and years of programming*' of the victim by their abuser.

In Aisling's case, her former partner was convicted following breaches of orders that put her children in fear. However, she said that nothing ever happened on foot of the conviction:

So, he was convicted, and he has the conviction, and it's there on record, but the court never followed through on it, as far as I can see. No Tusla involvement, nothing. Aisling

Millie spoke in interview of her former partner breaching her safety order numerous times during its five-year lifespan, only receiving a two-year suspended sentence and a 2,000 euro fine following the repeated breaches, with nothing happening following her initial reports. She stated that she has remained in fear of his potential violence, installing safety cameras all over her house and with other safety protocols that she follows rigidly, as she explains:

He's not afraid of the law because he's done numerous things and nothing happened to him..[the guards told her] they've given him a one chance out of jail card. But he did that, he repeated again the same incident. He attacked me again. Still, nothing happened to him. Millie

Noreen talked in interview about her former partner constantly breaching the access order by not showing up, picking the child/ren up late, returning them early – and with no notice to Noreen and

she can do nothing about that. He cannot be held responsible for not complying with court ordered expectations of him, but she can be held in breach if she does not insist the children engage with access. Echoing Noreen's reflections on 'responsibility', *Aisling asserted that 'all the men have all the rights, but they don't want any of the responsibility'*. The next section explores this further.

6.7.1 Responsibility and accountability: as a gendered experience

So that's what upsets the kids more than anything, that he never was punished for hitting them; for hurting them; for nothing. That's one of their hugest issues. He was never held accountable for anything. He says it didn't happen, so it didn't happen. The truth didn't matter. The truth never mattered. Aisling

The lack of accountability apportioned to abusive men/fathers emerged strongly across all data sets, including children and their mothers as illustrated by the quote from Aisling above. This will also be illuminated in the chapter on children's experiences.

Michaela talked in interview about an interaction in court where she was trying to present evidence to the judge. She stated that she was told by the judge to '*cut it down*' as the judge said he did not '*have time to read it all*'. Having '*cut*' the evidence down to only the abusive messages her former partner had sent to their daughter, leaving out the messages he had sent to her, Michaela recalls the judges direction to her former partner, leading her to conclude that there was no accountability - just '*don't do it*':

[Judge said] '*I don't want to see anything like this in front of me again, don't do it anymore. He should know not to speak to a child in that manner*'. But there was [no accountability] No, just don't do it. **Michaela**

Michaela also said there had been a list of frequently missed access visits, often cancelled on the day. While she raised this with her own solicitor and asked for it to be included in the file for the judge to read, she said that never happened, resulting in a missed opportunity for patterns of inconsistent and unreliable contact to be considered alongside patterns of abusive text messages her abuser sent connected to contact.

Non-compliance with a range of orders of the court also emerged with frequency in the interviews. Sheila for example concluded from her experience that it was as '*clear as day he has no respect for the judge rulings, because if they don't go his way, he just ignores them*'. Sheila concluded '*he thinks he's judge and jury*'. Elaine also cited an example of non-compliance with the court order when her former partner simply refused to continue to engage with a court ordered counselling service. Notifying her

solicitor that *'he's in breach of that court order'*, but no breach application was forthcoming, Elaine questioned *'if that was me breaching anything, I'd be dragged, [back to court] so 'why isn't the same being done for him, I'm still waiting for him to be dragged in.'*

In Noreen's case, she said that while she was the victim of DVA, her abuser told his barrister untrue information about a conviction Noreen was supposed to have for anti-social behaviour, which she subsequently had confirmed was fabricated. The outcome of the court process however Noreen recounted was that her safety order was *'taken off me because they switched things around to say that I was the bad person'*.

This experience of the narrative changing - where the victim is now the problem, and the abuser becomes the solution to the problem - was raised by many participants. While legal professionals questioned Sonya's mental health arising from her history of addiction, she stated that her former partner *'lied about his whole past'* [in addiction]. Painting *'a brilliant picture of himself, but no one will listen to me, really. They're just saying I'm neurotic (Sonya).'*

Millie also said that she ended up being the problem in an access situation that her former partner manipulated. Driving home from the contact handover point with one of her children who had not wanted to go on access with her dad, Millie said she received a phone call from An Garda Síochána to say her child (the one in the back of the car) had been reported missing by her former partner. Ordered to return to the handover point which happened to be the police station, she was chastised by the call handler for the manpower and resources she was responsible for wasting. Millie went on to question:

I was like, this is ridiculous. Like he called the police wasting police time and nothing, nothing ever happens. He's never cautioned or anything. Millie

Leah was also quite aggrieved in interview at what she considered to be the unfairness of a system that holds her responsible for everything and with no recourse for her to hold her former partner accountable for his actions and responsible for his parenting. Leah went on to highlight how her former partner can refuse to care for his children while she has an in-patient medical appointment, but she cannot negotiate a change in access arrangements, least she be considered in breach of the court order, concluding: *I feel like my hands are tied.'*

Also expressing the view that her hands are tied, Petra said she was given an impossible choice by the judge in her case, as she explains:

If I don't do what he [judge] expects, I'm losing my kids. He said that I will be in big trouble. This is what he said. I have to give him more time and more time and more time; if I don't do, that I will be in big trouble. Petra

Returning briefly to the experience of assessors, the narratives from participants suggest a gendered lens was applied to the process of assessment, involving a dual process of invisible risky paternal behaviour and a dominant narrative of children needing fathers in their lives. Documented evidence of abuse including protective orders and criminal convictions were ignored or noted as irrelevant, while mothers got a very clear message, that father presence was something they needed to support.

For example, the impression Alison said she got from the beginning of the process was that the assessor considered that this was a dad who loved his daughter and wanted to spend time with her. Anything Alison said that did not concur with this position was '*picked apart*' with the assessor suggesting that there was '*full on parental alienation*'. Following the first meeting with the assessor, Alison's daughter who was seven years old at the time, said the assessor said to her that her Mum should not be trying to reorganise access time (it was to facilitate the child attending a friends birthday party) stating '*your mammy shouldn't have, because that's your dad's time*'.

This level of control that Alison perceived the assessor to have was reinforced for Alison when she experienced the assessor making out she was a '*liar, like I was overreacting with things, and like I was holding my daughter back from a relationship with her dad*'. From her engagement with the assessor, Alison said the assessor was '*completely backing him on this thing of 'His time', like 'It's his right*', where no one was questioning what about the child time and the child's rights.

For a number of participants, this 'pro-father' approach to assessments also involved as noted above, overt and covert threats of 'parental alienation', should compliance with a pro-father approach not prevail. In this next quote, Elaine explains how her concerns for her daughter's welfare were dangerously reframed:

It [report] was making me out to be an overprotective mother! Again I was always being told alienating, you can't have that word thrown around, cause if they get that word into court with them, you won't be able to get rid of that, so I had the fear of god in me that.. if things don't improve yeah, she [the court appointed assessor] wants to see a remarkable change. Elaine

The next extract from an interview with Aisling describes a similar experience with her assessor:

He claimed he was a psychologist, but, no, he was – alienation. That's all he wanted to hear, was the words alienation. it didn't matter what (partner) had done to me. But the alienation is more important than the domestic abuse. The alienation was way more important than

what he had done to us. Even though there was no alienation. I never stopped him seeing the kids. He didn't really want them, you know. Aisling

Recalling that 'every shape of access was tried', including taking the children one by one, taking them two at a time, Aisling said that nothing worked whilst all the time the children were telling every professional they engaged with that they did not want contact with their father, but this narrative was not heard. The conclusion the assessor reached, and the judge adjudicated on was that it was all Aisling's '*fault, because I'm emotional with them, and I don't like him, so they're being told. They're feeding off me*'. Reflecting on almost a decade of engagement with family law proceedings, Aisling concludes:

So, the abuser was given power. They gave him power. The court system empowered him by agreeing that it's alienation, and no matter what I said, no matter what I did, I was wrong.

Commenting that since this assessor was involved in her family he has been '*discredited in the court system; as in, he's not used; as in, he's no qualifications*', the damage however has been done for Aisling and her children when alienation was used in a blaming capacity and as she asserted '*the kids were never alienated*'. For Aisling and many others, this journey to date has been a relentless process.

6.8 Navigating the Family Law system as a Relentless Process

It was relentless, in and out, and it was frustrating where he got so many adjournments, because he played the system. Olivia

As expressed in the opening quote to this section from Olivia, one of the most frequently used terms by adult victim-survivors when describing their experience of navigating the family law system was 'relentless'. Relentless referred to a number of things - the length of time it took for cases to be heard and processed; the number of times cases were adjourned requiring multiple days in court; the multiple times they were summoned to court by their former partners; the many times they had to bring their partner to court for issues that they felt could have been sorted outside the court (passport applications for example); the multiple legal professionals (including judges) that they needed to engage with along that journey; and at times, the different court systems and processes they were involved with due to the complexity of their case. While Olivia fully appreciated that '*the system also has to be seen to be impartial and fair*', she nonetheless pointed out a key factor in many adult victim-survivors experience – the perpetrator was not playing fair – in fact as she asserted '*he got so many adjournments, because he played the system, resulting in the whole process being 'exhausting*'.

This experience of perpetrators ‘playing the system’ was also a common thread across the adult victim-survivor testimonies. Alison for example was one of many participants who could not get her former partner to agree to the simplest issue outside court, like changing an access time so that their child could attend a birthday party – advising her instead *‘as you know, you must contact my solicitor about this’*. Being continually *‘shut down’* on requests she considered reasonable, she said he was also, at the same time, *‘pushing and fighting for more time [access], and whenever he was offered it, he never actually took it’*. Like many participants, Alison concluded that her ex-partner *‘[was] just really enjoying bringing me through that’*. Like Olivia, this playing of the system was relentless and exhausting.

Describing a history of weekly adjournments in her case, Prea recalled her fear that her children *‘were, like, on the chopping block’* with the journey through the family law system described by her in the next quote:

As a roller coaster and you're on the incline, and duh duh duh duh duh, and you're like, 'I feel sick. I feel sick. I feel sick', and you get to the edge and then it's like – it's adjourned; and you just crash into the ground, and you go home and you're tired and you're wrecked and you're emotional and you're like, 'I gotta do it again'. But I have to keep it together all the time; I can't fall apart. 'This is sink or swim, and I refuse to sink'. So that means in a world of chaos, in a system of chaos, I have to be their calm. I think, probably the most frustrating – it's arduous [but] it never stops. It may never stop. So it's relentless. Prea

Lily, who had over 30 appearances over a period of eight years, described her quality of life as *‘living from case to case, I never have a break.’* In agreement with Lily and Prea, Lucy concluded that *‘even when you get final orders, it's never final’*, citing more than 30 court appearance over a four-year period and considering herself *‘a pro at the courts at this stage’*. Asserting *‘I do not understand how the court system works’*, Millie questioned how her former partner could be allowed to constantly bring her to court but not show up himself, with no repercussions for him. While Millie still had to pay for each of these adjourned court appearances, she questioned further how her former partner is allowed to ‘play the system’ while inconveniencing her and impacting her – and the children - financially. Millie provides an example of her former partner ‘playing the system’ in this next quote:

He's applied for guardianship which he was granted. He's re-applied for guardianship, which he already has, and I have to pay solicitor now to go and just to say that he already has guardianship. Like he's playing with the court system - is there no way they can stop that just like playing with the court system? Millie

Again, spending multiple days in court in response to requests from her former partner, Aisling reflected that during these days in court, her children were getting their vaccinations or engaged in similar milestone activities that she as a parent wanted to be beside them for, concluding that *'there has to be a better system'*. Also wanting a better system so that she could have a better life, Lily reflected in interview that she was only working to pay her bills and solicitor and that her life is *'no life, I don't have time for enjoying life. Because you know court case and thinking, thinking. Only thinking'*.

While participants like Maura asserted *'there wasn't one point where I stopped and I settled, until I got what I want. I kept fighting for the kids, and I kept fighting for them'*, many other participants experience is reflected in the quote below from Jane:

Really, it's probably the most traumatic thing I've ever did- I was very ill physically, actually, after the first time I went to court. Jane

Reflecting on the experience of navigating the family law system as 'traumatic', many participants concluded emphatically that if they knew then what they know now about the process, that they would never have proceeded on this journey. The final section explores these perspectives.

6.8.1 Nothing makes it better so why did I bother leaving – regretting leaving and engaging in family law proceedings, as everything has become worse

I think if I if I had my time again, I wouldn't go in front of a judge. Eva

The above quote from Eva echoes the sentiment of a number of adult victim-survivor participants in this study. For some participants like Kate, securing a protection order placed her in more danger because *'it irritated him. It took away a sense of his power, which he was definitely going to get back, regardless of how he got it'*, leading her to conclude that getting the order was *'categorically, without any doubt, the worst advice I was ever given'*. With the protection order increasing her perceived risk of harm, Kate applied for and secured a safety order which rendered her and the children homeless as she was forced to flee the family home for safety. Kate went on in interview to detail attempts she believed that her former partner made on her life and in endangering the well-being and safety of her children, saying that she struggled to understand how she could ever be safe when her abuser had a right to know where she and the children lived as he is a legal guardian.

Subtle and seemingly innocuous acts by the perpetrator to send a message that they are still in control and are *'above the law'* were understood by the victim-survivors as messages from the abuser that *'he*

will get to me' (Maura). The challenge however as experienced by many participants was how those subtle acts or messages are understood (or not) by the Guards or indeed by the court. The advice Maura received from her solicitor was that if she was in fear, she should go to the Guards. While Maura found the Garda response very reassuring and supportive in helping her build a case against her former partner for a breach of the protection order, her experience of how this played out in the court room was quite different where she *'became the problem. I was the criminal there, I will never do that again'*.

This advice to contact the Gardai if in fear was advice many participants recalled receiving. However, while all participants understood that the protection order *'kicks in when the person puts you in fear'* (Olivia), many like Olivia questioned *'when you live in constant fear, what's the level of fear at which this protection order is supposed to kick in?'* Commenting that physical violence would be a *'very obvious trigger of a protection order kicking in'*, Olivia surmised with the benefit of hindsight, that the level of coercive control she had been living with, had completely *'desensitised'* her so that she lost all sense of *'what normal is'*. It stands to reason then that you have no barometer to know the point at which *'fear'* has *'kicked in because you're desensitised to a constant level of fear that you don't know what the trigger would be, because I was afraid all of the time'*. Olivia went on to explain:

I didn't understand how a protection order was supposed to be used in the context of the level of coercive control I was under, because I was just like, it's constant; it's not a stop-start; what's the level of fear I should be at, that's a big enough deal to call the Guards?' I was in no way capable of managing. So, I understand that theory behind how it works. But in practice, in the context of coercive control, I don't know how any woman any victim of coercive control could use it as a tool [of protection]. **Olivia**

Echoing Olivia's sentiment, Lily talked in interview about her difficulty explaining her level of fear, particularly after her safety order had expired. With her former partner watching her and waiting for her in public places, Lily said she tried to make a statement to the guards but that it is *'very hard to have proof that he watching me because that's public place. Is very hard to have proof that he make me fear that he follow me. It's easier if he hit me, that is easier'*. Commenting that words and mental abuse are hard to present as proof of fear, Lily explains:

If I will have black mark, that is...everybody see. But fear, how I have to show fear? Or anxious, or I scare[d] of him, how? Who will believe me? Which proof I need? **Lily**

And the final word here is with Noreen who describes going to court as *'the biggest waste of time'*, explaining why in this next quote.

Every time I go to court, I have to get myself prepared to go in, like a warrior you put on your armour, because I do not know what's going to what's going to be said against me. I have absolutely no life. Noreen

6.9 Conclusion

The testimonies of the participants who contributed to this chapter have illuminated the stark reality of the family law system compounding and continuing the abuser's power and control. In addition to facilitating a legitimate space for the abuser to exercise his tactics of abuse, we have also been provided with an insight into how the 'tools' of the system as outlined in the previous chapter, become powerful and toxic tools of weaponisation. The 'toolbox' that results, contribute potently and harmfully to the victim-survivors experience of secondary victimisation from a process and a system designed to protect and support her. The next chapter considers the views and experiences of male victim-survivors as they navigate the family law system in GCA cases.

Chapter Seven

Focusing on male victim-survivors experiences

“I am a survivor of both domestic violence and a highly unregulated and almost criminal family law system.” (144, male)

7.1 Introduction

This quote from a male victim-survivor which was made in the online survey echoes the sentiments of many male participants. This chapter explores male victim-survivors’ perspectives and experiences of domestic violence and abuse as it relates to the family law system in Ireland. While focused attention was given to seeking out the voices of male victim-survivors, either directly or via professionals who work with male victim-survivors providing support, advocacy and information, challenges with recruitment nonetheless prevailed. This chapter draws on three sources of data: from 43 male victim-survivors who completed the online survey; from an interview with one male victim-survivor; and from a focus group involving four practitioners who work directly with male victim-survivors. To protect the anonymity of the sole interviewee, this data is merged with the survey data and will only be drawn on where we consider that it does not risk identifying the participant. It is important to emphasise that due to the limited number of male victim-survivors who participated in the research (n=44), the statistics reported relate to much smaller groups than the female victim-survivors (n=370). Additionally, these findings do not claim to be representative of all male victim-survivors, rather they present the views of the participants in this study only.

While there were a great many similarities between the experiences of men and women as victim-survivors of domestic violence and abuse, there were also some clear distinctions which differentiated male victim-survivors experiences from their female counterparts. Where the data revealed similar themes and patterns, such as victim-survivors’ perspectives on the ‘tools’ of the legal system, or on the voices and experiences of their children being heard and considered in the decision-making process in family law cases, data were analysed together to present the views and experiences of victim-survivor parents. However, it was determined that to acknowledge and honour the lived experiences of the men who participated in this study, highlighting these unique experiences and perspectives of navigating the family law system in the context of domestic violence and abuse, was important.

7.2 Different forms of abuse – pre and post separation

7.2.1 Pre-separation abuse

One area where clear differences were observed was in the descriptions of both the forms and frequency of abuse experienced by male victim-survivors. While the quantitative data collected often demonstrated quite similar statistics for some categories as female victim-survivors, the qualitative data collected in the ‘free text’ boxes revealed quite different lived experiences. Table 16 sets out the proportions for each type of abuse pre-separation as indicated by male victim-survivors. Purely for illustrative purposes, the percentages for male and female victims’ responses are placed side by side in Table 16 below. Nearly all male respondents indicated that they experienced emotional abuse (n=38, 88.4%), and coercive control (n=36, 83.7%) in their relationship before it ended. For those who experienced coercive control, nearly half of respondents indicated that this was ‘constant/never stopped’ (n=20, 46.5%). Financial abuse was reported by 44.2% of respondents (n=19). Meanwhile, over half of male victims reported experiencing physical abuse at the hands of their female perpetrator while in their relationship (n=24, 55.8%), although the majority proportion indicated that this occurred ‘less frequently than once per month’ (n=13, 30.2%).

Table 13: Forms of abuse experienced by male & female victim-survivors pre-separation

	Female (n=370)	Male (n=43)
	% (n=)	% (n=)
Emotional abuse	94.1 (n=348)	88.4 (n=38)
Coercive control	92.7 (n=343)	83.7 (n=36)
Damaged your belongings or property	61.6 (n=228)	67.4 (n=29)
Physical abuse	64.3 (n=238)	55.8 (n=24)
Financial abuse	74.3 (n=275)	44.2 (n=19)
Online / digital abuse	37.3 (n=138)	34.9 (n=15)
Stalked	53.8 (n=199)	30.2 (n=13)
Sexual Abuse	44.3 (n=164)	11.6 (n=5)
Harmed a pet or animal	27.6 (n=102)	11.6 (n=5)
Other*	9.2 (n=34)	11.6 (n=5)
	(N=370, missing=0)	(N=43, missing=0)

7.2.2 DV orders post-separation

Although male victim-survivors reported ongoing abuse post-separation, the majority - over half of male respondents (n=23, 53.5%) - indicated that they did not hold any DV orders while they were involved in the family courts. More than half of these individuals selected the answer '*didn't think I needed an order*' (n=11, 52.4%). A further 23.8% (n=5) of those who did not hold any orders responded selecting the answer '*did not know that I could get an order*'. Six male victim-survivors declared they held only a protection order, which would imply that a safety order hearing had not occurred yet, an order was not granted, or a hearing had not taken place.. Meanwhile, some victims asserted that DV orders were wrongly made against them when their ex-partner was the perpetrator, as can be in seen in this respondent's quote:

My ex-wife applied for a protection order and barring order against me, although she was the aggressor. (R343, male victim-survivor)

As illuminated in this next quote, another respondent was advised by his legal representation that seeking an order could aggravate the situation instead of providing protection:

I considered getting a safety order at Circuit court against my ex-wife for coercive control, but was advised by my lawyer this would further escalate the acrimony. (R143, male victim-survivor)

In this next quote, another respondent revealed that he chose not to fight an order taken against him by his former partner, even when it was reportedly based on false accusations, a choice he later regretted:

A Safety Order was granted against me in the beginning, I did not fight this even though the reason for seeking was false, in hindsight I should have. (R89, male victim-survivor)

7.2.3 Post-separation abuse

The survey sought to establish whether any forms of abuse had continued or begun after the relationship had ended and family law proceedings had commenced: 93.0% of male victim-survivors (n=40) indicated that this was the case. In fact, according to over two thirds of respondents, emotional abuse (n=26, 68.4%) and coercive control (n=27, 69.2%) increased after their relationship

ended. In combining the proportions for the categories continued at the same level and increased in relation to physical abuse post-separation, half of the male respondents stated that they continued to experience physical abuse post-separation (n=14, 50.0%).

In this section, respondents were invited to leave additional comments in relation to their experiences of domestic violence and abuse, including a free-text box to collect information on 'other' forms of abuse not listed. Here, false allegations and alienating behaviours leveraged against fathers by female perpetrators were the most frequently cited experiences of abuse, with this father's quote serving as an illustration:

The reason I felt unsafe did not come from the threat of violence or physical abuse. The main reason I felt unsafe was because of the constant threat of legal proceedings and false allegations. The feeling of being ignored in my community because of false allegations. The constant threat of my children being used as pawns post separation. (R82, male)

Furthermore, also referenced in this section by the male participants were how female perpetrators had weaponised the legal system against male victim-survivors, coupled with the belief that the legal system is inherently biased against men/fathers. These next quotes from three survey respondents touch on some of these issues:

I have been falsely accused many times of things I never did. Moreover, I presented evidence from the recordings, but no court took them into account because no one cares about the male victims. (R217, male)

Not enough awareness of DARVO - deny, attack, and reverse victim and offender. That is what my ex got involved in. [She] Used Tusla, Gardai and her family lawyers to do her dirty work. Double standard when it comes to male and female victims of domestic abuse. Can any of us name a female perpetrator who has been prosecuted? (R26, male)

My ex used the family law courts to destroy my life, lose my access to my children and I lost my home. Legal teams on both sides were despicable. Profiteering from the misery of the family break-up. (R144, male)

The vast majority of comments left by male victim-survivors depicted forms of abuse which were emotional, psychological or coercively controlling. Echoing female victim-survivors' experiences, rather than ending post-separation, the abuse was reported to continue in a different form. Furthermore, 81.4% (n=35) of male victim-survivors reported that they continue to experience ongoing problems and/or abuse from their ex-partner which related to their child/ren's access and contact arrangements.

Alienating behaviours

One form of abuse which was frequently mentioned by male respondents throughout the online survey, both pre and post separation, was referred to by them as 'parental alienation' or being subjected to alienating behaviours from their female perpetrator which were used against them to damage their relationship with their children and effectively remove them from their children's lives. The pseudo-concept of 'Parental Alienation Syndrome' (PAS) has recently been acknowledged as a discredited and harmful concept. Yet is important to acknowledge that 'parental alienation' and alienating behaviours were raised by both male and female victim-survivors in the survey data. However, the evidence from this study's data suggests that many female and male victim-survivors often had contrasting experiences of this issue in the context of family law. For male victims, female perpetrators were reported to use the children as a mechanism of control or to inflict harm or 'unjustified alienation'. In contrast, many female victim-survivors reported being wrongly accused of alienation when they said that their children did not want to go on access visits or continue their relationship with their abusive parent because of their lived-experiences of DVA or 'justified estrangement' was discussed in chapter six. Below, two male respondent quotes refer to their experiences of alienating behaviours against them. The former relates to pre and post separation, the latter to post separation:

My abuse was in the realms of parental alienation and continued relentlessly post separation, My ex-partner used false allegations (all allegations were cleared) and other emotional tools against me, She tried to carry out her threat that I would never see [child's name] ever again.

(R33, male victim-survivor)

Parental alienation has been the most damaging form of abuse that I suffered from my ex, as it hurt my children and many in courts services don't take it seriously. **(R96, male victim-survivor)**

Practitioners from the focus group conducted with professionals working with male victim-survivors described how perpetrators, regardless of gender, will use whatever is at their disposal to inflict abuse and frequently this may involve using the children against victim-survivors. However, as this practitioner highlights, less is known specifically about female perpetrators:

... I mean perpetrators will use the court system to their advantage as much as they can. [...] But when it comes to the family court system for men and for women – but for men, where their perpetrator is a female, the children is the biggest reason for staying in this dangerous situation. Perpetrators will use what they can and if they're going to use the children, unfortunately, that's what they're going to do... [but], we have much more knowledge around male perpetrators than female perpetrators. [...] but in the court system, abusers will use what they can.” (FG5P1)

Feelings of safety during court proceedings

Similar to the narratives of the female victim-survivors, male victim-survivors also indicated that they did not feel safe during their family law proceedings. When asked, nearly two thirds of male respondents reported not feeling safe while in court (n=28, 65.1%) and just over three quarters of male victim-survivors indicated that they did not feel safe in their day-to-day lives outside of court in the post-separation period when family law proceedings were ongoing (n=33, 76.7%).

Delving deeper, we asked respondents to rate their overall feelings of safety during this period using a scale from **1- 10**; where 1 represented ‘not safe at all/at risk’ and 10 represented ‘very-safe/no risk.’ The average rating reported for male victim-survivors was **4.1/10** (n=43, SD=2.8). When invited to do so, nearly half of the male victim-survivors left additional comments (n=22) in relation to their feelings of safety. Despite the not dissimilar average overall safety ratings given by female (**3.3/10**) and male respondents (**4.1/10**), the comments left by male victims were quite different. Here, as in the earlier section, several fathers disclosed their fears over false accusations and allegations - such as sexual abuse allegations or being accused of being the perpetrator rather than the victim. Several male respondents stated that they feared these allegations would be believed due to a lack of understanding about DVA perpetrated against men, together with normative assumptions about gender-roles and stereotypes. There were several comments which mentioned a fear of the Gardai being called and the impact this may have on their employment, or repercussions within the community in which they lived. The following respondents’ quotes serves to illustrate:

I was constantly in fear as my ex made several false allegations and I would be arrested. (R94, male)

I always feared a lynch mob type confrontation from local people given the nature of the accusations against me. (R89, male)

In an effort to mitigate damage or to disprove spurious allegations made against them, a number of fathers mentioned that they had utilised CCTV, dashcams and/or body cams to be able to provide evidence if needed.

7.3 Lack of understanding about DVA when the victim-survivor is a man

Another strong theme to emerge across all the data sources was a perceived lack of understanding about DVA when the victim-survivor is male and the perpetrator is female. In the focus group, practitioners working with male victims reflected on this, with one professional commenting:

"I think as a society, we don't take the violence against men as seriously when it comes to domestic violence, especially if the perpetrator is female. We just don't take it as seriously as we do when the victim is a female." (FG5 – Professionals supporting male victim-survivors, P1)

This was echoed by another professional in the focus group who shared their thoughts on the distinct challenges that male victim-survivors face in the legal system:

"... my experience of men who mention or disclose domestic abuse in the course of their proceedings [...] whether it's access, maintenance, separation... overall there are still really stereotypical views of men as victims and survivors of abuse. [...] we did have a male client who went in at one point and disclosed physical abuse and the response that he received was, 'But sure, look at the size of you and look at the size of her. How do you expect me to believe that she assaulted you?' And that kind of disbelief is not usually seen with women, but we are still seeing it with men, and it wouldn't be the only time that I've encountered [this situation]. Or men may be discouraged more from seeking protection and safety orders, being told things like, 'Are you sure you want to go down the route of this protection order because you know, if you do it, she's going to come in tomorrow and get one against you'; when they're kind of

being almost encouraged to not to not do it. So I think they would be some of the biggest barriers that I'd see.” (FG5 – Professionals supporting male victim-survivors, P2)

Indeed, a perceived lack of understanding was woven throughout data collected by the online survey. Nearly half of male respondents believed that their legal representation did not understand their experiences of DVA (n=20, 47.6%). Meanwhile, the overwhelming majority of male victim-survivors (n=31, 77.5%,) did not believe that their experiences of DVA were considered by the judge presiding over their case. Moreover, 71.4% (n=30) of male victim-survivors indicated that they believed their experiences of DVA were ‘never’ taken into account in the decisions which were made about custody and access. These findings are mirrored in the qualitative data collected in the free-text boxes. As this next quote illuminates, respondents described how this lack of understanding was manipulated by female perpetrators:

She constantly engineered situations to make me look like the bad guy and then said she was afraid. Her sister screamed abuse at me, tried to run me over, and harassed me via text messages. Garda did not take me seriously. (R303, male)

Male victim-survivors described how counter allegations of abuse by female perpetrators were upheld or believed because of their exploitation of assumptions around females being victimised by men. This they stated led to the perception that male victims were not taken seriously by the police, legal professionals or the legal system. Several men highlighted that even if allegations were ultimately found to be untrue at a later date, the damage had already been done. A flavour of the many quotes from male victim-survivors which illustrate this lack of understanding are presented below:

Any issue was met with counter false allegations. As a male victim I found I was rarely if ever believed and the counter allegations by a female abuser always taken more seriously even when there was no evidence. (R77, male)

Barrister and professionals completely ignored it. They simply cannot see a woman or mother as a perpetrator of violence. (384, male)

There is systemic discrimination against male victims in Ireland and no institution, including the courts, cares about them. (R217, male)

Yet, one male victim-survivor's comment provides a profound insight by pointing out that, *"both women and men can be victims, or perpetrators of abuse - children will always be victims"* (R89, male)

7.3.1 Gendered nature of the court and its processes

Participating male victim-survivors expressed a strong perception of collusion against fathers/male victims from within the system, combined with a belief that the court was privileging or protecting mothers, who they asserted were in fact also the perpetrators of abuse. Many of the responses from male victim-survivors indicated their perception that female perpetrators were believed primarily because of their position as the mother. This appeared to reinforce the belief that many male victim-survivors held that their experiences of abuse were not understood or taken seriously. The following respondents' quotes represent this finding:

An utter joke with a preordained outcome, mother gets children, father gets bills and loses access completely. (R384, male)

It was my experience (after almost ten years in a custody dispute) that Judges just tend to side with mothers regardless of the allegations against them. It is my experience of district and circuit court judges that they tend to believe a child is best placed with their mother as the main custodian regardless of the evidence put before them. (R82, male)

This was also the case for 'Tom' the male victim-survivor who took part in an interview. During his interview Tom explained how his ex-partner frequently tried to leverage her position as the mother to 'play' the court, utilising deeply ingrained societal expectations of gender and gender-roles. This quote from Tom describes his perception of the situation:

"... she can go into court and be quite emotive, and she's very clever. She plays the mother card, even though now it's like, we'd look at her like 'pfff', do you know? I don't feel any kind of emotional connect to it anymore because it's literally playing a card; there's nothing there to back it up in terms of behaviour. I think we're all conditioned to have this automatic perception of mother and maternal connection [and] maternal instinct, and I think we're all socialised – men and women – towards that notion of 'the sanctity of mother' and her position in a child's life." (Tom, male victim-survivor)

Assumptions relating to gender-roles were also raised by the practitioners in the focus group. Several practitioners highlighted these assumptions can contribute to feelings of being ‘unheard’, ‘unseen’ or not being understood as a victim-survivor of domestic abuse when you are man. These assumptions are illustrated in this next quote from a practitioner in the focus group on the topic:

[...] in my experience, a lot of the men talk about being unheard - and I've seen that for women as well coming along here [the DV service] - but they talk about not being heard and they talk about it being assumed that regardless of what's happening in the family home, the child will go back with mum, regardless of whether mum is abusive or violent or whatever the situation is, and you know, and even if it's a dangerous situation, they feel they have to fight harder, and they're contacting TUSLA, you know, with regards to their child protection issues. So I suppose, they feel that it's a negative experience before they even get there. And the solicitors are telling them, 'Well, you know, no matter what happens, your child is going home with mum, regardless of the situation'. So they feel that they're not being heard. (FG5 – Professionals supporting male victim-survivors, P1)

Another focus group practitioner similarly noted that professionals and the courts can expect different standards from men/fathers, which they believed were founded on gender-based assumptions about parental roles and parental capacity. This has particular relevance in the context of domestic abuse when the perpetrator is female, as this practitioner explains:

So, my experiences of those are that men are more likely to be directed or suggested to have supervised access than women are, without a doubt, regardless of who the perpetrator is, and also, men were more likely to be directed to undertake a parenting programme, which I often would have done one-to-one and then furnished a report that they would give to the court. And that I would very clearly see trends there where there's an assumption that a male needs to go for additional support in his parenting, but a mother doesn't, and that a man needs an extra person present during his access, you know. So, I would have seen over the years an awful lot of assumptions there and specifically ordered by the court. (FG5 – Professionals supporting male victim-survivors, P2)

Tom, our interviewee, validated this assertion when he stated that eventually he felt he had to put his foot down and say to the court “No, sorry, I'm not doing another supervised access. I'm not doing

another this, that, the other. It's been years now. She refuses to do what she's been asked to do by the courts'. I was held to a far higher standard."

When asked to describe his experience of the court system, as a victim-survivor and a father, Tom reflected:

[It is] Intimidating. It's scary. It's a scary place; it's a scary process. I would have had a very small tolerance weight for fathers who didn't take care of their duties, right? – prior to me being a father – and the irony now is that, now that I'm father, and now that I've been through the court system, I understand why men walk away: it's very, very hard. (Tom, male victim-survivor)

7.4 Enablers for male victim-survivors

We asked male victim-survivors if there was anything 'good' that they could identify from their proceedings. Additionally, we asked what male victim-survivors found supportive at the time. Overwhelmingly, respondents indicated explicit negative response such 'no', 'nothing', 'zero'. These responses accounted for approximately half of all responses to each question. The remainder of the comments were also largely negative in tone. Where there were more positive comments these noted that without a court order their contact with their children may have been even less or non-existent.

If there had of been no court ordered access I may never have seen my child - even so my ex breached it a few times without consequences. (R33, male)

Court order provided some certainty to access and threat of court action brought some discipline to affairs. (R122, male)

Understanding and knowledgeable professionals from across a range of disciplines were mentioned, including legal representatives, the judiciary, psychologists. This was particularly welcomed when responses were tailored to individual families' circumstances. One such example is highlighted in the next respondent's comment:

I found many of the judges, and legal advisors on both sides, and the court appointed assessor to be knowledgeable and child centric. I found dealing with such judges to be pragmatic and they were quite wise and giving some bespoke rulings to assist us. I am particularly grateful to

the first judge we met who very much enforced the view of 'innocent until proven guilty' she done so in the face of horrendous false accusations made against me. (R89, male)

Other supports which were identified by male victim-survivors for themselves during this time were from family and friends, GPs, therapists, Men's Aid, Men's Development Network, specialist DV services, Daughters of Charity, as well as several other services that were mentioned as sources of emotional support and advice. In relation to children's supports, play therapy and therapeutic supports were mentioned. However, as these are broadly similar to female victim-survivors' experiences these will be explored in more depth in the chapter on enablers and supports.

7.5 Conclusion

The focus of the chapter was to address and highlight the perceptions and experiences which were distinctive to the male victim-survivors who took part in this study in relation to family law processes in the context of DVA. Notwithstanding any differences, like female victim-survivors, overwhelmingly male victim-survivors' contributions to the study portrayed negative experiences which they perceived arose from being misunderstood and disregarded. As already documented in chapter five, many of the issues faced by male victim-survivors were shared by female victim-survivors' interactions with the 'tools' of the family law system. The next chapter presents the views and experiences of the participating children and young people.

Chapter Eight

The Views and Experiences of Children, Young People and Aged Out Minors

8.1 Introduction

This chapter is devoted to showcasing the views and experiences of the 14 children and young people (aged 9-17yrs) and the six aged out minors (aged 18-20yrs) who participated in this study. Sharing generously of their experiences, their participation often involved discussing raw and upsetting memories of abuse and control in their young lives perpetrated by a parent who is supposed to care for them. Echoing the views and experiences of participant mothers as presented in chapter four, many of the children referred to what they saw as a disconnect between how their father behaved in the family home when compared with how he presented in public. Regimes of control were described by the young participants as impacting on their ability to engage in 'normal' childhood experiences. While an abusive parent's unpredictable nature was spoken about by many of the participating children, making them feel unsafe at home, the control was maintained however by the fear of what that abusive parent could do. While their parent's separation brought a certain level of calm to the home that was welcomed by the children, there were clear accounts of exposure to and direct personal experience of their abusive parent's physical and psychological abuse during court ordered contact and a strong sense of being discounted and unheard during the family law process.

The children's insights contribute significantly to what we established in the literature review, is a very limited evidence base on how children who are victim-survivors of DVA experience navigating the family law system. Mindful of the importance of presenting their 'voice' as it was told to us in interview, we are also conscious of the need to protect the identity of the young participants and have taken steps to enhance that protection. As such, while we were aware that two of the young participants were transitioning, we have not used the pronoun 'their' as that would identify them. For 19 of the 20 children and young people who participated in interview, the perpetrator of DVA was their father. For the remaining one participant, the perpetrator of DVA was their mother. This section will therefore primarily refer to the father-child relationship.

While the young participants often shared grave experiences of abuse in the home before their parent's separation, this chapter presents findings specifically related to the experiences of children

and young people post-separation as related to the family law process. The chapter is presented across three sections beginning with a focus on the young participants' experiences of contact with their non-resident parent post-separation. The participating children and young people's experiences of having their views ascertained and represented during the family law process are presented in section two. Section three concludes the chapter with a discussion on what the children say worked and might work in future to support young victim-survivors more effectively as they journey through the family law system⁹⁷.

8.2 Section One: Children's Experiences of Post-Separation Contact

This section provides a detailed account of the children's experiences during contact time with their father, including insights into the quality of contact, the risks and safety involved, and the process of ultimately ending all contact for most of the young participants.

8.2.1 "He'd just go do his own thing" (Jude, 10yrs): Quality of contact/access

The children in the study reported a range of emotions when asked to describe their experience of spending time with their father during access. Roisin (10yrs) spoke of feeling '*scared and sad*' while Alice (14yrs) who had to return to her family home for access, described feeling sick on the day, as she explains:

'It wasn't like, 'Oh yay, I'm going to my dad's.. we wouldn't really do anything exciting'.

For Maggie (11yrs), access started off okay and she was happy to spend time with her father but at the same time she felt caught in the middle and became aware of the tension between her parents. This she said impacted negatively on the quality of the time spent with her father and she described being '*very angry*' with him at times when he spoke negatively about her mum: '*I was like, 'you can't just say that to me, you can't tell me my mommy's a bad word'.*

Other children showed an awareness of their father's efforts to spend time with them but the quality of that time spent together was not reflective of any meaningful contact and/or efforts to rebuild the father-child relationship post-separation. As reflected in the opening quote to this section, Jude (11yrs), who had regular contact with her father since she was a baby, explained how he would call to the house to take her out and try to persuade her when she did not want to go, by promising to take

⁹⁷ Please see Appendix 6 for details of children's contact arrangements and professional involvement.

her places. Jude recalled: *'but then I'd know, if he brought me out, no, we wouldn't go there'*. When she did go with her father, she said *'he wouldn't care about me; he would just go do his own thing'*.

The importance of play and friendships with peers and continuing with normal everyday childhood activities supported a more positive contact experience. Jude described having a friend living close to her father's house who she said were *'like my family'*, who she would spend time with during her weekends with her father and have meals with them sometimes. However, back in her father's house, Jude described not feeling a sense of home, as she explains:

It wasn't even like I had my own room right there because his guitars were in it, and then all the Christmas decorations and all were in it, so it's like a dump room... I only had a day bed out there, so I couldn't even sleep properly. (Jude, 10yrs)

Evan's experience of spending time with dad during access is captured in the next quote:

Like, whenever I wanted to use the toilet or anything, he'd pull all the curtains and be in bed, and he wouldn't leave the bathroom door open or anything; but I was too short to be able to reach the handle, so then if I asked him to like, 'Can you open up this door for me?', I'd get screamed and shouted at, saying, 'Shut up'. So, most of the time when I was there, I used to just sit down on the couch. But he wouldn't turn on the TV or anything either. (Evan, 9yrs)

Evan recalled a time when the access was supervised, which from his perspective was somewhat better, as it meant that he then got to be outside and *'play with the toys or go down to the park'*, but he continued to feel scared as he describes in the next quote:

No matter the circumstances. Like, even if there was a person there, I'd still get quite scared. One of the times, a person [supervisor] was with him and me – when I was still young, and I was scared, and he whispered into my ear, 'If you ever tell your mom, I'll make sure you never see her again'. (Evan, 9yrs)

Despite Evan not having been on contact with his dad for several years, he spoke in interview of having nightmares about his father and being fearful of seeing him around the local community. Indeed, for some of the children living in rural Ireland, this presented an additional layer of fear as they often lived in close proximity to extended paternal family members and were more likely to see their father around as a result. Mia (19yrs) explained in interview how they ended up moving out of the area to avoid running into their father in town.

Roisin (10yrs) explains in the quote below how her sisters and herself chose to spend their time at their father's house in the bedroom upstairs together where they all slept:

I tried to stay in the bedroom as much as I could, unless I needed to go to the bathroom, but I never went to the kitchen. (Roisin, 10yrs)

Her older two sisters would move around the house and get food or snacks from the kitchen while the other two stayed in the room until it was time to go home and access was over. Her older sister Ruth recalled a similar approach to getting through unwanted contact time:

We brought the food and we didn't leave the room, we brought chargers, we brought electronics to do, we brought stuff, like Mam used to bribe us with Apache, so we came in with a massive box of pizza, and we just sat in there, until Mam came to collect us on Sunday afternoon, and that was from Friday evening to Sunday. (Ruth, 14yrs)

During those weekends Roisin described very little communication and interaction with her father. When asked in interview to explain her experience of contact in one word, Roisin said contact time was 'shit'.

Similarly, Greg (9yrs) described his one-hour face to face with dad for contact as 'plenty. When we see him, there's near nothing to do'. While he described sometimes going to the cinema, he said that he still did not enjoy the time with his father. As Greg is growing up and becoming more independent, he complained that this was not reflected in how his father treated him and that it impacted on the quality of their relationship.

Alice (14yrs) and Sam (13yrs) had to return to their family home for access when it started soon after their mum left to live in with relatives. Returning to their family home was not a nice experience for them, as Alice describes:

It's not really nice going back there, do you get what I mean? We wouldn't really do anything exciting. Like he was still an aggressive person and stuff like that. And, like, when we'd go there, we'd have to go shopping because there's literally nothing in the house. But all of our stuff was still there, because we just – like when we moved, we literally just grabbed the important stuff and left. (Alice, 14yrs)

For Evan, the fear of his father impacted significantly on the potential quality of any time spent with him, as Evan explains:

I was very cautious because I was very scared about anything that would happen there. So I was very cautious about what I did. (Evan, 9yrs)

The fear of what might happen, as alluded to in Evan's quote, was also reflected on by other participants. This is explored next.

8.2.2 "You just don't know what he's going to do next" (Alice, 14yrs): Safety and risk during access

A common theme arising from the children's interviews was feeling unsafe during access with their father. In interview, Rae (16yrs) stated: '*I hardly ever felt safe*', while Ruth asserted that she felt '*very unsafe*'. For Alice (14yrs), her dad's unpredictability meant that she did not '*feel safe at all*' during access, explaining '*You just don't know what he's gonna do next*'. Being the second eldest in her family, Ruth (14yrs) took on a protective role, as she describes in the next quote:

I knew, if [older] sister had a match or sleepover with her friends, I know I can't leave them, I don't trust him enough to leave them. (Ruth, 14yrs)

Ruby recalled an event when her father told her and her siblings that he was going to get some milk for breakfast and left them unsupervised for several hours during access at his home:

One time, he actually left six-year-old me and my two-year-old brother in the house, alone, for about six hours; he just left. (Ruby, 13yrs)

Evan (9yrs) remembered being in his father's house for access and the lights being turned off at night time meaning it was too dark for him to see anything. Evan said that he '*ended up peeing myself because I couldn't open up the door to the bathroom*'. Jude further questioned why she had to spend time in a place that compromised her safety:

'She [dad's girlfriend] did drugs; so, she'd be out there and she'd be inviting weirdos over to the house and all, and doing it with them. And I was like, so what environment am I in? – my dad hit me, and her doing it – and I was like, 'What's going on here?' (Jude, 10yrs)

Being able to have space to play and spend time with other children during access supported a sense of safety for Jude (10yrs), as she explains: *'I felt a tiny bit safe because I was able to go out with (friend) and play outside'*. She also described having space to go on her roller skates offered some reprieve because *'at least I can go around and get the thoughts out of my head; but then I'd have to go back in and all so'*. Similarly, Alice (14yrs) enjoyed contact when it was at her grandparents farm the most as they had freedom to get outside and play and hide: *'we could just go hide off on the farm, and like, avoid everyone else'*. Alice's sibling Sam similarly preferred access there as he remembered enjoying being able to get out on his bike with Alice *'cause then we'd get to go out of the house'*.

8.2.3 "There's snakes on this planet" (Ruby, 13yrs): Abuse and control tactics during access

The children gave examples of subtle and more overt tactics employed by their father to control them during access. This resulted in serious levels of mistrust in people in general and in their father more specifically. Ruby's (13yrs) reference to *'snakes on this planet'* in the opening quote to this section, is explained in more detail below:

My dad, for about two years, he was trying to make it like my mam was a bad person and trying to make me live with him and not her, and I believed him for a while; then I realised you can't trust everyone, and there's snakes on this planet. (Ruby, 13yrs)

Emotional manipulation and attempts to discredit their mother during contact time was a common occurrence described by the children. Alice explained how her dad would try to suggest that her mother was lying to them when he would say *'you know I'd never lie to you but your ma would'*. Dara's father similarly attempted to discredit her mum's character, as she explains:

I went to one of the visitation visits– and he proceeded to tell me that my mom was a whore, and she had her legs open for the entire town, and my stepdad was a paedophile and he was going to rape me... And he said it like he knew everything, and I didn't know what to believe. Like, I was very firmly against him; but he seemed so sincere, and like, 'Oh, he cares about me; he's just trying to protect me'; and it fucked with my head so badly, and I didn't trust my stepdad for like a year. (Dara, 17yrs)

Efforts to control and manipulate were often well grounded in the child's potent fear of their father. For Jude, the fear of what her father could potentially do was justified, as she had experienced his violence towards her in the past:

But then I was afraid to speak up out there, cause I'd be afraid if I got hit or anything – because he did hit me – and I was like, so if I speak up, he'll do something. (Jude, 10yrs)

The fear Alice had of her father and the potential consequences of saying no to him, meant that she felt that she had to agree to his demands, as she explained:

I was just scared of him altogether... he's slapped me before, and pushed me and stuff. (Alice, 14yrs)

Sam asserted in interview that he did not like spending time at dad's house 'because he always seemed to be like mean'. His sister Alice also spoke of how their father would be especially mean to Sam and target his anger towards him more than the other children, stating: '(dad) always hated Sam the most'. Sam recalled this happening despite his efforts to be quiet or 'good', explaining:

He always used to say that I was just like my mother... So I think that's why he didn't really like me that much'. (Sam, 13yrs)

The children also reported in interview that they were often prevented from continuing with normal weekend activities when it was their father's weekend and recalled missing out on spending time with peers and playing sports. The lack of their father's flexibility around these activities was yet another means of control and isolating the children during the post-separation period. Sam and Alice recalled "he wouldn't let you do anything". Alice had to miss sports practice every second weekend while with her father, even if there was a special event on, as she recalls:

I remember that when I was – I think I was in like 4th Class, and I remember my mother asked if we could go on a party – cause I had a party – and I remember him saying no, and then I asked him when we were on access, and he still said no... And then I always used to ask why, and he said, 'Because I said so'. (Alice, 14yrs)

Rae and her sister, who had access weekly by a phone call for 10 minutes, spoke of her dad being emotionally manipulative with her sister who had always been regarded as his 'favourite':

So then sometimes like during like- near the end of the calls, he'd get like really mean with her and make like snarky remarks to her, or like raise his voice and stuff, and like- just like do things that would upset her. (Rae, 16yrs)

After these calls Rae described her younger sister being very upset by the interaction with their father.

8.2.4 "We were running to try and get away" (Roisin, 10yrs): Children's experience of physical harm during access.

There were serious accounts from some of the children of physical assault by their father during access and/or watching their sibling being hurt. This was described by the children as often occurring in the context of an older child not complying with the father's control tactics and regimes during access visits, as Roisin (10yrs) describes in the next quote:

Like the physical, he hit (Child 3) with a broom. And sat on (Ruth)'s back and tried to suffocate me... we were running to try and get away, that time, and he picked me up like a sack of potatoes and brought me to a swing that my granny had, and like tried to suffocate me. (Roisin, 10yrs)

Ruth, Roisin's older sister recounted an incident that took place during supervised access in the next quote:

He denies it every time, when we were doing the access in the house, I was upstairs and he grabbed me, and I fell on the ground and he sat on top of me and I couldn't really breathe, and my sister was screaming, his sister was there screaming at him, the lady [supervisor] was just standing with her fucking clipboard. (Ruth, 14yrs)

Dara too provided details of a serious incident during an access visit that resulted in her mother coming to get them and the Gardai later getting involved. This happened to be the last access that Dara had with her father, as she explains:

He locked the doors so I couldn't get into my two little sisters who were in there, and I just heard screaming and roaring... And (sister 3) started hitting him, and then he got her wrist and tried to break her hand like that as well. So I punched him square in the face and he just looked at me, like, shocked that I punched him – because I'd never fought back before – and I was like, 'Shit, this is our time. We have to go. He's shocked. Let's go' and I grabbed them, and we ran down the driveway, and we heard the car behind us, and I was like, 'Shit, we need to get out of the way'; and I shit you not, we were, like, inches away, when the car came zooming past us. So, like, if we didn't get out the way we would have been dead on the ground. (Dara, 17yrs)

8.2.5 “We stood up for ourselves” (Alice, 14yrs): Managing contact

There were several examples from the children of strategies used to resist their father’s abusive and controlling tactics. For example, Dara, Roisin and Ruth all spoke of their attempts to run away from their father during access. Roisin described how her father locked the windows and doors to prevent them from running away:

The windows were all locked in that room, because we used to jump out of it, and we were trapped, like the back door was locked because we used to go out there and climb over the fence. (Roisin, 10yrs)

However, her older sister Ruth demonstrated great resistance and agency in her efforts for freedom, hiding a small screwdriver in the bun of her tied up hair, as she explains:

I felt extremely trapped, so I brought a screwdriver, and I jumped out the window again. I climbed out, and I ran, I ran to the church, I ran to the garda station, I ran to home. (Ruth, 14yrs)

There was a strong sense from many of the children who continued to have access over a long period of time, frequently extending into adolescence, that as they grew older they were able to resist or as described in the opening quote to this section, ‘stand up’ to their father’s control and abuse:

And then me and Sam were just – because when we grew up, we got more defensive with him... We’d, like – we stood up for ourselves. (Alice, 14yrs)

There were also examples of efforts they made to distance themselves, both emotionally and physically, from their father. In interview, Ruth explained the process of deciding when she had enough and wanting to end contact with her dad for good:

I didn’t think the first time we went that I’d still be doing it, this many years later, and I just came to a point like, I was so used to it by the time I turned 10 and then 11, and then I was 12, and I was like, "Oh, six more years!", and then I was 13, and I was like, "I'm not doing this for another five more years, six more years.", and I just, like, I'm not doing it. I just got fed up, and I was like, "I'm not doing... I'm not staying in that room for, like, most of my life, doing nothing", so I just got fed up. (Ruth, 14yrs)

Rae talked about the 10-minute video call she had each week with her father for over a two-year period before it ended. In the next quote she describes how she created a distance between her and her father:

At the start he was like always asking me like “Oh, how was school, how are you doing at school?” You know, “What’s this, what’s that? Dadadadada.” But then I didn’t wanna talk to him, and I didn’t want him to be a part of my life, so then I’d like try and give him like the most vague answers that I could, to like keep him happy that I answered his questions and stuff. (Rae, 16yrs)

Ruth and her sisters said in interview that they were too afraid to get in the car with their father because of his ‘crazy’ driving. While they were court ordered to have access with him twice during the

week after school, they refused however to get into his car and instead described waiting by the roadside together as an act of resistance:

We walked down from the school to the estate where we normally get picked up, he was there, and we just sat there on the ground by the main road, and we sat there. (Ruth, 14yrs)

A shift in the father-child relationship post separation was also marked by how some of the children and young people referred to their father. Crea (12yrs) still calls her dad 'dad' and Claire (19yrs) also explained from her perspective how; *'I don't really speak about him, to be honest with you, if I do ever, I'll always just say just my father or my dad'*. However, the majority of the children interviewed chose not to call their father 'dad' anymore and instead either used his first name or a nickname they had for him. Ruby went further by distancing herself in telling people that she did not have a father, as she explains:

A lot of the time people ask me, 'Oh where's your dad? Do you have a dad?'; I would normally say 'No, I don't have a dad', because – maybe biologically, but never in a mental state – I had a father never. Because he was quite selfish. (Ruby, 13yrs)

Evan (9yrs) similarly concluded; *'I don't think he deserves the title of 'Dad' because he hasn't been there for me at any time'*.

8.3 Section Two: Children's Experiences of Having their Views Ascertained and Represented During the Family Law Process

This section begins by exploring children's feelings of not being heard and listened to as part of the family law process and considers the position of children as rights-holders within the family law system. The section then examines the children and young people's interactions with the police and social services and their experiences of communicating with professionals, including court-appointed assessors.

8.3.1 “No one was listening, I wasn't being heard, I wasn't allowed to talk” (Ruth 14yrs): Children did not feel heard as part of the family law system

A common theme across all of the children and young people's interviews was a strong feeling of not being heard as part of their journey through the family law system. As Ruth describes in the opening quote she felt completely powerless to the decisions made about her and described in interview feeling shut out of the process and at the mercy of the courts:

I wasn't allowed to go to court, I wasn't allowed like talk to anyone, mam was my only one, and it was her word against his, and he just denying it, and the court listened to him, they just listened to him lie. (Ruth, 14yrs)

As well as Ruth, the children and young people's accounts strongly indicated that their views were disregarded due to their position as children, with most decisions being made by adults on their behalf. As Dara (17yrs) explained; ‘Yeah, they were listening to me. I don't think they believed me though’. Dara, who described her dad as a ‘master manipulator’, explained how he shifted the narrative and told ‘a completely different story, where he was the hero and he's only trying to discipline his kids; he's a good dad’. His reputation and ability to manipulate the courts left Dara feeling powerless when it came to giving their evidence in court against him, as this quote illuminates:

I was just begging in my head that they'd believe me. But I kind of had this little nagging voice that says, '(dad); he's fucking all powerful; he knows he has the court wrapped around his finger; he's going to win'... Because at the end of the day, we're children, and he's a very well-respected man. (Dara, 17yrs)

Mia similarly felt that her dad was treated differently to them in the legal system as she explains:

Like me, my mum and sister would have been the victims in the situation. I felt like everyone was superior to us in the court system, it was us that had to do the answering, while the abuser in the situation kinda had no answering to do. (Mia, 19yrs)

Across the children's narratives there was limited evidence of them being recognised as rights-holders by professionals. In fact, the majority of the children provided examples of a predominantly adult-

centric approach that undermined their views and opinions, often questioning their credibility as witnesses. The following quotes illustrate a positioning of children as lacking capacity that undermines their status as victim-survivor in their own right:

Do you know what the hard thing, most hard thing, is being told you're only sixteen, you don't know anything. Excuse me, have you ever tried separating your parents that are battering the shit out of you and the other one? (Aoibhe, 16yrs)

'You can't ruin a good man's life', but you can just let him beat his kids. (Dara, 17yrs)

Rae went further to question how and why her rights were not considered when it came to the decision made by the courts for her to continue a relationship with her father:

All that like was really told was like, "Oh he's your father so he has like, the right to be able to have contact with me". But what about my rights not to have anything to do with him? (Rae, 16)

The lack of visibility and voice afforded to a majority of the participating children and young people in the family law proceedings had significant implications for their safety and well-being as portrayed in the preceding section on the children's experience of unsafe contact with an abusive parent.

8.3.2 *"Some people make it seem like they're helping you, but they're not"* (Ruby, 13 yrs): Children's feelings of being ignored and discounted by professionals.

While all of the young participants had engaged with a variety of professionals including court assessors, social workers, judges and members of An Garda Síochána, the majority experience as captured in the opening quote from thirteen-year-old Ruby, was of their views not being sought meaningfully, their experiences discounted and disbelieved and their wishes ignored.

Alice recalled in interview that there had been several different social workers involved with her family. While Alice said that she was clear about not feeling safe with her father and preferred living with her mum, each time she said this, the response from those professionals was that *'they'd always say like, Ma was feeding us lies and talking about (dad) to us'*. The experience of not feeling believed led Alice to think that she was doing something wrong, explaining in this next quote how she made attempts to adapt her communication:

Maybe they'll actually listen this time.. And it'd be even like – like after the first time, I'd understand, and I'd be like, 'Yeah, this is what I need to say', like, 'This is – because I didn't say it last time, maybe this is what I need to say'. (Alice, 14yrs)

More recently after Alice bravely told her father that she did not want to go on access anymore, two new social workers came to her house to speak with her and Alice described in interview how she once again stated very clearly that she did not feel safe with her father and his unpredictable nature. Again, she said she was met with some reluctance by the social workers to accept this, as she explains:

I think she said to me – she said something like, 'Well, why don't you just give it a try?' I was like, 'What do you think I've been doing?'. (Alice, 14yrs)

Although Greg described his dad as being physically abusive towards him for a long time, it was only two years ago that social work became involved with his family. Greg explained how he told the social workers *'multiple times that I don't want to see Dad and stuff. But listening wasn't their – they weren't fully listening'*. Greg described how even though they would write down things when he was talking to them, they still always questioned his decision to not see his dad, as he explains:

But when I said some stuff, they were 'Oh, but 'Are you sure you don't want that? You're 100% sure? (Greg, 9yrs)

While Greg explained that his access with his dad had originally been stopped by a judge because his dad had hurt him, in the last year however, Greg said his dad has gone back to court to seek access

and social workers were involved in writing a report for the judge who made the decision for contact to begin again which Greg was not happy about. Describing the previous no contact period as 'calm', Greg subsequently felt that the social workers did not listen to him when he made it clear on numerous occasions that he did not want to see his father.

Participating children also gave accounts of seeking help from the police at various times in the context of domestic violence and abuse. On one such occasion when Alice had refused to go with her father for access, she experienced the Gardai threatening her that her Mum and Grandmother would go to jail if she did not go on access. Describing herself as 'defeated' by this interaction, she was very clear that she had made her safety concerns known to the Gardai who she said did not take her seriously, as she explains below:

I was refusing to go, and then he called the Guards to our house. I was like, 'I'm not going. I don't feel safe there at all', and they were like, 'Well, maybe you just go this time, and you get something nice out of it'; I was like, 'I haven't got anything nice out of it for the last six years'.

(Alice, 14yrs)

Alice's experience of her father's rights taking priority over her safety and welfare was also reflected in the testimonies of other young participants. In this next quote, Dara describes calling the police for help after an incident took place during weekend access at her father's house:

I had to climb out a window, in my pyjamas, and run down, in the rain, to the front of the driveway, to flag down the Guards. And I was waiting out there for an hour, and I was texting my little sister, what was happening up in the house, and she told me that he was just making them sit in the couch and not move from the couch. And then the Guards came, and I got into the car with them; they drove up the driveway, and when (dad) opened the door, he was like, 'Dara, what are you doing? Get in here. It's freezing out' – acting like it's all OK. And I went in, and the Guards wanted to talk to my two little sisters first and then they talked to me, and I told them what happened, and it all seemed like they believed me. And then they talked to (dad) on his own, and they came in and told me I was just being a disobedient teenager, and I needed to listen to my father. And they left, and I was stuck in the house, and I was like, 'What the fuck?' **(Dara, 17yrs)**

Other participant accounts, however, highlighted the children's perception that their concerns were often overlooked, leading to a sense of powerlessness even when they had been asked to share their views by professionals. Sam (13yrs) for example, believed that speaking with social workers would lead to changes in his situation but was disappointed when his concerns were not addressed. He recalled, *'I thought after they talked to everyone, I wouldn't have to go, but that was never the case'*. This feeling of being let down was also articulated by Ruth (14yrs) who shared her experience of being ignored by the assessor when she spoke about her father's abusive behaviour, stating: *'I told him about him hitting me... but we ended up going even more, so obviously someone isn't listening'*.

For Pippa, that experience of not being listened to and her views genuinely considered in the decision about her welfare, was also compounded by her feeling like the assessor was trying to *'impose his interpretation of events on me and my sibling'*, as she explains in the next quote:

We would say something and he'd be like "So this is what happened." and we'd be like, "No, that's not what happened." But it was kind of like, you're kids, you don't know, you know what I mean? So he'd be like, "No, this is actually what happened. (Pippa, 18yrs)

Overall, the aged-out minors had quite mixed views on the court assessors and section 32 reports. Luke (20yrs) for example thought the assessor he met favoured his stepfather's view and *'took against'* the mother/children. As the only participant who was offered an opportunity to read the assessors report and correct anything she felt did not represent her viewpoint, Claire (19yrs) recalled a more positive experience of assessor involvement in her life. Similarly, after many years of not being believed by social workers, Anna also recalled a positive experience when the assessor met with her and listened carefully to her experiences of abuse by her mother. She recalls her interaction with the assessor in the next quote:

She was just looking at us like even her just having eye contact with me. I just felt safe. Like, I just felt she could actually listen. And she would like actually talk to me, like back and forth saying, like, I'm sorry this happened to you and. Like you, you don't deserve this and just say all this stuff and. It was just actually having a conversation. It's not just like ticking boxes. (Anna, 18yrs)

The majority of the children however, described a strong sense of not feeling heard or taken seriously when they spoke to professionals as part of an assessment process. Sam (13yrs) described the process as *'just a big waste of time'*. He recounted telling different social workers on different occasions that he did not feel safe with dad but that *'nothing would happen, and nothing would come of it.. Like with their textbook, writing everything out; they were probably just scribbling stuff on a piece of paper'*.

Dara (17yrs) asserted that her and her siblings could not have been clearer about what they wanted, stating emphatically *'No, we do not want to go out to him; we want nothing to do with him; we do not ever want to see him again'*, yet contact was ordered. Ruth (14yrs) similarly concluded that *'we wouldn't have gotten more and more access if he listened to me'*.

8.3.3 *"His opinion was not my voice"*(Ruth, 14yrs): Children and Young People's Experience of the Assessment Process

With adult victim-survivors reporting the length of time spent by the assessor with their children varying from 15-60 minutes, participating children also talked about one-off meetings with assessors, sometimes involving traveling long distances for those meetings. In interview, the young participants consistently expressed confusion and frustration regarding their interactions with the professionals who were appointed to listen to them. Even when the eventual outcome was something they were happy with, the majority of participants expressed disillusionment with the process, where mistrust and a deep-seated feeling of being unsupported prevailed.

Feelings of mistrust were experienced by young participants like Ruth, when their voice was not accurately represented, while others stated they did not feel prepared in any way for the assessment visit. For example, some children found it upsetting when the assessor arrived unannounced at their school, leaving them feeling they had done something wrong. Without any advance warning, Ruth remembers being in second class in school when she was suddenly called to the principal's office. Initially thinking she was in trouble, Ruth then recalls the experience of being overwhelmed when she was bombarded with questions, as she explains:

I was just called down to the principal's office and I was like, why am I being called, what did I do?... I walk in and there was this man there, asking about my dad, my mom, and I was just like, this is a lot, and I just kind of remember sitting there. (Ruth, 14yrs)

Others met assessors in the assessor home, where they also experienced being terrified having to physically meet their father as part of the assessment process, with the reasons for this never

explained to them. One example of this was described by Crea who talked in interview about meeting a male assessor and his wife twice in a small office at the back of their house. Each session lasted about an hour or two, and the assessor asked her questions like, *'Were you scared of your dad? Did you want to see him? Why didn't you want to see him?'*. While her Mum had secured a barring order, Crea was still required to see her father as part of the Section 32 process. The reasons for her having to continue to see her dad were never explained to her. She described how terrified she felt being in the same room as her father, also sharing how pressured she felt by the assessor and feeling like she had no choice: *'I said to them, I didn't want to, but they still said I had to do it'*. While the outcome of the S32 assessment was positive for Crea in that she did not have to maintain contact with her father, she questioned the process and why a safer alternative such as conducting the meeting online via 'zoom' could have been used. Crea overall however had a positive outcome and described the final report as being "on point".

While some children could not clearly remember who they spoke to, especially when multiple professionals were involved, others could recall their meetings in detail, particularly with court appointed assessors and noted differences in the approaches taken by them. For example; Jude met with two different assessors at different stages of the legal process, first when she was quite young and the second more recently. In the next quote she describes the variation on outcomes from the two:

I told him stuff, and he was like – he switched it all around, and he said that my Mam did it; but then I was like, 'No, my dad did it', and I was wondering, why did he switch it around? And then I went and saw (assessor 2), and she was like, 'And how many times do you think he hit you?' and I was like, 'I don't know. I can't remember' – because he hit me that much – and then after I talked to her, she was like, 'I think she should go out for therapy with her dad' – I think that's what she said? I can't remember – and I was like, 'But, like, is no one listening to me?'

(Jude, 10yrs)

8.3.4 "Maybe I would have had a happier childhood" (Jude, 10yrs): Children and Young People Felt Let Down by Professionals They Trusted:

Many children told us that when their experiences were disbelieved, questioned and then overlooked, they felt let down by the people they had trusted and shared their most intimate experiences with. This led to a potent sense of disappointment and powerlessness with the impact of not being believed experienced as deeply damaging. In interview two participants disclosed suicidal ideation during their childhood. Similar to the participant views in the preceding section, the above extract

from a quote from Jude reflects her wistful regret on the missed opportunities multiple professionals have had to represent the truth of her views and not their own interpretation of those views. Instead, they experienced these professionals presenting their own interpretation of the child's views when the recommendations in the report presented to court were the opposite to what children said they wanted. Having been through two Section 32 reports, Jude summarises her feelings towards the process in this next quote:

I was mostly a bit angry and a bit disappointed that, like, years ago if they listened to me, I would have got freedom; instead of have to keep on going to people and like, keeping getting upset, or remembering or anything; and I'm like – I don't really have the words – but if they worked ages ago, maybe I would have had a happier childhood. (Jude, 10yrs)

Some of the strongest criticism of professionals from the aged-out minors in the study centred around the involvement of Tusla and various social workers. Mia (19yrs) for example did not know why there had to be three section 20s (reports to TUSLA) over a four-year period (although nothing much had changed) before the final decision in district court. She was particularly aggrieved that there were four separate interviewers involved, so that the same information had to be repeated each time. She made a similar comment about the different judges assigned to their case: the one judge who did 70% of the case recognised the abuser's character, but the other three did not. Mia said that she thought one male social worker seemed to have compassion for the family and was able to see through the abuser, but that the female social workers were '*quite cold*' to the family's case. Pippa (18yrs) also recalled having had lots of changes in professionals (both from Tusla and therapists), which made her feel that her case was not being dealt with properly, as some consistency would have been beneficial.

Anna (18yrs) was particularly bitter about her experience of social workers. Her parents separated when she was about ten and she was left in the family home with her mother (who she said had mental health problems). Her father, who was the victim of DVA, reported her mother to Tusla for child abuse and Anna recalled being interviewed by a social worker which she found difficult, explaining: '*I just felt like, so ashamed because I felt I told her all this stuff*' [about her mother], but the outcome was that she remained living with her mother and experiencing physical and emotional abuse. As she explains in this next quote, her father applied for custody some years later as Anna was very upset and Tusla did not seem to be doing anything:

I was crying, begging for help. I just still don't understand. They didn't do anything. There was no intervention or anything. It was just like nothing. It was just dismissed. And when I was younger, I wanted to be a social worker. But when I walked out, I was like, I'm never doing that. I don't want that to be my job. (Anna, 18yrs)

Calling the family system 'broken' and considering the family courts 'not fit for purpose', the impact of this experience of feeling so ignored by the social workers was such that Anna described making a submission to a 2023 consultation about the system, stating:

I felt so hopeless...they're the people you're supposed to go to to get help, but like...it was just worse. It was just nothing. I couldn't keep living the way I was. I finally spoke up and I was begging Tusla to help me. It was all talk and no action...I have been neglected by the people who were meant to make me feel safe'. (Anna, 18yrs)

Evan also recalled not being listened to by court appointed assessors tasked with ascertaining the child's views. In interview, Evan described a distressing meeting with an assessor when he was around five years old. He thought the purpose was simply 'to see me and listen to my words and try and help me with that kind of stuff'. However, the experience stayed with him because of how the assessor reacted when he spoke about his father:

But then when I said that he'd done all the bad things he did, she started screaming at me, saying that he's – that I'm a liar; that he never did any of those things. (Evan, 9yrs)

The above assessor was just one of many professionals Evan has been engaged with, with numerous reports submitted to the court all recommending contact, as Evan explains:

I've went to quite a lot of people, to see me, to try and convince me that he's good. Even when they say they believe me and they'll help, I just don't quite feel they're helping because I've gone to so many, but still nothing has changed. (Evan, 9yrs)

Overall, children like Evan and others expressed a strong sense of having been let down by professionals whom they had regarded as trusted adults acting in their best interests during interviews to be used in court reports.

8.4 Section 3: What Children and Young People Say Worked and Suggestions for Improving the System

This final section presents the children and young people's views and experiences of what worked for them as supportive factors through the family law process. The role of broader family and wider systems of support are then considered followed by suggestions from the young participants on how to improve the family law system for young victim-survivors and their families.

8.4.1 *"I just felt safe. Like, I just felt she could actually listen."* (Anna, 18yrs): The importance of feeling safe and believed.

The children and young people in the study found support from a variety of sources and agencies, sometimes unexpectedly, and from different professionals and non-professionals. When children like Anna in the opening quote reported experiencing engaging with professionals who created a safe space and listened to what they said mattered to them, the experience was transformative. Specialist DVA services were noted as being particularly supportive in offering safety and feeling believed. For Aoibhe the DVA service and accommodation acted as a *'sanctuary'* and she liked that everybody living there shared the same experience, as she explains:

I felt like there was no judgment. It was like, when you were in there, the people around you understood and...no judgement...it was like it didn't matter in there. (Aoibhe, 16yrs)

Support workers from specialist DVA services were a common source of support for the children and having an on-going relationship with one person they could talk to supported them in their recovery as the next quotes illustrate:

Like, whenever, like, I need someone to talk to and like something bad's just happened, I can always ring her or I can, like, plan something and like I feel really safe and comfortable around her. (Crea, 12yrs)

No, she just was like, 'I know you're telling the truth'. (Alice, 14yrs)

Aoibhe also described a close connection to her support worker who became close to her and her family building up a trusting positive relationship. What made the difference was that she took time to get to know her and *'didn't go by what was on paper'*. Aoibhe's experience with other professionals she had spoken to was not as positive as she didn't feel fully heard:

It's like you're telling, like, a story in a book... They're hearing what like happened, but I don't think they realise that it was, you. (Aoibhe, 16yrs)

Aoibhe (16yrs) mentioned engaging in activities, such as baking, with a support worker as an effective way to build a relationship before the child feels comfortable opening up. From her perspective, sitting in a one-on-one counselling session is more suited to adults and is not the most effective approach for children. Play therapy was seen as a positive and age-appropriate way to process some of their experiences. Having someone to talk to and who they can trust was a common aspect of children's safety particularly when they were treated with respect and efforts were made to give the children back some sense of power. Maggie gives an example of what this looks like in practice:

Yeah, [worker], she says, like, "I would like to invite you to do this." And I like the way she just, like, invites me, so, like, I don't have to do it. (Maggie, 11yrs)

8.4.2 "Mam was my only one" (Ruth, 14yrs): Support from family and wider systems

A central source of support for many children in the study was their mother, who not only listened to them but actively advocated on their behalf when others failed to do so. The children described their mothers as a consistent and reliable presence who took their concerns seriously and tried to protect them. Dara (17yrs) said her mum *"reassured"* her when her father tried to undermine the character of her mother and stepfather, providing emotional stability during a turbulent time. Maggie (11yrs) and Isobel (10yrs) turned to their mum when they felt unsafe during contact with their dad; Maggie remembered her mother responding with *"okay we're going to fix that,"* offering both comfort and a sense of action. Ruth (14yrs) reflected on how isolated she felt in the process, saying, *"no one was listening, I wasn't being heard... mam was my only one, and it was her word against his."* Evan (9yrs) also described feeling dismissed by others, stating, *"the only person that did listen to me would have been (mum)."* For many, their mother was the only adult who truly acknowledged their distress around contact arrangements. As Rae (16yrs) described, *"I told her exactly what I wanted, and then she'd always like try to make sure that is what I was getting."* These accounts highlight the vital role mothers

played not only as listeners but as protectors and advocates when others overlooked the children's voices.

Anna (18yrs), the only participant interviewed whose mother was the abusive parent, expressed that her father was the only consistent source of support for her. She said she believed that he was the only person who provided her with clear information about the situation. Although Anna never reported attending counselling or therapy, she did finally describe reaching a happier position:

I went on meds and all that when I was younger and I was very... Like throughout the years I was very like just hopeless and had depression and very suicidal and everything. And I tried to make attempts on my life and stuff like that, but like I've come out of it now. I'm with dad. We just feel safe. Like we're at peace, all happy. I'm in college, I'm working. I've stuff planned for the future... Like if I was younger, I wouldn't believe any of this could happen like, but everything turned around for the better and it's all going good because it's all behind us now. (Anna, 18yrs)

Some of the children and young people spoke of feeling supported by the Guards when there was a criminal investigation and there was evidence of their father's abuse, meaning they were believed. Claire recalls how; *"there was definitely some Guards who were very, like, went out of their way, to make sure that we were doing good, like we were safe and everything."* (Claire, 19yrs)

The young adults in the study who had more time than others to reflect on their experience of abuse and were for the most part further along in their recovery, spoke of a range of supportive factors. Mia (19yrs) said that the solicitor, once she knew the story, was very emotionally supportive. The solicitor would speak to the clerk to ascertain whether mother and children could attend later rather than waiting in court all day, which was very helpful as the family had no idea when their case would be called each time they had to attend court. There was no separate waiting area and despite the Garda station being across the road from the court and the presence of guards in the court, her father was still often around and being psychologically intimidating. Cara (20yrs) praised the peer advocate group which she was a member of; she thought it important to be able to discuss things with people of similar ages who had experienced some of the same situations, even though she also felt her mother's friends and family were 'very supportive'. She also singled out the children's support worker at the second refuge she stayed at. Cara stated this worker would speak to her and siblings, do activities with them and take them out individually, as she explains:

'She was just – genuinely she was the best thing ever - especially for my sister. (Cara, 20yrs)

Luke (20yrs) identified a therapist he had attended with a few years previously who he felt had really listened to him. Claire thought the two court assessors she met with were very understanding and patient. Claire's father initiated a mediation process and she was positive about the woman who came and spoke to her and her siblings:

She met with us together and individually as well. And we were able to say to her "Look, this is what happened. We don't want this." And she I think she went back to him and then told him "Look it's not a possibility. They don't want it. (Claire, 19yrs)

Pippa (18yrs), although generally negative about the professionals she encountered, described a refuge worker whom she found helpful:

We went in and we did like arts and crafts with her and we talked to her at the same time. So it was kind of a form of, like, art therapy and it wasn't labelled as that... I was kind of like being distracted by something while you're talking to her as well, which was also good. (Pippa, 18yrs).

Finally, school was mentioned as a safe place for some children, particularly when teachers had been informed about what the child was going through at home. Megan's mum informed the school when they left the family home and showed evidence of the abuse: *'Like pictures when I was abused – like the cuts on my face and bruises – and pictures of my mom having bruises and red marks on her body.'* This helped Megan as she described feeling safer that they knew what was going on at home and what she had been through. Ruth also felt supported by her school living in a rural community and attending a small school, the teachers and principal were aware of what was going on at home as she explains here:

Yeah, in first and second classes, I used to cry a lot in school, like and my teachers would understand. (Ruth, 14yrs)

8.4.3 “A kid friendly court” (Jude 10 yrs): Suggestions to Improve the Family Law System

The children in the research provided a range of suggestions that from their perspective would improve the process for children and young people and create a more child-centred system as Jude suggests in the opening quote that would recognise children as rights holders. Examples included having a support worker present with whom they have an on-going relationship with to support them and guide them through the process. Once the decision is made around contact, Rae suggested someone who checked in regularly would be helpful in situations when a child has clearly said they do not want to see their father, as Rae explains:

I would have preferred if like, they had someone to talk to us before we even like, got told to put on the calls, and then maybe like another person to check in on how the calls are doing, because I never really wanted to have contact with him to begin with. (Rae, 16yrs)

There was an emphasis from the children on ways to streamline the process for them to have their views listened to that would minimise the disruption to childhood routines and the length of time from when an assessment is carried out to when the judge makes a decision. From Crea’s perspective, the system could be improved by allowing children to go into court and speak directly to the judge

I would just like wish I could maybe go in and say like I didn't want to see him instead of going the whole way of the Section 32 and I could have just went into the court... because it's just easier to talk to the judge instead of going through all that hassle. (Crea, 12yrs)

While there were mixed views from the children about speaking in court, most however concurred with Crea, stating that with the right conditions, they would be open to speaking directly to a judge and giving evidence. Reflecting on her experiences and feeling a sense of having moved on, Aoibhe said she would take the opportunity to speak in court as she states here:

And if I was to be put in a courtroom, I can say that I could sit in front of him, and I would want to tell the court so he can hear exactly what he did to me. I don't think he realised what he did because, collectively, if you put it all together, it's a massive bundle, but separated...it's specks. (Aoibhe, 16yrs)

Equally, Ruth spoke about a strong desire to speak for herself in court out of a mistrust of how the professionals can interpret her voice, as she explains:

If it goes back to court this year, I'm going to ask Mam's solicitor to let me go, but I was never allowed to talk in court, [Assessor] was supposed to talk like for us, so he was an outside opinion supposed to give his opinion, his opinion was not my voice. (Ruth, 14yrs)

Maggie was one of only two children and young people interviewed who had spoken directly to a judge. Initially when she first spoke to a judge, she said she was comfortable with shared custody, however her views changed after a disturbing incident involving her father. She explained that when she spoke to the judge about her wishes to stop seeing her dad, she felt that the judge was trying to persuade her to maintain contact with her father, saying: *'She's almost like acting like my daddy's solicitor, rather than a neutral judge'*. While the outcome was positive for Maggie and she did not have to continue access with her dad, she further stated, *'Judges shouldn't be like solicitors... they should ask, 'What do you want?' and 'What do you feel comfortable with?'* Overall, the experience of being in court for Maggie was distressing, as the next quote describes:

I remember there was a really long waiting period, because I think my Mammy spoke to the judge after me. And I was just sitting there in this room with these two women. They were both really, really, really nice.. like, trying to comfort me, take my mind off of it. But for a while all I was doing was crying. (Maggie, 13 yrs)

However, the court environment was not seen as being a very child friendly space. Echoing the views and experiences of many mothers, as presented in chapter six, Dara also described feeling physically sick having to be in the same courthouse as the abusive father, waiting to be heard for the case against their dad:

I think it's not the best place for a child to be in. There's loads of Guards around always, and I know they're meant to make you feel safe, but I'm intimidated by Guards. And (dad) was able to walk right past me, like, within, like, two feet of me, and I was like, 'Huh, that's weird. Shouldn't he be, like, separated from me?'. (Dara, 17yrs)

Regardless of who they spoke with, there was however a strong consensus overall that children should have an opportunity to speak freely and express their preference on contact arrangements, as Pippa asserts:

But I think even to hear from the perspective of the child is good because I didn't really get a say in anything, and I didn't think that was fair. (Pippa, 18yrs)

Finally, for Claire, having options was an important part of her journey through the process:

My mum was allowed be there. I remember them being very nice 'cause there was two ladies, and they were very nice to me. I said I didn't want to speak in court and I wasn't forced to. And I said I'd give a statement because I felt like that was where I could help, because I didn't want to face them again. (Claire, 19yrs)

8.5 Final insights: Victim-survivor parents' perceptions from the online survey

Corroborating the narratives shared by participating children this chapter will close by presenting data gathered from victim-survivor parents in the online survey about their perceptions of child safety, wellbeing, and the adequacy of contact arrangements with perpetrator parents following separation.

Concerns about child safety and wellbeing were nearly universal among all the victim-survivor parents. An overwhelming **91.8%** (n=368) expressed fears for their children's **safety**, and **93.9%** (n=369) had concerns about their **welfare**, while children were in the care of the other (perpetrator) parent. Despite established evidence⁹⁸ correlating DVA with child safety and welfare concerns, three quarters of responding victim-survivor parents believed that their children's experiences of living with domestic violence were not taken into account in the decisions relating to contact/access with their perpetrator parents (n=301, **74.5%**). In particular, female victim-survivors reported fears which included physical and sexual abuse, neglect, endangerment, and emotional harm during contact/access with the perpetrator parent. Yet only **7.9%** (n=29) of female respondents reported outcomes where they retained sole custody with no further contact ordered⁹⁹.

⁹⁸ See chapter 2

⁹⁹ The largest percentage of male victim-survivors reported that they were the party to have an access order in place

Victim-survivor parents also perceived that the voices of their children were also largely absent from legal proceedings: **42.8%** (n=164) of respondents stated that where children had been consulted their wishes were not reflected in the decisions made. While **23.9%** (n=98) indicated that no professionals had consulted with their child/ren at all. More than half of victim-survivor parents (n=234, **56.9%**) believed their children were not given any opportunity to express their views. Only 1% (n=4) of victim-survivor parent indicated that a judge alone had directly consulted their child; there were seven qualifying comments in relation to '*more than one professional*' which also referenced a judge. These low figures would suggest that judges are relying on other mechanisms to gather information to inform their decisions in lieu of direct consultation.

In the context of the foregoing the lack of supervised contact with perpetrator parents is particularly concerning. Yet nearly three-quarters of victim-survivor parents (n=293, **72.9%**) reported that their children's contact with the perpetrator parent was not supervised at any stage. Furthermore, it was reported that supervision often fell to family members or, in some cases, the victim-survivor themselves, arrangements which were shown in earlier chapters to be inappropriate and often re-traumatising. These informal supervision arrangements not only exposed adult victim-survivors to continued contact with their abuser but also failed to ensure the safety of the children. Among the **24.9%** (n=100) of cases where contact was supervised, the arrangements varied:

- **17.0%** of victim-survivor parents reported that they supervised the access themselves (n=17), in the survey two female victim-survivors disclosed that the terms of their DV Orders were amended to allow for this.
- **16.0%** of victim-survivor parents reported access being supervised by a member of their ex-partners family (n=16)
- **11.0%** of victim-survivor parents reported that a member of their family or a friend were supervising access (n=11).

Nearly half (n=47, **47.5%**) of those who accessed formal supervision services reported incurring a financial cost, further limiting access to safe and appropriate arrangements.

8.6 Conclusion

Drawing this chapter to a close we acknowledge the bravery of the twenty young participants who participated in this research. Their honest and articulate accounts of living with DVA in addition to their accounts of navigating the family law system, bring new insights to an otherwise nascent evidence base. The findings raise serious questions about the capacity of key professionals to see children and

young people as competent agentic actors in the family system, to understand, listen to and respect their independent views. The next chapter focuses on the additional challenges that can be experienced by victim-survivors when there are other factors intersecting with their history of DVA that need to be considered.

Chapter Nine

A Consideration of Intersecting Factors

9.1 Introduction

This research specifically aimed to investigate intersecting factors which may be compounding challenges or barriers experienced by a diverse range of victim-survivors when engaging with family law systems. The objective was to provide evidence on the experiences of victim-survivors who are underrepresented and whose voices may need to be amplified, such as migrant and minority ethnic communities, individuals with a disability or whose child/ren have a disability, those who have experienced substance misuse or addiction issues, the LGBTQI community, and those whose experiences of family law proceedings occur in urban and rural contexts. The study design sought to engage with these individuals both directly and indirectly via a range of professionals who work with these families in various capacities. It also captured the views of professionals working in these settings, including legal professionals, advocates of minority and marginalised groups, DVA practitioners working with women and children.

As highlighted previously, this research employed a sequential, mixed methods approach. Therefore, this chapter draws on data collected from adult victim-survivors using both an online survey and semi-structured interviews; data from an online survey with specialist DVA practitioners working with women and children in a range of Tusla funded DV services; data gathered via focus group interviews with a diverse range of professional who engage with victim-survivors in a supportive capacity; and court observations conducted in both urban and rural courts in July 2024.

The sections that follow consider the issues faced by migrant and minority ethnic communities, including but not limited to, language proficiency, a lack of understanding about Irish systems and processes, being ostracised from communities for leaving abusive relationships, engaging with the legal system, and discrimination. In addition, this chapter will look at the additional challenges arising from victim-survivors' and perpetrators' substance-use or addiction issues in the context of GCA, adult and child disability and the LGBTQI community. Lastly, the disparities in the provision of family law processes in rural contexts will be presented.

9.2 Migrant victim-survivors

The methodology of an online survey led to a limited degree of diversity amongst respondents: victim-survivors predominantly identified as white Irish with high educational attainment. To protect respondents' identities, it is not possible to provide the breakdown of respondents by their identified ethnicity. However, the proportion of respondents from non-white Irish backgrounds accounted for 14.8% (n=59). As the online survey contained a large number of questions which addressed complex topics relating to the law, which was only available in English language; this possible result had been anticipated and was built into the research design. Therefore, an investigation of expert knowledge held by professionals working with migrant and minority ethnic communities utilising a dedicated focus group interview, in addition to individual semi-structured interviews with victim-survivors, were intended to address this gap. For illustrative purposes, Table 17 below sets out the self-identified English language proficiency of all respondents to the survey.

Table 14: English language proficiency as indicated by victim-survivors

Language proficiency	N	%
English is my first language	375	90.8
English is not my first language, but I am fluent	33	8.0
I speak / understand a little English	2	0.5
I do not speak / understand English	1	0.2
Other, please specific	2	0.5
	413	100.0

(n=413, missing=0)

9.2.1 Challenges arising from language proficiency.

Notwithstanding the relative absence of quantitative data about the impact of lack of language proficiency from the survey data, a number of victim-survivor respondents identified this as an additional barrier in their qualitative responses in the online survey and in the in-person interviews. Professional participants in the focus group discussions and specialist DV practitioners in another online survey also provided views and perspectives on this issue. These next quotes from two mothers in the online survey illustrates their experiences:

At the time my English was not as good as it is now. I struggled to express myself and I felt rushed and very anxious in the courtroom. I don't think the judge or my solicitor really understood how complicated it was for me trying to deal with the pressure from my family back home and how easy it could be for my ex to take my children from me. (R323, female)

First trial in District Court Judge caught my ex lying about domestic abuse and the incidents and he did not stop the trial, instead he let me to proceed with my testimony and, with no interpreter, my English was very basic. His barrister then started to bombing me with questions and could not finish my story, so when I start again where I left the story to continue, judge told me 'that was not what you were saying', I could not understand why he was saying this and I told the judge his barrister interrupted me and I could not to finish. He then said 'I had enough, safety order struck out' and all the orders he asked for, including not taking child out of jurisdiction without his consent, were given to him, I was not lying but he was caught by judge lying! My barrister told judge 'she is in a women's refuge' and the most harmful comment from the judge was 'So what?' - that was the end. In 5 years, I had multiple protection orders, and I have never had a safety one. (R4, female)

Lily, a victim-survivor interview participant, also disclosed that her first time in court the interpreter made the situation worse by offering their opinion, rather than providing direct translation. Here, the interpreter advised Lily that DVA occurs in lots of families and that if she goes against her ex-partner that Tusla will become involved and could take her child from her. An extract of Lily's interview describes the impact of this on her at that time:

... I had [language] interpreter this time, but she wasn't helpful because she she said that if I not agree what he [perpetrator] wants, child will be taken from me, and she speak with me, she go to him , she repeat him, but that was my first time in Court. I really don't know how this works, nothing. [...] she said that in a lot of families have domestic violence, it's no- it's like, nothing happen because a lot of people have experience like me and if I not agree what he wants child will be taken from me, and Tusla will be involved, and that will be more trouble for me. At that time I was alone, and I didn't know. That was my first time in court, I was like dead and I really scared. Lily

When asked if she believed language was an additional challenge for her during legal processes, Lily emphasised that to go to court anywhere, after 16 years of complete silence about her abuse was difficult, irrespective of language.

Professionals who participated in the focus group interviews also emphasised that engaging interpreters or translators may be difficult because they may only be allowed to directly translate words and not provide an explanation in the sense of also offering a 'cultural' translation of the meaning. Additionally, there were reports that on occasion translators were not available to provide translation in the right language. The following quote provides one such example:

I've seen cases like that as well, where a person was with an interpreter that didn't speak the language and at the end of the day the decision was made without considering and without the victim understood what happened at all. (FG 2 – professionals working with migrant and minority ethnic communities)

Even where the appropriate interpreters were available and present in court, further issues regarding interpreter practice and indeed court practice in using interpreters, is captured below in the filed notes from court observation in a rural area.

Fieldwork Notes Rural Court 2: Use of Interpreters

A Polish applicant and her former partner (also Polish) are in court for a protection order. Both parties have interpreters. Interpreter for the applicant (mother) is proactively interpreting but the Judge has to remind the interpreter for the respondent (father) on more than one occasion that she is there to interpret and not just listen. I also note that the interpreters are not sworn in, in this court room where I have seen this practice in other court rooms.

The perceived impact of this variable practice during court for a victim-survivor from a migrant background is illustrated in this next quote from a focus group participant:

The entire complexity that is a whole emotional journey for the person, that then meets at the end of the day, she meets just another person, all the way up there, the judge that is so out of

touch and questioning through the translator. If the translator is good enough for the moody judge to answer correctly and to not have any external kind of discussions and explanations even to the person. Like for example, if the interpreter wants to explain the question of the judge to the person, it's not allowed. The judge will always pay attention to, 'Yeah, you translated my question my question word by word, and that's that. No other additional'. So yeah, again, back to the language barriers as well. (FG 7 – Traveller & Roma organisations)

Analysis of the focus group data suggests some concern with both the cost and quality of interpreters with broad agreement that more training and qualifications were needed, as the following quote emphasises:

the court service staff only engaging one interpreter or whether it's a solicitor relying on a mate or somebody else or relying on a person's basic language skills to try and explain really complex legal issues to them. (FG 2 – professionals working with migrant and minority ethnic communities)

A number of Specialist DV practitioners surveyed, substantiated these findings relating to language difficulties, and raised additional migration related factors for consideration such as legal issues relating to visas and residency status. One practitioner expressed concern about how the lack of a status in the country could leave a victim-survivor in a precarious position, potentially less likely to contact the Gardaí, as this quote illustrates:

The guards do not take breaches seriously and these people are not being arrested for breaches of court orders. They [An Garda Síochána] will not use a translator and use the perp to translate. She is not going to say anything when he is there. People who do not have any status in this country face many challenges as they are not sure if they can seek supports or contact the guards and if they do will it impact where they are living and worries if they will be sent back to the country they came from. (DVPR125)

9.2.2 Lack of understanding of Irish 'Systems'

A lack of understanding about how the legal system, and other systems work, were raised by victim-survivors, specialist DV practitioners and various other professionals who work with migrant and

minority ethnic communities. The following quote from one mother, who was seeking asylum, depicts her experience:

I didn't understand how any of it worked so it was very scary for me. I had nobody to talk to and my community abandoned me. (R333, female)

Some professionals highlighted that as legal systems are inextricably linked with other relevant systems it can create confusion for those from migrant backgrounds when trying to navigate them. For example, it was suggested that migrant victim-survivors may not know how to engage with processes or know what they are entitled to but it was also suggested that migrant women can feel empowered when provided with this support. The issues related to not knowing what a person is entitled to, was illustrated in the following focus group excerpt:

like residence permission doesn't come into the consideration of people accessing legal aid. It shouldn't. What may not be known to people is the difficulty that, you know, a person may not realise that they are entitled to legal aid support. (FG2 – professionals working with migrant and minority ethnic communities)

Challenges for professionals who work with women from migrant backgrounds were also highlighted in relation to accessing a range of services when attempting to leave an abusive relationship. This is illustrated in the next quote from a focus group participant:

For many survivors English is no[t] their 1st language and they rely on the supports and discretion of professionals who have the honour of supporting them... Staff face multiple challenges supporting [those from a migrant background] to access welfare payments, housing supports and suitable accommodation after leaving refuge. Accessing legal aid can also be an issue due to language barriers and not having the correct visa to remain in Ireland/ residency in Ireland. This causes barriers to access emergency accommodation. (FG2 – professionals working with migrant and minority ethnic communities)

With such confusion and uncertainty surrounding what might happen, one focus group participant indicated that there can be a reluctance to seek support, as this quote reveals:

[..] I work with migrant families, for them it's a bit confusing, intimidating and fearful. So, they are fearful of the consequences that, what if the partner finds out about their actions and then there will be consequences. Intimidation, because they have either negative past experiences or prejudice towards the Gardai or the social protection services. So, they are reluctant to engage because they feel that they're not there to protect and support. And confusing, because they really don't know where to start, what the next action could be or like, 'What can I do to protect myself and my child?' **(FG2 – professionals working with migrant and minority ethnic communities)**

In this next excerpt from the interview with Prea, she describes her experience of her abuser capitalising on this issue:

There's the financial bit; you know, I didn't have child benefit in my name; I didn't have a bank card. Like how, you know, he was able to use the Irish system, kind of, against me, because I didn't know. **Prea**

9.2.3 When the victim-survivor is unable to leave Ireland with their children without consent of their abuser

Another barrier which was raised by victim-survivors from migrant backgrounds in the online survey and in the interviews related to being unable to leave Ireland without permission from their children's perpetrator parent, or if this was not forthcoming, from the courts who can override this requirement if deemed appropriate. One respondent to the online survey revealed that she would like to return to her home country but explains in this next quote how she is unable to do so because of custody issues:

I want to return home with my children where I can be closer to my family and friends and get a better job but he will not let me go and now he has custody of my child I don't know what I can do. Now I can't leave. **(R341, female)**

Interviews with two women with migrant backgrounds, Petra and Prea, also raised this issue with both women noting that they could not leave Ireland or return to their country of origin with their children, without consent of either their abuser, or the court. However, Prea insightfully points out that shifting demographics in Ireland could bring changes in the future, particularly if both parents are from migrant backgrounds. Meanwhile, Petra revealed that she believed it was not really worth the effort to seek permission for a holiday. This next quote from Prea shares some of her feelings around this;

I think if I ever wanted to go home, I want it to be on my terms. I fought for the kids' passports – [...] his signature has been dispelled; but I still have to have permission of the Irish courts if I want to travel. So I have to go into family court and tell them where I'm going to go, for how long and where I'm staying. [...] I have to look at it not personally – I am flight risk on paper, right? They're probably thinking 'If we let this girl go, she could just go in the middle of the night'. Prea

9.2.4 Ostracised from community/family and friends

Another challenge experienced by those from migrant or minority ethnic backgrounds was highlighted by professionals and victim-survivors and related to victim-survivors being ostracised from their communities for their actions in relation to DVA and family law proceedings. Several specialist DV Practitioners who were surveyed expressed worry that those from a migrant background experiencing abuse may be excluded from their support networks, as this next quote illustrates:

Many do not have any other family or friends in the country as have been cut off from them as they are abused by [abusers/perpetrators]. (DVPR164)

Of broader interest, focus group discussion suggested that the legal process can be very isolating, not only for migrant women but in general. This isolation may be exacerbated by a lack of professional response, as the following focus group extract illuminates:

We've had cases of where we had to phone the Gardaí the whole day, to try and come and support the woman. So, sometimes [it is] just assumed there's no quick reactions, or action taken. And yet most of them, they don't have families to support them. There's nobody to back

them up. So it can be very, very lonely, very lonely process for them. (FG2 – professionals working with migrant and minority ethnic communities)

This next quote from a victim-survivor reflects the above professionals' comments, conveying a poignant sense of this mother's lived experience:

It is like the Muslim community has its own court system. You feel pressure from your community to stay silent about these issues. It is very isolating when you lose your community support, and you have no family in a new country to help you. You worry all the time that someone will come and take your kids because you can't care for them. (R323, female)

Samantha, an interview participant who experienced a forced/arranged marriage disclosed how her decision to flee her abuser saw her ostracised by her community: *I took that brave- bravest decision that time. And no one supported me from family, from my community, no one. I'm still alone, no one supporting me in my decision.* Later in the interview she returned to the topic noting; *Like for [country name] community, it's a big thing, like they abandoned me, totally. You know, straight away. So, it's a big, big thing, big barrier.*

9.3 Traveller and Roma communities

A dedicated focus group was conducted with participants from nationwide Traveller and Roma organisations to explore issues faced by Traveller and Roma victim-survivors when engaging with the family law system for guardianship, custody and access. There is the possibility that legal recourse on these matters is not something that Traveller or Roma communities typically engage with. However unfortunately, little is known about how many Traveller and Roma women seek remedy through the courts as ethnic identifiers are not routinely collected by the Irish Courts Services. Certainly, in this focus group, family law proceedings was not an area that participants had encountered with much frequency. As such, this is an area where further research would be warranted.

Participants in this focus group interview highlighted many other structural inequalities that are experienced by Traveller and Roma communities, which compound adversity for both adults and

children. One issue relates to how Traveller children are overrepresented in the care system. Participants believed that the system's, and some practitioners, failure to represent or advocate for Travellers added to experiences of discrimination and prejudice against the Traveller community. These issues are exemplified in the following quote:

We were talking about access; something that always struck my mind around access was, you know, we do have overrepresentation of Traveller children in care. So maybe that needs to be explored. I don't know if that's for this, but you know, often children are just taken off of their parents for whatever reason by social workers. (FG 7 – Traveller & Roma organisations)

{..} you're in a situation you're being abused, and then you're going to access a service which has preconceived ideas and bias towards Traveller women, and you're trying to tell them what's happening to you; you're trying to get the support that you're looking for, and you feel as if you're being abused all over again by the system because you were trying to prove that what's happened to you is the truth and is happening to you, and you're sometimes, 9 times out of 10, you're not getting believed. You have to prove to the services that this is happening to you. So it's kind of like abuse again in a different form, but this time by the services. (FG 7 – Traveller & Roma organisations)

In the specialist DV practitioner survey, there were several other comments which addressed challenges faced by the Traveller community when accessing services or refuge. One practitioner commented on a perceived issue of discrimination against Traveller families with some refuges having a 'quota on how many they will accept,' (DVPR90). Meanwhile, the practitioner who was referenced earlier, also suggested a need for more cultural awareness in support services, as they explain:

[service users] from the Traveller Community have expressed wanting more Travellers with a knowledge of Travelling culture. (DVPR180)

There were two female victim-survivors who were members of the Irish Traveller community and one Roma victim-survivor who took part in the research: a Roma woman and one Traveller women responded to the online survey and another Traveller woman took part in an in-depth interview. The

Traveller woman who responded to the survey, asked that we keep her detailed comments confidential over fears she may be identifiable. Suffice to say her experiences of the legal system, like so many other respondents to the survey, were negative. In addition, she reported constantly living in fear and not feeling any level of protection from the system for her or her child/ren. Similarly, it is not possible to identify which interviewee was a member of the Traveller community, in case any of the quotes used in other chapters, could compromise her anonymity. She will be referred to here as 'Mary' as an additional layer of protection, as this is a common name in Ireland and within the Traveller community. 'Mary' underscored the high prevalence rate of DVA within the Traveller community, but also highlighted that there exists a deep, intergenerational fear and mistrust of social work involvement over concerns that children might be removed from their families and placed in care. 'Mary' also emphasised high rates of suicide within the Traveller community, which she implies are related to adverse life experiences, such as DVA combined with living in a marginalised community. In interview 'Mary' declared her hope that none of her children ever have to live through what she has experienced. 'Mary' shared her belief that Travellers do not receive equitable treatment in the courts; as her words about her experience illustrate; *'So I found that because I'm a Traveller woman I feel that you're treated differently within the system.'* This sentiment was echoed on the comments of the Roma woman who disclosed that; *'I feel discriminated because I am foreign and with no strong connections in Ireland. I feel my human rights has been breached many times, there is a huge lack of professionalism, of compromise and justice.'*

From her lived experience of the system, 'Mary' shared her conclusion that women from other minority ethnic backgrounds may experience even greater challenges and barriers than she faced, as this quote illustrates:

It doesn't make no difference what I have because I'm still only a Traveller woman in the eyes of the law, but I know what...I'd be familiar enough now with the system, but it's the poor women I feel sorry for - not only Traveller women, women from different ethnic minorities that English is not a first language and hasn't got a clue what the Irish system is about. 'Mary'

'Mary' also stressed that she perceives stereotypes about Travellers remain an issue for some members of the Gardai, which 'Mary' believes affects how Traveller women are responded to. Overall, she expressed a deep belief that she faced additional challenges when engaging with the legal system

because she was a Traveller woman. The findings from this study suggest that further research into the experiences of adult and child victim-survivors from the Traveller and Roma community is required.

9.4 Disability

In the survey, respondents were asked to indicate if they had a physical impairment, physical disability or chronic illness; and/or if they had a learning difficulty or intellectual impairment; or both. Table 18 below sets out these results for all male and female victim-survivors (n=413)

Table 15: Proportion of victim-survivors with a disability

Type of disability	N	%
A physical impairment, physical disability or chronic illness	64	15.5
A learning difficulty or intellectual disability	27	6.5
Both of the above	6	1.5
None of the above	306	74.1
Don't know	10	2.4
Total	413	100.0

(N=413, missing=0)

Participants were invited to leave additional comments relating to this question, if they wished. Here, many mothers highlighted various disabilities of both a physical and psychological nature. Some made specific reference to these being used against them in court¹⁰⁰. This next comment provides an illustration:

I have a physical disability. Something which my ex keeps trying to use against me! (R299, female)

The online survey asked respondents to rate their overall feelings of safety at this time using a scale from 1- 10; where 1 represented 'not safe at all/at risk' and 10 represented 'very-safe/no risk'.

¹⁰⁰ Although, not included in the definition of a disability, there were also comments in relation to diagnoses of PTSD, CPTSD, 'situational depression' and reactional depression, either being caused or exacerbated by the family law/ domestic violence situation.

Respondents who indicated that they had a disability gave a lower overall average rating of **2.6/10** (n=96, SD=2.0), meanwhile the overall average score given by respondents who did not have any disability was **3.6/10** (n=302, SD=2.3). This could suggest that victim-survivors who have a disability felt less safe than individuals who did not have a disability.

Comments which related to additional barriers and challenges for adult victim-survivors because of their disability were limited. However, this next quote left by one female victim-survivor highlights her perception that individuals with a disability can experience unique challenges when engaging with the system:

The fact I'm disabled (by my ex) was held against me. [...] It is inexcusable that the families court is so entrenched in the medical model and operates on an assumption that a sane, loving parent who is disabled, is 'never as good' (in the words of our judge), as an abusive, but 'whole' parent. (R203, female)

Focus group discussions with practitioners highlighted disabilities as an issue that intersects with other identities, making it even more difficult to navigate the system and leading to adverse outcomes. One practitioner reflects on these issues in the next quote:

We've had cases of migrant women who have a disability and that's also intersectionality.[...]. And if it's a situation where the woman has a disability, it's even much more difficult for them just to be able in terms of even accessing anything but also caring for the child, following up and being up to date with everything. So we have actually had cases of migrant women with a disability as well who are in abusive relationships. It could be physical disability or other forms of disability. (FG 2 – professionals working with migrant and minority ethnic communities)

There were few specific references to adult disability made by specialist DV practitioners in the survey. Yet, these comments referenced the need for 'good public services' including mental health and disability services. Another referenced the importance of a 'trauma-informed system that is aware of disability, neurodivergence, etc.' (DVPR16)

One DV practitioner acknowledged that adult survivors' own disabilities might also affect how they engage with processes. For example, adults with learning difficulties or neurodivergence may experience difficulties expressing themselves, as this practitioner explains: *'[The adult survivor] herself finds it difficult at times to articulate her thoughts and has been subsequently diagnosed as being on the autistic spectrum.'* (DVPR168)

9.4.1 Children with a disability

We asked respondents to indicate if they had a child, or children, with a disability. Over a third of all respondents (both male and female) (n=144, 36.6%) indicated that they had at least one child with a learning difficulty or intellectual disability that had been confirmed by a professional. Moreover, there was an additional 10.4% (n=41) of respondents who indicated their child had a disability of this type but had not received confirmation of this disability from a health professional. This would mean that nearly half (n=185, 47.0%) of victim-survivors who responded to the survey had at least one with child with this type of disability who was the focus of family law proceedings for GCA. Autism Spectrum Disorder (ASD), Attention Deficit Hyperactivity Disorder (ADHD) and dyslexia were most frequently referenced disabilities in the qualitative responses. In relation to children with a physical disability or chronic illness, 16.6% (n=65) of respondents affirmed this, with a range of illnesses and impairments - disclosed. However, although asked about physical disabilities, several respondents also referenced disabilities which fall under learning difficulties or intellectual disabilities.

Gravely, there were four mothers of children with disabilities who shared their belief that DVA was a strong contributing factor for three children's suicidal ideation, the fourth child was reported by his mother to have died by suicide. In fact, many other victim-survivors indicated that they believed their disabled children's experiences of DVA had negatively impacted on their wellbeing; the qualitative responses included but not were not limited to severe anxiety, self-harm, PTSD/CPTSD, and eating disorders. The survey invited respondents to leave comments if they had concerns over their children's safety and wellbeing while on access. The following quotes illuminate two mothers' experiences of their children's contact in the context of DVA and disability:

Especially for my non-verbal ASD child and their safety. Their father has been physically abusive to them already and as the only other person to witness this was a child it was framed as a lie

and access has to continue and I have to ensure it does as failing to will mean custody of my children could potentially be taken away from me. (R320, female)

My son has special needs and is non-verbal, the handover takes place in a garda station, he screams and kicks and tries to bang his head of the floor because he does not want to [go] with his father. His father has to restrain him and carry him to the car distraught. I have contacted Tusla numerous times they would not carry out any assessment of the situation, how is this the best interests of my child? This is not right, this is detrimental to my sons wellbeing and health. (R346, female)

Another mother of a child with a disability described the impact of these contact visits on her: *'I would vomit every time they went and cry until they got home. They were not safe with him and nobody listened'* (R175, female). The survey asked respondents to rate their children's overall safety at the time of their GCA process using a scale from **1- 10**; where 1 represented *'not safe at all/at risk'* and 10 represented *'very-safe/no risk'*. Victim-survivor parents provided an average overall safety rating score of **3.7/10** (n=408, SD=2.6). During the analysis a comparison of means was conducted for children with learning / intellectual disability which had been confirmed by a doctor, compared to children without a disability. Those who were unconfirmed were excluded from the analysis. Average overall safety rating score for children with a confirmed learning / intellectual disability was **3.3/10** (n=142, SD=2.5) compared to children who did not have this type of disability **3.8/10** (n=204, SD=2.6). While an independent t-test reached statistical significance, the effect size demonstrated the difference had little magnitude. However, these results could warrant further investigation as qualitative data from the online victim-survivor revealed unique concerns relating to children with all types of disability.

Again, there were few references made by practitioners in relation to children's disability. However, one practitioner acknowledged the importance of consistency and routine for children with an autism spectrum disorder diagnosis (DVPR154), while another noted that barriers to children's voices being heard could include *'Speech and language difficulties, Disability, Language barrier.'* (DVPR139)

9.5 Substance-use and addiction

Substance-use and addiction issues were raised on occasion in the online survey data, with primary focus on a perpetrator's drug use in the context of contact with their children. However, three in-person interviews were conducted with women victim-survivors who had a history of addiction – Cathy, Sheila and Sonya. A strong theme to emerge from these interviews was how their history of drug use was leveraged against them by their abuser, and often not effectively countered by court processes, even after they had ceased active use. Furthermore, all three participants stated that this history was used as an ongoing justification for perpetrators questioning their parenting capabilities and withholding or denying contact.

Two of the women, Cathy and Sheila, shared in interview how they had lost primary care of their children. In both cases this had occurred when their ex-partner had been asked to temporarily assume the lead caring role for medical reasons which required each of the women to stay in hospital. However, they reported that following hospitalisation both of their ex-partners then refused to return the children to their care, drawing on the women's history of addiction as a justification. In both cases, despite drug testing to the contrary, the women stated that the allegations persisted. Even when abstinence was acknowledged by the court, the allegation of active drug use was enough for abusers to stall contact occurring, indefinitely in Sheila's situation. In fact, all three women noted that their abuser blatantly ignored instructions from the court with apparently little to no repercussions, as this quote from Sheila illustrates:

*Like, it's clear as day he has no respect for the judge rulings, because if they don't go his way, he just ignores them. **Sheila***

For Sonya, repeated accusations of her drug use from her former partner continued to cast doubts over her recovery, particularly when other presenting issues such as trembling due to nerves while in court or during assessments were discounted as the aftereffects of drug use. Sonya describes one such instance below:

I couldn't help it [shaking], you know. And that was noted in the section 32-1A; she had wrote that back in the report that I was shaking. And she said it's likely from using the night before.

She hadn't been talking to my doctor or anything though, so she didn't know that I was giving urines. But she put that in her report anyway, and he would have read the report. Sonya

Two of the women expressed a reluctance to engage with law enforcement. Sonya said she did not want people living in her area to think she was 'a rat' by doing the handover exchange in a local Garda station, even though she now questioned this choice for concerns over her safety. Meanwhile Cathy pointed out that unless incidents are reported to An Garda Siochana they are not counted, which as Cathy points out, is not without its own risks:

I could go into a judge now next week, let's say, with a scar mark on my face cause he cut me, and he's [the judge] like, well you didn't go to the guards so what do you want us to do, but they don't understand that, even still that this person is doing the thing, it's still in your heart you don't want the guards at their door, you don't want to get them in trouble, and it's not a love thing, it's like a trauma thing, it's like, if they get in trouble then I'm gonna get in more trouble.

For all three women, their addiction support services were described as a lifeline. Cathy, Sonya and Sheila all described how support staff in their service conducted advocacy work on their behalf. Examples given were providing letters of support, accompaniment, or through direct engagement on their behalf with various organisations, such as social services or the courts. The women indicated they did not feel that they were listened to or taken as seriously without this confirmation. To illustrate, Sonya highlighted that she has child welfare concerns about her daughter while in the care of her father on the court ordered visits. Sonya revealed that she had been told she was being 'neurotic' when she tried to raise them with Tusla. Sonya went on to say that her support worker was going to assist to raise her concerns, as can be seen in this next quote:

She's [support worker name] going to flag it anyway in the child protection[...] She [support worker] said she'd contact them about that, saying that they don't want the concerns being overlooked just because of my medical history [addiction issues]. Sonya

For Sheila, her support worker's presence during her court proceedings was valued: *[support worker] has come to – like she sat with me throughout most of the courts.* **Sheila**

Some of the issues raised above were also noted in the fieldwork notes taken from observation in an urban court setting. These are set out in the text box below.

Fieldwork Notes Urban court: Ordered access when the victim-survivor has a history of substance-misuse

A breach of access case is brought before the court. Mum has a history of substance misuse. The father (alleged perpetrator) has sole custody of their child. The child's maternal grandmother also has an access order in place; but access takes place sporadically as dad does not adhere to the order. Mum has only seen her child during these access visits. A separate access order for mum was previously decided by the court. The father claims that mum is still an active drug-user so he will not facilitate access. Mum presents a large, disorganised stack of negative drug testing results to the court. The access was re-ordered, as per the terms of the previous order. After the hearing concluded and the parties left, mum's legal representative explained that mum has never once had her ordered access facilitated and this pattern been going on for years. They further explained that mum has been providing 'clean' drug-tests to the court since they were ordered, but the child's father continues to use her alleged drug-use to block access.

9.5.1 The impact of perpetrators' substance-use and related risk factors during court ordered access

Another issue raised by both adult victim-survivors and specialist DV practitioners, concerned children's safety and welfare arising from their perpetrator parent's substance-use or addiction issues. The quote below from a practitioner highlights their concerns about the lack of risk assessments being done or situations where a victim-survivor parent's concerns are undermined or outright ignored:

There are no formal risk assessments done before child access and overnight access is ordered. Even when the victim parent is telling the court about the perpetrators risk such as drug abuse during access visits, turning up drunk, mentally ill, breaches of safety orders (DVPR163)

In a similar vein, another DV practitioner noted that safety and welfare can be comprised by 'witnessing substance abuse by father. [Or] Being driven in car while father is under the influence.' (DVPR31).

Indeed, these issues were reflected in comments left by several victim-survivors in the online survey. Here, many of the issues raised were experienced as part of court ordered visitation. A selection of respondents' experiences are shared below, followed by some insights from a court observation

My concerns were utterly ignored. He has threatened suicide. Stopped taking medication. Was using drugs. All completely ignored. (R340, female)

I asked that my husband be asked not to drink alcohol when having access to the children and I was told I couldn't request this. (R351, female)

I feared for child safety as he was drinking and taking drugs and driving. Court ignored my concerns. He was sleeping and not feeding child. Name calling her. (R91, female)

Fieldwork Notes Rural Court 2: Supporting Non-Resident Parent Access

Across all court sittings, Judges and legal practitioners were keen to progress and support non-resident parent access. Case I observed was young child having access with father who had history of drug and alcohol use - but with little informal and no formal support re access. Wanted overnight access but Mum fearful child would be left without adequate supervision while dad went out. Snapmaps suggested as a way to reassure Mum he was at home and in charge of supervision of young child.

9.6 Experience and perceptions of the family law system in rural contexts

A particular focus of the research was on the difference in family law processes in urban and rural contexts. The rationale for this focus was that in rural areas, unlike some urban areas, there are no dedicated family courts. Here, family court hearings are heard with all other legal matters, leading to long lists for judges and a wide variety of cases being heard by the same judge on the same day. For example, there could be individuals in handcuffs for criminal proceedings being heard at the same as

court sitting for GCA proceedings. This can also lead to delays and adjournments as judges struggle to hear all cases on their lists.

Statistical analyses were conducted on ratings provided by specialist DV practitioners in the online survey which explored their experiences based on the urban, rural or nationwide location of their service. However, there were little differences in these ratings. Nevertheless, qualitative comments left by several practitioners highlighted important considerations for victim-survivors engaging with family law process in rural settings. Some of these issues were also raised by professionals in the focus group interviews. Additionally, there were several comments left by victim-survivors in the online survey in relation to their experiences of rural family law proceedings. These will be discussed below.

9.6.1 Legal advice and representation in a rural context

Specialist DV Practitioners highlighted several issues with seeking both legal advice and securing legal representation. One practitioner shared her thoughts on Free Legal Advice Centres, sharing that; *FLAC... has been helpful when accessed but very difficult for clients in rural areas to access.* (DVPR95).

Securing Legal Aid and private legal representation were also described as being more challenging in a rural context. The limited number of both private solicitors and Legal Aid solicitors was raised as an important consideration, for example if both parties are eligible for legal aid, yet there is only one Legal Aid solicitor. Alternatively, there may be only one solicitor who has the requisite experience of family law cases. Some of the issues are reflected in the following insights provided by three specialist DV practitioners in the survey:

It is particularly difficult for our clients who live in rural areas to secure good legal representation. It is also difficult for clients to be able to judge which solicitor to engage. There is scant information available about a solicitor's experience or rating. (DVPR163)

Clients experience huge difficulty in accessing a Legal Aid Solicitor, particularly in rural courthouse. (DVPR53)

Rural communities have a smaller pool of solicitors to avail of and it is not uncommon that a reputable solicitor will be conflicted out of representation. (DVPR95)

The issues raised with Legal Aid access in rural areas take on particular significance when considered with a finding from the 'Tools of the System' chapter (chapter five), which highlights the perception that Legal Aid representation is not equivalent to private representation in terms of time spent on family law cases and quality of service. Thus, additional difficulties could lead to compounded challenges for those accessing the family law system in rural areas.

9.6.2 Court processes and infrastructure in rural context

Court processes and the infrastructure in rural courts were two other issues raised by professionals and victim-survivors. The next two quotes, one from a specialist DV practitioner and the latter from a victim-survivor, represent an illustration of these experiences and perceptions of rural courthouses:

In some rural courts there is no waiting area and limited private rooms for the survivor to access resulting in them requiring to wait in a hallway with the abuser in near proximity causing fear and distress. (DVPR8)

The system is too protracted. Your day in court starts at 10:30 but you may not be heard until 6pm. [...] The family law days should not have criminal law randomly on also. [...]. I have witnessed women being terrified by their exes, bullying them while we await hearing. This is not okay. (R316, female)

The challenges with all legal cases being heard in one court sitting by the same judge was raised by the legal professionals in a focus group. The following quote describes one legal professional's perspective on this crucial difference between urban and rural processes:

Often you could have the judge dealing with multiple cases on the one day, think, maybe in city courts, particularly in Cork City - I presume Dublin similar - that you'd have specific lists on the day. So, you'd have a childcare day, family law day. But that doesn't happen in the country courts. It's a mishmash of everything, and the judge by the end of the day is tasked with, you could have lists of sixty, seventy cases (FG4 – Legal professionals)

Court observations conducted by the research team revealed much higher lists than referenced by the above legal practitioner, as the following fieldwork notes demonstrate:

Fieldwork Notes Rural Court 1: 'Triaging' the Daily Case List

The redacted case list I receive at 9.30 has 183 cases listed on it for today. By 10am, the public space outside is busy, with little private place available – despite it being a large open and airy public area. The Judge and the legal practitioners spend some time going through cases that can be moved on – adjourned to another day, another court - reasons given include S32 reports not concluded; one party or another not able to attend; legal practitioners working on an 'agreement'. Throughout the day the Judge 'triages' and the legal practitioners bargain for agreement where they can. Court ends at 5.45pm.

However, a different perspective was raised by another victim-survivor who describe having to travel for different court sittings on different days to a district she no longer lived in for safety reasons. Her words below describe her situation and different sets of challenges:

I lived in [a rural county] to get away from him. But my court proceedings were in [different rural county]. I was forced to attend 2 different courts one criminal and one family law once a month. All while trying to work full time. (R376, female)

9.6.3 The judiciary in rural context

It was perceived by some professionals and victim-survivors that the judiciary outside of Dublin may not understand DVA as well their urban counterparts. Additionally, it was also suggested that there may be greater inconsistency in decisions made depending on area of the country. The following quote from a specialist DV practitioner speaks to this:

[judges have] little to no understanding about coercive control. Maybe in Dublin but definitely not in the more rural areas. (DVPR11)

This sentiment was echoed in the following quote from a victim-survivor living in a rural setting, where the importance of promoting consistency in judicial approach through training and guidelines were suggested:

A family court. Trained judges. Proper guidelines that judges follow all the same in all areas of the country. (R253, female)

However offering a contrasting perspective, a legal professional from the focus group highlighted the benefit of one judge dealing with multiple issues. The legal professional perceived that in urban regions, particularly Dublin, different proceedings could be dealt with separately, whereas in more rural regions, the same judge will deal with all issues. Here, this aspect of the rural family law system was seen as a benefit by providing consistency. A quote from this professional speaks to inconsistency in urban settings, such as Dublin:

We don't necessarily have that experience in Dublin, where we'll have different judges on different days and different weeks, who will apply themselves differently. (FG4 – Legal professionals)

9.6.4 Other consideration in rural context

There were several other issues which were raised in relation to living in a rural area. However, there were differing perspectives across the various professionals and victim /survivors.

This issue of familiarity was seen both positively and negatively. For example, in the focus group with legal professionals, familiarity in rural contexts was discussed as both a barrier and an enabler. It was perceived that in rural settings the Gardaí or other professionals may know the victim-survivor and perpetrator personally, or may even be involved in proceedings, which can impact on privacy, as can be seen in the following quote:

[..] also locally in small communities where everybody knows everybody else as well, family law proceedings which are supposed to be in camera, but you've got maybe sixty people standing in the court environments outside. There's nothing private about that. They also have Guards who are in the proceedings themselves, who may know one or other of the parties. (FG4 – Legal professionals)

However, this was also perceived as a positive in the same focus group, as this quote illustrates:

[In] smaller country courts, definitely the fact that the local Guard is often in court, that there is a lot of word of mouth, that they're sensitive to the fact that these orders have just been made, that they'll have a drive by of the property later on. You know that kind of local knowledge is very strong. (FG4 – Legal professionals)

Notwithstanding the foregoing, victim-survivors and specialist DV practitioners raised some issues with inconsistency in responses from An Garda Síochána which related to living in rural settings, as the following quote from a victim survivor illuminates:

[I] Lived in a rural area, the response from the guards was unpredictable, some were very dismissive and didn't want to come out to the house when he was breaching court orders. Had to leave the county to get away and safe. (R379, female)

This was echoed in a comment left by a DV practitioner in a rural setting, as this quote illustrates:

[DVA] not understood by gardai at weekends when access is taking place - the risk not always taken seriously especially when people live in rural areas and are trying to proceed with guidelines of access. (DVPR92)

The issue of lack of services and support in rural locations were also raised by specialist DV practitioners. Two quotes from practitioners which provide their perspectives are set out below:

Given the prevalence of domestic abuse in Ireland, more funding is needed to support domestic abuse services, particularly in rural areas where the absence of funding doesn't allow for the provision of such vital services as adult counselling and play therapy. (DVPR54)

Access to child support services [e.g.] Barnardo's but this is just in Dublin areaChildLine, school support. (DVPR130)

From the foregoing it is apparent that there are a number of areas which appear to create disparities for victim-survivors living in rural areas which may warrant deeper exploration. It was concluded by the analysis that many victim-survivors were unaware that they may face additional challenges relating to their rural context, as they did not have any frame of reference for proceedings conducted in an urban setting.

9.7 Same-sex relationships

The online adult victim-survivor survey sought to capture the experiences and perception of same-sex victim-survivors. The quantitative data indicated that there were nine female victim-survivors and one male victim-survivor who were in same-sex relationships. However, deeper analysis of the qualitative data revealed that four respondents had most likely selected this answer in error. The remaining respondents did not leave any additional information which would allow deeper insights into the experiences of this hidden population to be captured. This topic was not raised by either specialist DV practitioners or by professionals in any of the focus group interviews. Furthermore, there were no cases for same-sex victim-survivors observed during field work.

9.8 Conclusion

This chapter has explored some of the additional challenges and vulnerabilities which are experienced by victim-survivors when there are other intersecting factors that should be considered by decision-makers in the context of GCA when there is a history of DVA. While every effort was made to maximise diversity in the study sample, this was not always achieved. Yet the findings presented confirm assertions in the literature in relation to intersecting factors compounding issues of safety and welfare for many marginalised and minoritised groups. Moreover, what these findings demonstrate is the need for further research into the many areas discussed in this chapter, as it is apparent that bespoke solutions which consider all of the issues faced are urgently required. The following chapter will explore the views and experiences of the final decision-makers in family law cases in relation to guardianship, custody and access decisions – the judiciary.

Chapter Ten

Judicial Reflections

10.1 Introduction

In order to realise the overall aims and objectives of the study, the concluding stage of data collection involved semi-structured interviews with those tasked with making the final decisions in family law matters – the judiciary. In total, six members of the Irish judiciary, all currently practising in the District Court were interviewed. Their experience in the context of family law and DVA ranged significantly, with some judges having practiced in the area of family law over the course of their career as a solicitor, while others worked primarily in other areas of legal practice, such as criminal law, and found themselves dealing with family law matters for the first time as a judge. In accordance with the sequential mixed method research design employed for this study, the interview schedule for these interviews was informed by the analysis of all former data points as described earlier in this report.

Informed by and building on the above analysis, a wide range of areas were explored in these interviews, but with a number of key areas featuring prominently across all six interviews. In broad terms, there was awareness amongst the Judges of the complexities associated with DVA, however the depth and breadth of that awareness and understanding varied across the six participants. Furthermore, judges made reference to the requirements of the law in terms of due process as being a limiting factor, not only in relation to how proceedings were conducted, but also in relation to the decisions made with regard to access with children.

10.2 Domestic violence and abuse as a consideration in cases of Guardianship, Custody and Access

In the context of DVA, there may be many reasons why victim-survivors do not hold a DV order. This may include that victim-survivors have not applied for, have applied for but not pursued, or have unsuccessfully applied for domestic violence orders. In cases of this nature, where a party is now engaged in custody and access proceedings, we were particularly interested in judges' views on how they would deal with such cases. For example, one judge indicated that the absence of an order would not preclude their investigation of this important issue, as the following quote elucidates:

I would still go back – if I know that there's an allegation – it doesn't have to be a founded – if there's an allegation of domestic violence, or if there's a concern – I really do think the coercive

control aspect is a huge concern, I think, certainly; you can see it featuring and filtering... very often, there isn't a domestic violence order in place, and even at that stage, there could still be significant elements of domestic violence in the history of it, or that they've coercively controlled, or – you know, that type of scenario. So no, we'd always consider that. (Judge 1)

Concurring with Judge 1, another participant asserted that 'you certainly wouldn't hold it against somebody for not seeking out a protection order' (Judge 4). However, Judge 4 also indicated that in such cases, they may still try and facilitate access between the alleged perpetrator and the children where possible, as Judge 4 explains:

I find myself trying to find a solution where you can put in place some sort of an arrangement that the kids – if it's safe for them, if they're not traumatised, if we're passed all of that – that they can see their father, usually in an environment that's safe. ... You're going to try and find some sort of an arrangement; be it supervised access; be it limited in some way, that they can only go to certain places or maybe a family member might come along. But it's rare that you're just going to absolutely say 'No' because there's domestic violence. ... The person may have been violent in the past because he or she may have been abusing, you know, alcohol or some sort of substance. (Judge 4)

Indeed, a common view held by the participants was the need to hold what Judge 5 referred to as a balanced approach in such cases. This 'balanced approach' considered that the presence of domestic violence orders, did not and should not, automatically mean that other aspects of family life should be interrupted. Judge 5 explains why:

I think you have to reach a balance as well. I mean just because there is a domestic violence order in place, does that mean that you bring down the shutter on all of the other aspects of the family and you can't do that... the purpose of the order is obviously to make sure that the applicant who has the benefit of the order has the protection that he or she needs, and that is also in the context of whatever other orders might be put in place to regulate guardianship or access particularly... is there offending behaviour against the child's parent considered, I suppose, relevant in the decision around access...?. (Judge 5)

Quite aside from the question of DV orders indicating a need to question whether bringing 'down the shutter on other aspects of the family' is required, as questioned by Judge 5 above, Judge 2 drew

attention to the challenges inherent in preventing access where protection orders may be in place since these orders may be 'untested' when they are granted on an *ex parte* basis. In such cases, more weight would be given in the context of access to a safety order or barring order, as Judge 2 explains:

Safety Orders or – and particularly Barring Orders would be significantly taken into account... they all would be taken into account, but some would be given more weight than others because of the circumstance... And I would definitely make inquiries about these things. (Judge 2)

Significantly in the context of this present research, a number of the judges interviewed demonstrated an awareness of how living with DVA can impact children, with an appreciation that these impacts could have long-term consequences for children's welfare and general development. This insight is reflected in the following quote from Judge 6:

[The] biggest issue I would have to say is children living in houses where there is domestic violence, whether that be of a very considerable physical nature or just, coercive control and all that kind of stuff. I mean it's just, it's just, we're breeding a generation of absolute- these kids are going to be just destroyed, just destroyed. (Judge 6)

Concurring somewhat with Judge 6, Judge 4 also noted concern for children who 'witness' DVA and the potential impact that 'witnessing' can have on their development:

...what you'd be concerned with is have the kid's witnessed violence; even if they haven't experienced it, if they witnessed it. I, in my time, in the last two years, have learned that it can have a terrible effect on them if they witness domestic violence, either physical or verbal threats of violence or arguments –severe arguments – that can have a very detrimental effect on their development. So, I'd have to be alert to that in relation to any type of access applications. (Judge 4)

Focusing on physical violence or threats of physical violence, Judge 4 went on to qualify however that 'just because there's violence between the parties involved – the partners or the spouses – it doesn't necessarily mean that the parents will have been violent towards the kids. So that has to be looked at'.
(Judge 4)

Judge 6 also highlighted the legal reality for Judges in such cases where in effect they are constrained by the parameters of the law even though children are indicating that they do not want the abuser in the home so they can feel safe, as they explain:

All those things that are 150% legitimate for children. If you don't get a barring order, if it doesn't fit within the law, then you can't grant them what they're looking for. (Judge 6)

All of the above aside, if the judge is not made aware of the DVA history, as indicated by the presence of current or historical DVA orders, or as presented in evidence on behalf of the victim-survivor, this history may not feature in their consideration of safety and welfare issues. Importantly, as the evidence presented in previous chapters has highlighted, concern has been raised with legal practitioners reported to advise victim-survivors not to raise the issue of DVA in GCA cases. This concern was also discussed in the judicial interviews.

10.2.1 Advice of legal counsel in Access cases where DVA is an issue

In interview, some judges acknowledged that legal counsel have been advising clients not to raise domestic violence as an issue in guardianship, custody and access proceedings before the courts, with one Judge suggesting that:

There's a bad reason whereby it's just – it's – practitioners have taken the view that divorce has got nothing to do with custody and access, and divorce has got nothing to do domestic violence; that divorce has got to do with property and money. (Judge 2)

This Judge went on to surmise why this is happening, and also importantly considered the potential constitutional implications of adopting this approach:

... there's three blame clauses and three non-blame clauses for judicial separation; one is adultery, one is bad behaviour, and one is desertion... so all the judicial separation proceedings before divorce was always concentrating on looking at the past; looking at the past to determine what orders would be made – and then when divorce came in, we became terribly sophisticated and we said 'We're not looking at the past anymore, we're only looking to the future' ...And then as newer practitioners came into the situation, they began to not realise there was a nuance involved and just took it as a kind of... an active doctrine of fate, that you don't deal with any of these things – and the problem with that is that they don't seem to ever

have read the Constitution, which is that the court cannot grant a divorce unless it takes everything into account.... where a divorce was granted without the issue of domestic violence being pleaded, and then that person will raise the issue that they were told that they shouldn't do it even though it was in a very important factor for the court to take into account, and they will seek to have the divorce set aside because all factors were not taken into account, because of a practice that has now developed which doesn't reflect the law. But you won't hear many people say that, but I see this as a big problem... that's against the law... That's totally contrary to what the Constitution says, which, regardless of the legislation, has to be the defining situation. (Judge 2)

Challenging this practice of legal counsel advising victim-survivors not to bring issues of DVA to the attention of the court, another judge made it clear that they regard DVA as being very important and that it should be brought to the attention of the court in access proceedings, as this quote explains:

I think it's actually very relevant in terms of how the court approaches – because ultimately, it's a welfare issue, and ultimately, it goes to the very core in terms of how the parties interact. And in the middle of all of this, you have vulnerable children – as well as the victim – but also vulnerable children who invariably may have or may not have witnessed this domestic violence. So, it has a knock-on effect, and I think it's very important for a court to be aware of the background. It's absolutely necessary that a court is advised... So, I would be very much of the view the court should be advised if there is domestic violence issues at play. (Judge 1)

Further concerns related to the conduct of the court in GCA cases where there was a history of DVA were also considered, including the issue of cross-examining of a victim-survivor by the alleged perpetrator.

10.2.2 Cross examination

The issue of cross examination was raised in previous chapters, particularly where victim-survivors experience this process as traumatising when they are at the behest of their abuser who they experience using the cross-examining process as an in-person/lay litigant to extend their power and control. The challenges which can arise in this context were also discussed in the judicial interviews from both a due process perspective, in addition to the need to take a balanced approach in such cases. For example, Judge 1 stated:

I don't really allow very vigorous cross examination. But you have to allow a certain amount, obviously, because everything has to be tested, and both sides are entitled to put, obviously, their case forward; and they also may have – which is very often the case – very different perceptions as to what actually occurred. So, you have to allow a certain amount of challenge.

(Judge 1)

The same Judge asserted however that they do take on a more active role in such cases whereby:

*...if I'm concerned about a vulnerable witness, or if I'm concerned that there is a situation whereby this witness has been subjected to domestic violence, be that physical or psychological, then certainly I would intervene... and what we really need to avoid, and certainly try and strive to avoid – and I don't know if we do it all of the time, but we certainly would intend – is the traumatising, and that really is a huge piece that we have a responsibility to try and I suppose, navigate. ... I do think it's a challenge. **(Judge 1)***

Additional challenges discussed in the interviews involved the cases or situations where judicial concern for child welfare might prompt consideration of a cessation, suspension or supervision of contact/access. This is reflected on next.

10.2.3 Impact of DVA on access

With the child's best interests and the child's right to access/contact as guiding principles, judges spoke of the factors that might influence their decisions to refuse access, suspend access, order supervised access or suggest additional interventions including mediation. There was broad agreement across the participants that refusing or suspending access might happen in more extreme cases of concern relating to DVA. For example, Judge 2 was of the view that:

*If the person was – on the facts, has been shown to have – is volatile, unstable, violent, unable to meet the needs and protect the child's interests while in their care, then that would be grounds to refuse access... where they do come up, it wouldn't be an exception at all; that would be the situation that the court would refuse access because the court wouldn't be satisfied it's not in the interest or welfare of the child, and it would be – it cannot be justified. Like it's the child's right to access, not the father's right. **(Judge 2)***

Similarly, and as reflected in this next quote, Judge 1 talked about cases where an indicator of concern might come from Tusla involvement and where suspension of access is deemed appropriate, pending a report:

We would need to get then the independent assessment of that, or TUSLA's involvement; that can often happen as well. But certainly, we could suspend access temporarily to investigate. If it was presented to us...that the impact on the child was so concerning. (Judge 1)

The challenges inherent in granting access to children where there is a history of DVA or indeed, where there are protective orders in place, were also discussed in interviews, with participants outlining the considerations they would give to safer access/contact perhaps taking place 'in a public place' (Judge 5) or perhaps with someone else present. Considering the facts of each case, Judge 5 asserted that they would be taking into account 'what, if any safety measures had to be put into place', also acknowledging the challenges with ensuring safety in such cases, as this next quote illustrates:

If it's [supervised access service] very limited the availability of a service and what catches most people is that they can't afford to pay for it... Or they may do it in somewhere like, there are a couple of sporting or entertainment venues, you know, bowling alleys that have other things, and they have CCT footage and, you know. (Judge 5)

Across all the judges interviewed, there was an acknowledgement of the limitations of safe and professional supervision of contact for children with separated parents, and indeed the inappropriateness of this supervision being provided by victim-survivors.

Finally, one Judge referred to the possibility of cases of this nature to be dealt with in another more appropriate setting – that of mediation:

But mediation, mediation, if it's properly deployed...to me it is by far the superior solution for people – even when there's domestic violence- You see, there's a very...now I've to be very careful now here, it's somewhat controversial to say, there's a very raw approach adopted to domestic violence. But again, domestic violence, there's a spectrum of domestic violence. (Judge 6)

10.2.4 Communication in the context of DVA and GCA

There was a broad recognition across the participating judges that in cases where contact/access is granted and where there are domestic violence orders in place, that even at the very basic level of making and maintaining practical arrangements, that this requires some level of communication between the parents. An area of agreement between a number of the judges interviewed, concerned the need for 'very clear parameters so that both parties are – aware as to what level of communication is allowed' (Judge 1).

How exactly these parameters are set out in practice is explained by Judge 2:

So, I have kind of a general situation where I say 'You can have no communication except that it's by text or e-mail; that it has to be – to do with the access and welfare of the child; that all communication has to be polite, concise and respectful; and that it has to be between certain times'. So, I'm allowing communication, but on a very – on a conditional basis. (Judge 2)

Acknowledging the complexity of the issue, particularly as the baseline for when a DV order is in place is to 'prohibit all communication' (Judge 1), Judge 1 asserted that is simply not a feasible solution when children are present in the home and access has to be facilitated and/or there is guardianship in place. Emphasising the critical importance of consideration being given to how the access/contact order is structured, particularly as a breach of that order is considered a criminal offence which can be 'far reaching for all parties', Judge 1 emphasises the importance of the clarity and purpose of communication in any given case:

I think, for us dealing with custody and access applications in the context of a domestic violence scenario, we really have to be very clear, and be very clear with all of the parties, in terms of their understanding as to the level of communication and how it is to be done. (Judge 1)

Echoing Judge 1's observation on the baseline of no communication when DVA orders are in place, another participant asserted that 'no communication' could be particularly problematic, as they explain:

I really have a big problem with 'no communication' as a general position. I think it makes sense in certain cases; but most of the time, it doesn't make sense cause it usually ...for certain

people, if you say 'No communication', you're actually inviting them onto you rather than the opposite; it actually makes it more dangerous than actually less dangerous. (Judge 2)

Finally, the role of technology as a facilitator of safe communication was referred to by one Judge in particular, referring to the availability of mobile phone applications that can support and indeed regulate if needed, safe communication:

The Family Wizard, or those type of apps that actually allow the parties to communicate, because they must communicate where there are children involved, because there are going to be scenarios where welfare issues arise ... And that's why the likes of the Family Wizard app are really good and useful tools for the court to have, because messages can't be deleted; they can't be doctored; so you're getting exactly the verbatim, what has been said, and there's no doctoring of that. (Judge 1)

10.3 The Voice of the Child

All judges interviewed spoke about the possibility of hearing the voice of the child in guardianship, custody and access cases. When referring to how the voice of the child is considered in access proceedings, Judge 6 indicated that '*...there's only two ways. One is the section 32 reports...and the other is the seeing the children in Chambers. And there's a there's a huge amount of diverse views about that*' (Judge 6). However, in access cases where there is evidence of domestic violence, Judge 6 highlighted another challenge in the process, stressing that '*...these children shouldn't be promised that people are going to listen to them, and are going to put their abusers out, because maybe the law doesn't facilitate it...*' (Judge 6). Acknowledging that ascertaining and representing the views of the child is a complex process, the participant interviews considered age limits as a key determining factor to children's involvement and how well the S32 reports function in representing the child's voice.

10.3.1 Age Limits as a key determining factor to child involvement

In general, participating judges appeared to be mainly guided by age and maturity as a predetermining factor in deciding whether and in what manner, children would be heard or not in access proceedings. As a general guiding principle, Judge 2 reflected in interview on the child's capacity to participate, asserting:

...you'd need to be assured that the child, firstly, is stable enough, mature enough, and appreciates what their what – that it isn't going to be – what they say or otherwise isn't going to be the main determining factor. (Judge 2)

While many of the judges interviewed indicated that they had pre-determined age limits which they used when deciding whether or not the views of the child would be heard, no consensus appeared to exist across the participants, with these limits ranging from five to twelve years of age. For example, Judge 2 suggested a cut off of five years of age, asserting '*I'd take a view that, any child over the age of five, their views have to be ascertained... unless parties can come to an agreement, once the child or children are over five and under fourteen, a Section 32 1A Report has to be obtained. Full stop*'. Acknowledging that this was rarely linear or simplistic, Judge 2 was also of the view however that:

...the most difficult would be between eight and eleven, really – is whereby they're very articulate, but they're slightly amenable. But – and then in those situations, yeah, the views of the child, you have to measure them, but I would get the assistance of an assessor to take into account the views of the child, but to consider it within the overall position of what's in their interests and welfare. (Judge 2)

With less certainty on the rationale for age limits, Judge 4 recalled a case where:

..the child was like seven or eight years of age, so it just wasn't recommended. I can't remember what the recommended age was that you don't go below in terms of meeting a child, but it's around twelve; something like that; ten/eleven/twelve... I just hear these things floating about and I don't know where they come from a lot of the time. (Judge 4)

Referring to a rationale that Judge Catherine McGuinness gave in a decision (C&C) when she was a Circuit Court judge, prior to the constitutional amendment, Judge 2 was clear that they would not make any access orders for children over the age of 14 years, explaining:

...because I sort of take a view that, once a child gets to fourteen and above, the court shouldn't be making orders anyway in relation to access because it's inappropriate. (Judge 2)

All Judges appeared to be in agreement that it is impossible to get the views of very young children in such cases: '*...cause you can't really ascertain to – like a three-year old would be very hard to really get*

the child's views, and if you did get the child's views, it'd be very hard to know what weight you would give that'. (Judge 2)

However, Judge 1 did appear to consider the views of children when making orders over the age of 14 years, but indicated that they would prefer a third party to be present or a GAL to do it:

Look it, you know, the fifteen-year-old really wants to talk to you, Judge about a particular scenario', then, in that scenario, you could potentially consider talking to it, but you'd have to – I mean there's case law obviously on it in terms of talking to the child. But I would prefer if there was a guardian ad litem, or somebody present with me, and I would always have the registrar; and it would be in a very informal scenario, and it would be – but you would have to assess it, certainly, and then put the proper guidelines and safety parameters; keep it very informal; let it be child-led; no particular questions. You'd have to manage it on that basis. But certainly age and maturity would definitely feature. (Judge 1)

Picking up on some of the caution expressed in Judge 1's response above, some Judges did not feel they were appropriately trained to engage directly with children as they considered that their training focused on children 'in the abstract'. Engaging with children was also considered potentially as problematic as Judge 6 reflects:

I suppose you're trained, trained, nearly, to really consider the children in the abstract only. A lot of judges don't see them and a lot of a lot of judges might start off thinking that's a great idea, but then, then they veer away from that because it is problematic because what they say can't be considered as evidence, according to the Court of Appeal, and has to be shared with the parents. (Judge 6)

Reflecting on the issue of judicial training to engage effectively with children, Judge 5 similarly expressed concern:

...as to how well trained we are for the for- and it depends, I suppose, on the age of the child – I would be much more comfortable if there's a child, that's maybe anything from twelve up, because I think they're beginning to talk with their feet anyway, and they're better able to articulate what their position is, or what their feelings are, or what they want. (Judge 5)

In the absence of any consistent judicial approaches to engaging directly with children to ascertain their views and perspectives, participants stated that they were primarily reliant on S32 reports, as the following sections report.

10.3.2 Section 32 reports and indirect voice

Section 32 reports were presented in interview as the tool of choice for hearing the voices of children for all of the judicial participants, as evidenced below in the following quotes:

My primary mechanism is the Section 32. A lot of the time, the kids are just too young for someone like me to speak to them... I struggle to talk to kids at the best of times, so like, building a rapport with a young child that I've never met before – it's recommended that we don't do that. Now, but I've nothing against it in principle. (Judge 4)

Section 32 Reports are generally quite good to assist the court in that regard, because the assessor – has more time, and they get the feedback from both parties, and obviously then give their assessment. But it's very good from the court's perspective, because our lists are so busy, it's to get the time; whereas if you have those reports in advance, you've all of that read in advance, and that really does assist in terms of the approach of the courts then, you know, in terms of what's right for the particular family circumstance. (Judge 1)

Providing the court with an “independent witness” that you need to make a decision, Judge 4 also reflected positively on the section 32 reports, explaining:

...the Section 32 Reports very helpful. They dig into what the kids have seen and – sometimes, what I've learned is that kids, they might have seen something; it may not have been as significant as what actually, happened in reality; but their reality is of something serious happening, the facts of the case mightn't be quite as dramatic as the child's memory, but in that child's mind, the child believes it to be significant. So the Section 32s tend to get to that and highlight what the child witnessed. (Judge 4)

As articulated earlier and focused specifically on section 32 (1) B report, Judge 2 asserted that these reports should only be required where the child was over a certain age where their wishes would be

considered 'pertinent'. Judge 2 also considered that other conditions would need to be met, as this next quote elucidates:

I have a difficulty with Section 32 1B reports being obtained at all, unless I was fully satisfied – see, it's very difficult to see where the criteria – because it would only really happen where the child was a very stable child and was over a certain age, in their teenage years, that their wishes themselves would be pertinent. (Judge 2)

From Judge 5's perspective, the section 32 report was helpful in that it provides the detail needed to make an informed decision, as they explain:

It's often in the section 32 reports that you can see the issues with say, like parental alienation...because that's often where you get the level of detail that you would get if you had a fully contested case that you had a whole day to hear. (Judge 5)

Similarly, Judge 6 stated that the section 32 reports can be helpful when dealing with challenging parties to proceedings and the focus of the Judges generally goes to the recommendations of the report:

The Section 32s will deal with the fact that maybe somebody is being difficult or obstructive in relation to refusing or allowing access to take place. Or also, just not really wanting them around. You know, there's an awful lot of people who separate from their other halves and they're like, I don't ever want to see them again...recommendations in it – that's where we-our focus goes, right? (Judge 6)

The challenges experienced by the participating judges were also reflected on in interview. This is considered next.

10.3.4 Challenges with S32 reports

Each participating judge recognised a number of issues with the S32 report, with some participants explicitly expressing concerns over the cost of these reports, the availability of the assessors, the length of time they can take and, in some cases, the quality of the reports given to the court.

For example, Judge 6 noted that there are '*endless difficulties with the reports*', with the following excerpt explaining this comment:

The two biggest practical difficulties are the non-availability of people to do them... ...and the cost to them that. those are the two big issues. And when people come into this arena and start doing it, they do it for a while and then they get burnt out, really. And then, according to a lot of those children, their views were not, are not, being recorded accurately all at the time. So that's a problem. (Judge 6)

Focusing specifically on the issue of cost, Judge 1 pointed out that:

... the cost implication, particularly if they're not legally aided, then. Generally the order, as a rule of thumb, is a fifty-fifty split in terms of the cost of that, and people are mightn't qualify for legal aid, but they're very much, you know, struggling to pay for those reports, and obviously we're obliged to get them, they're other challenges that, you know, you have to obviously look at in terms of the support. (Judge 1)

In terms of quality of the reports, Judge 3 referred to the inconsistencies in this respect, highlighting also the qualifications of the assessors and the lack of oversight or regulation of these practitioners:

...the quality of section 32 reports can be very inconsistent. Some are excellent, some are OK, and some are downright useless. And as you know the qualifications for people to be assessors for the purpose of section 32 reports are...quite broad. And, you know, there's no there's no way of knowing whether a particular assessor has, you know, the right type of experience. There's no quality assurance or control over them, really... (Judge 3)

Similarly, Judge 4 noted the variability associated with reports:

They can be varied; not just in quality but price, which is a big factor for people trying to access these services. So – and some are very targeted and helpful; others can meander and deal with irrelevant issues really, which is unhelpful. So yeah, you can get huge variations in what's in them. (Judge 4)

With Judge 6 asserting that '*the reports are such a mixed bag and some of them are good and some of them are not*', Judge 2 highlighted issues of information accuracy and absence, as the next quote highlights:

I did have some criticism of these reports, because often you get a report and it wouldn't take into account the statement of arrangements that were filed, it wouldn't take into account what the parents are wanting, it wouldn't take into account the reasoning that the parents have for what they're wanting, and it would just come up with a 'This is what I think; take it or leave it', and it didn't really give the court much assistance in understanding the respective positions of the parents so that the court could make an informed decision with that or not. (Judge 2)

In respect of capturing the views of children as part of the S32 report process, Judge 3 questioned the authenticity of the process of hearing the views of the child:

Some of them said they, you know, they spoke to an assessor for an hour...and that they're expected to distil their whole life experience, and particularly their experience in the distressed situation, in that hour. So, you wonder to yourself, is an hour sufficient time to work out what the particular circumstances of that child are, what his or her views are? So, length of time spent with the child. (Judge 3)

10.4 Court Accompaniments

There were mixed views amongst the judges interviewed concerning the use of court accompaniments in domestic violence or access proceedings. While some participants felt that they worked well when needed:

Most women I've found have been, you know, capable of coming into court by themselves or with their solicitors or barristers. There are some women who are deeply traumatised by the whole thing and need the support of having somebody to literally hold their hand or sit beside them, you know, outside the court and in the court. So when it's needed, yeah, it seems to work quite well. (Judge 3)

Other judges questioned their use at all:

Sometimes the court accompaniment is wildly unnecessary, and they're just bringing them in to make a point and to stick it to the other fellow... I do think. I can see how they provide a service, especially for people that are nervous. And I will say I do have to remind myself sometimes that this is not a normal life experience for the vast majority of people that come in front of us, and it bears remembering, do you know? ...So the court accompaniment I think is very helpful in those circumstances where people are very nervous, and upset, and worried, and never ever thought they were going to find themselves in these circumstances. But I also think, as I said at the beginning, there are times when people think court accompaniment [is] just to kind of guild the lily a little bit and make, you know, here I am and I'm so afraid I can't manage (to be in the same room as their abuser)... you get court accompaniment in all kinds of situations, but I suppose the problem I might have is that sometimes they'll come in having been necessary for the domestic violence application – which may or may not have been successful – and then they'll come in for the access and I'll say, there's really no place here.

(Judge 6)

In general, the use of court accompaniment appears to be adjudicated on a case-by-case basis as to whether it is necessary, as Judge 3 explains:

It'll be on a case-by-case basis, and you'd have to consider what the circumstances were, what the reasons for somebody wanting somebody else in court. You'd have to take care then to explain the in-camera rule and the consequences of breaking it. **(Judge 3)**

One judge however referred to it being a regular feature in DVA cases, with the use of a court accompaniment by one party to the proceedings potentially prompting the same for the other party, as they explain:

They often bring somebody from a domestic violence support service. It'd be a regular enough feature and there's never any issue over it...Usually there might be somebody brought on a reciprocal basis that the other side would have somebody to support him or her. **(Judge 4)**

10.5 Remote hearings

All participating judges saw a role for remote hearings, with some being more open to its use for litigants than others. One judge was of the view that remote hearings are *'that step removed from everybody being in the same room and in the same...setting so there's a certain degree of artificiality about it. Quite often you would find technical issues arising, you know, bad sound, service dropping - particularly if you weren't doing it from within the courthouse'* (Judge 3). However, another Judge stated:

...the District Court don't really do remote hearings at all, and I cannot for the life of me understand why not. I really can't. If they're having them in the High Court on fully contested applications, I cannot understand why they're not more prevalent in family law matters. (Judge 6)

One Judge was particularly open to having remote hearings but stated that in the context of domestic violence cases *'...it's very rare that they ever ask. They normally come to court. And it's a shame really'* (Judge 4). The same Judge said that if someone comes to them looking to give their evidence via video link, that they would facilitate that.

Most judges saw the value of having a remote option for professionals giving evidence to the court with one Judge stating that *'...when it's in this country, it's usually professional witnesses'* (Judge 2). In some cases where a translator or interpreter is required, the remote option will also be used *'...because sometimes these things can be used as a reason for cases not to proceed, and that isn't fair either'* (Judge 2). However, some judges were of the view that for litigants, an in-person hearing was more appropriate.

10.6 Undertakings

The earlier chapters have highlighted the use of undertakings as a negative experience for many victim-survivors, particularly when victim-survivors expressed that they could not avail of the protective intervention of An Garda Síochána as no DV order was actually in place. This issue of the use of undertakings was discussed in the judicial interviews, with all judges reflecting positively on the value in having undertakings as an option in the context of guardianship, custody and access cases where there was also evidence of domestic violence. One Judge described an undertaking in the following way:

...an undertaking is where they get into the witness box and they say 'I agree to stay away from [person] for the next four years. I won't contact him, I won't e-mail him, and I won't in any way threaten him or come near his house. And if I do, I agree to come back to court and face a possible imprisonment for breaching a court undertaking. (Judge 4)

Undertakings tend to be used in cases where issuing a safety order may be considered to be disproportionate. This would include cases where *'...what's being alleged really isn't that serious, but at the same time, you need to mark their cards and say, 'Look it, you can't continue along this road that you're on; it's not going to end well... But issuing a safety order for three or five years, it's too severe a sanction for the person for what they've done, but yet, they really shouldn't have done what they did.'* (Judge 4). One Judge recognised the benefits of an undertaking for the perpetrator as, *'what it does is it enables a person, to say to themselves or whomever, there's no court orders against me in relation to domestic violence – and that's not an insignificant thing'* while also pointing the reality behind this order: *'... let's be real. They're a bit of an 'oul middle class thing. You know, if you've got your grand job, sure you don't want domestic violence order made against you, you know* (Judge 6). Interestingly, the views expressed above appear to focus on the welfare of the alleged perpetrator rather than on what the undertaking perhaps should be focused on: the welfare and safety of the victim-survivor.

When requiring an undertaking, it was pointed out that *'an undertaking to the court first needs to be specific and time-bound'* (Judge 2). In relation to the frequency with which they are granted in practice, one Judge noted that *'...undertakings are given across the board. Now, not as frequently, I have to say'* (Judge 1); while another judge acknowledged that *'very often solutions would be arrived at through the use of undertakings,'* highlighting that *'...sometimes they are what is necessary to get the case moved on to the next phase and in that sense, they are quite often'* (Judge 3).

Where an undertaking is breached, the matter must be brought back to court for enforcement as *'it's a matter of enforcing it civilly through contempt of court'* (Judge 2). However, the limits of this mechanism in the context of breach were also acknowledged by one Judge *'...Gardaí will say, sorry, no order here, and your remedy is to go back to court and look for, you know, contempt finding'* (Judge 3). Indeed, one Judge *'... was not aware that was the approach of the Gardaí in relation to undertakings'* (Judge 1).

The importance of communicating what making an undertaking means from a practical perspective was emphasised by a couple of the Judges and is articulated here by Judge 1:

You have to explain to them the repercussions at the time of giving the undertaking; that they could be in breach of the undertaking, which could be deemed to be contempt of court, and then you also have to explain all of that. So I think with the undertakings, you have to be very careful with regard to all of the parties knowing the nature of the undertaking... I think it's all about the understanding what they're getting and consenting to. But I think there's solicitors do have a responsibility in that regard as well. (Judge 1)

10.7 Conclusion

This chapter has presented a snapshot of judicial views as contributed by the six judges who participated in this present study. As a snapshot, the views presented in this chapter are not, nor are they intended to be, representative of the wider judiciary practicing in family law cases. Nonetheless, this chapter has offered a valuable insight into the perspectives of six judges who participated in this study, shedding light on how judicial discretion is employed in family law cases.

The findings reveal inconsistencies in how judges approach the inclusion of the child's voice, particularly in relation to age thresholds and practice approaches. Although the principle of prioritising the child's best interests is central to GCA cases, these decisions nonetheless unfold within a system that remains fundamentally adult-centric; where adults have legal standing and voice, and children are often sidelined. The absence of published judgments as discussed in chapter one, impedes transparency. The in camera rule which limits access to comprehensive data and makes it difficult to verify or challenge current practices.

As echoed in previous research (McCaughren et al., 2022), the lack of specialised training for judges and the reliance on Section 32 reports, despite well-documented concerns, raise serious questions about how genuinely the views of children are being considered in these proceedings.

Chapter Eleven

Enablers and supports for victim-survivors during GCA process in the context of DVA

11.1 Introduction

This chapter will explore what victim-survivors perceived was helpful or supportive during their GCA proceedings, within the process and from other sources, both for themselves and their children. Additionally, the perspectives of specialist DVA practitioners and other key professionals will also be integrated to illustrate where the data converges. Furthermore, possible areas for improvement will also be highlighted as these were raised during the research process by professionals and victim-survivors.

11.2 Adult victim-survivors' perspectives on supportive factors

A strength of this study is the large number of victim-survivors who participated in the online survey and the in-person interviews, totalling 440 adult respondents. Respondents to the survey were asked what, if anything, they found helpful or supportive during their journey through the family law system. Starting with the most frequently mentioned in the survey, in roughly descending order, victim-survivors mentioned; solicitors and barristers, Women's Aid and other specialist DVA support services, Judges, friends and family. Also, receiving mentions but less frequently were a wide range of organisations and professionals including Barnardos, Tusla, schools, GPs, therapists and court assessors. These findings were echoed in the interview data, which provided much deeper insights into how and why these elements supported or enabled victim-survivors to navigate or engage with GCA processes.

11.2.1 DVA informed legal practices

A strong theme to emerge across all sources of data was the importance of DVA informed legal practice as an enabling and supportive factor for victim-survivors during GCA proceedings in the context of domestic violence. This was indicated as important for both legal representatives and the judiciary. Here, the few positive experiences of court ordered assessment will also be explored, as these reports are pivotal to informing judicial decision-making. These elements will be discussed in greater detail

drawing on data from the adult victim-survivors' online survey and in-depth interviews and specialist DVA practitioner survey.

11.2.2 Legal representatives – solicitors and barristers

In their survey responses, many specialist DVA practitioners emphasised the importance of legal representatives having a good understanding of DVA. This quote from one practitioner illustrates the views of many:

A huge enabling factor is the involvement of a legal representative who understands domestic abuse and the dynamics of abusive relationships. I would observe this to be among one of the biggest factors which contribute to a survivor's safety and welfare. Engagement from the legal representative is required both in and outside court particularly regarding provision of legal information and advice in cases of breaches of the orders which have an impact on the safety and welfare of adult survivors. (DVPR8)

Similarly, several practitioners suggested the importance of training to address any gaps in legal representatives' understanding of these issues, as this next quote from a practitioner depicts:

Solicitors taking time to understand dynamics of DV and to undergo training specific to DV. (DVPR4)

However, where the importance of DVA informed legal representation shone through was in the testimonies of victim-survivors in the online survey and the in-person interviews. When victim-survivors identified their legal representatives as something positive in their GCA process, it frequently related to their understanding of the dynamics of DVA, which made respondents feel like they had been understood and believed, particularly if solicitors and barristers were able to recognise abusive behaviours from ex-partners which may not have been acknowledged by the other professionals involved. These next two quotes from victim-survivor respondents illustrate:

I found a very good solicitor who took the time to understand my case and who got up to defend on coercive [control] and emotional abuse. My first solicitor had told me with no signs of a bruise or broken bones that no abuse had taken place. (R377, female)

Some of the professionals I dealt with were very aware that false allegations are used against fathers to prevent access. During my dark times, this was uplifting to have others be sympathetic to your difficult situation. (R143, male)

These findings were strongly reflected in the interview data. One example was given by Lily, where she described her search for the solicitor who would support, believe and stand up for her. The positive power of this solicitor in Lily's journey is exemplified in her statement that '*he saved me*'. In addition, Lily's solicitor demonstrated his understanding and appreciation for her circumstances by not asking for money up front and allowing Lily to pay as she could and when she could. In appreciation, Lily said further that he was a '*gift, very honest and fair*'.

The positive experience of a professional who '*fully got it*' was referenced by a number of interviewees about a range of professionals. Talking about her solicitor, Cathy believed that her solicitor '*gets me, he understands me*', while Lucy really felt her solicitor encouraging her to get another barring order, telling her '*You deserve another one*' told her that she both understood her and really cared about her.

According to several DVA practitioners in the survey, '*good*' legal representation involves the client being well prepared in advance of their court appearance so that their solicitor understands their wishes and the client knows what to expect:

If they feel their solicitor gives them time to meet them before court and understands the woman's concerns regarding access/custody/guardianship and their solicitor doesn't dismiss their concerns. (DVPR6)

The interview data provided deep insights into the pivotal role that '*good*' legal representation played. The importance of advice and support from the experts in family law processes was critical as victim-survivors navigated their way through an unfamiliar and complex system, in the context of trauma and ongoing fear. All participants talked about the importance of being clear about what was going to happen, having their expectations managed by professionals who knew their way around the system, understanding processes and procedures, even down to using the right language.

One such example is from Megan's interview; Megan praised her solicitor for being thorough and for setting clear expectations of both process and outcome. Megan talked about the preparation her solicitor put into each court appearance, meeting with Megan in advance of the court date and on the

day of the court sitting and identifying the documentation that Megan had to prepare in advance. Maura similarly recalled her solicitor having a conversation with her, setting out “*This is the process. This is how it's gonna work. This is what we can do'. She gave me options. She took the time'*.”

Similarly, Olivia referenced advice given to her by her solicitor to ‘*Look at the judge, don't look at him [her abuser]. You don't have to look at him [her abuser]. Your answers are for the judge. Don't even look at him', and that's what I did. I never even looked in his direction. He terrified me.*’ Olivia said her solicitor always made sure that Olivia was escorted from the private room they were into the court room and that she secured a room that was nearest the court room so that Olivia had only ‘*five or ten steps before I was behind a locked door and felt safe'*.”

Lucy and Olivia were two of the participants who praised their legal team and appreciated immediate call backs as they understood the potential risks and dangers in these cases and were committed to their clients. Olivia talked in interview of an incident that occurred over a holiday period when her former partner refused to return her child from access. The immediate response of her solicitor to this incident in filing an emergency application to the court and communicating that with the father, brought about a fast resolution. Describing her solicitor as ‘*incredible, available 24/7, she is an amazing solicitor'*’, Olivia reflected on the impact of this for herself:

I have a lot of faith in my legal team, that they will do their very best for me, and that goes a long way, that I can just – at least park it. Olivia

11.2.3 The Judiciary

Many specialist DVA practitioners indicated that when judges have a good understanding of the dynamics of DVA, it dramatically improves the experience and outcomes for victim-survivors. These two quotes from the practitioner in the survey demonstrate this:

When a Judge has understanding of the area it can make a huge difference. (DVPR189)

We are fortunate to have ONE excellent judge, we dread a visiting Judge's understanding of coercive control isn't the same. (DVPR32)

When referencing supportive factors, victim-survivors did not reference the judiciary anywhere near as frequently as solicitors or barristers. However, when victim-survivors identified a judge involved in

their case as a positive, it was primarily because the judge appeared to hear, see, and believe their experiences or were able to see the perpetrator as an abuser rather than an estranged parent. Two comments in from survey respondents are provided below to illustrate this:

Overall, the judge put myself and my children's safety and wellbeing first granting safety order and no access to father. (R132, female)

I felt like I was heard by the judge. (R390, female)

Being listened to and believed by judges was significant for the interview participants who experienced what Prea describes in this next quote, as her judge doing a 'very thorough job':

You know, the judge was very – he was picking it apart and like, really pulling up the threads; not just listening to the emotion or the good stories. He was like – 'I have a small little bit of evidence, but enough to make people stop and ponder, She's not crazy. She's not making this up. The Guards are involved'. So the judge did a very thorough job, I have to say. Prea

Doing a 'very thorough job' involved a number of elements. Lucy asserted that she knew the judge hearing her case was 'clued in and actively listening' because he was taking notes and asking questions and equally listening to her ex-partner as much as her. While in the quote above Prea refers to the judge really interrogating her ex-partners allegations, Cathy reflected that the judge in her case understood how fearful she was of her former partner and also challenged him on the accusations he was making about Cathy, as she explains:

He played on my mental health basically, [and other personal issues] but the judge said to him 'to be honest with you Mr. X, you ought to be ashamed of yourself so you need to get down off your high horse', and I felt great that she actually [got it] and she was the one to tell him that. She knew, I was rattling, like she knew I was petrified standing around him so she was looking at me and she was smiling, and you know stuff like that Cathy

Prea similarly reported that the judge in her case chastising her ex-partner for asking 'inappropriate question' in his rigorous cross examination of her, an experience Lucy described as 'no messing with her'. Olivia was one of a number of participants who felt that their judge really understood coercive control and could see that their former partners behaviour, both in court and with repeated court orders, was using the court process as a means to control and abuse. Similarly in Maura's case, while

she was prepared to give up on maintenance as it was proving to be just another expensive battle to fight, she believed that the judge saw through her former partners lies about having no job and no money, ordering him to pay a weekly amount. As explained in the next quote, Elaine said she was very reassured with the comments of the judge she came before once, which she felt demonstrated a child centred understanding of what kind of access might be appropriate for her very young daughter:

A judge once said in court, that a child was not to be forced, they are to be encouraged, and he was to take note of that basically, to be careful, he was warned, it was a female judge, I think she knew full well that what I was saying was truth. Elaine

For another participant, Lucy, her interaction with the judge in her case told her that not only was he taking her seriously, but that his words and actions told her that *'he cared about my daughter, he cared about my safety, and he cared that we were in something that worked for us, not just for my ex.'* For other interview participants, adequate time being given to their case, where they did not feel rushed, where they experienced care and attention to their concerns were highlighted as important. For Lucy, for example, while her case was not heard by the judge until 6.30pm the day she attended court, she said the fact that the judge gave the time that evening, until 8.30pm, demonstrated to her that he was taking her concerns seriously – *'he knew we needed an order, and we needed it now'*.

11.2.4 Court appointed assessors

A few DVA practitioners noted that when conducted by an assessor who understand the dynamics at play, the assessment process can be helpful and provide crucial information to the court. However, it was noted that this is the exception rather than the rule, as this quote illustrates:

Some reports can be very helpful for women in which the assessor is trained appropriately and has taken time to really listen to the women. Unfortunately, this is rare, and assessors seem to have no understanding of the dynamics of DV and the impact that this has had on the woman and children. (DVPR4)

In the victim-survivor survey, respondents who had a positive assessment experience highlighted this as a supportive factor in their proceedings, as these next two quotes represent:

The section 47 assessor and her report has been the only thing within the court proceedings that seemed fair and in the kids best interest. (R157, female)

They weren't really able to speak as they were so young, but the section 32 was excellent for observing them with their father. (R367, female)

Where positive assessment experiences and outcomes come to the fore are in the individual interviews with victim-survivors. On foot of her solicitor's recommendation of a psychologist to conduct the S32 report as she was *'fantastic and would take it extremely seriously; because she was saying sometimes people who do these aren't regulated the way they should be'*, Lucy described herself as *'lucky'* to get this assessor. Waiting a number of months during covid for this to commence, Lucy described the process involving firstly an interview with Lucy for about an hour and a half and then a subsequent 30 minutes observing her daughter. Lucy was aware that the assessor had also met with her former partner the same day and had also been in contact with her daughter's pre-school and with Tusla. Lucy first saw the completed report two months after that initial set of meetings, reading it in her solicitor's office. She commented that not being allowed to keep the report herself was *'not fair...It was all my personal information, you know, so I don't see why I wasn't allowed to have a copy of it. I still think that's a ridiculous rule to be honest with you'*. Lucy recalled a huge sense of relief reading it, as she explains:

She took absolutely everything into account. Like my solicitor and his solicitor had both said they had never seen such an in-depth, long Section 32, it felt like finally someone was really, really zoning in on this and getting the, you know, the worries and everything that had happened. She recommended that access stays supervised and that there wasn't any overnights, and I think she only recommended like a half-an-hour increase on the time of access. Which was great, you know, it was completely focused on my daughter and nothing else, yeah. Lucy

Feeling that the S32 assessor had really taken on board her concerns for the safety of her daughter in the context of a member of her ex-partners family who had served a custodial sentence for child abuse, Lucy was also reassured when the judge also took both the concerns seriously and agreed with the assessors recommendations.

Similar to Lucy, Alison also spoke positively of both the process and outcome of the S32 report, a play therapist, who Alison said captured *'a really good picture of what was happening in our family'*. Again, the assessor met with Alison and her daughter separately – *'I think he spent maybe about three*

quarters of an hour/ an hour with her, getting her feelings on everything. And he had a good way with her, but he did listen to her'. Alison was also aware that the assessor had met with the daughter and her Dad and had some concerns, as she explains here:

*He said he had concerns about the interactions during that as well. He said (daughter)'s dad was faking crying, pretending he was wiping his eyes, and making (daughter) feel really guilty, saying things, you know, that – how she was making him feel and stuff. **Alison***

These concerns were recorded in the assessor's report, with this report being considered by Alison's fourth judge, at that point in her journey. Unlike the previous three judges, Alison felt that this judge '*finally listened to me*' after this assessor being the first person that she believed really listened to her daughter and prioritised her daughters wishes and feelings.

11.2.5 Capturing the voice of the child

*Yes, I felt that she heard [child], and that was the most important thing to me. **Elaine***

*[assessor] did, yes [capture the VOC], but she did not think that the judge read the report; Like, I just feel it was a waste of time'. **Millie***

For the participants who were happy with the assessment process (important to note that this may have involved several previous unsatisfactory and damaging processes), mothers talked about being heard, feeling that they could influence the direction of the assessment, to include existing and documented concerns and to have the voice of their children heard in that process, either directly or indirectly.

Aisling for example talked about the final assessment she and her daughters were involved in, which was conducted by a professional that the girls were already familiar with. Concurring with a previous Tusla report which had not been considered by a judge hearing the case, this assessor report concluded that '*there was no relationship there to begin with; that they need to take it slowly; that he would do theraplay with the kids. That was the recommendation*'. This Aisling said was back to what she had suggested some years previously but it had not been listened to. On this occasion, Aisling said it was the most interactive discussion herself, and her former partner had been facilitated to have about their children, following many years of distress and unhappiness.

Prea asserted that from the start of the process, she was very clear with her assessor, that this was not a 'tit for tat', 'he said she said', 'he hates her, she hates him', process. Rather she said she was very clear on a number of things. Firstly, that there were serious child safety concerns that needed to be considered; secondly that the assessor needed to talk to the professionals involved including the police, Tusla and Barnardos; and thirdly the assessor did not talk to her or her children – as she explains:

*What happens is you get mom and dad in a room, they say it's the voice of the child; it's not the voice of the child; it's the voice of who has money and funds to pay for these reports; and who comes across better when they're sitting in a room. I wasn't doing that. I was actively trying to protect my children. I can co-parent just fine, if you're a safe individual; but when you're beating kids black and blue– we're talking high levels of serious concern that you're trying to articulate to the family courts: 'This man is not safe'. But then he's spinning it 'Oh, it's Prea. Oh, it's the eldest child is the problem'. He (assessor) went and actually did what I had asked him to do; he went and spoke to the Guards; he watched the Section 32s. So that took a really long time, and I just kept kicking that can. **Prea***

11.2.6 Women's Aid and other DVA specialist services

DVA practitioners recognised the pivotal role that dedicated DVA supports and services play in the safety and welfare of victim-survivors. In the survey responses many practitioners highlighted what they believed to be supportive factors for their clients when navigating family law process, such as the provision of clear, relevant information:

*[DVA] Support worker talking through the process, possible outcomes, explaining the jargon. **DVPR100)***

Providing emotional support and advocacy:

*Being engaged with a specialist domestic abuse service helps with provision of support and advocacy when needed. **(DVPR8)***

Use of court accompaniment services:

Availing of specialised domestic violence court accompaniment and outreach support has proven to be a supportive factor that contributes to safety and welfare. This enable safety

plans to be revised based on the individual ongoing situation, provide much needed emotional support and provide information on the court processes. (DVPR8)

Or safety planning, including in relation to access arrangements:

That she had support from a domestic abuse service which helped her navigate the court system and looked at drawing up an access arrangement that prioritised her safety and wellbeing also provided ongoing support (DVPR98)

Correspondingly, many of the victim-survivor survey respondents (many females and one male) mentioned specialised DVA support and services as something which were experienced positively during their GCA proceedings. Corroborating the DVA practitioners' assertions above, a flavour of the responses shared in the survey are set out below, about how important DVA specific services were to them as sources of both emotional support, and practical and legal information.

I had the most amazing support from Women's Aid without whom I would [not] have emotionally been able to endure the process. (R388, female)

The support of my local Domestic Abuse Court support worker was invaluable. She gave me better advice than my legal representation. (R76, female)

Men's Aid were supportive emotionally. (R303, male)

Again, the findings from these two data sets converged, with the interview data providing depth to support the breadth of the survey data. Interviewees identified that DVA specialist services not only supported victim-survivors to recognise that they were in abusive relationships, but they also helped them to anticipate and navigate the complex court process through court preparation work or court accompaniment.

In the interviews, many participants reflected on the significance of their first meeting with the local DVA service. For some it was the first time they started to 'realise the extent of the abuse in the home' (Megan), and for others, like Maura, this first meeting was a watershed moment:

*I was like so scared. And then I came, I had my first meeting, and then, the lady still said, look, I need to get out; this is not – it's not safe for me anymore and – because, it started getting like very unsafe. **Maura***

*So I went in and I spoke to [DV worker], and without realising, I ticked all the boxes; ticked every box. Oh my God, 100%; absolutely; [I] cried the whole way home. I knew that [he] would get verbally and physically violent – I knew all that, but you're kind of in survival mode, so you don't actually realise, and there's a tiny part of you that thinks, 'Wait now, like I'm meant to be educated; this isn't going to happen to me and my family'. You're in denial, but you're also so brainwashed. It's like a worm in your brain and you just can't find that worm to pull it out like. **Kate***

That first engagement with the DV service also served as a starting point for some participants to realise the impact that the abuser's behaviour was having on their children, as Sophia explains:

*Women's aid, I was on the phone there was an absolutely amazing woman, she just said this is called domestic abuse, and I said no he's good parent, and then she started to explain to me what it's like and then I started seeing stuff. **Sofia***

The ability of the professionals working in DV organisations to understand the context, tactics and dynamics of domestic abuse was a watershed moment for many participants who had their experiences validated – perhaps for the very first time. Elaine described her experience of her local DV service as '*fantastic*', explaining why in this next quote:

*It was the first time that people also had met him properly; and could see exactly what was happening, because they're trained in that field, it wasn't just a case where, you know, "oh, this is unfortunate" and, you know, "people break up". They fully got it. But, yeah, they were just amazing, really, really amazing. **Elaine***

For some interviewees, it was DV services who provided vital information on legal processes and support to navigate the complex legal system; filling gaps where legal professionals were found lacking. One such example is given by Noreen:

*I think that when you go to the courthouse because at the end of the day, the guards are supposed to be there to protect us, like. And maybe this is my this is my own personal view on things, right? The guards let me down big time. And not only the guards, the judges did as well. And if I did not have the services in my life and the support from all the services, I don't know where I'd be. **Noreen***

The value that victim-survivors placed on support provided by DV services is illustrated in the next two quotes from Lily and Maura:

*I first time met [DV practitioner] here. And she is one...she's another person who saved me because [it] was really hard, but I met some people who helped me, who help, who I don't need defend, I don't need proof. **Lily***

*They [DV service] saved my life, for sure. [very long, emotional pause] Yeah, it's been quite a journey. **Maura***

11.3 Importance of family and informal support networks

Many victim-survivor respondents to the online survey indicated that friends and family were instrumental in providing support to them during both their experience of the family law system and their experience of DVA, as shown in this respondent's comment:

"Having a good support network for myself in the form of friends and family."(R31, female)

In the interviews, while a number of the women participating in the interview talked about very limited social and family support, due perhaps to estrangement or where their family lived in another country and were not physically near them to provide support, family support and the support of friends and informal networks emerged as important enablers and supporters of change. For some participants like Kate and Maura, close friends were instrumental in supporting them to both identify that they were living in an abusive relationship, and indeed to take the first steps towards accessing help and leave that relationship. Kate recalls her friend telling her

Kate, I really need to bring you to see somebody'. And I'm like, 'OK. Like who?', and she said, 'Look, just open your mind; just come with me; just –I'm doing this for you, so just trust me on

this'. So, I was like, OK; landed at the door of [X] domestic abuse service and she said, 'I want you to go in and speak to somebody'. Kate

Two participants, Olivia and Prea, talked about the significant support they received from friends who worked in the family law system and were able to give them advice about calling the Gardai, accessing protection through family law processes and preparing documentation for court. With Olivia leaving her partner on a Friday evening, her friend was able to advise of the need to go to the Criminal Court, as she explains here:

So, she knew, through her experience, that I could go to the Central Criminal Court to make my own application for a protection order at the weekend; so that's what we did when went in – filled in the application form for a protection order and a barring order. While she minded my daughter and brought her over to the Phoenix Park and stuff, I went in, in front of the High Court and in front of a judge, for the very first time. Olivia

Family members including parents, siblings and extended family were all cited as providing invaluable support when participants were leaving the relationship and, in the months and years that the adult victim-survivor and her child/ren were navigating the family law system. This wide range of supports included financial help with legal fees, further education, rent, childcare and day to day living expenses as the quotes below illustrate:

I can't say that I've anything good really to say only my solicitor- I had legal aid then, and that was a disaster as well. They just didn't put in the time. My parents then paid for a solicitor to go and do the appeal and it was like black and white. Eva

Yeah, well, so the honest part is I couldn't afford - I don't qualify. Like I couldn't pay for those amounts of money. I asked my mom and my uncle to help me, which is also a weird place to be as a grown-up woman. Jane

I was relying heavily on me dad and me brother, you know, before I knew then I – Thank God now it was only me dad and me brother and they were very relaxed about it. Leah

Elaine chose to return to education in order to gain employment – she had one year of a two-year course completed when they split up and ex-partner refused to support financing the second year.

But again, my parents came to the rescue... like, without them, I would be nowhere'.

Elaine's parents lived close by and were very involved in supporting her, minding her child while she studied, facilitating with access arrangements, and accompanying her to court attendance.

Practical support helping the mother and child/ren to leave the home was also experienced by a number of participants, and for some, it was the first time they had confided in that family member:

I literally rang me ma, and just everything came out, the floodgates opened. And her and me da came straight up. Now, da took the two kids out and went out to the park, and me and me ma just packed up absolutely everything. Michaela they had asked for years "Is everything all right? Is everything all right? you're just making excuses, just to try and keep the status quo.

Michaela

The emotional support provided by close family members was also highlighted. Shiaria reflected on the importance of her parents supporting her when *'My mom took a stand, they came here, and they saw, and they knew'*, while Cathy concluded of the importance of her relationship with her parents (who have since both passed away) *'they [parents] were my best friends'*. This close and crucial family support was also highlighted to include a consistent reinforcement for Olivia that she was *'doing the right thing, taking her away'*, during the times when she questioned her own judgement leaving the family home with her daughter. This reinforcement Olivia reflected retrospectively was critically as she considered her psychological framework in the next quote:

I was so brainwashed and so controlled that it would have taken very little for me to go back.

Olivia

Respite with family was also cited by a number of participants as important, particularly in the early days following what for many participants was a traumatic end to their abusive relationship. This often involved staying with family members some geographical distance away from the family home, with distance providing some sense of safety at a time of heightened fear. Both Leah and Olivia cited close relatives who lived *'down the country'* as both respite and places of safety to go and get away for a few days, time to think, to talk and to plan in the absence of immediate danger:

I left Dublin and I went down to my sisters, because she was my emergency place to go, and she's a great big, tall, strong, husband and sons. I felt [safe]– yes cause she has – that's why I

picked it – because she's a husband and two sons that are over six feet and they would physically be able to keep me safe. Olivia

For a variety of reasons, a small number of participants in the sample had experienced periods of time when they did not have their child living with them, with some of those children placed in the care of the father or with other relatives. For one participant, Sonya, when concerns about her ability to be a safe parent to her children were raised by her former partner with Tusla, her parents became the primary carers for her child and a significant part of her safety plan, ensuring that she was able to have as much contact as she wanted with her child, as long as she was safe to do so. In this next quote, Sonya explains how that works:

Well, Tusla have been long ongoing. But, because of that incident with the section 12, they're saying that I can't stay on my own with her at night in case something happens. Well, it's good that she went to my folks. I'd see them most days. And me da does – he has a key to mine and all that; he does be up an awful lot, if they think I'm in any way affected, it's for them to contact Tusla. Sonya

Finally, while this last participant Alison also heralded the importance and value of family and informal network support, she qualified this by stating:

My family are great, and family and friends are great, but nobody ever understands really deeply what happens. Or even the being on your own and trying to kind of almost fight this battle all the time. Alison

11.4 Accessing Therapeutic and Supportive Interventions

Several DVA practitioners in the online survey mentioned Barnardo's and other supportive interventions as valuable supports for children to help process and manage their experiences of living with DVA; as this practitioner reveals:

[..] to have supports for the child after the proceedings to support the long-term effect of Domestic violence on the child (i.e. Play therapy, counselling, TLC program Barnardos etc.) (DVPR139)

Supports such as play therapy through Barnardos, or a child protection referral to Tusla whereby a social worker can offer support, or support through the school (if school going age), or GP, or other signposts. (DVPR60)

In the focus group interviews, the positive impact of programmes such as Barnardo's TLC kids and Helping Hands were also raised as interventions which can help children to gain some confidence and be provided with a safe space to talk about their feelings. In fact, in this next focus group excerpt one professional suggests that facilitators of programmes such as TLC kids could be better placed to provide a report to the court:

I was involved in the Barnardo's TLC kids, and I think what an absolutely excellent service, because - where children play games and they talk about their feelings, and, I think in a situation like that, it's a great way of finding out how the kids feel because it's not like somebody sitting across the table from them. It's where they talk about their feelings, and I think that's where you find out really what children want and what they feel. And I think they're well able to express what they need and what they want and what they would like. So maybe a kind of a format like that done where a report from there will be brought to the courts and the children are - in this TLC kids, it actually runs for about twelve weeks. So by the end of the time, they get to know children very, very well. And I think that that's a great way of understanding them and what their needs are. (FG5 – Professionals supporting male-victim-survivors)

The survey response from victim-survivors also mentioned Barnardos, TLC Kids, and other supportive interventions as helpful and supportive to their children during this time. Although as this quote illustrates, even though Barnardo's was helpful it still did not help the children to understand why access was happening against their wishes, and ultimately this support was blocked by their perpetrator parent:

They [the children] benefitted from sessions with Barnardos but then their father the abuser was able to stop them attending Barnardos and even when attending Barnardos the children found it difficult to understand why they were still forced to go to their father even though they desperately didn't want to go. (R368, female)

Again, in the interviews many of the participants talked about the positive impact that accessing therapeutic and supportive interventions had on their journey of recovery from living with DVA. These typically included individual counselling and group work for themselves in addition to therapy for their children. Individual therapy and counselling over a period of nine months had a significant impact on Maura as she explains in this next quote:

I can breathe. I eventually said to my therapist like, 'Now I finally feel like I'm having my own thoughts'. Maura

Lucy similarly reported on a very positive experience of counselling over the last two and a half years:

I found counselling is my safe space, you know, and it's where somewhere where I've become extremely vulnerable, where I wouldn't be in any other aspect of my life. Lucy

Describing counselling support as having '*massively helped me*', Alison said her counsellors understanding of domestic violence meant she had good insight into how it was impacting Alison and that this process '*gave me kind of a bit more self-belief as well*'.

Lily explains in this next quote why she asserts that the family therapist who engaged with her daughter had '*saved her*':

She is very shy, but she told him everything. She answered for all question what he wants because he showed her, you know, pictures, emojis and she said all emotion by pictures. And he got answer for all. And he make report and he was - like my solicitor was first person who saved me and this family therapist was second because he saw what is the story. Lily

Another participant also talked about accessing therapeutic support for her seven-year-old daughter who was talking to school friends about her concerns that she would be arrested – following her Dad telling her that would happen. Olivia describes this play therapy as follows:

So this play therapy is her person. That it's her private place, and it's only maybe three or four sessions now so far, but it's good for her to have a space that she can talk safely, that's not me and not her dad, because she needs that outlet. Olivia

A number of participants talked about the benefits of group work for them and their children. These groups were primarily run by DVA services so were very much focused on impact and recovery. Participants talked about both the educational aspects of attending the group in addition to spin off benefits of making connections and networks with people who had had very similar experiences:

*I've met women through Barnardo's and TLC, and we've created our own advocacy group, that we meet on Mondays. And, you know, because, I guess, when you do groups or you do things, you know, it might be six weeks, it might be twelve weeks and then you phase out; and we realised that this is an ongoing process, and it never stops; and some women may be out of it for a long time, somebody might be entering it for the first time. So we meet on a Monday morning, and like, Barnardo's funds it, but it's women led. And we have like a safe phone, a safe computer; and it's like a drop-in morning; we do coffee. Like, we're working with Fighting Words right now, like, putting together a play of, kind of like, what – you know, finding our joy, finding our peace, even if it's just a morning sitting and bitching for – you know, about the system. **Prea***

Alison also said that she benefitted from a single parent support group on Facebook where she said that people swap advice and talk about their situations. She found hearing different experiences and points of view useful and that whenever she heard other people's 'horrific' experiences she would reflect 'Jesus, maybe I got off lightly'.

Olivia was court ordered to complete a 'separating well' programme. She said that while the ten participants on the programme had all experienced domestic violence, the focus of the course did not really cater for victims of DVA, highlighting the critical need for DVA literate services.

For participants like Prea and Petra who have no family networks in this country, the support from the DV organisation was all they had:

*For me. it is. I know that is someone there; if anything happens, it's someone there. Because if I don't have them, I have nobody. **Petra***

Prea's description below of her relationship with her DV worker reflects a deep caring and emotional bond:

*You know, we always say it takes a village to raise kids; sometimes you have to make your village. And my DV worker; she's my Irish mom. And I say it. She's my Irish mom, and she's not – you know, that's her job, but like, she passes on her grandson's clothes to my son, she comes to court with me every time, and you know, like, goes above and beyond her job description, because I think she loves us; you know, she loves my kids. **Prea***

Another participant, Shiaria, who was also on her own in this country with no family networks present to support her, found that engaging actively in cultural events helped her to build her own community of support, as she explains:

*I've built a [Place name] [country name] community. I'm in charge of it. It's like – gives a joy, you know, you just go and talk to people. And now I know – whole [of place name] knows me. All the County Council knows me, who is Shiaria and what she's doing. I took the initiative. And many people know my background now. They're proud of me, you know, they say 'My daughter has to be like you'. **Shiaria***

11.5 The 'Wish List'

Specialist DVA practitioners who were surveyed and professionals in the focus group interviews were asked to make suggestions for improvements which they believed would increase support for adult and child victim-survivors, and better enable them to engage with and navigate GCA proceedings in the context of DVA. This chapter will conclude by exploring some of these suggestions.

11.5.1 Safe contact and access

The need for safe contact and access was one of the most prominent themes to emerge from comments made by DVA practitioners in the survey. Contact centres where children could be dropped off safely and the victim-survivor does not have to have any contact with the abuser were seen a key enabler to achieving this; as represented in this focus group participant's comment:

I think definitely there needs to be more contact centres where children can be dropped off safe safely, when there is domestic violence. (FG1 – Family support professionals)

As well as contact centres, practitioners also suggested supervision of access by professionals or independent parties, which would allow access to occur in a safe setting where the victim-survivor does not have to face their abuser alone and the child is not left alone with the abusive parent when there are concerns for the child's safety. As this next quote illustrates, one practitioner emphasised that this should be a free (i.e. State supported) service; :

There needs to be a free service with trained support staff to facilitate supervised access.
(DVPR7)

11.5.2 Listening to children

Professionals in the DVA practitioners survey and focus group interviews, recognised the need for more mechanisms to ascertain children's voices in GCA matters. This was suggested via children's advocates, as follows:

Hearing the voice of the child and that of advocates for the child. Their opinions matter, they often have built up strong, trusting relationships with the child and shared their experiences with that advocate. **(DVPR2)**

This goal of hearing children's voices is supported by taking their wishes seriously in relation to access agreements. A role for child advocates was also mentioned to support their voices:

The inclusion of child advocates, guardian ad litem, or attorneys representing the interests of the child can ensure that the child's voice is considered in court. This can contribute to more child-centred decision-making. **(DVPR102)**

11.5.3 Court environment

DVA practitioners indicated that the court environment could be improved to better support the welfare of their clients. This included taking measures to make the court environment feel safer where the survivor must face their abuser and addressing court delays. Some suggestions by DVA practitioners included 'safe spaces' away from perpetrators, remote hearings, specialised family courts which take a more holistic approach, such as dealing with linked hearing which relate to individual families. The following quotes illustrates these points:

Having a safe space in the courts where they are not in close proximity or near the perpetrator of the violence (DVPR8)

Specialized Domestic Violence Courts: Some jurisdictions have established specialized family courts or designated judges with expertise in handling cases involving domestic violence. These specialized courts may provide a more informed and sensitive approach to addressing the needs of survivors and their children. (DVPR102)

11.5.4 Holding perpetrators accountable

A strong theme that DVA practitioners believed would support survivors' welfare encompassed holding perpetrators accountable for their abuse in order to protect survivors and children. This involved taking abuse seriously and considering it when family courts make decisions, issuing orders against perpetrators, and responding appropriately when abuse perpetrators violate orders.

That an order of the court is in place and any breach is acted on and followed up. To have a copy of the order leaving court. There should be a review of all these orders regarding children to make sure it is still in the best interest of the child. (DVPR98)

If there are protective orders in place, there may be challenges in enforcing them effectively. Abusers may violate these orders without facing immediate consequences, putting the survivor at continued risk. (DVPR102)

11.5.5 Reform of Section 32 and 47 assessments and reports

Another prominent theme in relation to improvements related to the regulation of assessments and reports prepared for the court. Specialist DVA practitioners emphasised the importance of assessors holding suitable qualifications, in addition to undertaking specialised DVA training. Also highlighted was the need for regulation and oversight mechanisms to ensure greater transparency, and faster turnaround times for the preparation of reports for the courts. This next practitioners' quote touches on several of these points:

There isn't enough time spent on the assessment. Assessors do not seem to be aware that the child may be afraid of the perpetrator and does not feel safe to tell the truth.

Section 32 reports should have automatic reviews. (DVPR11)

11.6 Conclusion

Considering the often secret and invisible nature of DVA, combined with the evidence that abusers will convince victim-survivors that nobody will believe them; the foregoing highlights the critical importance of being acknowledged and validated as a victim-survivor of DVA. However, for victim-survivors to be seen, heard, and believed necessitates that professionals understand the tactics and dynamics of DVA, can identify coercively controlling behaviours, are able to validate concerns that the adult victim-survivor has for themselves and their children, and importantly, challenge the perpetrator and interrogate their narrative.

Without exception, all adult victim-survivors identified professionals whose response to their individual situation was experienced by them as supportive, enabling them to leave the abusive relationship. The professionals that emerged as significantly positive in interviewees' journeys included specialist domestic violence workers, solicitors, barristers, judges, social workers, counsellors, An Garda Síochána, teachers, family mediators. Importantly, professionals having a good understanding of DVA including coercive control was critical to how their role and intervention was experienced positively. It is important to note, however, that specialist domestic violence workers were the only professionals that all participants highlighted as one of the most significant interventions for them in achieving meaningful change in ending their abusive relationship, supporting them to understand that their relationship was abusive and supporting their journey of recovery from domestic abuse. Critically, these findings demonstrate that when victim-survivors are acknowledged and validated by professionals and within processes, it transforms their experiences of family law processes. The subsequent chapter will draw this report to a close and highlight some key recommendations which could improve the family law system for guardianship, custody and access for both adult and child victim-survivors.

Chapter Twelve

Discussion, Conclusion & Recommendations

There has to be a better way of doing things (Alison)

12.1 Introduction

This final chapter commences with a discussion of the finding of this research, locating that discussion against the backdrop of the Family Justice Strategy which commenced in 2022 with an ambitious programme of reform. Acknowledging the challenges inherent in its operations and processes, the Family Justice Strategy identifies nine goals and over 50 actions that need to be achieved if ‘the vision for a family justice system of the future’¹⁰¹ is to be realised. Significantly, many of the challenges driving the Family Justice Strategy are repeated/reinforced in the findings of this present research. These challenges have also been clearly articulated in the *Review of the Role of Expert Reports in the Family Law Process (Department of Justice, 2024)* and more recently in the *Operation of the In Camera Rule in Family Law in Ireland (Parkes et al, 2025)* report. However, the focus in this present study on domestic violence and abuse (DVA) and in particular the inclusion of adult and child victim-survivor testimonies of their journey through the family law system in guardianship, custody and access (GCA) proceedings, brings new and important insights to further inform the family law reform.

A clear strength of this research design, as has been reflected across the eight findings chapters in this report, is the overwhelming convergence on the key findings. While the previous chapter has highlighted many of the enablers and supports to adult and child victim-survivors’ safety and welfare, six of the remaining seven findings chapters in this research report unequivocally converge to paint a predominantly negative, traumatic and distressing experience of DVA in the lives of those victim-survivors, and as they navigate their way through the family law process in cases involving GCA. That negative picture is highly critical of the processes, procedures and practices within the family law system. Family law systems are not however simple or linear. They are complex and adaptive - made up of laws and statutes, courts, judges, professionals, services, and the lived experiences of families. These elements do not operate in isolation; they interact in ways that are often dynamic and

¹⁰¹ Department of Justice (2024, p.6) <https://assets.gov.ie/static/documents/progress-report-on-the-family-justice-strategy-2022-2025.pdf>

unpredictable¹⁰². Outcomes for service users emerge from this whole system working together, not from any single decision, rule, or actor. To truly understand and improve the family law system, we must look beyond individual components and focus on how all the parts connect and influence one another. In short, the system is more than the sum of its parts.

Redressing the predominant experience of victim-survivors being silenced during both their pre-separation lives and as they navigate the family law system, this chapter now prioritises the voice and experiences of adult and child victim-survivors. In response to interview participant Alison's opening assertion to this final chapter that '*there has to be a better way of doing this*', this report closes by considering key findings in the context of the literature reviewed in chapter two and against domestic and international obligations. These are as follows:

1. Charting victim-survivors experience of navigating the family law system as secondary victimisation.
2. Interrogating the application of 'best interests' and exploring children's capacity.

These findings are discussed briefly before this chapter concludes the report with some targeted recommendations for consideration.

12.2 Discussion of Findings

12.2.1 Charting victim-survivors experience of navigating the family law system as secondary victimisation

The abuse never stopped after separation, it just changed. (R234, female)

The international evidence describes DVA as a highly gendered issue, disproportionately impacting women and perpetrated primarily by men (Cunningham & Anderson, 2023; Graham et al., 2024). This dominant gendered perspective on DVA is also reflected in this present research.

Notwithstanding the foregoing, concerted efforts were made to include the voices of male victim-survivors, either through direct engagement or via professionals who provide support, advocacy, and information to male victim-survivors. However, challenges with recruitment prevailed. Therefore, there are some important considerations in relation to the findings which concern male victim-

¹⁰² Byrne, David (2002), *Complexity theory and the social sciences: An Introduction*. Routledge.

survivors. For example, there were substantially fewer male victim-survivors who took part in the study (n=44) compared to female victim-survivors (n=393). Male victim-survivors account for approximately 10% of study participants, which reflects estimated prevalence rates internationally. Consequently, it is important to emphasise that the statistics reported for male victim-survivors relate to much smaller groups than the statistics which relate to female victim-survivors. Furthermore, the volume of qualitative data on female victim-survivors which was collected through the surveys and individual interviews, facilitated a rich and detailed thematic analysis, from which robust conclusions could be determined. A comparable analysis for male victim-survivors was simply not possible.

Additionally, while there were a great many similarities between the experiences of men and women as victim-survivors of DVA, there were also some clear distinctions which differentiated male victim-survivors' experiences from their female counterparts. Where the data revealed similar themes and patterns, such as victim-survivors' perspectives on the 'tools' of the legal system, or on the voices and experiences of their children being heard and considered in the decision-making process in the family law courts, data were analysed together to present the views and experiences of victim-survivor parents. This study has identified a clear need for future research which further explores the perspectives of male victim-survivors which builds on the evidence this study provides.

Making the brave and often very difficult step to close the door on their abusive relationships, all adult victim-survivors in this research reported that far from separation being a 'vaccine against domestic violence' (Jaffe et al., 2003, p. 29), separation simply opened other avenues of new challenges, new risks and new opportunities for abuse. The opening quote from a survey respondent that '*abuse never stopped...it just changed,*' echoes existing evidence that abusive men are simply 'changing the project from attempting to keep her within the relationship to destroying her for leaving it' (Dobash & Dobash, 2015, p. 39). To that end, analysis of the findings from the multiple sources of data collected for this research, suggest that separation started victim-survivors on their journey through the family law system, a journey that they experienced as secondary victimisation. In this present research, the concept of secondary victimisation specifically refers to how victim-survivors of DVA experience engagement with family law systems. This first section of the discussion charts that journey in the context of the literature already reviewed, highlighting both key aspects of the 'system' that contributed to that experience of secondary victimisation, and also key tactics of power and control the abusers were facilitated with by the system to continue to perpetrate harm.

Reflecting on their journey through the family law system, adult victim-survivors participating in this research, highlighted the many challenges they encountered in the court environment, one that often

required them to be in shared physical spaces with their abuser. With these spaces already found to ignore victim-safety and provide opportunities for abusers to instil fear, threaten and stalk their former partners (Rathus et al., 2019), many participants experienced these open spaces as triggering and distressing.

Many aspects of Gutowski and Goodman's (2020) framework of analysis which focuses on the obstacles that DVA victim-survivors may encounter when trying to communicate their stories of abuse, are also echoed through the findings of this study. Strict eligibility for and limited availability of legal aid, combined with what participants described as poor legal advice and poor legal practice, resulted in a combination of compromised outcomes, with some resorting to private law and subsequently agreeing to quick agreements to minimise costs. Furthermore, a key obstacle to having their DVA story heard in court, concerned being advised, and indeed cautioned, by their legal team not to disclose the experience of DVA. Many research participants experienced court assessors shutting down, minimising and dismissing accounts of past violence and abuse. This silencing also resonated with the tactics of silence, shame and secrecy employed by their abusers (Romero & Staudenraus, 2024). Additionally, limited understanding of DVA in the responses from assessors left participants '*completely discredited*' when assessors questioned '*but you said he never hit you*' (Elaine). Another participant Prea posed the question in interview '*what does a victim even look like?*' as she recalled the assessor concluding '*You don't present like a victim. You're intelligent and resilient*'.

As reported in the literature reviewed (Douglas, 2020), giving evidence in court was further experienced as retraumatising, particularly where legal professionals that participants were seeking support and protection from, did not recognise abuse dynamics or indeed overtly or covertly trivialised the victim-survivors' distress responses to their surroundings. This absence of a DVA lens to professional practice was also experienced with members of the judiciary. Numerous participants reported being shouted at by judges who were seemingly impatient with the women's distress. Experiencing cross-examining by their abuser was reported to further compound the distress of 'retelling the trauma', with one participant, Lucy concluding that '*it's personal and they're out to hurt you as much as they can*'. Lucy further reported complete disregard for her experiences from a judge who she said, '*could not have cared less - at times it looked like I was boring him*'.

A combination of a serious lack of understanding of DVA and a profound lack of interest in and respect for victim-survivors as human beings, combined with fear and anxiety concerning court outcomes and retaliation from their abuser, made it very challenging for victim-survivors to articulate their experiences. In their journey through the family law system, all participants in the present research reported encountering the presumption of contact as meeting the child's best interests, leaving many

to conclude that the assessments were biased and pro-fathers before anyone was spoken to or engaged with. The assessment process was simply to concur with an outcome that had already been decided – the starting point and end point were one and the same – father involvement was critical for ‘best interests’ to be achieved. The advice one participant Maura received for example, echoed that of many others. Told by her solicitor that her ex was going to end up getting access anyway, Maura needed to make sure that it did not look like she was trying to keep the children from him, and this included dropping her protection order application.

Reflecting on the presumption that contact is in the best interests of the child, across the literature reviewed and littered through the accounts of participants in this study, we see a positive positioning of fathers who seek post-separation contact, even when histories of abuse and violence prevail and without any interrogation of their capacity to contribute to children’s well-being. This positive positioning of father involvement also serves to position mothers with responsibility to facilitate and support such paternal involvement (Francia et. al., 2019). Elizabeth’s description of the ‘delicate dance in which mothers run the risk of being regarded as alienating if they speak up about violent and/or coercively controlling behaviours’, also resonated in this present research.

Participants in this study stated that they were made very aware of that ‘delicate dance’, with warnings from their legal advisors that if the word ‘alienating’ landed on their file, they would find themselves on the wrong side of an almost invisible line, which once crossed, can be hard to retreat from (Elizabeth, 2020, p. 121). This ‘delicate dance’ in close proximity to a dangerously thin and almost invisible fine line emerged in this research across the questions of ‘good enough’ standards of parenting, with participants united that the standard for fathers was simply wanting contact and the standards for mothers hard to gauge as they experienced the goal posts shifting all of the time. Participating mothers who resisted contact and therefore were seen as obstructing ‘best interests’ moved very quickly from a status as victim to a status of blame. These shifting positions of blame and responsibility not only obliterate the history of abusive fathering behaviour and therefore his risk presence, but also serves to silence abused mothers for fear that any concerns about protection, however grounded in valid experiences, are misinterpreted as indicators of alienation. One participant, Alison, asserted that this experience of being discounted ‘*was like you were just banging on a closed door all the time*’.

In this ‘delicate dance’ and repositioning however the discredited term ‘parental alienation’ becomes ‘a mechanism of its own social reproduction [where] any behaviour, event or situation could be described as an indicator of alienation’ (Dalgarno et al., 2024, p. 286). With the implications for the safety of both mothers and their children established as significant and concerning however (Laing,

2017), also emerging from both the literature reviewed and as evident in this present research, are the participant responses to these complex challenges. The process of 'adapting to the system' for participants in this present study involved agreeing to various things to satisfy professionals, managing their emotional presentation least they be construed as 'unstable', changing their behaviour to avoid giving any ammunition to the abuser to use in court and conforming to the rules of what many considered was a game.

Also emerging from this present research, we see what a 'perfect storm' of opportunities for perpetrators to engage in ongoing and often legally justified methods of coercive control (Douglas, 2017, p. 85). Drawing on Miller and Smolter's (2011, p. 647) research on 'paper abuse', defined as 'frivolous' legal motions that are an 'extension of traditional [intimate partner abuse] tactics', participants in this present research also provided examples of abusive partners using the processes of the court to maintain power and control over them. Involving little or no violence, legal or litigation abuse was reported to further exert abuser control over the lives of participants and their children. Examples given included perpetrators engaging in endless adjournments of cases, which were usually granted but meant that final orders could not be made. Endless adjournments arising from refusing to disclose financial information, serving documents late or not at all, making multiple applications that women had to prepare for and respond to and refusing to resolve simple amendments to contact orders outside of court, operated as a form of economic (financial) abuse (Natalier (2018), contributing to women's significant debts and reduced options for employment. It was also experienced in this present research as 'relentless'. Also experienced as frustrating and relentless was the experience of counter and false allegations made by former partners to further intimidate victim-survivors, placing the victim under increased scrutiny while also diverting attention away from their own behaviour. As Elis et al. (2021) assert, exploiting the system in this way can perpetuate a cycle of continued control and abuse long after the relationship ends.

The emotional burden of managing contact was experienced by participants in this study, and as is already reflected in the literature, as an overwhelming sense of powerlessness (Elizabeth, 2019), heightened and reinforced by the concerns and anxieties they held over the risks they perceived the children's fathers posed to the children's safety.' Similar to the participants in Archer-Kuhn's (2018) study, participants in this present study felt compelled to try and manage the risk presented by their former partners. This inevitably involved bearing the emotional burden of managing contact and was experienced as a contraindication to their mothering instincts. The overwhelming sadness participants experienced in managing contact they knew was not good for their children, had to be put aside. Instead, participants described how they parked their concerns about contact, and 'performed' as instructed by the court. (Elizabeth, 2019, p. 45)'. This 'performance' in the shadow of the ever-present

threat of being labelled an alienating mother (Elizabeth, 2020, p. 124). The impact on both the mother's health and well-being and on the mother-child relationship have already been extensively discussed in the literature in chapter two. A powerful statement emerging from that research and from this present study, however, is the overwhelming feeling of 'failing' as mothers, as the following quote illustrates:

I felt guilty about what my child had to go through as a result of my abuser's behaviour in the post separation period. Seeing the impact of all of this on my child is heartbreaking. (R198, female)

The literature reviewed in chapter two introduced Gutowski and Goodman's (2020; 2023) concept of institutional or judicial betrayal to describe how victim-survivors of DVA experience the family court system's failure to respond to their need for protection. Alternatively, causing fear, humiliation, powerlessness, and a sense of worthlessness, we conclude this section by cautioning that judicial betrayal appears significantly grounded in the concept of parental alienation, a concept the Special Rapporteur on violence against women and girls, termed a 'pseudo-concept in custody cases' (Asalem, 2023). Despite the established gendered nature of DVA as noted at the beginning of this chapter, Asalem's (2023, p.5) cautions that use of the term 'parental alienation' becomes a self-fulfilling prophecy with a biased gendered lens, resulting in credible allegations of DVA being discredited, significantly and disproportionately impacting women.

12.2.2 Interrogating the application of 'best interests' and exploring children's capacity

Chapter two has presented a compelling body of evidence on how children experience living with pre-separation DVA, indicating that they are 'significantly affected by this exposure' (Skafida et al., 2022, p. 1). The sense of powerlessness and fear that Noble-Carr et al. (2020) identified in their review of qualitative research on children living with DVA, was also echoed in the testimonies of the children and young people participating in this present research. Describing their experience of living with the coercive control of their family as '*pulling strings on a puppet*' (Ailbhe, 16yrs), young participants also likened toxic home environments to '*walking on eggshells*' (Rae, 16yrs). Adding to a robust body of research that has identified child contact arrangements providing court authorised opportunities for pre-separation abuse to continue (Khaw et al., 2018), the young participants in this study used a variety of words to describe their contact time including: '*stressful*' (Maggie, 11yrs); '*too much*' (Greg, 9yrs); '*scared and sad*' (Roisin, 10yrs). As discussed in chapter eight, they also provided chilling accounts of manipulation and physical assault associated with contact time. The majority of participants in this present research were no longer engaging in contact with their non-resident parent at the point of

interview and they reported the absence of this parent in their lives as leaving them feeling safer and more secure. While Ruth (14) was happy that she was no longer ‘counting down the days to my 18th birthday’, Evan (9) expressed suicidal ideation wanting *‘all of this to be over; because the best part of – half – my childhood has been gone because of this. So, I kinda just want all of this to stop completely.’*

With the international practice in family law cases grounded in the presumption that ongoing contact post-separation is in children’s ‘best interests’, an obvious question arising from the above accounts, and as reflected in the focused review in chapter two, is how ‘best interests’ are defined? Further questions stemming from this question concern the lens through which ‘best interests’ are understood, and the methods used to ascertain ‘best interests’, including capturing the voice of the child through participatory processes. Attempting to interrogate why the ‘presumption of contact’ continues to trump the empirical evidence on the risks to children post-separation (Hunter et al., 2018), Macdonald (2016, p. 847) suggests that strict adherence to ‘deeply embedded ideologies’ regarding the role of fathers in children’s lives, only serves further to marginalise children’s welfare. These deeply embedded ideologies also resonated in this present research, with adult victim-survivor respondents reporting the clear message they received from legal professionals including solicitors, barristers and judges, that bar serious offences like paedophilia, a father who wanted to see his children post-separation would be afforded that right. In the absence of any attention to parenting capacity however, or indeed interrogation of the motivation for ongoing contact, the findings of this present research concur with Thiara and Humphreys (2017) who concluded that the drive towards father involvement has resulted in the ongoing presence or ‘absent presence’ of abusive men in children and mothers’ lives.

Key to this continued presence of abusive men in children’s lives is the absence – or in some cases the dismissing or disappearance - of children’s narratives of DVA in professional assessments. The young participants in this present research also reported encountering multiple professionals charged with ascertaining their views and wishes. However, the overwhelming account of the engagement was of not being heard and of feeling very let down by the adults they trusted to make things better. With meaningful participation of children – being heard – not only central to a rights-based perspective but also to a care or welfare perspective, children’s accounts of their experiences of that information exchange and indeed what happens to the information, is also crucially important.

Similar to the conclusions of Eriksson and Näsman’s (2008) study, the findings of this present research also suggest that many of the children were ill-informed and ill-prepared to engage with the assessment process. While many participating children asserted that they did not fully understand what was going on and for some the experience was overwhelming, all children who met with court

assessors, social workers and judges nonetheless could describe in detail their engagement with the process. With adult victim-survivors reporting the length of time spent by the assessor with their children varying from 15-60 minutes, participating children also talked about one-off meetings with assessors, sometimes involving traveling long distances for those meetings. Many of the young participants recounted experiences of their words being changed and receiving a message – explicitly or implicitly – that as children, their opinion was not worthwhile. Pippa’s (18yrs) recollection as reported in chapter eight, is worthy of another mention here:

We would say something and he'd be like "So this is what happened." and we'd be like, "No, that's not what happened." But it was kind of like, you're kids, you don't know, you know what I mean? So he'd be like, "No, this is actually what happened. (Pippa, 18yrs)

Other young participants like Jude (10yrs) similarly recalled the assessor arguing with their version of things: *'I told him stuff, and he was like – he switched it all around, and he said that my Mam did it; but then I was like, 'No, my Dad did it', and I was wondering, why did he switch it around?'*

A wealth of research conducted with children about their experience of living with domestic violence and abuse (Holt, 2018; Lamb et al., 2018; Lapierre et al., 2025), and of participating in family law processes (Eriksson and Näsman, 2008; Fotheringham et al., 2013), consistently confirms their ability to clearly articulate their experiences and their views, giving examples to support those views. What becomes unmistakably clear from both the literature and this research is the significant lack of attention given to children's views and experiences in family law proceedings, particularly when decisions are being made about future contact with an abusive parent. . Of particular concern, however, are this study’s findings that when children make their views known on what the court considers ‘adult’ concerns such as DVA, those children may then be positioned at best as overly involved, or at worst as alienated from their abusive parent by their victim-survivor parent. In fact, older siblings in this present research recalled in interview a period of time where they were separated from their younger siblings for contact time on the recommendation of an assessor who considered that the older siblings were ‘alienating’ the younger ones. When children reported experiencing what Orr et al. (2024, p. 176) described as the professional who can engage in ‘extraordinary listening’ to what children say matters to them, while also creating a safe space where ‘mutual authenticity can exist’, the experience was transformative, as Anna (18yrs) recalled:

I just felt safe. Like, I just felt she could actually listen. It's not just like ticking boxes.

Considering that facilitating children’s participation in family law processes is about more than having ‘a bigger voice more of the time’ (Carson et al., 2018, p. 68), the analysis of the participants’ narratives

in this present study concur with Dimopoulos et al.'s (2025) assertion that children's right to participation can only be operationalised if they feel listened to, heard and understood. Safe and trusting spaces for children's meaningful participation are very hard, if not impossible, to create in one-off meetings with assessors and court reporters, where the best we can hope for is an 'event based' snapshot of children's views at one point in time. We concur with Tisdall's (2016) cautions that such reports run the risk of being one layer of interpretation of children's views - a layer that then risks being re-layered when the court completes their interpretation of the assessor's interpretation.

While this present research goes some way to address significant gap in our knowledge on how children and young people experience their voice being ascertained and represented in family law processes where there has been a prior history of DVA, the lack of oversight, regulation or independent evaluation of the current provision of court assessment reports, represents a significant shortfall in quality assurance of these essential services. As set out clearly in chapter one of this report, in cases where custody and access decisions are being made, it is both a constitutional and legal imperative, not only that the 'best interests' of the child are considered paramount and independently of the rights of parents as part of the decision-making process, but furthermore, that part of that determination must require that the child has an input into that decision-making process. Since the partial incorporation of Article 12(2)CRC into the Irish Constitution in 2015, there is now a clear responsibility on judges to ensure that the views of children and their interests are accurately represented in custody and access proceedings. In attempting to fulfil this responsibility, judges have tended to defer to S32 reports as a mechanism to support them in hearing the views of the child as well as other vital matters concerning the 'best interests' of the child. The questionable quality of some of these reports, the lack of regulation, the lengthy delays and the challenges with accessibility to getting these reports done, in addition to the overall lack of consistency in this regard, have been well established and publicised more generally. Drawing on multiple methods and from multiple stakeholders in the family law process, the findings of this report emphatically endorse and reinforce those established criticisms. Given the strength of the findings of this report, the over-reliance on these reports by the Judiciary in general as a means of fulfilling section 42A obligations is, at best, concerning. More specifically, where the authenticity of what has been produced for the court is subsequently brought into question for some or all of the reasons outlined above and throughout this report, we conclude that this could call the integrity of constitutionally mandated obligations into question.

12.3 Recommendations

GREVIO¹⁰³ (2023) have strongly encouraged the Irish Government to ensure that ‘...all incidents of violence covered by the scope of the Istanbul Convention are taken into account and that in the exercise of any visitation or custody rights, the rights and safety of the victim and her children are safeguarded’.

This research concludes that the absence of a robust and consistent DVA lens to professional practice in family law proceedings, across **all** stakeholders who engage with families during his process, resulted in victim-survivors experiencing this journey as secondary victimisation. In the absence of a DVA lens to professional practice, ongoing contact with non-resident parents – primarily fathers – was presumed to be in the child’s best interest. This conclusion was reached without adequate consideration of the potential risks associated with DVA.

The absence of a DVA lens to professional practice resulted in decisions that increased risk, compromised safety and undermined rights.

Where custody and access decisions are being made, it is both a constitutional and legal imperative, not only that the ‘best interests’ of the child are considered paramount and independently of the rights of parents as part of the decision-making process, but furthermore, that part of that determination must require that the child has an input into that decision-making process. The evidence presented in this research on how children were seen and heard in family law matters, combined with the questionable quality of assessment reports produced for the court and the lack of regulation and oversight of assessment practice raises serious concerns.

Specifically, where the authenticity of what has been produced for the court is subsequently brought into question for some or all of the reasons outlined throughout this report, we conclude that this could call the integrity of constitutionally mandated obligations into question.

Importantly, having provided a comprehensive 360-degree understanding of how adult and child victim-survivors of DVA experience their journey through family law processes in guardianship, custody and access cases, we conclude by stressing the critical importance of a 360-degree response to the issues raised in this research. As a complex system, outcomes for the service users of that system are

¹⁰³ Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) Baseline Evaluation Report Ireland, GREVIO/Inf(2023)22, Adopted by GREVIO on 26 October 2023, 14 November 2023, <https://rm.coe.int/grevio-s-baseline-evaluation-report-on-legislative-and-other-measures-/1680ad3feb> (Date accessed: 10/03/2025)

determined not by any one part of the system – processes, policies or practices – but by the interplay across and between these systems.

None of the following recommendations are therefore optional as they are all needed if the vision of a holistic family law system as aspired to by the Family Justice Strategy is to be realised. Therefore, the responsibility for the implementation of these recommendations lies with the Department of Justice.

With overlap also across the recommendations made by the UN Special Rapporteur on Violence Against Women, Reem Alsalem in her 2023 report, we suggest that the GREVIO (2023) recommendations provide a solid framework and useful starting point for a collaborative discussion on recommendations for policy, practice and legislative reform arising from this present research. Building on the GREVIO recommendations as set out in the sections 1-7 below, this report then presents additional recommendations (8-17) specific to the operation of family law in Ireland. Many of these recommendations are strongly echoed in recent high-profile reports of relevance to this current publication¹⁰⁴.

Recommendations

- 1. Compulsory training to be introduced for all professionals working in the family law context – including judges, legal practitioners, court staff, assessors and mediators. This training should include achieving a comprehensive understanding of the following:**

- The dynamics and tactics of domestic violence and abuse, including power, coercion and control.
- The impact on both adult and child victim-survivors with an acknowledgement that living with DVA renders a child a victim in their own right.
- The impact of DVA on victim-survivors ability to effectively participate in court proceedings.
- The additional impacts of specific intersectional barriers.

¹⁰⁴ Parkes, McCaughren & Burns (2025). The Operation of the In Camera Rule in Family Law Proceedings. Department of Justice https://assets.gov.ie/static/documents/The_Operation_of_the_In_Camera_Rule_in_Family_Law_Proceedings.pdf; Department of Justice (2024) Review of the Role of Expert Reports in the Family Law Process <https://assets.gov.ie/static/documents/review-of-the-role-of-expert-reports-in-the-family-law-process.pdf>; Family Justice Strategy Progress Report (2024) <https://assets.gov.ie/static/documents/progress-report-on-the-family-justice-strategy-2022-2025.pdf>;

- 2. A high-level strategy to improve co-ordination, communication and co-operation between family courts and criminal courts, as well as with specialist services and professionals that assist victims of violence and their children. The specific purpose of this strategy is as follows:**

- To establish mechanisms so that all information relevant to the case is available on the day of a hearing. This includes information relevant to other courts (criminal courts for example, but also civil child law proceedings where applicable); school reports; medical reports etc.
- To establish mechanisms to disincentivise perpetrators abusing the system and using the system to perpetrate further abuse.

- 3. Incorporate comprehensive screening, risk-assessment and management procedures. This should include the following:**

- A risk assessment of the physical court environment and infrastructure with particular attention to separate and secure waiting spaces and separate DVA lists.
- A risk and evidence informed assessment of the determination of custody and visitation rights, with guidance on the processes for restricting these rights when this is necessary to guarantee the safety of the victim-survivor parent and child.

- 4. Evidence-informed training for all relevant professionals that consult on and/or that have decision-making responsibility for decisions on custody and visitation rights, on the complete absence of scientific grounds for 'parental alienation syndrome', and the risk of increased harm that the application of this label can have on victim-survivors and their children.**

- 5. Critical attention to cases where there is a risk of children being removed from their non-abusive parent.**

- 6. Provision of free supervised contact centres with careful consideration to the following:**

- Contact centres to be operated by DVA informed and trained professionals.
- Procedures and protocols to ensure that the transition from supervised to unsupervised contact is not an automatic process but rather is preceded by a robust risk assessment.

7. Integrate measures into court processes to ensure that mediation is not proposed or recommended by solicitors or experts employed by courts in proceedings dealing with DVA cases or alleged DVA cases.

Additional recommendations specific to the Irish family law context to include the following:

8. The mandatory training recommended by GREVIO needs to address issues specific to the Irish context as follows:

- The current practice in Ireland that only judges can train other judges.
- Particular attention is also needed to address over-burdened courts that render judges in those courts unavailable to attend training.
- Training for newly appointed judges should be required to be undertaken before they sit on the bench to mitigate the challenge of their availability to attend thereafter.

9. Considering the Constitutional nature of the right that assessors are tasked with supporting, a radical overhaul of the assessment/expert reports process to include the following:

- The introduction of minimum and relevant qualifications for assessors.
- Qualification, training, oversight and regulation of assessors comes under the regulatory remit of CORU, the Health and Social Care Regulator, as is the case for other key professionals with similar remits. Mandatory training for assessors in DVA including coercive control, and its impacts on adult and child victim-survivors.
- Mandatory training for assessors in direct work with children relevant to ascertaining and representing the voice of the child.
- Processes needed to ensure there is no bias towards the discredited concept of parental alienation, over appropriate screening for DVA, including coercive control.
- Families should be furnished with a complete copy of the report.
- All reports to be free to families with the cost of reports born by the State.

10. Overhaul/implementation of accessible information on the Family Court systems website to include the following:

- Information on court processes presented in multiple languages (including sign language).
- Information on court processes accessible through short video and audio formats.
- Clear signposting to supports both within the family law system and as related to family law processes.

11. Urgent reform of civil legal aid to include:

- Increasing the income threshold and/or introducing a graduated payments scheme for those just above the limit.
- Incentivising legal aid work by increasing remuneration rates for solicitors taking on this work.

12. Options for remote hearings to be available, inclusive of appropriate risk assessment of use of same.

13. Introduction of robust and comprehensive data collection systems with capacity to provide cross-sectional data of relevance to ongoing development of family law system.

14. In response to concerns about transparency, the findings and recommendations of this present study support the recommendations of the Department of Justice commissioned research completed by Parkes et al. in relation to the in camera rule (2025).

15. Legislative/policy/practice reform to address the following:

- Amendment to legislation or development of guidelines for Family Law Courts so that access/custody is not automatically granted to a parent who is an alleged perpetrator of DVA. In order to ensure that contact/access is in the best interests of the child, the Court must be wholly satisfied that the child would be safe from all forms of abuse including coercive control while in the care of or unsupervised access with such parent. This includes safety from emotional abuse caused by exposure to DVA. As part of this assessment, the court must take care to ensure that the authentic voice of the child has been appropriately considered, with due weight afforded the views of the child in accordance with the child's age and maturity.

- Addressing where guardianship is used to exercise parental consent to block children's access to diagnoses and/or treatment, therapeutic supports and processing of passports.
- Courts to adjust access/contact arrangements where non-resident parents are not engaging with approved access.
- Introduction of automated system to deal with the enforcement of maintenance orders.
- Introduction of policies/processes to address and manage current practice of perpetrators cross-examining victim-survivors.
- Use of undertakings instead of DV orders should be discouraged. Where used, the serious limitations of undertakings should be made clear to the victim-survivors.
- Streamline policies and procedures for the use of interpreters.

16. A comprehensive and independent review of applications for and enforcement of DV Orders to inform a process of reform if required.

17. Further research on male victims and minority populations.

In conclusion, the current reform of the Family Law system presents an important opportunity to ensure that DVA is always a consideration in guardianship, custody and access cases. Its implementation should include as a guiding principle, the safety from DVA for adult and child victims in terms of both outcomes and processes. It should recognise that DVA is disproportionately represented in all family law proceedings and should therefore be a central consideration from the outset of any proceedings. The reform should be also guided by the principle that exposure to DVA constitutes child abuse and that supporting the victim-survivor parent is the best form of child protection in such cases.

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Appendix 1: Overview of the methodology employed for conducting the literature review

Starting with the research aims and objectives, two questions were formulated as outlined earlier in order to narrow the literature search to include relevant empirical material on both adult and child victim-survivor experiences in the context of family law and DVA. These questions are as follows:

1. What are the experiences of adult victim-survivors of DVA of family law processes and outcomes in contact/access cases?
2. How do children experience being heard [their views and experiences ascertained and represented] in family law proceedings in contact/access cases involving domestic violence?

Adopting a systematic approach to the literature review, key search terms were determined for each question, following the application of inclusion and exclusion criteria for material identified, as set out below.

Inclusion criteria applied for material for both questions (criteria d-e-f apply to only the first question while the final criteria – h – applies to only the second question):

- a. Peer reviewed articles only;
- b. Published in English only;
- c. The article reported either original research (qual/quant/mixed) or secondary analysis of original data;
- d. Research participants were adults who had at least one child;
- e. Research participants had experiences of DVA involving the other parent of their child(ren);
- f. Research participants had attended or were attending GCA proceedings;
- g. The article was published during or after 2015 (when new legislation was introduced in Ireland);
- h. AND/OR: Research included evidence on children's participation/commentary on how children are seen and heard in family law debates against the backdrop of a history of DVA.

The data base 'Web of Science' was searched for results, with the final search for both questions concluded on 03.09.2024. The decision to use the Web of Science (WoS) database exclusively for this literature review is based on several key factors that align with the research objectives, quality

standards, and scope of the study¹⁰⁵. By exclusively using Web of Science, this literature review prioritizes quality, comprehensiveness, and methodological rigor, aligning with best practices in academic research while ensuring a systematic and transparent approach.

The results for both questions are set out below.

Table 16: Literature search strategy for question one	
Question one	What are the experiences of adult victim-survivors of DVA of family law processes and outcomes in contact/access cases?
Search terms	Domestic Violence AND Contact/Access
Results yielded	= 3,824
Search terms	AND Family Law
Results	= 117
Filter applied	From 2015 (when the Children and Family Relationship Act was passed)
Results	= 71*

¹⁰⁵ 1. Comprehensive Coverage of High-Quality Publications: WoS is renowned for indexing peer-reviewed journals and high-impact publications across disciplines, ensuring that the literature meets rigorous quality standards.
 2. Interdisciplinary Scope: WoS offers broad subject coverage, with an interdisciplinary reach that is beneficial for topics that span multiple fields, ensuring comprehensive representation of the research landscape.
 3. Citation Network and Impact Metrics: The database’s citation tracking functionality allows for the identification of key publications, influential authors, and emerging research trends.
 4. Advanced Search and Filtering Options: WoS provides sophisticated search tools, including keyword searches, citation searches, and filtering by publication year, document type, and research area. These options enhance the precision and efficiency of the literature search process.
 5. Reproducibility and Transparency: Using a single, well-established database ensures consistency in the search methodology, enhancing the reproducibility of the review. The structured indexing system of WoS facilitates transparent reporting of search strategies and inclusion criteria.
 6. Data Export and Management: WoS allows easy export of bibliographic data in various formats, which simplifies the process of organizing and managing references for systematic reviews and bibliometric analyses.
 7. Institutional Access and Reliability: Many academic institutions provide access to Web of Science, making it a reliable and widely accepted resource, reducing the risk of data access issues over the course of the review.

Databases searched	Web of Science
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Table 17: Screening process for question one	
Title & abstract screening	71 papers were reviewed*
Excluded	20 did not meet inclusion criteria
Full text screening	= 51 full text reviewed
Excluded	34 citations excluded at full text review
Included	= 17
Citation search of bibliography	64 citations identified bibliographies of full text review
Excluded	46 citations excluded following a full text review
Included	= 18
Total number of citations	35

The 35 papers focused on primarily qualitative research conducted across Canada, the USA, UK, Australia, Ireland, Italy, New Zealand. With the exception of Francia et al. (2019) and Romero and Staudeneraus (2024), the focus was entirely on women as victims and men as perpetrators of DVA. In these two papers, very small numbers of men as victims and same sex-couples were included. While some papers involved mixed methods approaches to data collection (Archer-Kuhn et al., 2024; Birchall & Choudhry, 2022; Ogolsky et al., 2023) and some were conducted using only quantitative methods (Ellis et al., 2021; Gutowski & Goodman, 2023a, 2023b; Mackenzie et al., 2020; Romero & Staudenraus, 2024), the remaining and majority of papers focused on qualitative in-depth studies with largely small scale samples.

Please see Appendix A for the detailed extraction table collating the overview of these papers.

Table 18: Literature search strategy for question two	
Question two	How do children experience being heard [their views and experiences ascertained and represented] in family law proceedings in contact/access cases involving domestic violence?
Search terms	Domestic Violence AND Contact/Access
Results yielded	= 3,824
Search terms	AND Children
Results	= 2,053
Search terms	AND Family Law
Results	= 105
Filter applied	From 2015 (when the Children and Family Relationship Act was passed)
Results	= 63*
Databases searched	Web of Science

Table 19: Screening process for question two	
Title & abstract screening	63 papers were reviewed*
Excluded	62 did not meet inclusion criteria
Full text screening	= 1 full text reviewed (MacDonald, 2017)

Citation search of bibliography	= 1 (MacDonald, 2016)
Citation search of bibliography	= 1 (Morrison et al., 2020)
Remove filter	Given the dearth of empirical evidence in this area, a decision was made to partially relax the criteria of time published and to include any peer reviewed article that involved children, DVA and family law concerning contact/access/guardianship since 2000. = 3 additional citations
Total number of citations	6

A total of six papers comprised the final sample (see Appendix B for the detailed extraction table). These six papers report on studies conducted in five countries (Canada, England, Ireland, Scotland and Sweden), with two papers reporting on the one study (Macdonald, 2016, 2017) and one paper.

Focusing on the methodology employed across the six paper, four of the six papers reported on qualitative interviewing with children and young people aged 8-24 years, with the majority of children aged between 8 and 14 years of age. Two papers report on the one study in England which primarily involved a content analysis of Children and Family Court Advisory and Support Service (Cafcass) section 7 (Children Act 1989) reports prepared for the family courts in child arrangement disputes in domestic violence cases. The content analysis specifically examined how children's voices were included and what impacts these representations had on recommendations made to the courts.

Appendix 2: Extraction table for peer review articles for question one

Table 20 How adults experience family law processes and outcomes in GCA cases where there has been a history of DVA

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
<p>Archer-Kuhn (2018) Canada</p>	<p>To understand the importance of hearing the voices of parents, and the significance of differentiating parent experience in child custody decision-making among those engaging in high conflict and those experiencing domestic violence.</p>	<p>Based on a Canadian study that explores the parent perspectives and experiences of child custody decision-making, this paper privileges a sub-group of participants; five women, all survivors of domestic violence; defined here as both physical violence and coercive control. Data collection includes one-on-one tape-recorded interviews.</p>	<p>Four themes emerged from this gendered analysis: (1) safely redefining role; (2) survival strategies; (3) empowerment in action; and (4) don't want shared decision-making.</p>	<p>We learn that shared decision-making can only be achieved under very specific circumstances when violence has occurred. For example, the perpetrators (often men) must get treatment and participate in a meaningful way so as to change his attitudes and behaviours, stop the violent behaviour, and interact with his ex-partner in a respectful manner. Professionals in the field who are intended to support families</p>	<p>None stated but small sample</p>	<p>Good on implications and recs.</p>

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
				experiencing domestic violence are often coercive with survivors of violence in order to gain compliance.		
Archer-kuhn et al. (2024) Canada	The purpose of this paper is to add to the research literature and begin to fill the gap in knowledge about shared parenting arrangements for women with young children and who have experienced domestic violence (DV), in three Canadian provinces; Alberta, Manitoba and Ontario.	This paper reports on the qualitative findings from a mixed methods study on shared parenting from women with children ages 4 and under. Twenty women participated in one-on-one individual interviews through electronic platform utilizing Zoom. Thematic analysis is used to analyze the data.	What is crucial to understand is that even with the efforts of these perpetrating partners, it is legal and court processes and custody outcomes, particularly shared parenting arrangements, that provide the tools through which coercive control can be extended. The theme, <i>structural challenges</i> , describes how these mothers felt silenced by legal actors and systems that refused to recognize or acknowledge the violence which has occurred, and the ongoing control and manipulation from their former partners.	Litigation abuse and lack of accountability only findings directly related to RQ. What is clear from the findings based on these women's stories is that courts and helping institutions can support or thwart mothers' efforts to protect their children. Across these studies, the difficulties for women are described as stemming first from a lack of training for legal	Not clear whether inclusion criteria/focus is on mothers navigating family law	Excellent on general literature

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
				<p>professionals on the complexities and dynamics of relationships where DV and coercive control have occurred. This lack of specific training and education continues even though family law disputes feature allegations of DV and child maltreatment, with court systems having significant decision- making authority into the lives of individuals bringing these allegations. Into this lack of understanding, Miller and Manzer (2021) stipulate that the normative assumptions held by those working in these systems,</p>		

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
				including gendered, raced, and classed parenting ideals, hold mothers more responsible for assuring the well-being of children.		
Birchall & Choudhry (2022). UK	The focus of the study was to provide an analysis of whether and how a human rights framework is being employed in relation to the experiences of women survivors of domestic abuse and their children in the family courts.	Mixed methods: Sixty-three women completed the survey, nine women took part in focus groups, and nine were interviewed. In total 72 women were involved in the research (as some took part in two of the activities).	While investigating the prevalence of allegations of parental alienation made towards survivors of domestic abuse in the family courts was not the initial focus of our study, this area emerged as a major finding from the survey, focus groups and interviews. The research, which focused on the experiences of 72 survivors of domestic abuse and their children, illustrated the ways that gendered, discriminatory and dangerous myths about mothers, fathers and domestic abuse are, at their most extreme, typified in accusations of,	Research participants reported an often unquestioning acceptance of and buy-in to theories of parental alienation from the professionals they encountered during their family court cases. The research reveals a concept propped up by gender discrimination and a dangerous lack of understanding among family court professionals about the	The limitations of the data are that it comes from a self-selecting group of 72 women. Findings relate to the experiences of these 72 women, and we do not claim to represent the experiences of all survivors of domestic abuse in the	Very comprehensive on PA

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			and buy-in to the concept of, parental alienation.	dynamics of domestic abuse and the impact of this abuse on children.	family courts.	
Bradshaw et al. (2024) Toronto Canada	What and who custody-seeking survivor mothers found to be helpful throughout family law processes.	Qualitative responses from 214 IPV-exposed mothers to the question of who/what helped during family court. Data for this paper drawn from a wider study	Participants described (a) receiving social support, (b) accessing tools and resources, (c) modifying actions, thoughts, and emotions to adapt to a system that is not trauma-informed, (d) being believed/validated, and (e) managing post-separation family life as helpful. Participants also reported (f) barriers to navigating family law proceedings; a few expressed nothing helped.	Findings support a trauma informed, network-oriented approach to supporting family court-involved survivor mothers. Identifies factors that helped survivors navigate family law; need for trauma informed orientation to family law;	Not great on diversity in sample	Not too dissimilar to our study!
Coy, et al.(2015) England	This article presents research which examined child contact proceedings as a legal process to identify if, how and when domestic violence was factored into judicial decision making.	In-depth qualitative interviews with 34 women who had recently completed, or were currently undergoing, child contact proceedings.	The article highlights how two aspects of private law proceedings diminished women's safety: the absence of special facilities in family courts and gaps in legal representation for both victim-survivors and	A key finding was that judges failed to recognise domestic violence as a pattern of coercive control, appearing to draw on a far narrower understanding in	Small sample so not generalisable .	

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			<p>perpetrators. The recurrent attendances at court alongside the men who abused them, surveillance by courts and statutory agencies and fear of case outcomes that might jeopardise their children's safety which had more negative impacts on their physical and mental health. Tellingly, some women likened involvement in proceedings to living with domestic violence: the uncertainty, loss of autonomy, denial of their reality and fears that children would be harmed.</p>	<p>which domestic violence constituted physical assaults.</p>		
<p>Crosse & Millar 2017 Ireland</p>	<p>This qualitative research examines Irish women's experiences of domestic abuse in cases of separation and divorce.</p>	<p>15 mothers were interviewed</p>	<p>Findings show that methods of abuse change after separation and perpetrators can use institutions of the state to continue their abusive behavior in a new forum and can continue long after marital dissolution is finalized. Such behavior is</p>		<p>The sampling technique, sample size, and the use of reflective collective experiences.</p>	

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			legitimized by the state's nonaction and enabled through women's previous experiences of institutional processes associated with separation and divorce, which resulted in feelings fear and distress.			
Dalgarno et al (2024A) UK/BRAZIL	To understand the subjective experiences of mothers who are victims-survivors of DV, engaged now or within the last 10 years in family court proceedings in Brazil and have been accused of 'Parental Alienation'	Semi-structured interviews were conducted with 13 mothers who are victims-survivors of DV, engaged now or within the last 10 years in family court proceedings in Brazil and have been accused of 'Parental Alienation' were invited via the Brazilian DV support group to participate in the study.	Mothers reported a range of harmful health experiences, delineated here under the conceptual framework of Court and Perpetrator Induced Trauma (CPIT). Six themes are presented, which encapsulate a range of harmful actions, behaviours and circumstances (ABCs) that surround these mothers and their responses to these ABCs. Multiple physical health conditions were reported as associated with family court proceedings. This included maternity problems, musculoskeletal,	All mothers had been accused of PA and all fathers had been accused of DV by the mothers as per the inclusion criteria for the study. The mothers reported being subjected to much harsher treatment by the courts than fathers accused of DV. For example, no matter what type of abuse or violence was reported/evidence d by mothers and children, fathers	Small sample.	Also useful for broader lit/discussion

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			<p>autoimmune, and respiratory conditions and a broad range of mental health implications including suicide and other trauma responses. Human rights violations, the weaponisation of 'Parental Alienation' and inherently misogynistic and oppressive justice systems in Brazil were also reported.</p>	<p>maintained some form of direct contact with the children. Conversely, three mothers lost custody of their children with one having no contact at all due to being branded an 'alienator'.</p> <p>Paper noted that the weaponization of children in child custody cases is an act of re-establishment of power and control by abusive fathers over mother and child victims, and one that limits their rights, freedom and security.</p>		
<p>Dalgarno et al. (2024B) England</p>	<p>Domestic abuse is known to be harmful to victim-survivor mothers' well-being, and women are</p>	<p>A qualitative study was conducted. The study was co-designed with an advisory group of multi-</p>	<p>Two main themes are presented here: (1) physical and mental health experiences</p>	<p>Recommendations – urgent review of practice; mandatory</p>	<p>Reports on qualitative self-reported data; sample</p>	<p>Literature very relevant</p>

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
	disadvantaged by gender-biased systems in England. Less is known, however, about victims' experiences with family court specifically in relation to their mental and physical health.	disciplinary professionals and female DA victim-survivors engaged in PLP in the last 10 years. Interviews with 45 mothers were conducted to explore these experiences.	associated with family court proceedings and (2) parental alienation allegations as a weapon to trap, silence, and pathologise mothers. From these themes, a conceptual framework was developed: Court and Perpetrator Induced Trauma (CPIT).	training & practice guidance; ban use of 'PA' and 'alienating behaviours'.	not representative.	
Douglas, H. (2018A). Australia	This article considers how legal engagement can be an opportunity to exercise coercive control over a former intimate partner.	Drawing on three interviews conducted with 65 women over a two and a half year period [2014-2017] who engaged with the legal system as a result of violence in their intimate relationships, this article explores how women's engagement with the legal system is frequently experienced as an extension of an intimate partner's coercive control.	It builds on existing research showing how legal processes provide an opportunity for perpetrators to continue and even expand their repertoire of coercive and controlling behaviours post-separation. Author refer to this as legal systems abuse. This article explores women's reported experiences and considers how expectations of equality of access to justice and fair hearing; concepts that underpin legal processes, can be reconciled with	The article concludes that improved understanding of domestic and family violence as coercive control by legal actors may help to circumvent the opportunities for legal systems abuse.		Strong focus on Litigation as a tactic of abuse. Discussion good on 'strategies for change.

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			legal engagements that seek to end coercive and controlling behaviours.			
Douglas, H. (2018B). Australia	This article reports on the findings from a qualitative study involving 65 women who have engaged with the legal system after experiencing domestic and family violence. The interviewees report on the increased levels of stress and trauma they experience as a result of impending court appearances, in preparation for cross-examination and in negotiating court orders and on the actions they take to address this stress.	Reports on the same study cited above.	While many reported that they sought help from mental health practitioners, some women reported choosing not to seek medical assistance for, and hiding, mental health concerns and self-medicating in an effort to avoid negative court outcomes. In light of the women's experiences, this paper considers policy implications and practical considerations for legal practitioners and judicial officers involved in cases involving domestic and family violence.	Good on court processes that increase stress – contact with the abuser; giving evidence.		
Douglas, H. (2020). Australia	The article draws on interviews with 56 women (including 20 women from culturally and linguistically diverse backgrounds) to consider their experiences of legal representation after	Women were recruited mainly from family violence support services, community legal centres and private lawyers.	Common themes included that women who engaged private lawyers often faced significant costs and debt, proceedings were often commenced and prolonged by their abusive partner as an	The article highlights the importance of consistent legal representation for women leaving violence and the need for		

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
	leaving a violent relationship.		extension of coercive control, and high costs were experienced as a form of secondary abuse. Legal costs limited the financial security and options for some women post-separation and compounded their experience of family violence. Pressure to settle cases unfairly or unsafely was connected by some to the costs and limitations of legal representation.	appropriate training for lawyers working in this context.		
Easteal et al (2022) Australia	Exploring the intersection between family law and family violence	Individual interviews with professionals; 30 f2f, 5 telephone interviews & 3 written responses. Interviews with those with lived experience: 6 (f2f or telephone) and 2 written.	Disharmony and communication issues between the Family Violence Act 2016 (ACT) and family law processes and outcomes including FVOs and parenting orders; 2) Not including children on FVOs and being reluctant to disclose (the effects of FV due to concerns about how this could affect family law matters; and	'I think there are a lot of players out there, including judges and magistrates and courts, that don't get it.'	Small sample	Very good on disconnect between FV and FL – contact.

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			3) How adult victim-survivors of FV may feel pressured into accepting an undertaking for contact/time between perpetrator parents and their children, and how not applying for an FVO may affect the federal courts' perception of the seriousness of FV.			
Ellis et al. (2021). Canada	The primary objective of this study was to test the effects of historical male partner violence and lawyer representation on post-separation male partner violence and coercive control against mother litigants participating in adversarial family court proceedings.	Staff at two women's shelters administered a questionnaire to 40 former residents who met the sample selection criteria – were separated following DVA; they were represented by lawyers and reported participating in contested custody and access proceedings between June 2017 and September 2018.	Two findings are noteworthy. First, there was a decrease in mother litigant reports of post-separation physical violence requiring a visit to a hospital. Second, postseparation male partner coercive control "most/some of the time" was reported by 97.5% of all 40 separated mother litigants who also reported experiencing historical coercive control by their male partners.			Literature good – CC section provides good overview of relevant literature
Elizabeth, V. (2015). New Zealand	This article investigates the value of coercive control for redefining the aggressive pursuit by	Uses case study approach where one woman's story is reconstructed from in-depth semi-structured	Perpetrators coercive control continues through custody and access. Legal system operates in culture			

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
	controlling fathers' of 50:50 shared care as a pattern of paper abuse	interviews with 32 woman across two projects (2000-2008 & 2014).	of minimisation and even deal of DV post separation. Also comments on class and wealth not fitting the stereotype of perpetrators.			
Elizabeth, V. (2017). New Zealand	This paper adds to our understandings of women's post-separation experiences of coercive control through the introduction of a new concept—custody stalking. It is defined as a malevolent course of conduct involving fathers' use of custody and/or child protection proceedings to overturn historic patterns of care for children.	The experience of custody stalking is explored through three composite narratives derived from twelve mothers who participated in an exploratory, qualitative study on the involuntary loss of maternal care time following separation.	<p>Composite Narrative 1: Custody Stalking as Payback for Crushing his Dream of 'A Happy Little Family';</p> <p>Composite Narrative 2: Custody Stalking as Retaliation for Pursuing Child-Support</p> <p>Composite Narrative 3: Custody Stalking as 'Hurting me and Winning'</p>	The losses suffered caused these mothers tremendous grief, damaged their psychological wellbeing and had a detrimental effect on their mothering relationships. Yet custody stalking, as a form of malevolent attack, is not well recognised and mothers' resultant losses are largely culturally invisible. This is in marked contrast to paternal filicides, another	Small sample	

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
				form of post-separation avenging attack committed by some fathers that also leads to maternal loss experiences, albeit more absolute.		
Elizabeth, V. (2019). New Zealand	Exploratory study of mothers' experiences of involuntarily losing care time following separation.	Same as previous paper – Elizabeth (2017)	Mothers involuntarily lose care time by becoming non-resident parents against their will or by having a shared care parenting order imposed on them. Both experiences of losing maternal care time are becoming more commonplace as a result of the gender neutrality of custody laws across the Anglo-West and the increased emphasis given to shared care parenting as a viable post-separation parenting arrangement. Yet investigations into the emotions engendered by mothers' loss of care	Exploratory qualitative research with twelve mothers who involuntarily lost care time reveals the intensity and durability of their grief, its entanglement with emotions like fear, and its significance, as a relational welfare approach emphasises, to children's best interests.	Small sample	

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			time are sparse.			
Elizabeth (2020) New Zealand	Difficulties with care arrangements within PA(S) inflected custody law systems are often regarded as evidence of mothers' alienating behaviours, resulting in a range of remedial, coercive and punitive censures, including losing resident parent status. I argue here that the synergistic interaction between custody law and PA(S) creates an affective burden for post-separation mothers	12 interviews with woman – same as per previous papers.	Drawing on the voices of mothers in contested custody cases, this paper shows that their affective burden consists of negative emotional states for themselves and their children, emotion work in relation to these states, and court required emotion work in support of father-child relationships. The latter mitigates the risk of being found to be an alienator and losing what matters most to them – their children	Mothers sense of powerlessness. PAS as a tool of gender governance	None provided but sample small.	Interesting discussion on Foucault, power and gendered emotions.
Feresin et al. (2018). Italy	The aim of this qualitative study in Italy was to explore the role of family mediation in the management of child custody in cases involving domestic violence.	Semistructured interviews were conducted with lawyers (N = 5), social workers (N = 15), and abused women who had separated from their children's fathers (N = 13). Legal documents were also analyzed.	The results showed that violence against women and children had often been concealed during mediation, as the professionals involved had failed to detect domestic violence or had labelled it as conflicts. Moreover, the "parental couple" had been dissociated from the "marital couple," and the	Recommendations highlight the need to account for the complexity of domestic violence cases, to hold perpetrators responsible for the abuse, and to support the victims.		

Author, Year & Country	Article Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
			<p>responsibility for the abuse had been attributed to both parents. As a result, women and children had been blamed and had experienced secondary victimization, while the perpetrators' patterns of power and control had continued. The results also revealed that those professionals had not known about and had not applied the Istanbul Convention, which provides guidelines to ensure women's and children's safety.</p>			
<p>Francia et al. (2019) Australia</p>	<p>The current study explored mothers and fathers (N=40) in family violence, or high conflict past two years post separation, and their experiences within the Australian family law system.</p>	<p>36 mothers and 4 fathers participated in individual interviews. One same-sex couple also in the sample.</p>	<p>Results revealed that the experience of engaging with the Australian family law system caused considerable anxiety and distress for these separated parents. Principal themes related to: (a) gendered narratives; (b) parents' concerns not been taken seriously; (c)</p>	<p>These cumulative experiences tentatively pointed to an aftermath of long-term emotional and psychological trauma, not only for separated mothers and fathers, but also children in their care.</p>	<p>Included both high conflict and FV.</p>	<p>Good on tensions in family law – shared parenting and safety/risk issues with FV. Also good on critique of assessors and vexatious litigation.</p>

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			perceived inadequacies in knowledge or competence of experts and decision makers in relation to family violence; and (d) coercion from some professionals within the family law system.	Very good on tensions and contradictions between risk to child while parents together and child welfare PS = contact. Aftermath of trauma		'Expertise' of experts? Coercion by some prof within the FL system;
Francia et al. (2020) Australia	The focus of this qualitative study was on separated mother's (N = 36) lived experiences of mothering in the context of post separation family violence and the Australian family law system.	Same 36 mothers as above.	Thematic analysis of interviews was guided by a theoretical framework, this being the Three Planets Model. Analysis of the data resulted in two themes relating to mothering being identified. Firstly, that women demonstrated a mode of protecting rather than parenting, indicating that mothering was often undertaken in isolation and fear, within an adversarial family law system, and in the presence of a perpetrator of family violence. The second theme related to the aftermath of	After having left a controlling and violent relationship, separated mothers reported that there was no opportunity to recover, nor to healthily extricate themselves from family violence, which resulted in cumulative harm not only for their wellbeing but also for their children.	The qualitative nature of the current study does not allow for inferences and generalisation beyond the current sample. Another limitation is the nature of second-hand reporting by separated mothers of the impact	Good on tensions in policy implications

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			separation and the long dark shadow cast by family violence.		on their children.	
Gutowski & Goodman 2020 USA	This qualitative descriptive study examines the perspectives of 19 mothers who survived intimate partner violence (IPV) and sought custody of one or more children through the family court system	19 mothers interviewed – 15 f2f and 4 by telephone. Participants completed a short survey in addition to the interview.	Mothers interviewed in this study described an experience that was largely invalidating and distressing, compounding the adverse effects of IPV on their well-being. Qualitative content analysis yielded six clusters: 1) survivors must enter into a court environment that implicitly presumes the absence of trauma, 2) survivors face obstacles to getting their stories of abuse across and heard, 3) survivors experience harmful and helpful interactions with court professionals, 4) survivors endure distress in the courtroom, 5) survivors suffer psychosocial consequences outside of the courtroom, and 6) survivors make	Results paint a picture of a family court system that has the potential to cause grave, lasting harms to survivor-mothers who are separating from abusive partners.	Sample not representative; exclusively mothers, largely white, in prior heterosexual relationships	All material very relevant to current study. Future directions for research relevant.

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			recommendations for an improved custody process that is sensitive to experiences of IPV.			
Gutowski & Goodman (2023) USA	This study aimed to establish a measure of legal abuse, defined as an enactment of coercive control through legal processes.	222 mothers recruited from a broad range of sources across 36 US states. A Legal Abuse Scale comprising 27 items was developed in consultation with experts – legal, health and social and victims. The scale was administered to the 222 participants who answered yes/no to the questions. Final scale of 14 items.	Factor analysis supported two subscales. The first, <i>Harm to Self/Motherhood</i> , includes using in-person proceedings to cause distress, attacking custody and care time, threatening child(ren)'s safety, and denigrating the survivor's ability as a parent. The second, <i>Harm to Finances</i> , includes threats and actual attempts at taking control of assets and withholding finances (e.g., child support). Supporting the measure's validity, legal abuse and its subscales were significantly associated with IPV and use of children to perpetrate abuse.	Building on existing research and existing measures, the present study developed what we believe is the first psychometrically valid measure to assess legal abuse against IPV survivor-mothers involved in post-separation legal proceedings.	Largely white heterosexual sample with only 20 participants partnered with women. Convenience sample with self-reported data	All material very relevant to current study. Very rigorous design, administration and analysis processes provided. Good on implications for practice.
Gutowski & Goodman, 2023A	Article explores the direct association between legal	In a sample of 218 family law-involved survivor-	Legal abuse was related to elevated symptoms	Findings highlight the profound	Based on convenience	We join the growing

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USA Connected to the above study – same sample	abuse and mental health, as well as the possible mediating role of judicial betrayal.	mothers who responded to a survey, we explored the relationship between legal abuse and mental health and the mediating role of judicial betrayal in that relationship.	of both posttraumatic stress disorder and depression even after controlling for prior psychological, physical and sexual abuse, and demographic variables. Further, associations between legal abuse and mental health were mediated by one of the two dimensions of judicial betrayal (Missing the Abuse), though not by the other (Mistreating the Survivor).	damage associated with legal abuse, especially when it is mediated by judicial betrayal. They underscore the key role that judges can play in protecting survivor-mothers' mental health in family court.	sample; 78.9% identified as white and heterosexual .	chorus of calls to transform family court so that survivors who enter its doors can expect the just and sensitive treatment they deserve.
Hay et al (2023) Australia	To understand IPV mothers experience of PSC co-parenting and experience of legal decision making (aim of article not that clear)	In a qualitative exploration, semi-structured in-depth interviews were conducted with 10 women recruited by purposive and snowballing sampling techniques.	Two overarching themes of single mothers' unique experiences of co-parenting with IPV were revealed through interpretative phenomenological analysis. The first theme was Continuous Victimization, which indicated that postseparation victimisation was an extension of existing IPV whereby fathers used	The analysis found a persistent bias against mothers. Implications of the study are discussed before the article concludes that attitudinal change regarding IPV is required by decision makers in court processes with a recognition that abusive men	Small sample so not generalisable – children not interviewed.	Literature good for main report Good on IPV; CC; SCV; PA Implications and future directions interesting.

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			<p>intimidation, threatening behaviours such as stalking and other monitoring tactics and the deliberate undermining of the mother–child relationship.</p> <p>The second theme identified was Systemic Challenges, indicating how court officials applied a ‘pro-contact’ approach and either minimised or denied mothers’ allegations of IPV and the impact on them and the children.</p>	<p>may be unwilling to engage in cooperative parenting that focuses on the children’s developmental, social, emotional, psychological and physical needs.</p>		
<p>Khaw et al. (2021) USA</p>	<p>To understand how Mothers perceive and make sense of the custody determination process as a whole, and how they cope with the negative outcomes experienced as part of this process.</p>	<p>Using constructivist grounded theory techniques, we conducted a secondary data analysis of qualitative interviews with 24 abused mothers</p>	<p>The custody determination process was reportedly complex and stressful, and most mothers did not anticipate a negative custody outcome. Mothers’ perceptions and experiences followed three phases: <i>“trusting “the system” to protect them and their children, adapting to “the system” in search of positive</i></p>	<p>This study echoes previous calls for further training and policies that make the custody determination process less burdensome and harmful for survivors and their children. Most mothers spoke of their interactions with</p>	<p>Not all demographic info was available on participants; no member checking was performed; participants at different stages of the process. This paper involved a</p>	

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			<p><i>outcomes, and, once custody decisions were determined, coping with the aftermath of the judicial system process, either by accepting or resisting the outcome.</i></p>	<p>and perceptions of “the system;” although in practice, there is no single system. Every custody case in the United States includes a judge, and typically a custody evaluator or investigator, but other professionals come from a host of settings. Each of these professionals may view IPV and the ideal custody arrangement very differently</p>	<p>secondary data analysis of data collected for a study first published in 2011.</p>	
<p>Laing (2017) Australia</p>	<p>This qualitative study explored the experiences of 22 domestic violence survivors attempting to negotiate safe post-separation parenting arrangements through the Australian family law system.</p>	<p>Semi-structured interviews were conducted at a safe and private location of the women’s choice. The women were invited to talk on their own terms about their experiences of seeking to make post-</p>	<p>Their allegations of violence put them at odds with a system that values mediated settlements and shared parenting. Skeptical responses, accusations of parental alienation, and pressure to agree to unsafe</p>	<p>Very relevant to current study on all aspects of navigating family law, undermining mother child relationships, continued harms to women and</p>		<p>Good on general literature review discussion but majority of material is pre-2015. Interesting on</p>

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	<p>Research Question 1: How are current family law policies and practices experienced by women who have been subjected to domestic violence as they negotiate parenting arrangements?</p>	<p>separation parenting arrangements through the family law system. The average length of interviews was 90 min, as the women recounted complex encounters with many professionals and organizations over considerable periods of time.</p>	<p>arrangements exacerbated the effects of post-separation violence. Core themes in the women’s narratives of engagement with the family law system—silencing, control, and undermining the mother–child relationship—mirrored domestic violence dynamics, suggesting the concept of secondary victimization as a useful lens for understanding their experiences.</p>	<p>children; legal system facilitating that etc This legislative framework is embedded in a dominant social discourse that is highly skeptical of women’s allegations of violence in post-separation contexts.</p>		<p>secondary victimisation.</p>
<p>Mackenzie et al. (2020). New Zealand</p>	<p>This paper investigates the sources of allegations of parental alienation in family law and how they impact mothers and their children.</p>	<p>Survey was completed by 291 mothers of 591 children who had experienced violence and abuse and had been a party to Family Court proceedings. This paper reports on the data from 117 women who gave specific detail on their experience of parental alienation.</p>	<p>High rate of PA accusations by psychologists – relative to lawyers and SWs. High level of violence reported by mothers against them and their children – specifically the PA group reported SA of child at twice the rate of the non-PA group.</p>	<p>women have reported that when they have approached the Family Court seeking protection for themselves and their children, the court has instead placed their children in greater danger through the making of unsafe</p>		

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				parenting orders. We would argue that the situation is more acute for the mother and her children when she is accused of parental alienation.		
Miller & Manzer (2021). USA	This qualitative study focuses on battered heterosexual women’s accounts of their complicated negotiations with their male abusers during their relationships, after the termination of these relationships, as well as the ways expectations of shared parenting are used against women in court, including how fathers use their ongoing contact with the children to further perpetuate abuse of their former partners.	Using data collected for a larger study of long-term resilience, secondary data analysis is conducted on semi-structured interviews with 25 women in the United States who have terminated their abusive relationships.	Findings reveal strategies of negotiation and resistance used to protect their children both during and after their relationships; the women also recount instances of paternalism and naïveté present in civil and criminal courts. While their male abusers seemed to receive leniency from court officials, despite, in some cases, violating judges’ direct orders, the women’s efforts were sometimes interpreted as recalcitrance and disobedience when they challenged unfair labels,	This qualitative study contextualizes women’s efforts and actions taken to safeguard their children during and after their relationships to highlight women’s experiences the courts overlook and misconstrue as well as what happens when women engage with the courts. Concept of ‘mother policing’ –		Policy suggestions include ways to prevent the continued victimization of battered women by the courts, to challenge the pejorative assessment of mother’s protective behaviors, and to illuminate court officials’ malfeasance and toleration of fathers’

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			visitation, and custody decisions.	excessive monitoring and regulation of mothers, especially in contrast to fathers who despite their violence, receive minimally restricted access to their children.		tactics.
Morgan & Coombes (2016). New Zealand	<p>There has been increasing recognition that children are harmed by witnessing assaults or abuse that their mothers experience as victims of intimate partner violence (IPV). At the same time, an expectation that mothers can and will protect their children from harm is widespread. This paper discusses how mothers' understandings of protecting their children are intertwined with the complexities of IPV in the context of legal interventions.</p>	<p>We draw on accounts by 24 mothers and 5 advocates who participated in two qualitative studies evaluating of the kinds of services provided for them after criminal justice interventions brought their partners before a specialist family violence court in Aotearoa/New Zealand.</p>	<p>Although we did not specifically ask about protection of children, crucial issues around their children's safety were frequently addressed by the women and their advocates during the interviews. We discuss how the women made sense of their responsibilities for protecting their children at different times during their relationship and how the meaning of protecting their children changed as they engaged with court processes and advocacy services.</p>			

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Natalier (2018). Australia	This paper pursues a structural analysis of how men's deliberate withholding of child support can be a form of economic abuse that is facilitated through gendered state processes and institutions that order child support transfers.	Paper presents data from an interview study on the experiences of 37 Australian single mothers.	Men withholding child support is typically analysed as a financial women in this study, finances were linked to their autonomy and sense of self as a mother. Dominant discursive constructions of 'the good mother' demand that women meet their children's needs and express their care through child-centered consumption that enriches their children's lives	Argues that masculine financial discretion structures policy and organizational practices in ways that legitimate men's financial agency at the expense of women's financial autonomy. On-going compliance issues are not the result of a failure of Australia's Child Support Program, but suggest that the state's role can be one of regulation, not prevention, of economic abuse.		Thus, Australia's Child Support Program normalises the potential for postseparation economic abuse. God overview of literature on economic abuse and the strategy of withholding child support. Focuses not so much on the individual behaviours but on the gendered structures that facilitate such behaviours.
Ogolsky et al (2023)	We investigate when and	This study involved data	We found that self-	Our findings	Phase 1 self	Go back to

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USA	how two types of self-reported intimate partner violence (IPV), situational couple violence (SCV) and coercive controlling violence (CCV), are documented in divorce cases. We further examine how IPV influences child custody decisions and how this association is moderated by whether custody was contested or involved third-party intervention.	collected in two federally funded projects on IPV, divorce, and custody. The initial phase involved self-reported data collected from 195 mothers early in the divorce process. The second phase involved matched administrative divorce, civil protective order, and criminal court records.	reports of IPV were generally not documented in divorce cases. Direct references to IPV in the divorce case file (e.g., witness testimony) almost never happened. Of the 104 women who self-reported IPV during marriage, only 7 had a direct reference to abuse in their case file.	concur with existing literature demonstrating that family courts are often not explicitly made aware of a history of IPV, despite documentation in other civil and criminal cases, which underscores important practical implications. Routine screening for IPV by professionals in family court is needed but rarely required. Reliance on voluntary self-disclosure instead of formal documentation can result in courts not being made aware of IPV. Our findings support Stark et al.'s (2019)	reported IPV used the revised conflict tactics scale	conclusion

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				<p>recommendations for routine screening using validated tools to identify IPV coupled with a review of civil and criminal court records. When IPV is detected, comprehensive assessments of risk, including high levels of coercive control, should follow (see Stark et al., 2019, for detailed recommendations)</p>		
<p>Rathus et al. (2019) Australia</p>	<p>The authors report findings from an Australian based qualitative study exploring the experiences of family report assessment practice from the perspective of victim mothers who have separated from men</p>	<p>Ten in-depth interviews were undertaken in southeast Queensland (Australia) with women who had survived IPV and were, or had been, involved in family law proceedings.</p>	<p>At best, assessment environments and methods presented as in need of improvement. At worst, the process was experienced by the participants in our research as revictimizing and traumatizing. The mothers described a system in which they</p>	<p>The authors conclude that reforms are necessary to improve the practice and procedure of family report writing in Australia. Such reforms should</p>	<p>Small sample.</p>	<p>Overall the article is very relevant for our study – focus on assessments. Refers to a lot of evaluations of these processes in Oz.</p>

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	who perpetrate intimate partner violence.		felt their experience of IPV was discounted, ignored, and invalidated. Assessments concluded over a few hours; sometimes in the same space as their abuser. IPV invalidated; perp risk dismissed	ensure that the lived experience of victims of intimate partner violence is validated, assessment processes have victim efficacy, and the outcomes of such reports do not put women and their children at ongoing risk of harm.		Good on suggestions for reform.
Roberts et al (2015) Australia	The present qualitative study sought to address the paucity of knowledge in the domestic violence literature by identifying the psychological impact of the Family Court process on women who have left abusive relationships.	A thematic analysis was conducted on the narratives of 15 women who had left abusive relationships and who had, or were currently, engaged with the Family Court. Nine phone interviews and six face-to-face interviews were conducted.	The results revealed that the experience of engaging with the court process caused considerable distress for the women. Principal themes related to fear of the ex-partner and having to confront him at hearings, constantly reliving the relationship via affidavits, and the insensitivity of some legal professionals to the difficulties experienced by women confronted with	<ul style="list-style-type: none"> - Lack of legal empathy and understanding of DVA - Invalidation of her experiences - Fear & anxiety - Retraumatization 	Small sample	

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			these experiences.			
Romero & Staudenraus 2023 USA	This quantitative study examined the experiences of intimate partner violence victims during and after separation, with a particular focus on experiences with family court proceedings.	Participants were recruited from a family court advocacy agency and self-identified as victims of intimate partner violence. The sample consisted of 722 participants. Participants self-identified as 99% female (<i>n</i> = 715), 1% male (<i>n</i> = 5), and 2 participants did not identify their sex.	Participants reported a post-separation increase in incidents of physical harm toward their children, threats to take their children away, threats to the survivor, their children, family, property, or pets, financial abuse, and insulting or threatening texts or social media messages. Many participants reported re-traumatization in court and reported that legal professionals verbally threatened them, mocked them, did not give them a chance to speak in court, exaggerated the survivor's faults in court, and provoked them to elicit emotional reactions.	Domestic violence survivors indicated a lack of trust in the systems in place to protect them. Systems-level changes to legal proceedings and expanded training for legal professionals is needed. Perpetrator manipulation of legal system.	Survey was targeted to a family court advocacy group – majority white, upper class, heterosexual . Findings not generalisable .	
Wilde et al 2024 Australia	The aim of this scoping review was to synthesise the literature to identify what the psychological impacts of family court processes were on mothers who	This scoping review evaluated the literature related to mothers with experiences of DFV and their involvement with the family court system. Twenty-five	with four themes capturing the findings: Perpetrators using the system as a mode of coercive control; Secondary victimisation as a	Key findings were that perpetrators manipulated the system to perpetrate further abuse and		

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	had experienced DFV.	articles met inclusion criteria.	result of interacting with the system; Required to relive their abuse; and, Long-term psychological consequences of having engaged with the system.	continue/reassert their control. Secondary re-victimisation was common, with poor knowledge of DFV and limited understanding of coercive control tactics and how these were employed by perpetrators by legal professionals identified as contributing factors. This review suggests that mothers who engage with the family court system experience a range of short- and long-term psychological impacts and court processes facilitate ongoing abuse by the perpetrator		

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Appendix 3: Extraction table for peer review articles for question two

Table 21: How do children experience being heard in family law proceedings in GCA case involving DVA

Author, Year & Country	Article/book/chapter Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
Eriksson & Nasman (2008) Sweden	This article examines the opportunities and obstacles for vulnerable and victimized children's participation in family law proceedings.	17 children and young people aged between 8 and 17 years old were invited for interview; 15 participated in an interview (14 face to face and one over the phone) and two chose to answer questions in writing, based on a questionnaire developed from the interview guide. Article focuses on an in-depth analysis of data two ten-year-old children's interviews.	In one case, the practice of the professional manipulation and breaking down the child's resistance to contact is highlighted, as is attempts to frame this resistance as the child being alienated by his mother. In the other case, the family law assessment is done with both parents in the room, with the child not feeling safe.	Study concludes that a disqualifying and invalidating investigative process directly contributes to continued victimisation of children who are already vulnerable. In addition children are put in a position where they have very little control over what happens to them.	Dated; only based on two children's narratives.	Insightful and thoughtful quotes from these two 10-year-old boys.
Fotheringham, Dunbar & Hensley (2013) Canada	The Speaking for Themselves (SFT) project sought to enhance the physical, emotional, and psychological safety of children exposed to	File analysis, stakeholder interviews and interviews with 15 families. The 15 families participating in interviews included 12 mothers; 8 fathers and 17	Findings suggest that the SFT programme goals were largely achieved: (a) enhance the physical, psychological, and emotional safety of	Enhanced child safety; cases resolved sooner; children felt heard. Also some interesting findings	None presented. Initial evaluation of pilot project. Terms	Very child centred project. both the children and the residential

Author, Year & Country	Article/book/chapter Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
	domestic violence and high conflict custody and access disputes. This article presents the SFT philosophy, model program, and evaluation results.	children and young people aged 10-19 years old.	children; (b) ensure children's evidence was heard in custody and access/parenting disputes; (c) inform "best interest" decisions with children's interpretation of their own experience; and (d) increase the likelihood that when custody and access/parenting decisions were made, children's safety was paramount and their risk for further victimization was reduced.	re reduced PSC abuse.	'domestic violence and high conflict used interchangeably with little attention to distinguishing between the terms.	parents positive about SFT program. Non-residential parents generally negatively about the program.
Holt (2018) Ireland	Drawing on the narratives of children who participated in three separate research projects in Ireland between 2009 and 2015, this paper considers how they were involved in the decision-making process and the extent to which their views were ascertained and	Interviews with 24 children and young people across three separate projects aged 5-24	Addressing underlying assumptions about capacity and participation; findings highlight children's keen awareness of DV in their family; mixed findings of consultation and participation and mixed views on involvement in decision making. Overall children wanted their	Challenging the 'age and maturity' clause of the UNCRC, the argument should not be one of proving the child's ability to participate, but more one of responsibility on adults to be	Not specifically focused on family law, though some children were aware of these processes happening in the background.	Articulation of children comes through with clarity.

Author, Year & Country	Article/book/chapter Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
	their voices heard.		voice heard but did not necessarily want that voice to be determinative.	competent enough to elicit those views in the context of a trusting relationship with the child. Attend to the child in question – avoid generalised notions of best interests.	Based on research interviews conducted in 2008/ 2013 & 2015 so pre new legislation.	
Macdonald (2016). England	This article provides an analysis of welfare reports prepared for the courts in contested contact cases with prior history of DV, to investigate how and to what extent issues of domestic violence and children's perspectives on these issues were taken into account when making recommendations to the courts.	Content analysis of 70 Children and Family Court Advisory and Support Service (Cafcass) section 7 (Children Act 1989) reports prepared for the family courts in child arrangement disputes in domestic violence cases (in two local authority areas in England). This analysis provided a profile of cases and was used to identify how and to what extent issues of domestic violence and children's views were presented in	How DV was reported – in only 8% of cases was systematic gendered nature of abuse clear. DV commonly viewed throughout sample as something mutual and not relevant to proceedings. Relevance of fathers violence to children's welfare also not clear despite 60% cases detailing CJS involvement due to DV. Age influenced whether children were listened to. Contact was privileged – child who wanted contact presented as	How DV is described can have serious consequences for how it is understood and assessed. Children's disclosures about violence did not appear, in the main, to be treated as legitimate evidence of child welfare concerns, or as valuable contributors to a risk assessment	Data collected 2006-2009. Relatively small number of reports	

Author, Year & Country	Article/book/chapter Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
		reports across the whole sample.	unproblematic, even where potential risks relating to fathers violence. Children not asked routinely about fathers violence. Potential loss of father-child relationship presented as most unacceptable position.	process. recommendations were nearly always made for contact or to promote contact in the future. decision making should be “future-focused”		
Macdonald (2017). England	This article is based on research which examined Children and Family Court Advisory and Support Service (Cafcass) section 7 (Children Act 1989) reports prepared for the family courts in child arrangement disputes in domestic violence cases (in England). This paper focuses on the inclusion of children's voices part of the analysis.	Content analysis of Children and Family Court Advisory and Support Service (Cafcass) section 7 (Children Act 1989) reports prepared for the family courts in child arrangement disputes in domestic violence cases (in England). Specifically examining how children's voices were included and what impacts these representations had on recommendations made to the courts. In addition to content analysis, critical discourse analysis (CDA) of a small	The research found that in cases where children's accounts identified them as victims of violence, these disclosures regularly disappeared from report recommendations. Particular discourses regarding 'child welfare' and 'contact' were identified, which routinely impacted on the ways in which children's voices were taken into account. Whilst culturally there has undoubtedly been an influential move towards including children's perspectives in decision-making that affects them,	This research found that the unrelenting influence of deeply embedded beliefs regarding the preservation or promotion of relationships with fathers continues to have the effect of marginalising issues of safeguarding, including children's voiced experiences of violence, in all but the most exceptional of	Article based on reports written 9-10 years ago. Sub-sample also small.	Nicely written on VOC – rationale, challenges and benefits, tensions. Critical analysis was of DV cases – again when children did not want contact it was problematic. Nice example of a twin case.

Author, Year & Country	Article/book/chapter Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
		<p>sub-sample of reports was used to examine discursive practices in-depth.</p> <p>Content analysis of 70 cases and critical discourse analysis done on 6 cases.</p>	<p>how these views are interpreted and represented is subject to adult 'gate-keeping' and powerful cultural and professional ideologies regarding 'child welfare' and 'post-separation family relationships'.</p>	<p>cases. Rather, safeguarding concerns in respect of domestic violence and child abuse were persistently overshadowed by a dominant presumption of the overall benefits of contact with fathers. Most children interviewed but with impact of voice depending on age, with child's position (not wanting contact) with children's opposition to contact viewed as problematic. Children's voiced experience of violence not included in reports to the court.</p>		
Morrison, Tisdall & Callaghan, (2020)	Drawing on a Scottish empirical study on	The study involved separate in-depth	Constructing contested contact as a parental	The combination of allegations of	Fathers not included in	Despite apparently

Author, Year & Country	Article/book/chapter Aim	Methodology	Main Findings	Of relevance to study questions	Limitations	General Comment
Scotland	contested child contact in circumstances of domestic abuse, this paper interrogates the implications that the concept of manipulation has for children's participation rights.	interviews with 18 children (aged 8-14 years including 8 boys and 10 girls), and their 16 mothers. Participative research activities were used, including a 'storyboard' – a pictorial vignette to explore 3 key areas – parental separation; participation in decisions about contact; and experiences of contact. A second activity 'My Story' encouraged children to map their experiences of contact onto paper.	dispute obfuscates the influence that children in this study had in the dispute. It is also inconsistent with the priority given to children affected by domestic abuse on children in both child protection and criminal law. Children's views are not a "pure" representation of what they want for themselves. Instead, like the views of adults, children's stated preferences are a product of what they want for themselves, for others, and are influenced by others and children's particular circumstances. Process of gathering children's views left children ill-prepared to express views on what were difficult and complex issues.	manipulation and domestic abuse present a significant and serious risk to children's participation rights in contested child contact. A legal construction of the child's views as separate to the parental dispute to have unintended and serious consequences for children's participation rights. Radical reform in family law and practice is necessary to make disputes about child contact centered around the child, rather than on parental responsibilities and rights.	the research. Small sample.	progressive legislation in Scotland, the family law system and associated court procedures fail to sufficiently recognise the participation rights of numerous children in contested contact cases. Children's lack of legal status in the dispute renders the implementation of their participation rights conditional upon adults' actions and information.

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Appendix 4: (Unabridged) Methods chapter

‘Real world research is the cornerstone of applied learning, evidence-based policy and informed decision-making’ (Robson & Mc Cartan 2016, p.10)

3.1 Introduction

This chapter provides an outline and description of the methodology design and approach employed to realise the aims and objectives of this research project as set out in the opening chapter and reiterated below. This includes an outline of the chosen approach, research design and research methods, sampling decisions and approaches, data collection processes and procedures and ethical considerations. Mindful of Skafida, Morrison and Devaney’s (2022, 9811) assertion that ‘domestic abuse is a pernicious societal issue that has both short - and long-term - consequences for those who are victimised’, this chapter also presents and addresses the opportunities and challenges encountered in the completion of this study, all of which are commonly associated with ‘real world’ research of this nature (Robson & McCartan, 2016).

3.2 Aims and Objectives of the research study

Addressing significant gaps in the Irish social and legal context, the overarching aim of this study is to explore how victim-survivors of domestic violence and abuse, including children, experience navigating guardianship, custody and access proceedings in the Irish Family Law system. The objectives of this study are to:

- Understand the experiences of, and impacts on, adult victim-survivors of domestic violence and abuse who engage with custody and access proceedings in District Courts.
- Understand the experiences and outcomes for children with a specific focus on how their views are ascertained and represented.
- Illuminate the predominant enablers or and barriers to safety and support, as experienced by adult and child victim-survivors in this context.
- Achieve a sample diversity in order to identify and include additional intersecting factors.
- Identify models of evidence-informed good practice that can inform recommendations going forward.

3.3 Research Design

To realise the aims and objective of the study as set out above, this study adopted an exploratory sequential mixed-methods research design, where each research activity's findings informed the structure and design of successive activities (Creswell & Plano Clarke, 2011; Teddie & Tashakkori, 2009). In order to elicit a 360-degree investigation of this understudied area in the Irish context, adopting this mixed methods approach, this study sampled from a diverse range of actors (victim-survivors, children, professionals/practitioners), across the following three phases of the research:

Phase One involved two large surveys:

- Survey of specialist frontline domestic violence practitioners
- Survey of adult victim-survivors

Phase Two involved qualitative focus group and individual interviews:

- Focus Groups with a broad range of health & social care, and legal professionals
- Individual interviews with adult victim-survivors
- Individual interviews with children aged 9-17
- Individual interviews with aged out minors aged 18-24

Phase Three Family Law 'Case Study' involved interviews and observation

- Non-participant observation of family law courts in both rural and urban settings
- Individual interviews with judges, solicitors, barristers and relevant court personnel

Across the three phases of the research as outlined above, underscored by the mix of methods employed, this research design achieves triangulation, which involves the combination of methods or sources of data in a single study (Berg & Lune, 2012). Achieving triangulation not only provides a deeper, clearer and more nuanced understanding of the context, systems, processes and people being studied, but importantly it also strengthens the study's findings, gaining a deeper and clearer understanding of the setting and people being studied (Yin, 2017). Triangulation of data was achieved providing a richer and more comprehensive account of the phenomenon under study by answering aims and objectives from multiple viewpoints – a broad range of practitioners; adult and child victim-survivors; and observation of the family law system in practice. Triangulation is therefore embedded

in the research design for this research to “deepen the understanding of a phenomenon, not to confirm one true reality” (Jentoft & Olsen, 2017, p.4).

As reflected in the opening quote to this chapter, the chosen research design is compatible with real world research, which is reflected in the aims and objectives of this study, facilitating the achievement of a contextually rich understanding of this under-researched area. While this study is interested in understanding how the key actors, adult and child victim-survivors of DVA, experience navigating family law in the context of GCA proceedings, it is also interested in capturing an understanding of the broader systemic processes and dynamics that influence those individual subjective experiences.

3.3.1 Ethical Approval and Oversight Processes

This study received full ethical and data protection approval across five separate oversight processes¹⁰⁶. A Research Advisory Committee appointed by the commissioners of the research project, acted in an oversight and advisory capacity to the research team.

3.4 Conducting the Research

3.4.1 Phase One Survey Methodology

Phase one involved two online surveys: One targeting specialist practitioners working in DVA services, the second aimed at adult victim-survivors with experience of the Irish family law system for GCA in the context of DVA from 2015 onwards. An online survey methodology was determined to be the optimum method for data collection as this is an effective method to gather data from specialised samples (De Vaus, 2014). The survey collected both quantitative and qualitative data. In the survey both types of data were given equal precedence (Creswell & Plano Clark, 2011; Johnson & Onwuegbuzie, 2004). The aim of the mixed-methodological design of these instruments was to achieve complementarity between the data types therefore elaborating and enriching the findings (Greene, Caracelli, & Graham, 1989; Teddlie & Tashakkori, 2009). Both survey instruments were developed using Qualtrics TM; a secure online survey platform., which provided an automated approach to data collection which was fast, secure and accurate (Bryman, 2016)..

¹⁰⁶ School of Social Work & Social Policy Research Ethics Committee, Trinity College Dublin; Data Protection Approval, DPO, TCD; Social Research Ethics Committee, UCC; Tusla Research Ethics Committee; and the Legal Research and Library Services Subcommittee of the Courts Services.

Specialist DVA Practitioner survey instrument

The aim of this survey instrument was to collect data from specialist DVA practitioners about their experience of supporting adult and child victim-survivors of DVA in navigating the family law system regarding GCA cases. The survey sought to gather information on practitioners' experiences of supporting clients through the various aspect of family law processes, in addition to gathering some fundamental information about practitioners and their organisations. It comprised of six sections 1) Practitioners' organisation, role and qualifications; 2) Legal advice and representation; 3) Mediation; 4) Court: Assessments and reports; 5) Court: Judges and Orders; and 6) Additional comments and information on barriers and enablers to safety and support for adult and child victim-survivors.

The practitioner survey was aimed at practitioners working with female victim-survivors and/or their children in dedicated domestic violence services across Ireland. Practitioners working in DVA organisations with Safe Ireland affiliation were determined to be the most appropriate sample frame. Safe Ireland shared a list of service managers' email addresses in these organisations, and an email with study information and link to the online instrument was distributed. The survey was live on the online survey platform Qualtrics from the 15th November 2023 until 13th February 2024, which was a period of 14 weeks. Informed consent was obtained via the survey instrument.

Based on a sample frame of 400 eligible practitioners, the survey achieved response rate of nearly 50%. The figure of 400 eligible practitioners was obtained from data provided by Safe Ireland which was then verified by the research team. A pilot survey was undertaken in November 2023. Any issues identified during the pilot were addressed and feedback was incorporated if it was conceptually and methodologically appropriate to do so. Only surveys which were a minimum 80% completed were included in the analysis, which was agreed by consensus of the research team.

- **Eligibility criteria**

To be eligible to participate, respondents had to be working in Tusla funded organisations whose primary focus is on responding to DVA. They were required to have direct experience of supporting victim-survivors through guardianship, custody, and access proceedings in the Irish family law system since 2015.

- **Participating DVA organisations characteristics**

Practitioners' organisations provided a range of DVA supports and services, including outreach, court accompaniment, visiting support, refuge, national and local helplines, supported housing and dedicated children's support. Well over half of the services were in an urban area (>1,500) (58.5%, n=114), a rural location accounted for 13.3% (n=26) (<1,500), and 28.2% provided a national service (n=55).

- **Sample characteristics**

In total **196** practitioners completed the survey. The average number of years working for practitioners was 8.3 years. The most experienced practitioner had 30 years' experience, the least approximately 6 months. Most DVA practitioners had a high level of educational attainment; over half had attained a postgraduate or higher degree (52.1%, n=101), and nearly a third a primary degree (28.9%, n=56). Most of the practitioners provided support to adult victim-survivors (70.3%, n=137), while a far smaller proportion indicated they work only with children (6.7%, n=13), and the remainder indicated that they support children and their non-abusing parent together (14.9%, n=29).

Adult survivor survey

This survey was aimed at all adult victim-survivors. It was launched on 8th January 2024 and was live on the secure online survey platform Qualtrics for 6 weeks until 16th February 2024. Adult victim-survivors who met the inclusion criteria for the study were recruited utilising social media posts shared within multiple networks. A pilot survey was undertaken in November 2023. Any issues identified during the pilot were addressed and feedback was incorporated if it was conceptually and methodologically appropriate to do so. Only surveys which were a minimum of 80% completed were included in the analysis, this figure was agreed by consensus of the research team.

- **Eligibility criteria**

To be eligible to participate, respondents had to meet the following criteria: i) be a parent or guardian, ii) be a victim-survivor of domestic violence and abuse, and iii) have used family law courts since 2015 for GCA proceedings in Ireland.

- **Survey sample**

This survey had 416 respondents in total. The first question in the survey sought to establish whether the responding victim-survivors were '*mothers*', '*fathers*' or '*others*'. The sample comprised 370 mothers (88.9%), 43 fathers (10.3%) and 3 others (0.07%). It is important to emphasise at this point that while proportions for female and male victim-survivors will be presented concurrently in some sections of this report, there is a large difference of the number of respondents in each group, which is important to bear in mind when considering the statistics presented. This difference in the number of female to male respondents was anticipated and is reflective of the much greater number of female victims of domestic violence and abuse both in Ireland and worldwide.

- **Sample characteristics**

The average age of female victim-survivors who responded to the survey was 42.3 years old (SD=7.6). The youngest mother to respond was 23 years old while the oldest was 65. The average age for male victims was 48.7 years old (SD=8.5), with an age range of 33 years old for the youngest respondent and 67 years for the oldest.

Nearly two thirds of mothers reported that they currently live in an urban location (n= 240, 64.9%) with just over a third living in a rural location (n=130, 35.1%). Just over half of the fathers described their current location as urban (n=22, 51.2%) while slightly less live in a rural location (21, 48.8%).

The majority of female respondents (58.6%, n=198) indicated they were living in the Leinster region at the time of their GCA proceedings, with nearly one third living in Dublin. While 27.5% were living in the Munster region, 8.5% (n=30) of the sample living in Cork. For male respondents (40.0%, n=16) were living in the Leinster region. However, the majority proportion indicated that they were living in county Cork at the time of their GCA proceedings (18.6%, n=8).

- **Language, residency status & ethnicity**

The majority of the sample were Irish Citizens (n=357, 86.0%), 9.2% indicated they were EU citizens (n=38), 1.7% were non-EU citizens in Ireland with a work visa (n=7). The vast majority of the sample indicated that English was their first language (n=378, 90.9%). There were 33 respondents (7.9%) who stated that they were fluent in English, although it was not their first language. There were only 5 respondents (1.2%) who indicated lower levels of English. Of those who answered the question on ethnicity, the two largest groups for mothers were 'white Irish' (n=305, 85.7%) and 'any other white background' (n=33, 9.3%). For fathers 'white Irish' held a slightly lower proportion at 79.1% (n=34) and 'any other white background' accounted for 14.0% (n=6). Ethnicity will be discussed in greater detail in the Chapter 8: Intersecting factors.

- **Respondents' children & families**

Responding mothers had an average of 2.2 children (SD=1.2); families ranged from a single child up to a maximum of eight children in one family at the largest. There was a similar pattern with the responding fathers. The average amount of children for fathers was 2.1 children (SD=.98), again ranging from a single child up to a maximum of six children in the largest family.

Most mothers reported that the perpetrator of their abuse was also the other parent of all their children (n=307, 83.0%). This figure was even higher for fathers who were victims of violence (n=40, 93.0%). For mothers who had other children, there was a combination of those who had these children before or after the abusive relationship which was the subject of guardianship, custody and access proceedings. There were some who reported in their qualitative responses that they had experienced more than one abusive relationship.

- **Court proceedings**

In relation to the court proceedings, there were similar figures reported by both female and male victim-survivors, so these are reported collectively. The average year in which proceedings commenced was 2018 (n=416, SD=3.4). The earliest date that a case commenced was 2005 (reported to have concluded in 2023), while the most recent case commenced in 2023. More than half of the sample indicated that their court proceedings were ongoing (n=218, 52.4%), the remainder indicated that their proceedings had finished at the time of the survey. The date range for the conclusion of cases of the sample was from 2016 to 2023. Of those who indicated that their proceedings had concluded (n=198, 47.6%); over half of these respondents (n=101, 52.6%) said they have had to re-visit custody/access through the courts since their proceedings concluded.

Data analysis for DVA practitioners' survey and adult victim-survivors' surveys

Both surveys were designed and conducted using Qualtrics online survey platform. The data were analysed separately using their respective established analysis techniques. Quantitative data gathered by the online survey was analysed using IBM SPSS Statistics Version 28 and Microsoft Excel. The datasets were downloaded directly from Qualtrics site in an SPSS format, which meant that data had been pre-coded and labelled. Data cleaning was undertaken prior to analysis. Unique case numbers were assigned to respondents to each survey to allow for anonymised reference between qualitative and quantitative data. As not much is known about this particular topic, a main focus of the data analysis was presenting descriptive statistics and exploring frequencies (Creswell & Plano Clark, 2011).

Qualitative thematic analysis was employed to analyse and interpret the qualitative data from the many targeted 'free-text' boxes throughout each survey instrument. Braun and Clarke's (2006) six-phases for conducting thematic analysis were drawn upon. An initial 'soft' analysis was undertaken to agree broad themes by consensus of the research team, before moving to a more in-depth analysis. The process of generating codes, sorting and reviewing them, continued until higher order themes were identified which addressed the research questions (Braun & Clarke, 2006).

Teddle and Tashakkori (2009, p. 266) describe how data collected and analysed in this way can “talk to each other” to answer the research question and can lead to convergent or divergent results. As illustrated in a study by Parasnis, Samar, and Fischer (2005, p. 47), the overarching aim of this approach is that the “qualitative data analyses would support the quantitative data analyses, and provide rich detail that would facilitate interpretation peoples’ experiences”.

3.4.2 Phase Two: Focus Group and Individual Interview Methodology

Focus Groups

A sequential mixed-method approach prescribes building on the findings and gaps from preceding data collection. Focus group interviews were planned with key professionals who were not represented in the DVA practitioner survey. This approach recognises that not all victims-survivors will engage with dedicated domestic violence services. A focus group methodology is appropriate when engaging with diverse professional groups, as this approach has capacity to elicit multiple perspectives and encourage discussion (Bryman, 2016; Flick, 2011).

Focus groups were structured by professional groups and included those with experience of supporting clients who were also utilising family law courts for GCA proceedings. Professionals were invited to participate through a range of gatekeepers identified through the Research Advisory Committee overseeing the project. Focus group interviews were conducted with professionals who provide family supports, a range of professionals from organisations who provide support to various migrant and minority ethnic communities, professionals who work directly with perpetrators, legal professionals including barristers and solicitors, court appointed assessors who carry out assessments and prepare reports for the court, a number of representatives from various organisations working with the Traveller community, and individuals employed by Tusla. Lastly, a number of professionals who provide support to male victim-survivors to ensure that male victim-survivors’ perspectives of the family law system were represented.

Focus group discussions were guided by a semi-structured interview schedule. All focus groups were facilitated by two team members. Table 5 below set out the focus groups, number of participants and when the group was conducted.

Table 1: Professional groups for focus group interviews

FG No.	Area of expertise	Number of participants	Date conducted
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FG1	Family support professionals	10	March 2024
FG2	Migrant & minority ethnic professionals	7	March 2024
FG3	Perpetrator programme professionals	10	March 2024
FG4	Legal professionals	5	March 2024
FG5	Male victim-survivors	4	March 2024
FG6	Court appointed assessors	6	March 2024
FG7	Professionals from Traveller organisations	7	March 2024
FG8	Tusla professionals	12	May 2024

Individual Interviews

Given the ability of the semi-structured interview format to flexibly enable the interviewee to shape the direction and context of the interview (Yeo, Frydenberg, Northam & Deans, 2014), semi-structured interviews were the chosen approach for data collection across all individual data sets in this study: adult and child victim-survivors in phase two and judges and legal practitioners in phase three.

Focusing specifically on the adult and child victim-survivors, a qualitative approach involving individual interviews was the chosen method of data collection for capturing an understanding of how adult and child victim-survivors interpret their reality, as it can capture the nuances of individual perspectives (Grove, Burns & Gray, 2012). Furthermore, individual interviews can provide a safe space for the sharing of sensitive personal information that another method like focus groups would not facilitate (Schuster et al., 2023). While it may be challenging for children (Noble-Carr, Moore & Mc Arthur, 2020) and mothers (Heron, Eisma & Browne, 2022) to speak about their experiences due to perceived shame and stigma, conducting individual interviews has been shown to mitigate against these potential barriers (Thunberg, 2022).

- **Sampling children and young people for interview**

Gatekeepers in key organisations working with children and young people who have lived with DVA were recruited to support the research process and invite, where appropriate, eligible participants to consider taking part. As gatekeepers are usually the participant's first contact with the research and play a vital role in the initial approach and process of securing consent (Webster, Lewis & Brown, 2014), particular care was taken with their recruitment. Information on the project, the role of the gatekeeper and the potential nature of children's participation was exchanged via email and followed up via MS Teams or telephone. All participating children and young people were recruited by purposive sampling

employed by the respective gatekeepers and guided by the inclusion criteria. The gatekeepers starting point in the recruitment process was in passing on clear accessible and written information to the parent on what the child's participation would involve, in addition to providing clear, accessible and age-appropriate information for the individual children on what their participation would involve. This was an important step in securing their non-abusive parents consent to invite the child to participate. The inclusion criteria for children's involvement included the following:

- Children were between 5¹⁰⁷ and 17 years of age at the point of interview;
- They were no longer living with the perpetrator of abuse;
- They were linked in with support services.

Once children met the criteria for inclusion, their parent had consented to their involvement and the child had indicated their interest in participating, a time was set up (either through the gatekeeper or directly with the parent) for the researcher to meet the child with a view to the interview proceeding. A total of 15 children and young people participated in interview. However, one participant was not included in the analysis. There were several ethical considerations in relation to this interview. A decision was reached by consensus of the research team to exclude this data from the study.

- **Conducting the interviews with children and young people**

While there has traditionally been a concern with protecting children's innocence and vulnerability by excluding them from conversations about difficult sensitive topics like DVA (Øverlien & Holt, 2018), as researchers we took as our starting point that if these interviews with children are conducted in a way that is ethically secure, that this can be experienced as empowering for children and young people (Øverlien & Holt, 2023). Guided by good practice guidance evidenced in the literature (Cater & Øverlien, 2014; Callagan et al., 2018; Øverlien & Holt, 2023; Arnell & Thunberg 2023) careful attention was given across the research journey of each child including recruitment, informed consent, preparation for and conducting the interview and post interview follow-up.

Where appropriate and possible, the researcher met with both the mother and the young person before the interview. During this time the parental consent form was signed by the child's mother, but it was carefully explained to the child that they too had to give their assent. This was given careful attention utilising the assent form to guide the conversation. The opportunity for questions was given. The researcher outlined and discussed the research background with the child.

¹⁰⁷ While full ethical approval was granted to include children as young as 5 years of age, the youngest child in the final sample was 9 years of age.

Each interview was guided by an interview schedule and began with an explanation of the research and what the interview would entail (Klykken, 2022) before the child’s assent was secured. This conversation also covered permission to record the interview and also gave relevant information in child friendly language on data protection, child safeguarding and what their data would be used for. Asserting that the aim of the interview ‘has been to capture the lifeworld of the child, to the best of our (adult) abilities, that is to see the world through the eyes of the child, as experienced by him or her’ (Øverlien & Holt, 2023: 658), very careful attention was given to the interview format and schedule. To that end, while an interview schedule of topics and questions guided the interview, interviewers were prepared to engage both verbal and non-verbal interview methods including play and art in order to increase opportunities for children and young people to provide their perspectives and share their experiences (Henderson-Dekort et al., 2022). Only one of the 14 children and young people choose to play games while chatting through the interview. All other 13 participants engaged only in conversational exchange with the interviewer. Interviews lasted between approximately 30 and 60 minutes and all children were given a small token of appreciation for their time and for sharing their stories. All interviews were recorded via Dictaphone, with the participants expressed permission. A number of the children became upset during the interview process, and while all were offered a break or an end to the interview, only one child took a break and then returned to the interview conversation. It is important to note at this juncture that all participating children and young people were assigned false names (pseudonyms), which are used throughout this report. In contrast, non-participating children referenced in quotations and narratives are identified using generic terms such as ‘child’, ‘child 1’, ‘child 2’, or using descriptors like ‘son’ or ‘daughter’. This approach ensures the anonymity of individuals who did not provide explicit consent to participate in the study and also helps distinguish between participants and non-participants. See Table 6 below for the final sample of interview participants.

Table 2: Final sample for interviews with children and young people

Participant Number	Pseudonym	Age
Child participant 1	Maggie	11
Child participant 2	Dara	17
Child participant 3	EXCLUDED	15
Child participant 4	Ruth	14
Child participant 5	Roisin	10
Child participant 6	Rae	16
Child participant 7	Megan	13
Child participant 8	Greg	9
Child participant 9	Ruby	13

Child participant 10	Evan	9
Child participant 11	Jude	10
Child participant 12	Alice	14
Child participant 13	Sam	13
Child participant 14	Crea	12
Child participant 15	Aoibhe	16

- **Sampling the ‘aged-out’ victim-survivors**

‘Aged-out’ victim-survivors refers to individuals who experienced GCA processes as children, but who have now reached statutory adulthood being aged between 18 and 24 years at the time of interview. These aged-out individual are in the unique position of being able to reflect on their childhood experiences of GCA processes and decisions now that they are adults. These young adults were recruited using the same gatekeepers and processes as described above for children and young people. Aged-out victim-survivors who met the inclusion criteria for the study were also recruited utilising social media posts shared within multiple networks. These participants met much of the same criteria participation as adult victim-survivors including that they lived in a household with DVA, that they had self-selected to participate, that they had a sufficient level of English, that they had some experience of engaging with family law processes as children since 2015. The initial conversation with potential participants outlined the research background, data, privacy and confidentiality management, the limits of confidentiality, data storage, the rationale for audio recording and the right to access information and withdraw from the research pre, during or post interview. All except one interview also took place via MS Teams. A total of six aged-out victim-survivors participated, as illustrated in Table 7 below:

Table 3: Final sample for interviews with aged-out minors

Participant Number	Pseudonym	Age
Aged-out participant 1	Mia	19
Aged-out participant 2	Cara	20
Aged-out participant 3	Luke	20
Aged-out participant 4	Claire	19
Aged-out participant 5	Pippa	18
Aged-out participant 6	Anna	18

- Sampling the adult victim-survivors

Adult victim-survivors were recruited across a broad range of agencies working with both male and female victim-survivors of DVA. As with the children and young people, recruitment relied heavily on the gatekeepers in these organisations to identify those who met the inclusion criteria, to pass on the accessible information to those identified and answer any questions they might have, and subsequently to support the potential participant making contact with the research team. The required criteria for participation for adult victim-survivors included that they had experienced DVA, that they were a parent, that they had self-selected to participate, that they were not currently living with the perpetrator, that they had a sufficient level of English, that they had some experience of engaging with the family law system since 2015 and that they were connected with a specialist support service and could access support if required following participation in the interview. The initial conversation with potential participants outlined the research background, data, privacy and confidentiality management, the limits of confidentiality, data storage, the rationale for audio recording and the right to access information and withdraw from the research pre, during or post interview. A total of 24 adult victim-survivors participated. This comprised 23 mothers and one father, please see Table 8 below for the final sample of participants.

Table 4: Final sample for interviews with adult victim-survivors

Participant Number	Pseudonym
Adult participant 1	Sofia
Adult participant 2	Cathy
Adult participant 3	Elaine
Adult participant 4	Megan
Adult participant 5	Shiaria
Adult participant 6	Lucy
Adult participant 7	Aisling
Adult participant 8	Maura
Adult participant 9	Olivia
Adult participant 10	Michaela
Adult participant 11	Petra
Adult participant 12	Sonya
Adult participant 13	Sheila
Adult participant 14	Noreen
Adult participant 15	Leah
Adult participant 16	Eva
Adult participant 17	Alison

Adult participant 18	Tom
Adult participant 19	Jane
Adult participant 20	Lily
Adult participant 21	Millie
Adult participant 22	Prea
Adult participant 23	Kate
Adult participant 24	Samantha

- **Conducting the interviews with adult victim-survivors**

At the beginning of each research interview, time was taken to re-review and discuss each aspect of the consent form from the voluntary nature of participation, the option of recording the interview, the storage and use of data, the limits of confidentiality, the right to withdraw at any time during or after the interview and the right to review their contribution at any time. Following discussion each participant signed their consent form followed by the researcher’s signature. Giving participants “the choice to permanently or temporarily withdraw during fieldwork can contribute towards a mutual understanding of the active role that participants play in the research” (Klykken, 2022, p.802). Therefore, throughout and upon conclusion of the interview participants were reminded of their right to withdraw at any time and the process for same.

Each interview was guided by an interview schedule, began with an explanation of the research and what the interview would entail (Klykken, 2022) and concluded with the question “is there anything you didn’t get a chance to say that you would like to” before reminding them that they could withdraw at any time if they decided, thus contributing to the mutual understanding of their active role in the research (Klykken, 2022). Interviews with adult victim-survivors ranged from 45 to 150 minutes and took place primarily face-to-face in a location of their choice (their home, the service they were linked with or a community-based service in a suitable location). With attention to adult victim-survivor safety, some interviews also took place via MS Teams where that was the preferred option for the interviewee. All interviews were recorded via Dictaphone or via MS Teams, with the participants expressed permission.

3.4.3 Phase Three

Non-participant observation

Non-participant observation is a tool for studying people in 'real-life' situations where the researcher enters the field but does not become, nor aim to become, an active or central part of the system or society they are observing. For the purpose of this research, the Family Law court was the

observational site of interest, with non-participant observation conducted in both rural and urban court settings.

Observation is a highly valued research tool, with few better ways in social research of gathering an understanding of social interventions or processes, and where the observer is physically present but attempts to be unobtrusive (O'Leary, 2014). Observation has a distinct advantage over other methodologies, in that it is a direct method of obtaining data that does not ask people for their opinions or feelings, but their behaviour, their language, their interactions are recorded in detail. A clear attraction is the opportunity the researcher is given to gather fresh live data and as such record what individuals *actually* do as opposed to what they say they do (O'Leary, 2014).

Criticisms of observational data collection methods relevant to this research, include the extent to which being observed impacts upon the behaviour of those under observation. In the context of the family law court, however, the individuals concerned appeared consumed by the process of family law, presenting as uninterested and even dismissive of the researchers' presence. Good practice in observational research involves informing people in the research setting of what you are doing, and obtaining their consent (Gray, 2004, p250-251). Permission to enter the field in this research involved a number of steps. Firstly, permission was sought and gained from the Minister for Justice. Permission was then sought via the President of the District Court and an application to the Court Services Legal Research and Library Services committee, which was subsequently approved. Contact was made with the Courts' administration in each location to finalise arrangements to attend each court. Gaining the consent of the 'consumers' of the family law procedures sat somewhat uneasily with the researchers in the court settings. While the reason for the researcher's presence was transparently presented to the families concerned and they were given the option of requesting that the researcher leave while their respective cases were being heard, it was difficult to see how this would be perceived by them as a 'real' option, particularly when aspects of their lives were being decided at that hearing and a power differential between them and the legal personnel involved was glaringly obvious. Perhaps unsurprisingly, only two objections were made to the researcher's presence in the family court in any location across the approximate 100 hours of observation that was conducted.

Observations were conducted using a mixture of predetermined and non-determined criteria utilising a standardised template to record information, with the primary focus on observations of what was happening: what was seen, heard and sensed (O'Leary, 2005, p124). This captured descriptive and formal accounts of the physical space, the actors involved, their individual and collective acts.

Contemporaneous handwritten notes were taken, with analysis of that data occurring during and after its collection.

Observation is considered to be the most personally demanding and difficult form of social research to undertake because it requires the researcher to ‘spend time in surroundings with which they may not be familiar; to secure and maintain relationships with whom they may have little personal affinity; and to take copious notes on what would normally appear to be everyday mundane happenings’ (O’Leary, 2005, p153). That said, observation added a rich layer of data to the findings in this research, confirming preconceived notions and challenging others. It raised important questions that were woven into the research design and strategy, providing insights and challenges that would otherwise have gone unnoticed.

The Judges and legal professionals: sampling and interviewing

Following approval from Court Services Legal Research and Library Services, Judges currently practicing in family law courts met the eligibility criteria for inclusion in the interview sample frame. Information about the research and an invitation to participate was circulated by the President of the District Court. Information about the research, including what participation would involve, was circulated to interested participants prior to interview and consent was initially secured. At the agreed time for the interview, the purpose of the interview was once again explained and consent restated. All interviews were conducted online via the MS Teams platform and recorded with interviewee permission. The interview followed a pre-prepared interview schedule that had been approved by the Court Services Legal Research and Library Services. See Table 9 below for final sample of interview participants.

Table 5: Final sample for interviews with Judges, legal professionals and court staff

Participant Number	Pseudonym	Profession
Participant 1	LP1	Barrister
Participant 2	LP2	Court Registrar
Participant 3	LP3	Court Registrar
Participant 4	LP4	Barrister
Participant 5	J1	Judge
Participant 6	J2	Judge
Participant 7	J3	Judge
Participant 8	J4	Judge
Participant 9	J5	Judge
Participant 10	J6	Judge

3.5 Analysis / Integration of data

This mixed method methodological approach, which employed multiple data collection methods from multiple sources, yielded a vast and complex amount of data which required careful balancing and 'holding' to ensure dominant themes or constructions did not blur or obscure less powerful findings. Data analyses for each phase were undertaken using their respective established analysis techniques. Frequent research team meetings were held to discuss and agree emergent themes from the datasets, and how they linked together. The results from each of the respective datasets were instead combined at the interpretative stage of the research process, then integrated to create a single narrative.

3.6 Ethical Considerations

With an appreciation that the integrity of the project relies on an ethically sound research design and researchers' ability to conduct research in a safe and ethical manner, considered attention was paid to the ethical considerations involved in this research. The fundamental elements to ethical research are; to do no harm, to ensure consent is fully informed and to maintain confidentiality and anonymity (Gallagher, Haywood & Jones, 2010; Smette, 2019).

3.6.1 Informed consent

From the recruitment phase up to, during and after the data collection phases, an iterative and continuous approach to informed consent was adhered to. Conscious that an essential criterion for consent's validity is that the decision of an individual to participate is voluntary and based on clear, unambiguous information about what engagement in the research will entail (Klykken, 2022), the journey towards informed consent began as described earlier, with the Gatekeepers. Clear unambiguous and accessible information was provided which set out all key criteria pertaining to the research, as outlined earlier. Regular checks were made, particularly in the individual interviews with adult and child victim-survivors that consent was ongoing.

3.6.2 Ensuring no harm

As a starting point to adhering to the principle of doing no harm, considerable attention was paid to the inclusion and exclusion criteria which determined participation in this study. Acknowledging that the topic under discussion can be an emotive one, every effort was made to ensure before, during and after participation that participants were not harmed unnecessarily by their involvement.

3.6.3 Ensuring confidentiality, anonymity

In terms of confidentiality and anonymity, audio recordings of interviews were made with the written informed consent of the research participants, anonymised, transcribed verbatim and stored securely in accordance with data protection requirements. The limits to confidentiality were discussed with each participant prior to each interview.

3.7 Research Limitations

While every effort has been taken to ensure robust and rigorous research practices in all aspects of the research design and execution, there are several limitations which need to be considered. A main focus of this research was to achieve diversity in the sample. It was anticipated there could be challenges in phase one which used a survey methodology, particularly as the survey instrument contained many questions and the content related to complex legal processes and systems. It was planned to recruit a more diverse sample during phase two interviews. Indeed, while there were more individuals from diverse backgrounds recruited in this phase, low numbers however for many individual groups meant that comprehensive analysis of their data was limited. Therefore, additional layers of security were enacted to protect the identity of individuals when discussing findings which related to minority group participants. These are explicitly highlighted throughout the report. Furthermore, despite many targeted recruitment efforts, it was not possible to recruit any interviewees from LGBTQI communities.

Additionally, there were many challenges in recruitment of 'aged-out' minor participants. Several attempts were made to recruit more participants for this category. However, these were largely unsuccessful. For these reasons, it was not possible to complete the number of interviews which were originally planned in the research design. Nevertheless, the six individuals who participated in interviews provided thoughtful and deep insights into their lived experiences of GCA proceedings.

Finally, despite many attempts to recruit male victim-survivors for participation in interviews, only one male victim-survivor was recruited. Therefore, to protect the anonymity of the one male participant, it was necessary to combine the data from his interview with the data collected from the 43 male victim-survivors who responded to the survey. The research team believed that to discuss this one interview in detail, could risk the possibility of making this participant identifiable. On this basis, where quotes were used, they were intentionally non-specific to his proceedings.

Appendix 5: Pre-separation frequency for forms of abuse – female victim-survivors

Table 22: Female victim-survivors’ self-reported frequency of forms of abuse pre-separation

Forms of abuse	Constant (never stopped)		Daily		A few times a week		Fortnightly		Approx once per month		Less often		Never	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Emotional abuse	180	48.8	90	24.4	66	17.9	7	1.9	10	2.7	15	4.1	1	0.3
Coercive control	184	50.0	73	19.8	51	13.9	8	2.2	17	4.6	21	5.7	14	3.8
Financial abuse	159	43.1	50	13.6	42	11.4	17	4.6	18	4.9	47	12.7	36	9.8
Physical abuse	45	12.2	22	6.0	64	17.3	14	3.8	46	12.5	102	27.6	76	20.6
Damaged your belongings or property	18	4.9	11	3.0	36	9.8	20	5.4	56	15.2	124	33.6	104	28.2
Stalked	87	23.6	46	12.5	45	12.2	11	3.0	18	4.9	63	17.1	99	26.8
Online / digital abuse	64	17.4	21	5.7	28	7.6	16	4.4	20	5.4	83	22.6	135	36.8
Sexual Abuse	24	6.5	14	3.8	45	12.3	25	6.8	19	5.2	97	26.4	143	39.0
Harmed a pet or animal	7	1.9	9	2.5	16	4.4	6	1.6	14	3.8	83	22.7	231	63.1

Appendix 6: Post-separation levels of abuse – female victim-survivors

Table 23: Female victim-survivors’ self-reported levels for forms of abuse post-separation

Forms of abuse	Increased		Continued at the same level		Only started post-separation		Decreased	
	N	%	N	%	N	%	N	%
Emotional abuse	189	57.3	96	29.1	4	1.2	41	12.4
Coercive control	183	57.4	87	27.3	6	1.9	43	13.5
Financial abuse	160	54.4	58	19.7	21	7.1	55	18.7
Physical abuse	78	35.3	26	11.8	8	3.6	109	49.3
Damaged your belongings or property	66	33.2	28	14.1	23	11.6	82	41.2
Stalked	142	55.7	40	15.7	47	18.4	26	10.2
Online / digital abuse	88	44.0	47	23.5	37	18.5	28	14.0
Sexual Abuse	8	7.2	8	7.2	3	2.7	92	82.9
Harmed a pet or animal	25	28.1	13	14.6	6	6.7	45	50.6

Appendix 7: Contact/access arrangement and professional involvement - CYP

Table 24: Children and young people’s contact/access arrangements and professional involvement

Participant (Pseudonym)	Age at Interview	Initial Contact Arrangements	Contact Arrangements at Time of Interview	Years of Unwanted Contact	Garda Involvement	Tusla Involvement	Assessor Involvement
Maggie	11	Shared custody	No contact	1	Yes	Yes	Spoke directly to Judge 3 times
Dara	17	Every weekend Friday to Sunday in original family home (overnight)	No contact	Not clear	Yes	Yes	Yes
Ruth	14	Weekly supervised	No contact	6 years	Yes	Yes	Yes (more than once)
Roisin	10	Weekly supervised	No contact	6 years	Yes	Yes	Yes (more than once)
Rae	16	10 minute video call weekly	No contact	4 years	No	Yes	Yes
Megan	13	None (3yr barring order)	No contact	0	Yes	Yes	No
Greg	9	Every weekend for few hours in a public place	Every second Sunday 1hr face-to-face and phone-call other week	2 years	Yes	Yes	Yes

Participant (Pseudonym)	Age at Interview	Initial Contact Arrangements	Contact Arrangements at Time of Interview	Years of Unwanted Contact	Garda Involvement	Tusla Involvement	Assessor Involvement
Ruby	13	Every second weekend in original family home (overnight)	No contact	6 years	No	Yes	Yes
Evan	9	Weekly for few hours at dad's house	No contact	3 years?	Yes	Yes	Yes (more than once)
Jude	10	Monday, Thursdays & every second weekend in dad's house (overnight)	No contact	6 years	Yes	Yes	Yes (more than once)
Alice	14	Every weekend Saturday to Sunday overnight (in original family home)	No contact	6 years	Yes	Yes	-
Sam	13	Every weekend Saturday to Sunday overnight (in original family home)	No contact	5 years	No	Yes	-
Crea	12	None	No contact	0	No	Yes	Yes
Aoibhe	16	1 supervised access by Tusla to observe interaction	No contact	0	Yes	Yes	No

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