



## **FAMILY JUSTICE COUNCIL EVENT**

### **The Impact of Recent Developments in Domestic Violence on BME and Other Minority Communities**

**17 June 2009, 6.30 - 8.30pm**

**House of Lords**

#### **PANEL**

The Right Honourable Baroness Butler-Sloss GBE  
His Honour Judge John Platt, Circuit Judge, Romford County Court  
Khatun Sapnara, Family Barrister, Part-Time Judge (Recorder) and Member of the Family  
Justice Council  
Jodie Smith, Head of the Domestic Violence Branch, Ministry of Justice

#### **ORGANISATIONS ATTENDING**

Ashiana  
Black Association of Women Step Out (BAWSO)  
Broken Rainbow  
Children and Family Court Advisory Support Service (Cafcass)  
Co-ordinated Action Against Domestic Abuse (CAADA)  
Eaves Housing  
Families Need Fathers (FNF)  
Greater London Domestic Violence Project  
Harrow Council Children's Services  
Hestia Housing and Support  
Home Office  
Imkaan  
Iranian and Kurdish Women's Rights Organisation (IKWRO)  
Jewish Women's Aid  
Medway Citizens Advice Bureau  
National Association of Guardians Ad Litem and Reporting Officers (NAGALRO)  
Newham Asian Women's Project (JWA)  
Powerhouse  
Refuge  
Rights of Women  
ROSHNI Nottingham Women's Aid  
Southall Black Sisters (SBS)  
Stonewall Housing

The NIA Project  
University of Warwick  
Victim Support  
Warwickshire County Council

### **ALSO ATTENDING**

Adrienne Barnett, Barrister, Domestic Violence Working Group, Family Justice Council  
District Judge Barrie Cole, Croydon County Court  
Maria Dennis, Solicitor, Diversity Committee, Family Justice Council  
Peggy Ekeledo, Solicitor, Diversity Committee, Family Justice Council  
Brett Gable, Ministry of Justice  
The Honourable Mr Justice Hedley, Family-Criminal Interface Committee  
Penny Langdon, Ministry of Justice  
Sherry Malik, Cafcass and Diversity Committee, Family Justice Council  
District Judge Azmat Nisa, Domestic Violence Working Group and Diversity Committee, Family Justice Council  
Frances Orchover, Barrister, Diversity Committee, Family Justice Council  
Katy Rensten, Solicitor, Diversity Committee, Family Justice Council  
Alison Russell, Lawyer, Domestic Violence Working Group, Family Justice Council  
Christine Smart, Cafcass and Diversity Committee, Family Justice Council  
Karen Stone, Legal Services Commission and Diversity Committee, Family Justice Council  
Malek Wan Daud, Barrister, Diversity Committee, Family Justice Council

Alex Clark, Family Justice Council  
Paula Adshead, Family Justice Council  
Joanna Wilkinson, Family Justice Council

### **PURPOSE**

The purpose of the event was to explore the impact of recent changes in domestic violence legislation on BME and other minority groups.

The Diversity Committee of the Family Justice Council is looking to ensure that it listens to the views of those working to improve the lives of domestic violence victims and to take these views into account in its future work. It felt that a forum would provide an important opportunity to share information and experiences and to discuss the way forward. Organisations representing BME and other minority groups, as well as others with an interest in domestic violence issues, were invited to attend the forum.

### **INTRODUCTION**

Khatun Sapnara, Chair of the FJC's Diversity Committee began by introducing the panel and giving some background information on the work of the FJC. She then spoke about the Diversity Committee and gave examples of its recent work such as helping to draft the Forced Marriage Act; looking into the provision of interpreters in the family courts; responding to various consultations; and contributing to the Parenting Assessment Manuals which provide guidance on ensuring that cultural sensitivities are taken into account when social workers conduct assessments.

The forum then heard from Jodie Smith who spoke about the Government's work on domestic violence issues. She explained that the Ministry of Justice (MoJ) was just one player in the policy area and that the Home Office took the lead on domestic violence issues. The Government's key achievement was the setting up of 122 specialist domestic violence courts across England and Wales. Recently the Home Office published a major consultation document, *Violence Against Women*, the responses to which were currently being analysed and the outcome should be published in the autumn. The Forced Marriage Act that came into effect in November 2008 was being closely monitored by the MoJ. To date, there had been 36 cases with an equal number involving a) under 16 year olds, b) 16-18 years and c) over 18 years. The priority was to see how the Act was bedding down and the impact it was having,

as well as looking at follow-up events and overseas issues. There were plans to designate, later this year, certain Local Authorities to look at cases brought about by third parties and proposals to look at the role of Independent Domestic Violence Advisers. Section 12 of the Domestic Violence Victims of Crime Act regarding restraining orders will come into effect in September this year.

Jodie stressed the need for joined-up working across Government, the family courts and other organisations and said that practical steps were being taken to improve the system.

## **QUESTIONS AND ANSWERS**

The panel were then asked to respond to questions that were submitted to them in advance of the meeting.

### **Civil proceedings**

The session began with a question from the Rights of Women on whether civil sanctions were being accessed (eg warrant of arrest) for breach of non-molestation orders by victims who did not want to participate in criminal proceedings or where criminal proceedings had been discontinued. Judge Platt spoke about his experience at Romford County Court where he had seen 500 cases in the last year. Of these, not a single one was an injunction or application for warrant of arrest. He believed that committal proceedings had virtually died out in the civil courts.

The issue of legal aid was discussed. Although it was the Legal Services Commission's (LSC) policy to provide legal aid for domestic violence cases, anecdotally it was suggested that the funding was not available on the ground, particularly in cases where bail was in place. The Rights of Women mentioned that it had seen a 45% drop in people coming though because the legal aid issues were the deterrent rather than the criminalisation issues. The LSC accepted that there were indeed variations across England and Wales and promised to launch an information campaign to help clear up any misunderstanding. Judge Platt suggested that Children's Act proceedings might be an alternative route to follow as it still attracted legal aid funding.

### **Police**

A question from the Women's Trust raised the issue of the role of the police and how communication between the police and Crown Prosecution Service (CPS) could be improved when attending magistrate courts for breach of a non-molestation order.

There were concerns that there were higher rates of caution than prosecution and there was general agreement amongst delegates that there was an urgent need for better co-ordination between the police, the Crown Prosecution Service (CPS) and the courts. The Panel highlighted the protocols that had been established on a local basis in Manchester and Luton which promote information-sharing and hoped that similar schemes would be adopted on a wider basis.

It was noted that the Family-Criminal Interface Committee and the Domestic Violence Working Group of the Family Justice Council were currently working on publishing guidance to clarify such issues as prosecution and bail.

It was also acknowledged that there was a lack of communication between the civil and criminal courts which could result in the latter making blind decisions about prosecution or bail conditions. It was suggested that an advocate might help improve the system by ensuring that all relevant information is available.

### **Openness in the Family Courts**

Malek Wan Daud, barrister and member of the Diversity Committee began a discussion on openness following the recent change in government policy to allow media attendance in

family proceedings. The Panel was of the opinion that transparency in the courts, with approved safeguarding to prevent identification of children or vulnerable adults, was a positive step to allow the public to see how the system worked and there was a general feeling of disappointment that there had been little take-up from the media. Baroness Butler-Sloss commented that there were particular cases where the press ought to attend and there had been times when she had issued a summary of a case for media publication although it was acknowledged that this was not always possible due to time constraints.

## **Allegations**

Families Need Fathers raised concerns over the question of false allegations of domestic violence. Baroness Butler-Sloss referred to her experience of the Re. L case in which allegations were thoroughly explored through fact-finding before deciding what was best for the child's welfare. In the current climate, there were concerns within the judiciary about how to manage the volume of allegations, compounded by the increase in litigants-in-person, the need for interpreters and the number of witnesses resulting from the rise in extended families appearing before the family courts.

The Cafcass representative explained that its priority was always to act in the child's best interest but recognised that the safety of the child was intrinsically wrapped up in the safety of the resident carer. Cafcass had a statutory duty to assess risk where there was any cause for concern as it was often very difficult for a judge to make a decision based solely on oral evidence.

Judge Edward Cohen suggested that Re. L had opened up a 'Pandora's Box' in terms of the delays and expense involved in Cafcass assessments. He was concerned that fathers' requests to see their children were being delayed in some instances because of false allegations and unnecessary investigations.

Families Need Fathers' view was that contact was a valuable resource to promote the welfare of children and that the emphasis should be on supporting the mother rather than stopping contact.

The panel stressed that the quality of the initial evidence was crucial. Everyone involved had a duty to ensure that they elicited the true story, that the evidence was objective and that cultural and language issues were taken into account. In a climate where many law firms were closing, there was a need for the voluntary sector to be provided with training to help clients with representational aspects. Judge Platt added that the new 404a form could be a valuable tool in this respect.

Baroness Butler-Sloss agreed with Judge Cohen that there were some allegations that were false or exaggerated but for the benefit of the child it was essential that concerns were explored to ascertain the facts. It was recognised that emotional abuse should also be considered. Some perpetrators used the court system to control and victimise their partners and Cafcass confirmed that there had been cases this year where coercive control regarding contact with the child had led to tragedy.

## **Religious Arbitration Tribunals**

Southall Black Sisters asked the panel for its view on the role of religious arbitration tribunals in the family justice system in light of concerns that such organisations discriminated against women. It was clear that many BME women found it difficult to come out and say what was happening to them as many faced hostility in what was seen as a male-dominated environment. It was important to put the message across that the principles of religious arbitration tribunals, for example those which sought to apply Sharia Law, did not constitute the established law of England and Wales.

The panel recognised that many communities had recourse to, and derive benefit from, advice issued by religious councils. Provided an activity prescribed by a religious code did not contravene the law of England and Wales, there was nothing that prevented people living

by its tenets. However, such advice could pre-empt a court decision and any court would examine the decisions made by tribunals applying religious principles before reaching a view as to whether they were appropriate in the circumstances.

There were concerns that any informal agreements might impact upon and delay court proceedings. It was suggested that religious arbitration might be affiliated with mediation organisations and this was something that should be looked at.

### **Lesbian, Gay and Bisexual and Transgender (LGBT) Communities**

Stonewall Housing expressed disappointment that the concerns of the LGBT communities had not been addressed. The panel agreed that this was an important issue which should be given due consideration. A representative of Stonewall Housing was subsequently invited to join the Diversity Committee.

### **Closing**

Baroness Butler-Sloss closed the forum with thanks to the panel and to the delegates for their time and contributions. It was acknowledged that the forum had provided a very useful opportunity in which to consider issues of concern to BME groups and it was hoped that another meeting could be held to consider those topics yet to be discussed.