

Child Sexual Abuse Allegations and Response of Family Courts Briefing

Dr Ravi Thiara, University of Warwick

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This briefing brings together two areas that have attracted much attention in recent years - that of child sexual abuse (CSA) and how the family court responds to allegations of violence and abuse. It presents findings from research exploring this interface¹ as well as existing knowledge, to highlight critical issues that have important implications for policy and practice. This briefing considers the prevalence of CSA and what research tells us about disclosure of CSA; family court responses to child contact in contexts of violence and abuse; and key findings about how the family courts respond to children when there are allegations of CSA.

CSA perpetrated by high profile figures and celebrities, as well as cases of Child Sexual Exploitation (CSE) in Rotherham and other English cities, have received a great deal of attention in recent years. Whilst important, such cases can displace the everyday experiences of CSA victim-survivors by those known to them. This is particularly critical in decisions about the arrangements for children's care after parental separation. The way in which a presumption that the best interests of the child are served by contact with both parents continues to shape the practice of the family courts has been extensively critiqued by women's organisations and researchers who have pointed to the negative consequences, sometimes fatal, of such decisions (Coy et al., 2012; Thiara and Harrison, 2016; Women's Aid, 2016). Much of the focus of research and campaigning has been on domestic violence, where women and children are subjected to violence and abuse, and not where children themselves may have been directly sexually abused. Concern has also been expressed about the failure of the courts to adequately include the voices of children in the decision-making process (Holt, 2011).

Prevalence of child sexual abuse (CSA)

The following definition of CSA, provided in *Working Together*, is used in this briefing (Dept. for Education, 2018: 43):

Involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse. Sexual abuse can take place online, and technology can be

¹ The research was conducted in partnership with Coventry Rape and Sexual Abuse Centre and Rape Crisis England and Wales. It drew on discussions with 10 professionals, three mothers, one young person and six case studies. For more information

used to facilitate offline abuse. Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.

Building an accurate picture of CSA is complicated and is still being developed, but recent figures produced by the Centre of Expertise provide some indication of the extent of CSA (see Kelly and Karsna, 2018). This shows that self-reported CSA is significantly higher than that recorded by agencies:

- Radford et al. (2011) prevalence study of child abuse and neglect, which calculated figures using reported rates of victimisation and extrapolated using ONS mid-2009 population figures, showed that 785,000 children aged 11-17 years experienced any type of sexual abuse during their childhood; 228,000 experienced contact sexual abuse in their childhood.
- In contrast, 81,271 CSA offences were recorded by the police in England and Wales in 2017-18 (police record offences).
- 30,840 children were assessed at risk of CSA by children's services in England in 2017-18 (record children).
- 3,075 children were on child protection plans for sexual abuse in England and Wales in 2017-18.

Different questions asked by surveys influence rates of reported CSA but despite such differences in method, it can be concluded that in England and Wales, at least 15% of girls and 5% of boys experienced some form of sexual abuse before age 16, including by adults and peers. The conclusions of a meta-analysis show that minimum estimates of CSA are 15-20% for girls and 7-8% for boys (Kelly and Karsna, 2018: 53).

Evidence also highlights the gendered nature of CSA as reported in the different reports. This indicates that the majority of victims are girls (between 66%-88%)² and the majority of perpetrators are men who are over 18 years (97-98%)³. The most serious and repeated offences are committed by known people; typically this is family members for girls/young women and authority figures for boys/young men (Kelly and Karsna, 2018: 16).

Most children and young people do not tell anyone at the time that the abuse is occurring and wait until they are adults, if they tell at all. Disclosure is noted to be influenced by a range of factors, including developmental, emotional, relational and wider cultural social norms and expectations as well as threats and coercion by the perpetrator (Allnock et al., 2019:6). In facilitating disclosure, there is tension between what is considered best practice in guidance to courts/judges and the emphasis on listening to the child in other professional spaces. It also becomes evident that insights provided by research are often in contrast to the practice of the courts. Research highlights the complexity of children's disclosure and how they communicate their abuse – directly by talking, indirectly (through drawing or playing with dolls) or through behaviour - to convey a message they hope will be picked up by adults including professionals.

² Office of the Children's Commissioner's Enquiry – *Protecting Children from Harm* – 2015 showed that of the total number of 49,673 CSA victims, 73% were females and 27% males; Dept. for Education Children in Need Census 2017-18 showed that of the 2,960 children on CP plans for sexual abuse in 2017-18, 62% were female and 38% male; Police recorded crime – CSE – 2017 showed that of the 8,995 CSE victims or those at risk, 88% were female and 12% male.

³ Many unknowns remain in existing evidence, such as duration and frequency of abuse, relationship to perpetrator, ethnicity, how many cases may be recorded under a different abuse category, and how many are CSE victims (Kelly and Karsna, 2018).

Verbal disclosure rates are low at the time abuse is occurring in childhood. Girls are more likely than boys to disclose abuse to someone during childhood. Greater barriers to disclosure exist for BME children and disabled children are also far less likely to disclose their abuse (Allnock et al., 2019).

A young woman recalled attempting to speak to her mother about being sexually abused when she was a child and when her mother reacted with anger she stayed silent until she was in her early 20s and had developed an eating disorder and chronic depression.

Disclosure is shown to be a process, rather than an event, and facilitated by relationships of trust that children build with others; significant periods of time may be needed to build such trusting relationships (Ahern et al., 2017); as a result, disclosures are partial and details may be vague or absent (Allnock et al., 2019). This is often misunderstood and missed by agencies (especially the police) and viewed as a lack of credibility and serves to displace the voice of the child.

Children are most likely to disclose to their mothers. An initial disclosure to the police is unlikely for a range of reasons, including loyalty conflict and emotional barriers such as guilt, denial and shame. They are often subjected to overlapping forms of violence and coerced into keeping silent. They may also worry they will not be believed, be blamed or get others into trouble. Research shows that children need to feel believed when they disclose and negative reactions by others are harmful to children's wellbeing and deter further disclosure.

Child contact and the family courts⁴

Most research on child contact and family courts has been in the context of domestic violence and abuse (DVA). This provides strong evidence that the current workings of the Family Justice System support a pro-contact approach that privileges men's rights to contact and neglects the safety needs of children and women, and the impact on them of previous or continuing DVA. The pro-contact position within family law, also described as a 'contact at all costs' approach (Harrison, 2008; Barnett, 2014) or 'judicial failure to protect' (Saunders and Barron, 2003), results in high numbers of child arrangements (contact) orders being issued, the majority of which allow direct contact; less than 1% of applications for contact are refused, even when there is a history of violence (Aris and Harrison, 2007; Giovannini, 2011).

Extensive research has shown that all professional groups involved in the contact process start from a pro-contact position and 'make considerable efforts to bring this about' (Hunt and Macleod, 2008:8). The routine granting of direct unsupervised contact is argued to reveal a lack of understanding about the continuing effects of DVA on women and children. A further concern that the family courts operate on the basis of a presumption of contact, is that children's voices are not properly heard within the court arena and they are marginalised in professional practice and assessments (Morrison, 2009; Caffrey, 2013). Thus, like women's experiences, children's

⁴ Of the 3 million (one quarter of children in the UK) affected by parental separation, the majority (85%) resolve contact arrangements by agreement (Hunt and Macleod, 2008). The Family Justice System is used when voluntary agreement cannot be reached, or when issues of safety and wellbeing are raised (Wasoff, 2007; Trinder et al., 2013). A high proportion of the 10-15% of separations that lead to court applications for contact involve domestic violence – 60-70% (Aris and Harrison, 2007), and there have been longstanding concerns about whether maintaining contact in these circumstances truly serves children's interests.

voices become lost in the process of determining contact. This is despite the requirement within both private and public child welfare law that children's wishes and feelings will be sought, represented to the court and taken into account within the decision-making process. This is enshrined in the welfare checklist (Section 1 (3) Children Act 1989) and is consistent with the UK's ratification of the UN Convention on the Rights of the Child (Thiara and Harrison, 2016). Indeed, it has been argued that the concept of 'the ascertainable wishes and feelings of the child' is so vague that it is open to wide interpretation by the courts. It has also been found that there is considerable latitude in terms of how wishes and feeling are sought and represented within proceedings (Wallbank, 1998; Caffrey, 2013).

Studies clearly illustrate that children affected by violence and abuse want to be consulted and their views properly ascertained (Houghton, 2006; Humphreys et al., 2008; Barron, 2007; Bagshaw et al., 2011; Holt, 2011). Research has revealed that Child and Family Court Advisory and Support Service (CAFCASS) officers, appointed to represent children's voices in the family courts, generally assess children's needs and wishes in one session (Thiara and Gill, 2012). It is unlikely that the rapport needed for children to freely discuss their feelings and experiences could develop over such a short period of time. Indeed, it has been argued that the presumption of contact has led to a selective approach to children's perspectives in court – there is evidence that children are believed if they say they want contact, but that they are more likely to be ignored or over-ruled if they say they do not (Harrison, 2008; Holt, 2011). The tendency to approach domestic violence as 'conflict between parents' and a view that women influence children against contact with fathers, comes to the fore and pushes the views of children themselves out of the picture.

CSA Allegations and Family Court – Key issues from Findings

Underpinned by an ideological commitment to the nuclear family, the presumption that it is in the best interests of the child to have contact with both parents continues to shape the practice of the family courts⁵. That the courts order children to have contact with a parent, often the father, even when that parent has been convicted of grave offences such as rape, assault and drug violations, has been widely highlighted through research and individual narratives. Cuts to legal aid have resulted in some women spending considerable amounts of money in seeking to protect their children through the family courts.

Key issues highlighted by research in relation to allegations of DVA and CSA and the family courts are that of parental alienation, implacable hostility and coaching.

The term Parental Alienation has been recognised as 'a generic term used broadly to refer to a child who has been influenced to reject one parent, in extreme cases 'brainwashed' or indoctrinated by an embittered/malicious other parent (Death et al., 2019:3).

⁵ Pressure from the Women's Aid ChildFirst campaign has resulted in the Guidance for family courts being revised, led by Sir James Munby, president of the Family Division of the High Court from 2013 to 2018, who emphasised the need for the courts to review responses to victims of abuse. A recent inquiry into how family courts in England and Wales protect children and parents in cases of DVA and others respond to families where there has been domestic violence and more specifically how victims of domestic violence are treated was also conducted during the summer of 2019, though its results have yet not been published.

Research in Australia and North America reveals that the gendered concept of Parental alienation (PA)⁶ is still being used to rebut allegations of CSA in family court cases. PA has also been highlighted in the UK through the linked notion of ‘implacable hostility’, which implies a disregard for a father’s rights and deliberate actions on the part of a mother to influence children against contact or to impede even court ordered contact. The view of women as ‘implacably hostile’, even when they are drawing attention to very real concerns to protect children continues to have much traction among professionals (Radford and Hester, 2006; Harrison, 2008). However, Hunt and Macleod (2008) have shown that implacable hostility is rare, present only in around 4% of cases.

Notwithstanding some developments, there remains concern that not only are professionals focused on making contact happen (and speedily), but there is a continuing reliance on concepts from PA – mainly ideas of ‘coaching’ children to make allegations of abuse. This is highly gendered as it is mainly mothers who are being constructed as manipulative, mentally unwell and ultimately harming their children in the process of punishing the other parent, the father. Research in Australia shows, for instance, that in relation to allegations of CSA there exists a culture of scepticism within the court; that substantiations of allegations are rare; mothers are viewed as vengeful and delusional; and that mothers and children were chastised for continuing to raise concerns about sexual abuse (Death et al., 2019). Research in the USA shows that fathers were more than twice as likely as mothers to win a case when claiming alienation and that such an allegation was likely to result in switching custody from mothers to fathers in 50% of cases (Meier and Dickson, 2017:325).

Given the ideological underpinning of the Family Court - that men-fathers are a key part of the family and children should have two parents - it can be argued that it is no surprise that mothers who challenge the ideological construct of the ideal nurturing family are discredited when trying to be appropriately protective of their children. It is also of little surprise that PA is an argument used by father’s rights groups and commonly alleged by men in disputes about children.

Assumptions about mothers

The starting point of the family courts is that ‘a mother is lying and a child is a pawn in mum’s game’.

That the family courts are failing to protect and to adequately hear or believe children and mothers when they make allegations of CSA emerged as a key concern in this research. As well as attributing allegations of CSA to attempts at PA, the family courts readily construct mothers as maliciously using children, and thus perpetrating emotional abuse, rather than recognising potential abuse and the real risks created for children.

Of concern about the preponderance of the PA argument is the assumption that the majority of CSA allegations made in the family court by children, but reported by parents, are false and due to ‘coaching’ because children are not seen as credible witnesses. Because CSA allegations can be difficult to corroborate due to absence of traditional evidence, they become easy to dismiss as PA/coaching by relevant court professionals. This is despite evidence suggesting that false allegations of CSA are rare (4.7-15%) and in fact CSA tends to be under-reported by parents.

⁶ CAFCASS provides guidance on parental alienation (PA) on its website for its practitioners when making assessments about contact; there is anecdotal evidence to suggest that practitioners are being asked to routinely consider PA.

Moreover, courts often do not make a distinction between reports that cannot be substantiated but are not necessarily false and a deliberately fabricated report.

Coaching / Influencing

It is very difficult for mothers who raise CSA as a concern to avoid allegations of coaching (Death et al., 2019:6).

The construction of women-mothers as 'just out for revenge' was considered to be a powerful societal view of women.

Among court professionals, the view that mothers are 'coaching' children in allegations of CSA to get back at the father or to prevent contact was seen to be common. This was a behaviour mainly attributed to mothers to frustrate a father's relationship with children. If not coaching, then mothers were viewed as 'influencing' children by putting the thought into their children's heads. Given the emphasis on evidence, it was also reported that if women record anything they are seen as setting it all up even though they are trying to gather evidence.

Women who persist in allegations which could not be proved were seen as being emotionally abusive to their children, rather than protective, and thus in contravention of acting in the best interests of the child, a key consideration for the court. In fact, research shows that since CSA is often not substantiated, the damage of alienation is often a stronger consideration in court judgements. So women find themselves becoming the focus of professional attention.

An example was provided of an educated mother who was disbelieved by the judge because it was said that she was too educated and intelligent to allow CSA to happen.
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Women as mentally ill

It's easier to stop someone outside the family but not a parent. The courts always look at anything to make you seem unstable.

His dad is very manipulative and charming and you look like the crazy person and he the victim.

Research shows that as well as being accused of 'coaching' children, women are disproportionately labelled as mentally ill (which reinforces discourses of implacable hostility - parental alienation - mad woman). Accusations by men (and their solicitors) of women being mentally ill/ 'being mad' were said to be common and to hold traction in the family courts. Concerningly, research shows mothers' mental health being used to discredit CSA allegations. They are characterised as anxious and fixated if they persist with allegations. Research shows that mental health can be a cause and a consequence of violence and abuse and women describe the family court process as trauma inducing – especially as they are not believed and have to deal with behaviours their children display and provide support to them. This is especially so if they have not been supported with their own experiences of violence and abuse and where men may be using contact to continue abuse.

In contrast, the view that men want to be 'good fathers' was seen to be an entrenched attitude amongst judges and other court professionals. The difference between the way in which women and men presented themselves in the family courts was thought to lead to negative judgement of women and sympathy for fathers – '*mum is often at wits end and dad is the charmer who is trying to be a good dad*'. This makes it easier to believe mothers are neurotic rather than to believe that fathers are abusers.

If perpetrators come across as amenable in professional meetings, professionals get drawn into thinking 'he's lovely'. In effect professionals lack knowledge about CSA and it's easier to buy into the myth that victims lie and that vicious bitter women use their children to get back at men.

A father with a long history of offences – 26 convictions for 66 offences – including indecent assault of an under 14 year old as well as a history of serious violence and abuse towards the mother refused to give the youngest daughter to the mother and the police refused to remove her. He tried to take the children from school and threatened to kill the mother, leading her to re-locate but he found her. He first applied for contact when the daughter was two and a half years old and has since used the family court to continuously apply for contact even though he has been in prison during court dates, leading to many adjournments. The last application was in 2018 when he claimed to have changed. Dealing with high levels of post-separation abuse from him and his family has compromised the mother's mental wellbeing. When she took screen shots of his abusive messages on social media, Cafcass judged her negatively and accused her of harassment. She has not felt listened to by the judge. The father's history of abuse and convictions were not viewed as a risk as he had not reoffended in the last 12 months and had engaged in a six week course to address his perpetration of sexual violence. Contact with daughter was considered desirable and mother was asked to speak to daughter about this, which she refused.

Instead of focusing on him and his behaviour, the focus was on me and my mental health. It felt like another blow in the face.

Lack of support to mothers

Being the mum of a sexually abused child is very isolating. Just the ignorance is ... even from friends and family ... you'll just have to keep an eye on it, they just don't get it.

The lack of support for women-mothers when going through the family courts, as opposed to the criminal justice system, was widely highlighted. Even specialist sexual violence services were said to lack expertise or capacity to offer mothers one-to-one support or counselling. This results in women going through the protracted family court process on their own as they also attempt to support their children.

Responses to children

No effort is made by the courts to listen to the child and make an effort to do so.

Disclosures are often graphic and it's disturbing they are not believed. Even if a mum has groomed the kids, and that's a big if, they can't verbalise sexual abuse in such a graphic way.

Children get shut down which has huge implications for their mental health. They're stuck in a court ordered situation and know mum and other adults have failed them.

While there are huge challenges for the family courts in weighing evidence, it is clear from the Guidance provided to courts that a focus on the balance of probabilities and the need to listen to children about their experiences of abuse, which the research highlights as being of great importance to children, are in considerable tension. Good practice guidance taken from the Handbook of Best Practice in Children Act Cases' Annex on Flawed Sexual Abuse Investigations places emphasis on avoiding delays to contact:

Problems continue to occur in private law cases where allegations of sexual abuse of a child are investigated by the police and/or social services. Frequently the cases involve an application for contact with a child, where the primary carer has refused contact on the ground that the child has been abused by the applicant. Such cases cause particular difficulties where the applicant denies the allegation, and alleges that the other parent has either invented the sexual abuse or has brainwashed the child into believing that sexual abuse has occurred. The parent opposing contact may be obstructive and use delaying tactics in order to prevent contact taking place, even under supervision. If such cases are not strictly timetabled, resulting delays can achieve the object of frustrating resumption of contact, even if the court finds that sexual abuse is not proved.

Recognising the problems created by CSA cases for the court, the guidance states that:

*There is often a tension between a positive clinical finding of sexual abuse, and the judicial finding that abuse has not occurred. In contested cases clinical methods will inevitably be subjected to scrutiny. **Any investigation that focuses attention on the statements of the child runs the risk of producing a false result if what the child says is unreliable or if the child's primary caretaker is unreliable, particularly where the allegation emerges in bitterly contested section 8 proceedings.** The dangers of a false conclusion are enhanced if the alleged perpetrator is excluded from clinical investigation. It is vital to approach a child abuse investigation with an open mind.*

Much emphasis is placed on the ABE (Achieving Best Evidence) interview conducted by police officers. Despite guidelines being issued for the conduct of ABE interviews it has been said that 'the family courts are still faced, repeatedly, of examples where basic mistakes have crept into this critical interview' (Prof. Jo Delahunty QC, 2018:12).

It was reported that when the alleged abuser is the father, in the majority of cases no further action is taken by the police at an early stage as young children are often seen as unreliable

witnesses. Since children often disclose to their mothers, no further action is taken because of inconsistency in the evidence. Support services reported they are told verbally by the police that 'if the father wants access then the mother will have to protect the children through the family courts'. This was said to be often the only action taken by the police in the face of insufficient evidence of CSA to refer to the Crown Prosecution Service. There is great tension between the police requiring coherent and consistent statements, which is something that children cannot or are unable to provide – they are more likely to say who and what their emotions are rather than give dates and times. It is then assumed that children and/or their mothers are fabricating abuse. The police were also said to sometimes attend in uniform, considered inappropriate for young children; if the police are involved older children think either they or their mothers are going to get into trouble. Suggestions that they may get the perpetrator into trouble may also have been used to silence children. Mothers were reported to get confused about what they can say to a child and required greater advice and guidance from the police. Clearly, evidence is crucial for the family court process and if the police have taken no further action, then this is used as the basis for the court's decision about the allegations being unfounded.

A mother had been going through the family court for over 18 months after concerns that her now four year old son was being sexually abused by his father during weekend staying contact. She became concerned when her son started to talk and display sexualised behaviour – he spoke about eating his daddy's willy and 'daddy making my willy go pointy'. He had also started to become aggressive towards her after weekend contact – 'he was like a different child'. When she raised this with a social worker she was advised to send him to contact visits and told that children often see things and simulate. Upon persevering, a police investigation was opened and the father was arrested, after being given notice of the arrest. Forensic tests were carried out a week later on the child but there was no evidence. On the day of the ABE interview (when the child was 3 years old), there was a mix up with the intermediary who was an hour late by which time her son had become bored and did not disclose anything. After this the case was closed by the Police and by Children's Services who were satisfied she was safeguarding her son. Following this, the father made an application for contact to be reinstated and the process has been on-going.

Although there was deemed to be no evidence of CSA other than what the mother had reported, concerning information was found on the father's phone. This included messages stating 'should we abduct and rape a child?', excessive use of porn on legal sites. references to neglect of his son during contact, use of class A drugs, and having people over for sex when his son was there Mum captured her son's behaviour by taking videos of him simulating masturbation; he had also simulated sex on her and talking about sexual matters. In court, the judge found her accounts to be truthful and accurate but came to the conclusion that her son was "testing boundaries". No expert in CSA was appointed by the court and concerns raised by other professionals were ignored and the judge ordered an interim supervised contact, with the father choosing the supervisor of the contact, who mum felt to be biased against her and who left father and son alone during contact. Mother views the system as binary focused on 'yes' or 'no'. It has been left to mother to stop contact after a number of sessions when the son's behaviour worsened and take the case back to court. She thinks a link is not being made between her son's behaviour, CSA and contact with the father

and she is continually being encouraged to forget her concerns and told if she doesn't then she is being abusive to son. As the case continues she is being made to hand her son over for contact with his father and feels she is being made 'complicit with his abuser and sending him to be abused'. If supervised contact continues, with no problems reported by the supervisor, mother has been told it is likely that unsupervised contact will be ordered by the court.

You just have to behave as if nothing has happened and I can't be anything other than Positive about dad. In the court's eyes he's not an abuser. It's like a vice around my heart, I'm literally trapped. I've been forced to let him down.

CAFCASS is tasked with ensuring children's views are taken into consideration. However, that CAFCASS practitioners spend little time in getting to know the child before reports are produced for court was reported. Indeed, the entire process with CAFCASS was experienced by women as very rushed and to lack transparency, with last minute requests for information (often the day before a hearing). Reports produced by CAFCASS were said to rarely reflect the conversations that took place with women (and children); indeed the quality and insight of a report based often on one conversation were questioned. Other than limited efforts by CAFCASS to speak to children, it was widely believed that judges do not seek to gain a child's views – '*nowhere in this process is anyone talking to the child. Even if there is no sexual abuse they still have emotions and feelings*'. Younger children especially were said to have 'no voice' throughout the process.

In general, it was of grave concern to practitioners that children were not being believed when they disclosed sexual abuse. Contrary to assumptions, when children made graphic disclosures, it was considered unlikely that they would verbalise sexual abuse in such graphic ways, if they had been told what to say by their mothers. Reports provided by sexual abuse support services supporting the child, and sometimes social workers, were often dismissed by the courts and instead the narrative focused on the mother using her children to get back at the father. In some cases, where mothers persisted with CSA allegations, children were placed in care as these mothers were accused of being abusive to children in perpetuating the child's belief that they had been abused. In such cases, the child was not heard and their voice was absent. In other cases, supervised contact was ordered and mothers had to go back to court if they wanted this to be reviewed – one mother had done this over three years at great financial cost. Often, once ordered, supervised contact moved to staying contact through which the sexual abuse continued and the mothers had to deliver children to the person abusing them, raising the question '*as a child why would you tell anyone again?*'

When children were disbelieved and ordered to have contact, this was said to hold back important therapeutic work done with the child. Counselling was regarded to not work for children who were not believed – '*they dip down low and carry those messages on*'.

When children are not being believed their entire social circle disintegrates. Everyone has moved on but not you.

A young woman was pressurised to have contact with her father when she was eight years old through alternate weekends and one day a week for many years. She used to scream and cry as she left her mother's house and when she tried to tell her mother bits about the abuse he was subjecting her to, she was not believed and mother thought she had to do as she was told by the court otherwise risk going to prison. The judges told mother the father had as much right as her to the daughter. Consequently, she stopped speaking but became highly disturbed, seeing her GP frequently.

The CSA happened in the night time, I always had a bath when I came back. I used to cry at school on the Friday before the weekend. I couldn't say anything. I wasn't eating. I wasn't talking.

She finally opened up about five years of sexual abuse when she was sent into a psychiatric unit for 13 months, when she was 16/17 years old. Her reasons for not telling anybody included a fear she would not be believed, feeling embarrassed, thinking it was her fault and fear of getting her mum into trouble. This was made worse when she was not listened to and believed by the courts. The police investigated for nine months but found insufficient evidence.

When the police took no further action I was relieved as I was worried about going to court in case I wasn't believed and about seeing him ... but then I was really angry, that it wasn't my fault and I wanted it to go to court.

Highly compromised mental health and wellbeing, and a diagnosis of personality disorder, was the consequence of being silenced about the CSA. She feels her abuser took her childhood.

Whatever age the child is, they should always be spoken to and professionals should listen to the child more. If a child is resisting contact you should talk to the child. They're telling you something without telling you anything.

An 11 year old girl is able to talk directly about how she feels and that she cannot trust anybody because she still has indirect contact even though she does not want the letters from her father. She talks a lot about her anger.

A 10 year old boy had completely shut down and did not speak for the entire assessment. He carries his teddy bear everywhere and has regressed to a stage where he feels safer before the CSA. He uses the sand tray and expresses a lot of anger and fear through this.

The disconnect between professionals' views and what the child is saying, found too often in practice responses to children, created grave concern among all respondents.

Delayed access to support

There's been no support to my son for almost two years, we've just been left to get on with it. Everyone's been passing the buck and doing nothing because no one knows what to do. Everyone is working on a different set of beliefs.

The Guidance in the Handbook of Best Practice in Children Act Cases' *Annex on Flawed Sexual Abuse Investigations* also states that other professionals should not be involved until the court has concluded.

The issue whether or not a child has been sexually abused is for decision by the court and it is essential that other agencies await that decision before introducing management, counselling or therapy that pre-judge the issue. Therefore the welfare of the child demands speedy resolution of issues.

Findings reveal that this requirement is preventing and delaying children's access to specialist therapeutic support until a case has been heard, which can take up to six months or more. This includes children's access to play therapy. In the worst cases, children as young as 5-6 years old were said to be prevented from accessing therapeutic support. Respondents found it hard to see how this upholds the best interests of the child, a key requirement of the family courts. Even in cases where a judge may agree to some support, the father was said to resist such support intervention. The impact of delayed access to support is found to compound the impact of abuse, create harm and contribute to significant mental health issues. When children are disbelieved and ordered to have contact, this was said to also hold back important therapeutic work done with the child. This was recognised by the Children's Commissioner report in 2017 – *Making Noise: Children's Voices for positive change after sexual abuse* - which stated that: '... access to appropriate therapeutic support at the right time and for as long as needed (be it through third sector services or CAMHS) is a fundamental element of a comprehensive response to CSA in the family environment'.

Thus, good practice guidance to the Family Court was seen to be in tension with current thinking on the provision of therapeutic support to children. For instance, the CPS guidance on the *Provision of Therapy for Child Witnesses Prior to a Criminal Trial* is clear that the courts have no authority to prevent a child from receiving therapy. The difference in approach between Criminal and the Family Court raised great concern for respondents. The uniform application of the guidance by the family courts, which delays children's access to general therapeutic support, was said to also betray a lack of understanding on the part of the court about the therapeutic support provided by specialist organisations – which is provided according to the CPS guidelines, with play therapy being child-led (with no direct discussion of abuse unless a child mentions it and an emphasis on emotions).

Marginalisation of specialist sexual violence services

The negative view of specialist sexual violence services held by statutory professionals was repeatedly mentioned. The issues and concerns raised indicate that judges and other court professionals are treating such specialist services in the same way as women-mothers by negating their experiences and voice - as difficult and un-cooperative – which results in their marginalisation. The notion that providing specialist support to children with their issues of

trauma would reinforce a lie was thought to betray misconceptions held about the nature of the work undertaken by specialist sexual violence services.

Lack of understanding of CSA among professionals

Alongside a negative view of women who make allegations, a lack of understanding and training about CSA on the part of CAFCASS and other professionals was said to be widespread. Professionals tended to base their knowledge and understanding on societal views and stereotypes and to struggle with the fact that small children can be sexually abused. They were also noted to have inadequate understanding of the far-reaching and on-going effects of CSA.

The response and attitudes of social workers were reported to be highly inconsistent, with some being knowledgeable about the issues whilst others were dismissive and *'jump to negate children's experiences'*. Not needing to know about CSA as they would not encounter it in their practice and stereotypes about CSA as something perpetrated by strangers were said to be common, with some social workers finding it hard to believe that a father could sexually abuse his children; *'I've met him and he's such a nice man'* – was said to be a common response.

An example was given of a social worker who asked a girl to draw a family tree and when the father was absent, the girl was made to put him into the tree. Such practice results in children being re-traumatised by professionals.

Key recommendations

No doubt, family courts face complex challenges in gathering, managing and weighing evidence in cases where there are allegations of CSA. However, there remain many areas of deep concern about the way our Family Justice System and other related agencies currently respond to allegations of CSA perpetrated by those known to children, namely their fathers. If nothing else, those brave enough to challenge such abuse deserve for those placed with responsibility to provide protection to at least put these issues on the table and take consideration of existing processes, practices and attitudes.

In order to improve responses to cases where there are allegations of CSA in the Family Court, the following recommendations are made:

- There is a need for anonymised data on family court decisions in relation to child sexual abuse allegations to allow transparency and review of the decisions made by the family courts.
- In order to ensure that children who have disclosed sexual abuse can access specialist support, clause (i) in the *Annex on Flawed Sexual Abuse Investigations* taken from the Handbook of Best Practice in Children Act Cases should be changed to bring it into line with practice in the criminal justice system and with CPS guidance on the Provision of Therapy for Child Witnesses Prior to a Criminal Trial.
- Mandatory on-going training on child sexual abuse – including grooming process, coercion and how children present abuse and trauma - for all family court judges,

CAFCASS workers and related professionals, such as the police and social workers, should be introduced.

- Greater investment and development of processes/ mechanisms that allow children's voices to be heard and experiences to be recognised (if not through words then behaviours that indicate sexual abuse) by the family courts. An emphasis should be placed as much on emotional safety as physical safety. As part of this process, expert input at the earliest opportunity in all family court cases involving child sexual abuse allegations should be sought, such as during the finding of fact investigation.
- Continuity in judicial oversight throughout the case to ensure consistent and in-depth knowledge about the case on the part of the judge.
- Use of the Ministry of Justice's *Code of Practice for Victims of Crime* as a model to develop and apply a similar framework to protect adults and children involved in family court proceedings.

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