1. About SafeLives

1.1 SafeLives is a national charity dedicated to eradicating domestic abuse (formerly Coordinated Action Against Domestic Abuse Caada) which was established in 2005.

1.2 SafeLives pioneered a risk-led approach to supporting victims of domestic abuse, helping devise and promote the use of the Dash risk identification checklist, which almost all police forces and specialist support agencies now use to assess the risk posed to victims. We are one of the main providers of specialist domestic abuse training and have trained 1800 Idvas (Independent Domestic Violence Advocates) – specialists who help victims become safe. We campaigned for the use of multi-agency safety and support planning by encouraging professionals to work together to cut domestic abuse, setting up a ‘Marac’ (Multi-Agency Risk Assessment Conference) in every area. We also work with practitioners, commissioners and policymakers to ensure they have high quality one-to-one advice, practical tools, training and resources.

1.3 Our approach works: more than 60% of victims who get help from an Idva reported that the abuse stopped at the point of case closure. But there’s so much more to do. That’s why we support everyone dealing with domestic abuse. We advise and train people and organisations. We gather evidence to understand what’s working. And we spread great new approaches across the UK.

2. Restorative justice and domestic abuse

2.1 There has been increased interest in using restorative justice (RJ) within a domestic abuse setting since the publication of a new Victim’s Code in 2013 which entitles victims to receive information on Restorative Justice and the Government’s Action Plan for Restorative Justice, the first of which was published in 2012. Current guidance for restorative practice from the Ministry of Justice does not preclude domestic abuse being considered for RJ, but does suggest that cases with “sensitive and complex characteristics should ideally be handled by senior practitioners” and that “it is the duty of the practitioner to proceed with a case only if they are sure they can manage a safe process”.1

2.2 The use of RJ with victims of domestic abuse is controversial and can polarise opinion among practitioners in the field. Refuge, for example, have previously written that “meetings between the perpetrator (of domestic violence or of a sex crime) and the victim would provide further opportunity for abuse and re-traumatisation within a legally sanctioned setting.”2 However, a paper by Dr Nadia Wager argues that current models of looking at domestic abuse victims serve to “pathologise, infantilise and stigmatise women in the aftermath of their victimisation”. She argues that simply focusing on success as a victim leaving the perpetrator ignores the significant reluctance of victims who wish to stay with the perpetrator, perceiving women who choose to stay with their partner as “violating normative expectations”.3

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2.3 There continues to be a lack of evidence on the safe use of RJ in domestic abuse cases and much of it is theoretical. The recent UK pilot project “Victim Initiated Restorative Justice” did not include any domestic abuse cases, and of the seven victims interviewed for the report, only four attended a restorative justice conference.

2.4 Public policy is also conflicted. Guidance from the National Police Chief’s Council (formerly ACPO) states that “DA/DV represents serious risk to the victims of such offences and is often subject to a complex and protracted investigation. As such there will be little opportunity for the use of RJ in the vast majority of such offences.” This advice was reiterated in an IPCC Independent Investigation into the appropriate use of restorative justice in a case where a victim died. The findings stated “restorative justice is not an appropriate solution to cases of domestic abuse or assault and should not be used as a resolution.” It was recommended that RJ should “not be used as an alternative to prosecution until alternative ways of dealing with domestic abuse have been thoroughly evaluated.”

2.5 The Home Office “Call to End Violence Against Women and Girls” in 2010 does not mention restorative justice in the context of domestic or sexual abuse, though the Ministry of Justice’s vision is that all victims “have equal access to RJ at all stages of the CJS irrespective of their location, the age of the offender or offence committed against them”, which would suggest victims of domestic abuse should have that right too.

3. SafeLives’ position on the use of restorative justice in cases of domestic abuse

3.1 Any use of restorative justice should be embedded within a risk-led approach and should not be seen as a standalone alternative to longer-term criminal justice system or other intervention measures. Restorative justice is unlikely to be suitable for those victims at the highest risk of harm. This is a complex area which involves the potential for revenge, witness intimidation, vulnerability, power imbalance, and re-victimisation. It is likely that successful RJ approaches will be resource and time intensive.

3.2 If used, we believe that restorative “practice” rather than justice is the best approach, and needs to encompass the following elements if it is to be effective:

- Being genuinely victim-led, not driven by concerns about cost, expediency or the wishes of the perpetrator.
- Providing robust and medium-long term wraparound professional support for the victim, to help them recover and increase their resilience.

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• Making RJ a meaningful process, rather than a quick fix (for example an apology by the perpetrator) or, even worse, a means of the perpetrator (re)gaining access to the victim, children or having other safeguards lifted. Safeguarding the victim must be paramount and the perpetrator should not be participating in a restorative process simply because it leads to a 'reward' or helps to avoid further scrutiny from statutory agencies.

• Ensuring a sense of consequence and further sanction, if the remorse the perpetrator expresses during an RJ process isn't legitimate or sustained.

• A referral process based on a detailed understanding of the ongoing risk to the victim's safety and wellbeing, including the consideration of other interventions which are better evidenced and likely to be more successful in protecting the victim from harm. Other considerations which should be taken into account when referring a victim to an RJ process according to the Thames Valley Restorative Justice Service might include: the nature and severity of crime, the degree of trauma, repeat violation, power imbalances and the age, maturity and intellectual capacity of victim.

• Safe and confident practice which is proven to be effective and which is led by qualified professionals in an accredited setting. It is concerning that the Ministry of Justice’s Best Practice Guidance for Restorative Practice does not mention the need for specialist knowledge of domestic abuse risk assessment or referral pathways when dealing with sensitive and complex cases involving domestic abuse, and none of the contributors to the guidance were specialist domestic abuse providers or trainers. Updating this guidance to ensure practitioners are trained to understand domestic abuse should be a priority for the Ministry of Justice.

3.3 Providing safe solutions for those victims who remain with or in touch with a perpetrator is a priority for SafeLives. Data from our Insights dataset of Idva clients (2014-15) shows that one in three (34%) clients supported by Idva services using Insights reported that there was on-going contact with the perpetrator at the point of case closure. Contact was most often due to children (66% of those who reported on-going contact).

3.4 Moreover, in SafeLives' national dataset of Idva clients, one in ten clients (10%) exit the Idva service in an unplanned way, having disengaged or become non contactable. Clients with unplanned case closures were significantly less likely to have attempted to leave the perpetrator since intake. What this suggests is that engagement is likely to be negatively affected if a client does not attempt to leave the perpetrator. It's important to note, however, that we have no way of proving that "not attempting to leave" means the same as "wants to stay".

3.5 Evidence from Welsh provider Atal Y Fro shows that some women want to change their partner's behaviour so that they could stay together, safely, preferably in their own home.

8 Women's Aid's campaign report, Nineteen Child Homicides, highlights the stories of 19 children and 2 women in 12 families that were killed by perpetrators of domestic abuse in circumstances related to unsafe child contact within a ten year period. The report argues that these deaths could have been prevented if the domestic abuse had been considered as an ongoing risk factor. https://www.womensaid.org.uk/childfirst/

9 http://tvrjs.org.uk/

Atal Y Fro is part of the DARFA Consortium which is designing a programme for families at low-medium risk using restorative practice. The Domestic Abuse Restorative Family Approaches Consortium is made up of six organisations. Atal Y Fro, Cardiff and Vale College, Wales Restorative Approaches Partnership, Ignition Creative Learning, STTEPS and Tros Gynnal Plant have agreed to work together for a period of three years to source funding which enables restorative whole family working where there is domestic abuse.

3.6 In July 2014 the consortium was awarded a sum of money from a competed fund from the Ministry of Justice via the South Wales Police and Crime Commissioner. This funding was to research, design and pilot a model for delivery. The model will be replicable and a series of manuals will be created to explain and support this.

3.7 The distinction between restorative practice and justice is clearly important in cases of domestic abuse. Atal y Fro explains the difference thus: “**Restorative justice takes place within a criminal justice context, where the approach is ‘official’ and those in the perpetrator and victim roles appear to be clear. The aim is empowerment of the victim through their meeting with the individual who has offended against them. Often the meeting is highly structured and more akin to a formal ‘conference’. By contrast, restorative approaches or processes offer a ‘mindset’ applicable to a far broader range of practices that aim to reduce harm and conflict, in the family, workplace, in schools, in the community. The aim here would be early intervention and prevention, building and maintaining healthy relationships by developing trust and approaching everyone and everything with fairness. The intention is to enable families either moving towards more healthy relationships where they intend to stay together or where appropriate and their choice, to enable a relationship to come to an end safely and respectfully. There is a strong emphasis on process and not just outcome.**”

3.8 DARFA's approach includes the following elements: a series of restorative meetings and interventions; not ‘restorative justice’ in isolation but instead a wider restorative approach and ethos which includes skilling up families; a range of restorative approaches including circle practices & restorative meetings; and it includes a Family Group Meeting where appropriate.

3.9 Another approach is being piloted by Doncaster Children’s Services Trust, funded by the Department for Education, who have created Domestic Abuse Navigators who will work intensively with families to ensure that all of their needs are met from a series of services across the partnership. The programme’s aim is to achieve long-term changes in the attitudes of both parents and children towards family violence. It is hoped that parents will learn to avoid the common pattern of moving from one violent relationship to another, and that their children will avoid repeating the same behaviour in future years.

3.10 A further aim of the project is to reduce the normalisation of abusive relationships within the wider community. Under the programme families will receive a menu of targeted interventions including intensive direct work with children to address the trauma of having experienced domestic abuse. All of the work is aimed at supporting families to make positive changes in their lives. It will be formally evaluated through an external research partner, and the knowledge gained will be rolled out across the sector.

3.11 Durham Constabulary have embedded restorative approaches throughout the organisation by providing Level 1 training for all police staff and officers. Using a

\[\text{http://www.darfa.uk/?page_id=2}\]

\[\text{http://www.doncasterchildrenstrust.co.uk/trust-launches-innovative-3m-programme-to-break-cycle-of-domestic-violence}\]
A restorative approach for domestic abuse cases isn’t ruled out, but is only used when it is right for the victim and where there is clear victim and perpetrator consent. When a safeguarding issue is present in a case, a senior officer (Superintendent), will make a decision about whether a restorative approach would be appropriate, and in practice only a few cases proceed on this basis. Crucially, a restorative approach is not used instead of the criminal justice process but is used alongside or after it. Durham Constabulary are working with Durham and Cambridge Universities to evaluate the outcomes of a restorative approach in domestic abuse cases.\(^\text{13}\)

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\(^{13}\) https://www.durham.police.uk/news-and-events/Pages/News%20Articles/Domestic-abuse-victims-given-a-voice.aspx