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children seen and heard
Article in *Seen and Heard*, Volume 34 | Issue 4 | 2022

# BEYOND THE TIMESCALES: DO WE REALLY HAVE TIME TO ADDRESS PARENTAL TRAUMA WITHIN THE FAMILY COURT?

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## Parental trauma & the Family Court

Those working within the Family Court cannot miss the prevalence of trauma among the parents whose children are involved in care proceedings. Bundle documents carry within them painful, at times, horrific stories of every imaginable type of harm that a person can suffer. Whilst the parties, understandably, focus their efforts upon preventing further trauma to the children, the parents' own traumatic childhoods sit uncomfortably in the background. The missed opportunities of the past, forcing the hand of professionals in the present.

It is argued that child welfare services have a higher percentage of service users with trauma histories than any other child-serving system (Bunting *et al*., 2019). Studies indicate that parents involved with child welfare systems have a much higher than average exposure to traumatic events relative to the population (Chemtob *et al*., 2011). Exposure to Adverse Childhood Experiences (ACEs) is associated with issues that bring parents into contact with local authorities such as substance misuse and domestic abuse (Anda *et al*., 2006). Mothers involved with recurrent care proceedings have been exposed to high levels of childhood trauma, with 53.1 per cent reporting childhood sexual abuse and 55.9 per cent reporting four or more ACEs (Broadhurst *et al*.,, 2017).

Trauma-related mental health conditions are also prevalent. A systematic review regarding Post-Traumatic Stress Disorder (PTSD) among child welfare involved parents indicated rates of 26 per cent for mothers and 13 per cent for fathers, greater than population estimates of 5.2 per cent for females and 1.8 per cent for males (Suomi *et al*., 2021). The newer diagnosis of Complex PTSD (CPTSD) encompasses the broader range of emotional and relational difficulties associated with cumulative and childhood trauma and may be both more debilitating and more prevalent than PTSD (Karatzias *et al*., 2017). Emotionally Unstable Personality Disorder (EUPD), also known as Borderline Personality Disorder (BPD), has a high overlap with CPTSD and is strongly associated with childhood trauma (Cloitre *et al*., 2014). EUPD is frequently diagnosed in local authority involved parents and is likely to represent part of a spectrum of mental health outcomes related to trauma.

The high prevalence of trauma exposure and trauma-related conditions among parents involved with children's services is not simply a statistical coincidence. A growing body of research indicates that trauma exposure interferes with fundamental emotional, cognitive and physiological functions (Anda *et al*., 2006) and places individuals at risk of a wide range of psychological, behavioural and relational vulnerabilities. Trauma is essentially a pathogen and one that the vast majority of court-involved parents have been exposed to, at sometimes extreme levels. It contributes directly to the parents' presenting issues, but also fundamentally interferes with their capacity to address them. As such, it is unavoidably central to the business of the Family Court and yet it continues to be something that evades

effective intervention, as borne out in the unstoppable tide of intergenerational trauma.

**An inescapable conflict of interest**

The Family Justice Review (Norgrove, 2011) highlighted the long delays affecting children in care proceedings and the negative impact on children's development and chances of permanency. The subsequent restriction to 26 weeks aimed to reduce delays by ensuring that 'judges focus on the facts without getting caught up in unnecessary evidence or bureaucracy' (MoJ/DfE press release, 2014). At the same time, local authorities have been expected to demonstrate that reasonable efforts have been made to avoid the permanent removal of a child, given that 'the severance of family ties inherent in an adoption without parental consent is an extremely draconian step and one that requires the highest level of evidence' (Gore, 2013, citing the judgment of Munby P in *Re B-S*). Professionals are caught in the inherent tension between prioritising the needs of the child, whilst ensuring that there is adequate justification for denying the rights of the parent.

Local authorities want to do their best to support parents – referrals are made for support with parenting, substance misuse and so on. However, parents with significant histories of trauma often struggle to engage or demonstrate a meaningful level of change, leading to care proceedings. There is a general awareness that underlying issues of mental health relating to trauma likely underpin this lack of progress. Mental health experts are often instructed to diagnose and quantify the timescales for treatment, but these timescales are invariably long and recommended treatments are not readily accessible via the NHS. In real terms, a dead end is reached.

In a survey of 27 women who had experienced child removal, 82 per cent said they were not referred to services or support after expert assessment (Pause, 2022). Pause points out that court experts are often 'disconnected from the reality of local mental health services' (p 10) and argues that if a woman cannot access the help, then 'it should not come as a surprise that she hasn't made the suggested changes' (p 11).

The awareness that parents are caught in this trap is disturbing for those professionals tasked with making life-changing recommendations. The parent's trauma and therapeutic needs are visible to most. But the child's needs must take precedence. The outcome is that whilst we regretfully acknowledge the trauma, there simply isn't time to address it in these proceedings. Lingering in the background is the unfounded fantasy that the trauma may be treated in the future. However, those working with parents who return to court know this not to be the case.

The removal of a child is in and of itself highly traumatic and likely to impact further upon any existing trauma-related symptomology. The experience of removal itself leads to significant collateral consequences for parents, including grief, stigma, loss of benefits and life chances (Broadhurst & Mason, 2020). Most parents will receive little or no support and a significant number will return to court with subsequent children (Broadhurst *et al*., 2015).

**Trauma as a central but hidden need**

We are increasingly recognising that exposure to multiple traumas and adversities affects the nuts and bolts of our mental and physical functioning, leading to a wide range of emotional and behavioural issues. The notion of 'complex trauma' has emerged from this understanding, and whilst not at all new (Herman, 1992) this

understanding is still not reflected in how our services view and respond to trauma. Several experts in the field have pointed out the inadequacy of the current diagnostic frameworks and treatment guidelines for this population (Herman, 1992; van der Kolk, 2014). Those affected are often misdiagnosed and misunderstood, frequently receiving multiple unrelated diagnoses (Trickett *et al*., 2011; Su & Stone, 2020).

Whilst the impact of complex trauma is at such a profound level, the visible effects on day-to-day functioning are diffuse, multiple and varied, and hence difficult to isolate and target, therefore 'the many levels of functioning impacted by complex trauma pose obvious challenges to construction of treatment guidelines' (Kezelman & Stavropoulos, 2012). However, there is growing consensus that the core disruptions to emotional and physical regulation, to a person's sense of self, their attachments and the role of dissociation are important foundations for work with any complex trauma survivors 'regardless of the specific diagnosis or assessment and treatment methodologies in use' (Ford & Courtois, 2009). In other words, complex trauma leads to profound difficulties that are hidden in plain sight and which must be a consideration for any intervention or engagement with an affected individual.

For parents in care proceedings, the problem is that trauma is often seen as a circumscribed issue to be dealt with in a clinic room. It is overshadowed by the pressing need to engage parents in reducing risky behaviours (Webb, 2021). However, it can be argued that trauma is the issue, driving both the risky behaviours and the problems with engagement (Levenson, 2017; Webb, 2021; Mason *et al*., 2020), which means that addressing trauma would have multiple benefits.

**Trauma's impact upon care proceedings**

When we look at the experience of court and care proceedings through the lens of trauma, the multiple layers of its influence become visible.

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