

**Institution:** University of Leicester

**Unit of Assessment:** UoA20 Law

**Title of case study:** Improving legal responses to domestic violence

### **1. Summary of the impact**

Domestic violence is a serious and pernicious problem, affecting one in four women, and a significant number of men. Despite this, in general, legal responses to domestic violence have not been as effective as they could be. Professor Mandy Burton has carried out wide-ranging research for UK government departments and public bodies, including the Home Office, Ministry of Justice (MOJ), Crown Prosecution Service (CPS) and the Legal Services Commission (LSC) specifically designed to inform legal and policy change on domestic violence. Her work informed the Domestic Violence, Crime and Victims Act in 2004, and was important in helping to develop more than 100 Specialist Domestic Violence Courts across the country.

### **2. Underpinning research**

Burton has been a principal investigator on several inter-disciplinary empirical research projects, collaborating with colleagues from the fields of social policy, social work and criminology. She has produced numerous reports for policymakers and articles for practitioners and participated in policy making bodies as an academic expert. All of this work has been done whilst she has been at the University of Leicester (from 2001), sometimes in collaboration with colleagues at Leicester or other Universities. It has been concerned with examining the limitations of the law and the gap between the law and practice in domestic violence cases. The research has identified how protection afforded to victims of domestic violence falls short of meeting their needs, and how the law and practice might be improved (3.1).

In 2002 she completed a study of the civil remedies for domestic violence for the Lord Chancellor's Department (forbear of the MOJ), examining the issue of whether third parties should be able to apply for civil remedies on behalf of victims. This informed a decision not to proceed with pilots of third party applications at that time, but to strengthen the enforcement mechanism for non-molestation orders (3.2).

She then went on, as part of an interdisciplinary team, to complete two studies of specialist domestic violence courts for the Ministry of Justice and Crown Prosecution Service (2003-5). The original team comprised four academics (Burton, Cook, Robinson and Vallely; see below for affiliations) and each was responsible for collecting and analysing the data and reporting the findings to policy makers. Professor Burton took particular responsibility for contextualising the findings in the international literature on specialist courts (3.3). The team for the follow on evaluation comprised three of the original academics and a research associate (3.4) The original report recommended that specialist domestic violence courts be expanded. The follow on report made recommendations as to the best models for doing this and both reports informed the national roll out of the specialist domestic violence court programme (3.5).

In 2009 she was asked by the Legal Services Commission (LSC) to examine why there had been a decline in applications for non-molestation orders (civil protection orders for victims of domestic violence) under the Family Law Act 1996. She analysed trends in applications and contextualised those within the literature, making specific policy recommendations as to how

the downward trend might be reversed (3.6 and 3.7).

Affiliations of researchers: Mandy Burton (University of Leicester), Trevor Buck (University of Leicester, 1989-2006), Dee Cook and Christine Valley (University of Wolverhampton), Amanda Robinson (Cardiff University).

### 3. References to the research

#### Key research grants:

*PI Mandy Burton, Domestic Abuse Review- Legal Services Commission 2009, £10,000*

*PIs, Mandy Burton (University of Leicester, Dee Cook, Christine Valley (University of Wolverhampton), Amanda Robinson (Cardiff University) Evaluation of Specialist Domestic Violence Courts (SDVCs) - CPS and MOJ 2003-4, £90,000*

*PIs, Mandy Burton (University of Leicester), Christine Valley (University of Wolverhampton), Amanda Robinson (Cardiff University) Evaluation of CPS Pilots - CPS 2005, £90,000. Research associate (Tredidga).*

*Mandy Burton (PI) with Trevor Buck (both University of Leicester at that time) Section 60 Family Law Act LCD 2002, £25,000*

#### Key outputs:

1. Burton, M (2008) *Legal Responses to Domestic Violence*, Routledge-Cavendish.
2. Burton, M (2003) Third party applications for protection orders in England and Wales, *Journal of Social Welfare and Family Law*, 137.
3. Cook, D., Burton, M. Robinson, A. and Valley, C (2004) *Evaluation of Specialist Domestic Violence Courts/Fast Track Systems*, Crown Prosecution Service and Department for Constitutional Affairs.
4. Valley, C, Robinson, A, Burton, M and Tredidga, J (2005) *Evaluation of Domestic Violence Pilot Sites at Caerphilly (Gwent) and Croydon 2004/5: Final Report*, Crown Prosecution Service.
5. Burton, M (2006) 'Judicial Monitoring of Compliance: Introducing 'problem solving' approaches into domestic violence courts in England and Wales', *International Journal of Law, Policy and Family*, 20(3) 366-78.
6. Burton, M (2009) *Domestic Abuse Literature Review*, Legal Services Commission.
7. Burton, M (2009) 'The Civil Law Remedies for Domestic Violence: Why are applications for non-molestation orders declining?', *Journal of Social Welfare and Family Law*, 109-120.

#### Quality of underpinning research

The reports for CPS and MOJ were subject to independent academic peer review before publication. The LSC report formed the basis for the JSWFL article, which is peer reviewed. The monograph has been favourably reviewed in *Family Law*, and by Jonathan Herring (Fellow of Exeter College, Oxford University) in *Child and Family Law Quarterly* (2009) 21(3) 406.

#### 4. Details of the impact

Domestic violence is an area where public bodies and government have been keen to demonstrate progress in improving their response. Both Labour and the coalition government have produced plans for responding to domestic violence. Burton's impact on policy making in domestic violence cases has been partly as a result of direct involvement in advisory bodies considering her own and others' research in this area. From 2001-2006, whilst Labour were in power, Burton was a member of the Domestic Violence Advisory Group (DVAG convened by the LCD/MOJ). She was invited to be a member of this group as a result of her expertise on the legal responses to domestic violence and was the only academic member.

The group was mainly comprised of senior judiciary, police, prosecutors and representatives of support agencies such as Refuge and Womens' Aid Federation England (WAFE). The group contributed significantly to the consultation paper Safety and Justice (Home Office, 2003) which in turn informed the Domestic Violence, Crime and Victims Act 2004. Although the legislation predates the impact period, it has ongoing impact as key measures, such as criminalisation of the breach of non-molestation orders, continue to influence the effectiveness of remedies available to victims of domestic violence. The influence of the legislation was evaluated by Burton for the LSC in 2009 (3.6 and 3.7). It appeared that criminalisation might have reduced the number of protection orders made, but Burton advised caution on drawing this conclusion and recommended more effort be put into ensuring specialist solicitors were available to support victims through the legal system.

One of the key policies considered by the DVAG in 2002 was whether third parties, such as the police, should be empowered to apply for civil remedies on behalf of victims of domestic violence. Research by Burton (as lead researcher), was used to inform a decision not to proceed with a pilot at that time (3.2). However, the government is currently reviewing this policy and Burton's research is being used as a resource to inform that review process. The current review is motivated by the pilots of domestic violence prevention orders, and continuing concerns about police handling of domestic violence complaints. Burton found that the police were concerned about being authorised as third party applicants for civil protection orders, and recommended fuller consideration of who might be authorised as an applicant in order to ensure the measure is successful if implemented.

Overall Burton's research showed that service providers were in favour of a pilot of third party applications, if issues of consent of the victim are appropriately handled (3.2). The Home Office considered this research when setting up pilots of domestic violence prevention orders (DVPOs) in 2010. In several recent House of Commons briefing papers, Parliamentarians have been referred to Burton's research on third party applications (see 5.3), and also to her research for the Legal Services Commission (LSC) examining trends in applications for non-molestation orders (see 5.1-5.3).

Burton was part of an interdisciplinary team who were responsible for evaluating the first five Specialist Domestic Violence Courts (SDVCs) in England and Wales. Although some of these courts had been evaluated individually, there was no study examining the features of best practice for court specialisation by examining different models. The research looked at best practice across the five courts and compared this with other jurisdictions. The findings of this research, reported in 2003-4, informed a decision by the MoJ and the CPS to introduce two more pilot domestic violence courts experimenting with different models. Both the original five court evaluation and the evaluation of the CPS pilot courts (carried out in 2003-4) found that independent advocacy support for victims of domestic violence was crucial to increasing their safety and wellbeing.

The evaluation showed that the development of specialist courts was central to the delivery of

that support, and also helped to increase the sensitivity of practitioners, especially magistrates, to the dynamics of abuse; it contributed to attitudinal change and some improved outcomes, although victim withdrawal remained high. As the research showed that court specialisation did improve victims' experiences of the criminal justice system, the two SDVC projects led to the decision to roll out SDVCs nationally.

Within a few years, there were over 100 such courts and they formed a central plank of Labour government policy to improve criminal justice response to domestic violence (Safety with Justice, 2008, Home Office). Court specialisation remains a key feature of criminal justice policy (Swift and Sure, Home Office, 2012).

Outside government, Burton's research on the civil remedies for domestic violence has been of interest to a wide range of third sector agencies and practitioners. The outcomes of the research for the LSC, and recommendations for more effective delivery of advice for victims of domestic abuse, were discussed in a number of journals which have a practitioner audience (such as Family Law) and WAFE published an article for their Journal 'Safe'. She is regularly contacted by third sector support agencies for information about her research to inform their campaigning and advisory services.

#### **5. Sources to corroborate the impact**

1. Domestic Violence- House of Commons Standard Note (available at <http://www.parliament.uk/briefing-papers/SN06337>.)
2. Labour policy on domestic violence 1999-2010, House of Commons Standard Note, May 2012 (available at <http://www.parliament.uk/briefing-papers/SN03989.pdf>)
3. *Third party action on behalf of victims of domestic violence*, House of Commons Briefing Note, July 2012 (available at <http://www.parliament.uk/briefing-papers/SN06398>)