



# Working Party of the Family Justice Council

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## MARACs and disclosure into court proceedings

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1. Multi-agency risk assessment conferences (MARACs) are a recent development in addressing the highest risk cases of domestic abuse. There are regular MARAC meetings held in most local authority areas in England and Wales that collate information about high risk cases of domestic abuse with a view to creating a co-ordinated safety plan for the victim and children (if any). The work is case specific and all relevant agencies (both statutory and voluntary) will attend at or contribute to the conference. MARACs can therefore appear a valuable source of information in court proceedings where domestic abuse may be an issue.

2. Normally, if it is a matter of public record that domestic abuse has occurred (e.g. through Police involvement), the victim is aware that a MARAC is taking place and should be offered support through an Independent Domestic Violence Advisor (IDVA). However, the alleged perpetrator will not have been so informed but may sometimes be aware of it e.g. through the victim.

3. The essential purposes of a MARAC are:

- a. To share information about risk;
- b. To devise a co-ordinated safety plan for the adult victim;
- c. To liaise with appropriate agencies to address safety of children and include as needed safety actions in the plan;
- d. To address the behaviour of the alleged perpetrator;
- e. To address the safety of staff working with the family.

Clearly it is of importance that generally the details of the MARAC safety plan are kept confidential if it is to be effective for to do otherwise would be to increase risk. Hence the tension between the potential existence of relevant information and the need for confidentiality.

4. MARAC staff members are neither lawyers nor paralegals. Thus they will have no inherent appreciation

of what may be ‘disclosable material’. Moreover, minute-taking may not be seen as a primary skill and thus minutes may be neither full nor entirely reliable.

5. Accordingly it is thought helpful to offer some guidance both to legal practitioners and to MARACs where consideration is being given to seeking disclosure of documents or other information. Such a request is most likely to come from the one whose conduct is under scrutiny at the MARAC.

6. Three key principles underpin this guidance –

- a. A MARAC is not a legal entity and therefore the owner of information shared at a MARAC is the original supplying agency;
- b. MARACs should only be required to disclose information by an order of the court;
- c. Any request for information must be an informed request setting out the nature of the information sought i.e. there must be no ‘fishing expedition’.

7. The question of disclosure should always be considered well in advance of a contested hearing and be dealt with by an order for directions. Notice should ordinarily be given to the Chair of the MARAC; if that is not practicable, the order should allow a MARAC representative to appear and object before compliance is required. Any order should be addressed to the Chair of the MARAC.

8. When any such order for disclosure is made and served on a MARAC, the Chair of the MARAC is under a duty to raise formal objection if any disclosure will interfere significantly with a safety plan or may cause harm to any relevant child. If, however, a decision is made not to make a formal objection –

- a. The MARAC Chair should identify the documents currently held (which in practice will usually only be the minutes);
- b. If the minutes refer to information supplied and held by another organisation, the court should

- be invited to make an order directed to that organisation (if necessary) unless the Chair has that organisation's consent to disclose;
- c. This approach should apply both to statutory and voluntary organisations;
  - d. If any document ordered to be disclosed is believed by the Chair to be potentially unreliable (e.g. the minutes), the court should be so informed;
  - e. If a MARAC is in doubt whether to disclose they may make disclosure to the court setting out their concerns and reservations (e.g. any potential impact on safety) but, in so doing, they accept that the court may nevertheless order disclosure;
  - f. The MARAC Chair may also draw to the attention of the court, the parties or the relevant organisation (as the case may be) that the significance of any information held depends upon other information held by a participating organisation and identify that organisation.
9. It will sometimes happen that MARACs hold information that they believe would be useful to a court but which they do not want to disclose to all parties. In those circumstances they should disclose the information to the relevant statutory body (local authority, Police, Cafcass) for them to use as appropriate in court proceedings.
  10. As with supported contact centres, MARAC workers and IDVAs (as opposed to professional representatives of organisations attending a MARAC) should not ordinarily be called as a witness in court proceedings.

## Members of the working party

### **The Honourable Mr. Justice Hedley, High Court Judge (Chair)**

Diana Barran, Chief Executive, Co-ordinated Action Against Domestic Abuse (CAADA)

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## Annex: What is a MARAC?

More detailed information is available from the CAADA website<sup>1</sup>. In brief:

A MARAC is a meeting where information is shared on the highest risk domestic abuse cases between representatives of local police, health, child protection, housing practitioners, Independent Domestic Violence Advisors (IDVAs) and other specialists from the statutory and voluntary sectors. After sharing all relevant information they have about a victim, the representatives discuss options for increasing the safety of the victim and turn these into a co-ordinated action plan. The primary focus of the MARAC is to safeguard the adult victim. The MARAC will also make links with other fora to safeguard children and manage the behaviour of the perpetrator.

At the heart of a MARAC is the working assumption that no single agency or individual can see the complete picture of the life of a victim, but all may have insights that are crucial to their safety. The victim does not attend the meeting but is represented by an IDVA who speaks on their behalf and whose work has been found to make a significant positive difference for the non-abusive adult and children<sup>2</sup>.

Any frontline agency representative that undertakes a risk assessment with a victim, and thereby determines that their case meets the high risk threshold, can refer a victim's case to a local MARAC. IDVAs, police and health professionals commonly refer high risk victims to MARAC. This represents about 10% of the most serious domestic violence cases, including honour-based violence.

MARACs operate at a local level and are now in almost every area of England and Wales with 250 operational. The meeting takes place either fortnightly or monthly. All agencies contribute what is known about a family, and the agreed actions are noted for the follow-up safety plan. In the 12 months to June 2011, MARACs considered over 47,000 cases, which involved almost 64,000 children.

The membership of MARACs is taken from statutory and voluntary agencies. They have become the broadest multi-agency fora for considering the safety of adults and children affected by domestic abuse. The role of a dedicated caseworker or IDVA and the contribution of agencies that have been traditionally harder to engage – e.g. women's refuges, health professionals, housing – are important reasons for their perceived success.

1. <http://www.caada.org.uk/News/FAQs.htm#whatismarac>

2. Safety in Numbers research 2009: <http://www.caada.org.uk/research/research.html>