

## Guidance on recommendations for the child when alienating behaviour is a factor

This guidance covers three areas:

1. Linking your analysis to the recommendation
2. Using a balance sheet approach to inform recommendations
3. Dilemmas in 'overcoming' a child's unjustified rejection of a parent
4. Therapeutic intervention and treatment options

### 1. Linking your analysis to the recommendation for the child

- As in all cases where children are being harmed, it's important that there is full **analysis** of all factors that appear to be contributing to a child's negative beliefs about a parent before a professional view is reached regarding alienating behaviours.
- A systematic approach in the report, reviewing all possible causes of the resistance or refusal, will help the court reach child rather than adult centred judgements in often highly contested cases.
- When alienating behaviour is a feature, because of the polarised nature of the debate about matters as fundamental as its definition and identification, allegations tend to increase in an adversarial court system. This can lead to high levels of blaming and mistrust, which in themselves contribute to the harmful impact on the child.
- Maintaining the focus on the impact on the child at all times and making clear links between the analysis and the recommendations can help to avoid the proceedings becoming adult-centric.
- In this context, when reporting to court it is helpful to provide a concise description of the child and parental behaviours which inform your analysis and be clear about your observations and what conclusions you are drawing about these.

### 2. Using a balance sheet approach to inform recommendations

- The assessment needs to consider the strengths and risks posed by both parents. We are seeking to ensure that a child has a beneficial relationship with both of their parents where safe, so that they do not go through their formative years without the benefits of a loving relationship with all significant adults.
- Taking a balance sheet approach to the welfare analysis, that is a systematic review of pros and cons of each option (see 'Re B-S (Children) [2013] EWCA Civ 1146') is helpful in evaluating the impact on the child of all potentially realistic options.
- Realistic options could include:
  - a) a change in where the child lives
  - b) a shared living arrangement
  - c) re-introduction of time with the other parent (a range of frequency and duration)
  - d) no change in arrangements.
- The balancing exercise should be carried out separately for each child.
- The list below includes some of the key factors to consider in each balancing exercise:
  - The level of intentionality, persistence and intensity of the alienating adult behaviour and the capacity of the parent to change this.
  - Did the child enjoy a previously positive relationship with the other parent?
  - Is that parent attuned to the child's needs?
  - Is the child progressing well educationally, socially and emotionally in the current arrangements? If so what is the detriment to the child of the loss of the parental relationship?
  - How likely is this child able to cope with the change being considered?
  - If a change of where the child lives is ordered by the court, will it be possible to retain positive elements of the child's relationship with the previous main carer?
  - Can the parent the child does not currently live with provide the child with compensatory care to overcome the impact of alienating behaviours?

- Would a period of no ‘time with’ the parent who demonstrated alienating behaviours, encourage positive improvements in the relationship between the child in the new arrangement?
- What impact will a change have on the child’s identity needs and in respect of the child’s wider family networks and any cultural differences between the two households?
- If the change involves the separation or reunification of siblings, what impact will this have on each child?

### 3. Dilemmas in ‘overcoming’ a child’s unjustified rejection of a parent

- A child who has been subject to alienating behaviour may appear very angry and/or distressed at the prospect of spending time with the other parent. The level of emotion may dissipate very quickly when with the other parent, or this may persist. Questions then arise regarding how far the child should be forced into spending time with the rejected parent, even when it is thought to be in their longer-term best interests to do so.
- If it is established that the child is suffering harm, warranting involvement of the local authority, then a similar level of scrutiny and analysis to that applied regarding the removal of a child from a parent in care proceedings will need to be applied, even if the case remains in private law proceedings. If the recommendation is for a safe and beneficial transition to a new carer, it will need to be carefully considered and reviewed by the court.
- The court may consider ordering the local authority to report under s.37.
- A referral by Cafcass to the local authority may need to be considered.
- Consideration of [Cafcass 16A duty](#) may also be relevant.
- Where a child has been taught by a parent that contact with their other parent would be unsafe or undesirable, this can be very difficult to change.
- A parent not addressing this potentially involves a collusion with an emotionally abusive situation and a distorted world view. It reinforces avoidant behaviour and may disproportionately empower a child in a negative way. In any other circumstances a parent would be expected to help the child overcome something they were avoiding, for example if a child was unjustifiably resistant to attending school, the parent or carer would be expected to make every effort to understand the resistance and help the child overcome it.
- Despite these risks to the emotional wellbeing of the child, the risk of forcing them into time with the other parent may be higher. This assessment of competing risks needs to be carried out on a case-by-case basis, based on the individual needs of each child and the family situation.
- It can, very understandably, feel wholly unjust to a rejected parent. However, regardless of how they were formed, a child’s wishes and feelings may be so entrenched against time spent with the other parent (and a change of where they live is also not viable), that time with that parent is not possible.
- The assessment and the court process will need to balance the risks in each scenario for each individual child.

#### Case examples illustrating different scenarios involving alienating behaviours

*There were protracted proceedings in which the mother made sexual abuse allegations against the father, but no fact-finding hearing took place. She retained the child abroad following a holiday.*

*She returned with the child several months later – by which time no contact between father and child had taken place for some time. At a fact-finding hearing none of the allegations levelled at the father (alleged to have happened several years earlier) were upheld – further welfare hearings followed.*

*This child still had real difficulties in engaging with her father. There were various family therapeutic sessions and time together was built up gradually. The child (now a teenager), who at the beginning would not even be in the same room as her father, now spends time with her father every other weekend and during school holidays under a consent order.*

*By the time of the final hearing, the child was 10 years old and had not seen the father for three years. There was evidence that their relationship had been positive up to and including the last time they had seen each other. Allegations about the father were made. Time together was suspended, pending a fact-finding hearing. Two fact-finding hearings took place and the allegations were found to be unsubstantiated. An order was made for the child to spend time with the father, but this did not take place. The case escalated to the High Court to enforce and define the time together. Two reports from a child and adolescent psychiatrist concluded that there was no objectively comprehensible reason for the child's resistance to time with the father.*

*The judge found that the child's opposition to time with the father provided a convenient cloak for the mother to shelter behind. Although the mother had not deliberately or maliciously manipulated the child's views, she had allowed the child to absorb her attitude; making it clear to the child that spending time with the father was the child's choice was an implicit encouragement to resist. The judge ordered further expert involvement to re-introduce time together and commented that it is important to identify cases with the hallmarks of intractability at an early stage.*

*The matter is still before the court and no contact between the child and parent has yet taken place.*

**Extract from a judgement: H (Children) [2014] EWCA Civ 733 Mrs Justice Parker**

*"74. I regard parental manipulation of children, of which I distressingly see an enormous amount, as exceptionally harmful. It distorts the relationship of the child not only with the parent but with the outside world. Children who are suborned into flouting court orders are given extremely damaging messages about the extent to which authority can be disregarded and given the impression that compliance with adult expectations is optional. Bearing in mind the documented history of this mother's inability to control these children, their relationship with one another and wholly inappropriate empowerment, it strikes me as highly damaging in this case. I am disappointed that the professionals in this case are unable truly to understand this message. Parents who obstruct a relationship with the other parent are inflicting untold damage on their children and it is, in my view, about time that professionals truly understood this."*

#### **4. Therapeutic treatment and intervention (with thanks to Dr Sue Whitcombe for contribution to this section)**

- To overcome resistance or refusal by a child who has been alienated, courts will often consider the need for treatment or intervention.
- Any such intervention is most likely to be effective with judicial oversight.
- A recent review of interventions internationally suggests that there is no single protocol for the assessment and treatment of cases where alienating behaviour may be a factor (Templer, Matthewson, Haines, & Cox, 2017). No interventions from the UK were identified in this review or that of Doughty, Maxwell and Slater (2018), conducted on behalf of Cafcass Cymru.
- Development of interventions in the UK are in their formative stages and do not appear to have yet been subject to independent objective evaluation. In addition, access to suitable therapeutic intervention is problematic, due to costs and the scarcity of provision.
- Practitioners offering interventions should have knowledge of alienating behaviours, complex family dynamics and child abuse, as well as normal developmental models for children and adults. They should have a Disclosure and Barring Service (DBS) enhanced certificate and professional indemnity insurance. Families are advised to check the qualifications of the practitioner and their affiliation to any professional body or organisation.
- There is limited statutory regulation of mental health practitioners in the UK. Practitioner psychologists are statutorily regulated by the Health and Care Professions Council (HCPC).

The British Association for Counselling and Psychotherapy (BACP) and the United Kingdom Council for Psychotherapy (UKCP) are the largest member counselling organisations in the UK. Both have voluntary registers accredited with the Professional Standards Authority (PSA). Registers accredited by the PSA sets standards for people working in unregulated health and care occupations and provide for some protection of the public.

- The goal of intervention is to transform the child's distorted, rigidly held, polarised views of one parent as "all bad" and the other as "all good" into more realistic and measured ones, rooted in the child's actual experience of both parents (Johnston et al 2001).
- The alienating parent has an active role to play in supporting the child to develop a meaningful relationship with the rejected parent, and the rejected parent has an active role to play in supporting the child and relating empathetically to the child's experience. This includes learning how not to take the child's rejection personally (Johnston et al 2001; Judge and Deutsch 2017).
- Interventions need to address the child's overall best interests. Due to the complexity of factors surrounding a child who has become alienated, it is unlikely that any one objectively validated intervention can be relied upon to repair all fractured parent-child relationships.
- If therapeutic intervention is being considered, the following characteristics derived from an analysis of existing interventions can be used as a guide to which elements should be included (Templer, Matthewson, Haines, & Cox, 2017):
  - any family therapeutic intervention for parental alienating behaviours must involve the child and parents, offering sessions with family members together as well as sessions with individual family members so that both individual and systemic concerns can be addressed
  - provide each family member with education about parental alienating behaviours
  - protect the children from harm caused by the alienating behaviours
  - use therapeutic intervention that reduces the child's distress and improves psychological wellbeing
  - use techniques that challenge the child's distorted thinking and teach them critical thinking skills
  - work to improve the targeted parent-child relationship
  - prepare the alienating parent for an improvement in the quality of the targeted parent-child relationship and challenge their distorted thinking
  - employ conflict resolution techniques to repair the co-parenting relationship
  - establish healthy boundaries and communication within the family.
- The Cafcass Positive Co-parenting Programme is not designed as an intervention to re-introduce time spent with a parent where the child is alienated. It is an intervention for families, in the mid-range of harmful conflict. However, the presence of some features of alienating behaviour does not specifically rule out the use of Cafcass Positive Co-parenting Programme as a suitable intervention. [See the CPPP suitability tool.](#)
- When a therapeutic intervention is being considered it may assist the court to recommend orders be put in place alongside that intervention including:
  - Anticipate resistance and leave nothing to chance: detail start and finish times, dates, handover arrangements, transport arrangements.
  - A mechanism for swift return to court for non-adherence or breach.
  - Compensatory or enhanced parenting time where this has been frustrated or prevented.
  - Ensure no discretion or negotiation is left to the child or alienating parent.
  - Eliminate the possibility of conflict at handovers (such as by using a third party, or neutral venue like school). Conflict will increase child's distress and strengthen the rejection process by setting the alienating parent as a victim and the other parent as a perpetrator.
  - Build in a pattern of progress, to set the expectation of success.
  - Prevent intrusions into the time the child spends with alienated parent. For example, consider if telephone calls from the alienating parent are of benefit to child or do more harm than good (Clarkson et al 2006).

## References:

*If you would like to see any of the items listed, send the 5 or 6-digit item numbers (in bold) to [library@cafcass.gov.uk](mailto:library@cafcass.gov.uk) (for internal use only)*

- 159595.** Clarkson, D., & Clarkson, H. (2006). The unbreakable chain under pressure: the management of post-separation parental rejection. *Journal of Social Welfare and Family Law*, 28(3-4), pp. 251-266.
- 300281.** Doughty, J., Maxwell, N., & Slater, T. (2018). *Review of research and case law on parental alienation*. Cardiff: Cardiff University.
- 203850.** Judge, A. & Deutsch, R. (2017). *Overcoming parent-child contact problems: family-based interventions for resistance, rejection and alienation*. New York, N.Y.: Oxford University Press.
- 165080.** Kelly, J., & Johnston, J. (2001). The alienated child: a reformulation of parental alienation syndrome. *Family Court Review*, 39(3), pp.249-266.
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