



## BRIEFING PAPER

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# Children: parental alienation (England)

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1. Parental alienation explained
2. Why parental alienation matters for contact and residence
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## Summary

This House of Commons Library briefing considers parental alienation, which can affect contact and residence cases before the courts. In particular, it highlights that those involved, including Cafcass officers, have long been aware of this issue. New Cafcass guidance was issued in October 2018 to help identify when parental alienation has occurred.

Parental alienation is where a parent tries to alienate a child from their other parent, in effect subverting the wishes and feelings of the child and trying to supplant their own feelings with that of the parent, who may feel aggrieved or angry towards the other parent.

When a court is considering whether to make, vary or discharge an order relating to contact or residence (called a child arrangements order), one factor it may take into account is the wishes and feelings of the child concerned. It is therefore important that those views are the child's alone, and have been not influenced by a parent for example.

While the courts and those involved with proceedings, in particular Cafcass officers whose role it is to talk to the children involved and to convey to the court their wishes and feeling, have long been aware of the issue of parental alienation, the issue has gained an increased level of interest recently, including through a marked increase in the parliamentary activity on the topic.

In October 2018, Cafcass launched its new Child Impact Assessment Framework (CIAF) which built on existing guidance to its staff in regard to parental alienation (and also other topics such as domestic abuse).

This note applies to England only.

# 1. Parental alienation explained

Parental alienation may be explained as an attempt by one parent to manipulate a child so that they too share that parent's dislike of the other parent. The Government have said that "'parental alienation' describes a situation where a parent knowingly (or unknowingly) manipulates a child's wishes and feelings towards the other parent in an effort to undermine and interfere with their relationship".<sup>1</sup>

Cafcass, the Government's Children and Family Court Advisory and Support Service which represents children in family court cases in England, explains that "the definition of parental alienation as a concept in family court cases, its surrounding terminology and its scale remain under debate", but that:

While there is no single definition, we recognise parental alienation as when a child's resistance or hostility towards one parent is not justified and is the result of psychological manipulation by the other parent. It is one of a number of reasons why a child may reject or resist spending time with one parent post-separation. All potential risk factors, such as domestic abuse, must be adequately and safely considered, reduced or resolved before assessing the other case factors or reasons.<sup>2</sup>

In terms of the possible scale of the problem, the then Minister for Courts and Justice, Sir Oliver Heald, told the House in March 2017 that one research study in 2012 had found that, of 215 enforcement applications relating to child contact orders, "alienating or implacably hostile mothers represented a small minority—about 5% of cases".<sup>3</sup>

As Laura Hughes and Rebecca Dziobon of legal firm Penningtons Manches LLP explained, "some separating parents are unable to contain their hostility towards the other parent for whatever reason ... Harmful conflict can arise when parents are unable to put the needs of their child first".<sup>4</sup>

Cafcass adds that "alienating behaviours present themselves on a spectrum with varying impact on individual children, which requires a nuanced and holistic assessment".<sup>5</sup> Ms Hughes and Ms Dziobon note that towards the more "extreme and intense end" of the spectrum, parental alienation can arise because "these parents may, as a consequence of their negative feelings, abuse their parental responsibility. They may misuse their parental position in a way that can cause grave emotional harm to their child, including alienating the other parent from the child's life". They note that "the most extreme of cases, for example where one parent falsely accuses the other parent of sexual abuse to try to prevent them from having any relationship with

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<sup>1</sup> [PQ 110599 8 November 2017](#)

<sup>2</sup> Cafcass, [Parental alienation – What is parental alienation?](#), webpage accessed on 10 February 2020

<sup>3</sup> [HC Deb 15 March 2017 c502](#) citing Professor Liz Trinder of the University of Exeter.

<sup>4</sup> Family Law, [Analysis: Parental alienation and the new Cafcass assessment framework](#), 27 February 2019

<sup>5</sup> Cafcass, [Parental alienation – What is parental alienation?](#), webpage accessed on 10 February 2020

the child, can amount to a child protection issue which can take many months, if not years, to resolve through the courts".<sup>6</sup>

Cafcass adds that "both men and women can demonstrate alienating behaviours", and that:

While alienation can be demonstrated solely by one parent, it is often a combination of child and adult behaviours and attitudes, with both parents playing a role, that lead to the child rejecting or resisting spending time with one parent.

In terms of what parental alienation looks like in practice, Cafcass explains that:

While not restricted to alienation, behaviours and indicators can include: a parent constantly badmouthing or belittling the other; limiting contact; forbidding discussion about them; and creating the impression that the other parent dislikes or does not love the child.

They can also include spurning, terrorising, isolating, corrupting or exploiting, and denying emotional responsiveness. These tactics can foster a false belief that the alienated parent is dangerous or unworthy. Children may adapt their own behaviours and feelings to the alienating parent to ensure that their attachment needs are met (Baker, 2010).<sup>7</sup>

However, Cafcass notes that even when parental alienation has occurred, it is still possible that a child will continue to hold their own views. It is Cafcass's job to ensure that these views emerge and so can influence court proceedings for contact and residence:

It is worth noting that even the most alienated child will hold strong views of their own in addition to those they may have been coached to hold. [...]

Our role is to understand children's unique experiences and how they are affected by these behaviours, which may differ depending on factors such as the child's resilience and vulnerability. [...]

Where a child is being alienated, it may be in their interests for the authority of the court to be used to work towards restoring the relationship, although we are aware of how difficult this can be. The court must carefully balance its decisions to ensure that both children and adults are kept safe, and ensure that children are able to maintain relationships with both parents where this is safe and in the child's best interests.<sup>8</sup>

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<sup>6</sup> Family Law, [Analysis: Parental alienation and the new Cafcass assessment framework](#), 27 February 2019

<sup>7</sup> Baker, A. (2010), Parental alienation: a special case of parental rejection, *Parental Acceptance*, 4(3), 4-5.

<sup>8</sup> Cafcass, [Parental alienation – What is parental alienation?](#), webpage accessed on 10 February 2020

## 2. Why parental alienation matters for contact and residence

When parents (or others) cannot agree matters concerning contact and residence relating to a child, then ultimately the matter is usually determined by the Family Court before a magistrate or a judge (this is known as a “private law” matter).

The court will consider whether to make a child arrangements order under section 8 of the Children Act 1989 as amended. When making such an order, the welfare of the child is the court’s “paramount consideration” and one factor the court can take into account is the “ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)”. The court should also presume that the involvement of both parents in a child’s life will further the child’s welfare (unless the contrary is shown, and subject to safeguards concerning harm).<sup>9</sup>

Under section 7 of the 1989 Act, the court can appoint either a Cafcass or a local authority officer (a “Guardian”) to “report to the court on such matters relating to the welfare of that child”.

Cafcass explains that it “represents children in family court cases in England. We put children’s needs, wishes and feelings first, making sure that children’s voices are heard at the heart of the family court setting, and that decisions are made in their best interests”. Cafcass is also independent of the court.<sup>10</sup>

If a child has been subject to parental alienation, either by a party to the case or a third party (such as a relative), this could influence the child’s wishes and feelings. They may, for express, express that they don’t like a parent or make accusations against them based, not on actual experiences or what they feel, but what they have been told.

### **Box 1: Who decides contact and residence? The judge (and not Cafcass)**

While Cafcass plays an important role in ascertaining the views and wishes of a child involved court proceedings for contact or residence (and if parental alienation is a factor), information which is conveyed to the court, Cafcass’s findings do not determine the matter. To be clear, Cafcass is not responsible for settling the contact and residence arrangements: the matter of whether to make, vary or discharge a child arrangements order is for the judge to determine based not only on the Cafcass officer’s report but on all the evidence before the court.

<sup>9</sup> Section 1 of the Children Act 1989

<sup>10</sup> Cafcass, [About Cafcass](#), webpage accessed on 10 February 2020

## 3. Safeguards when parental alienation is identified

As Cafcass notes, “for a long time now, those charged with looking after children’s welfare have been aware of parental alienation in family law proceedings”.

Interest in and awareness of the issue has increased recently, something which Cafcass acknowledges: “growing interest and concern among the public, the courts, the social work sector and other key stakeholders has brought it to the fore in recent years”.<sup>11</sup>

While parental alienation has been attracting headlines recently – and a number of parliamentary questions on the topic<sup>12</sup> – it is not a new problem.

### 3.1 Parental alienation and the legislation

There is no legislative provision – either in the Children Act 1989 as amended or elsewhere – that specifically addresses the issue of parental alienation in regard to private law matters, or states what should happen where it occurs.

Rather, the legislation is broad and largely non-prescriptive and instead sets a framework that allows courts to determine both what factors to consider (and how much weight to place on them) and the suitable remedy on a case-by-case basis.

In May 2016, the Government contended that the existing legislation – the Children Act 1989 as amended – contained adequate provision in regard to cases of parental alienation, and highlighted the role of Cafcass practitioners, saying they were “aware of the potential for children to be influenced or alienated by parental views and are alert to this possibility throughout the case”,<sup>13</sup> a view it reaffirmed in November 2017.<sup>14</sup>

In November 2017, the then Minister for Justice, Dominic Raab, told the House that “the Government is confident that the family justice system can robustly address such behaviour when it is alleged in child arrangements cases”, and continued:

As the child’s welfare must be the court’s paramount concern, there is a statutory presumption that the involvement of a parent in the child’s life will further the child’s welfare, unless the contrary can be shown. The court must consider the child’s ascertainable wishes and feelings and how capable each of the parents are of meeting the child’s needs. These principles of the

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<sup>11</sup> Cafcass, [Parental alienation – Parental alienation](#), webpage accessed on 10 February 2020

<sup>12</sup> For example, during 2016 to 2019, there were 11 parliamentary question on the topic of parental alienation compared to 7 during the entire period of 1999 to 2015. In addition, there was an adjournment debate on the topic in March 2017 ([HC Deb 15 March 2017 cc496–504](#)).

<sup>13</sup> [PQ 36978 12 May 2016](#)

<sup>14</sup> [PQ 110599 8 November 2017](#)

Children Act 1989 safeguard against orders being made because of implacable hostility by one parent.

Where Cafcass practitioners prepare a report into the child's welfare, they are aware of the potential for children to be influenced or alienated by parental views. Any concerns of 'parental alienation' will be reported to the court.<sup>15</sup>

### Box 2: Parental alienation and possible reforms

During the Commons debate on parental alienation in March 2017, the then Minister for Courts and Justice noted that the Government intended to bring forward a Green Paper on family justice later that year, and noted that it would be an opportunity to contribute views on parental alienation.

However, the Green Paper was first delayed,<sup>16</sup> and then, in March 2019, ditched. Notwithstanding this, the Conservative Government (then led by Theresa May) stated at the time that "significant reforms" to private (and public) family law were planned, although no commitment has been made in regard to the issue of parental alienation.<sup>17</sup> To date, the Johnson-led Conservative Government has not provided an update on this topic.

## 3.2 The role of Cafcass, including the Child Impact Assessment Framework

A debate on parental alienation took place on the Floor of the House in March 2017. Responding the debate was the then Minister for Courts and Justice, Sir Oliver Heald, who highlighted that "where the child presents adult themes or language, the CAF/CASS practitioner will explore these and report on such matters to the court", and noted that "CAF/CASS has a range of tools available to assist its practitioners in assessing the presence or the danger of alienating behaviours".<sup>18</sup>

In October 2018, Cafcass launched the Child Impact Assessment Framework (CIAF),<sup>19</sup> describing it as a "structured framework ... to support our practitioners in assessing the harmful impact of a range of complex case factors on the children we work with in private law cases".

Noting that the CIAF was a "development of our existing guidance, [meaning that] some of the issues will already be addressed in practice in current cases", Cafcass explained:

The CIAF will help our Family Court Advisers (FCAs) in the timely identification and accurate assessment of what is happening for each child, and to provide consistent and balanced reporting to court when advising it on what we consider to be in the child's best interests. The CIAF aims to promote a common understanding of contentious issues and will help FCAs to retain focus on the impact on the child when these issues arise.

The CIAF brings together new and existing guidance and tools into four guides which our private law practitioners can use to assess the impact on the child of different case factors, including:

<sup>15</sup> [PQ 110599 8 November 2017](#)

<sup>16</sup> [PO 160822 9 July 2018](#)

<sup>17</sup> [PO 228670 21 March 2019](#)

<sup>18</sup> [HC Deb 15 March 2017 c501](#)

<sup>19</sup> The CIAF was originally called the "High Conflict Practice Pathway" during its development but the name was changed at its launch.



- domestic abuse
- harmful conflict
- child refusal or resistance to spend time with one of their parents, which includes guidance on parental alienation
- other forms of harmful parenting, such as substance misuse or mental health difficulties.

Cafcass noted that “where domestic abuse features, FCAs will prioritise the assessment of domestic abuse using the pathway and check that any risk has been adequately and safely considered, reduced or resolved before assessing the other case factors, such as harmful conflict or alienating behaviours”.<sup>20</sup>

Cafcass has published the guidance on its CIAF webpage.<sup>21</sup>

The relevant sections of the [“Resources for assessing child refusal/resistance”](#) in relation to parental alienation include the following (under “Tools and guidance”) are:

- “Children’s resistance or refusal to spending time with a parent: a structured guide”;<sup>22</sup>
- “Guidance on recommendations for the child when alienation is a factor”;<sup>23</sup>
- “Typical behaviours exhibited where alienation may be a factor tool”;<sup>24</sup>
- “Children’s beliefs about parental divorce tool”.<sup>25</sup>

As the Government noted in June 2019:

The Government is committed to ensuring that the family justice system can robustly address instances of parental alienation. Where Cafcass practitioners prepare a report into the child’s welfare, they are aware of the potential for children to be influenced or alienated by parental views. The Child Impact Assessment Framework launched last year provides further support for Cafcass practitioners in relation to alienating behaviour by a parent.<sup>26</sup>

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<sup>20</sup> Cafcass, [Cafcass publishes new assessment framework for private law cases](#), news, 11 October 2018

<sup>21</sup> See Cafcass, [Child Impact Assessment Framework \(CIAF\)](#), webpage accessed on 10 February 2020

<sup>22</sup> Cafcass, [Children’s resistance or refusal to spending time with a parent: a structured guide](#), (especially pp7–11)

<sup>23</sup> Cafcass, [Guidance on recommendations for the child when alienation is a factor](#), undated

<sup>24</sup> Cafcass, [Typical behaviours exhibited where alienation may be a factor tool](#), undated

<sup>25</sup> Cafcass, [Children’s beliefs about parental divorce tool](#), undated

<sup>26</sup> [PQ 259186 6 June 2019](#)

**Box 3: An example of a court ruling that identified parental alienation**

As the charity for separated parents, Families Need Fathers (FNF), highlighted, a 2017 judgment in the Family Court “deals very effectively (if belatedly) with an alienating parent”; the case demonstrates that both the courts and Cafcass were already attuned to the issue and its consequences even before the introduction of Cafcass’s new CIAF.

The judgment highlighted that the Cafcass-appointed Guardian for the child in the case had applied for an expert assessment by a psychologist, Darren Spooner, which the judge granted.

In his report to the court, the judge, Justice Gordon-Saker, said that Mr Spooner had found that the child in the case was exhibiting signs of having been subjected to parental alienation by their mother.

As a consequence, Justice Gordon-Saker ruled that “this child is continuing to suffer harm in her mother’s care. If I leave her in her mother’s care with no contact [with the father] that will not change. She will continue to suffer harm. She knows her mother’s story is not right and the outcomes of parental alienation identified by Mr. Spooner [risks in later life to a child] will come to pass. It seems to me there has to be change”.

The Judge ruled that, in the case in question given the evidence before the court, residence should immediately transfer to the father from the mother, and that the mother should have only supervised contact with the child.<sup>27</sup>

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<sup>27</sup> B (change of residence; parental alienation), Re [\[2017\] EWFC B24 \(22 March 2017\)](#)

## 4. Other sources of information and advice

The [Family Mediation Council](#) can provide information about family mediation and how to find the nearest mediation service (including those providing a MIAM).

A guide about the family courts for separating parents and children and is available from [Cafcass](#).

For advice about Contact Centres, which are neutral places for contact to take place between children of separated families and family members, contact the [National Association of Child Contact Centres](#).

The Library note [Legal help: where to go and how to pay](#) sets out information about where to seek legal help or advice.

Organisations that may be able to help with queries related to residence and contact include:

- [AdviceNow](#) (run by the charity Law for Life: the Foundation for Public Legal Education) – [contact form](#);
- [Child Law Advice](#) (part of the charity Coram Children’s Legal Centre) – 0300 330 5480;
- [Citizens Advice](#) – 03444 111 444;
- [Families Need Fathers](#) (a single parents’ charity not just for fathers) – 0300 0300 363;
- [Family Law Panel](#) (offers initial information free of charge and reduced fee scheme for low income individuals) – [links to find local solicitors, barristers and mediators](#);
- [Family Lives](#) (a charity providing advice to families) – 0808 800 2222;
- [Family Rights Group](#) (a charity that works with parents whose children are in need, at risk or are in the care system and with members of the wider family who are raising children unable to remain at home) – 0808 801 0366;
- [Gingerbread](#) (a single parents’ charity) – 0808 802 0925;
- GOV.UK, [Contact with your grandchild if their parents divorce or separate](#);
- [Grandparents Plus](#) (a grandparents’ charity) – 0300 123 7015;
- [Resolution](#) (a member organisation for professional who believe “in a constructive, non-confrontational approach to family law problems”) - [online directory](#).<sup>28</sup>

The NSPCC also provides a list of organisations who can help with private law matters, such as parental responsibility, on their webpage [Separation and divorce](#).

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<sup>28</sup> Organisations include those listed on the [Advice Now website’s “Help Directory”](#) under the heading “Family Problems”.

## 12 Children: parental alienation (England)

In terms of the legislation and related guidance, the following is relevant:

- [Children Act 1989 as amended](#);
- [Children Act 1989: court orders](#), statutory guidance, April 2014, Department for Education (in particular chapter 1);
- [Family Procedure Rules 2010](#), Ministry of Justice.

Cafcass has a specific [webpage on parental alienation](#).

In addition, Cafcass has published its new [Child Impact Assessment Framework online](#).

In regard to parental alienation, the relevant sections of the [“Resources for assessing child refusal/resistance”](#) in relation to parental alienation include the following (under “Tools and guidance”):

- [Children’s resistance or refusal to spending time with a parent: a structured guide](#) (especially pages 7–11);
- [Guidance on recommendations for the child when alienation is a factor](#);
- [Typical behaviours exhibited where alienation may be a factor tool](#);
- [Children’s beliefs about parental divorce tool](#).

## Other Library briefings on private child law and related topics

- [Children: parental responsibility - how it's gained and lost, and restrictions \(England and Wales\)](#)
- [Children: when agreement cannot be reached on contact and residence \(England\)](#)
- [Children: Grandparents and court orders for contact with grandchildren \(England\)](#)
- [Children: parental alienation \(England\)](#)
- [Children: child arrangements orders – safeguards when domestic abuse arises \(England and Wales\)](#)
- [Confidentiality and openness in the family courts: current rules and history of their reform](#)
- [International child abduction – preventing abduction and recovering children \(England and Wales\)](#)

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