

**Cafcass Cymru**

# **Children's Resistance Or Refusal To Spend Time With A Parent: Practice Guidance**



Published v1  
June 2019

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# Children's Resistance or Refusal to Spend Time with a Parent: Practice Guidance

*Adapted from guidance developed by Cafcass and used by their kind permission*

## Introduction

Cafcass Cymru provides expert child-focused advice and support, to safeguard children and make sure their voices are heard in family courts across Wales so that decisions are made in their best interests.

All cases we work with are referred to us by a court with the child's future welfare being at the heart of every decision taken and recommendation made by Cafcass Cymru. We are part of the Welsh Government's Health and Social Services Group. We are accountable to both the Minister and the Director General for Health and Social Services.

In 2011 Wales became the first country in the UK to incorporate children's rights into domestic law with the introduction of the Rights of Children and Young Persons (Wales) Measure 2011. The Measure embeds consideration of the United Nations Convention on the Rights of the Child (UNCRC) and the optional protocols into Welsh law. The Measure requires all Welsh Ministers to consider children's rights when exercising any of their functions. The Children's Rights Scheme 2014 sets out the arrangements that we have in place to comply with the duty to have due regard to the UNCRC and reflects our on-going commitment to children's rights.

Our statutory functions are:

- Safeguard and promote the welfare of children;
- Give advice to any court to any court about any application made to it in such proceedings;
- Make provision for children to be represented in such proceedings;
- Provide information, advice and other support for children and their families.

In the context of separated parents in dispute over child-related arrangements, children who resist and/or refuse to spend time with a parent will feature frequently in cases that Cafcass Cymru has involvement in. With this in mind, this practice guidance aims to provide Cafcass Cymru practitioners with the most up to date thinking, research, legislation and legal context in order to ensure that children and their families receive a quality, evidenced based service focussed on achieving the child's best interests.

This guidance is to aid and assist your thinking around the impact on children who resist or refuse to spend time with a parent and consider how best to approach such cases in the best interests of the child.

This guidance is not designed to be prescriptive and should be used as an aid to practice; it contains recommendations for further reading and practical application of organisational procedures. This practice guidance should be read in conjunction with:

- Cafcass Cymru's [Domestic Abuse Practice Guidance](#)
- Cafcass Cymru's [Harmful Conflict Practice Guidance](#)

Practitioners, in addition should familiarise themselves with Cafcass Cymru's [safeguarding procedure](#).

Cafcass Cymru has a clear framework as we operate within The Children Act 1989, Social Services and Well-Being (Wales) Act 2014, Family Procedure Rules as well as internal policies and procedures which provide the foundation, guidance and structure for our work. In all respects, we need to find the right practice approach by considering each child's individual needs and the impact of their lived experience.



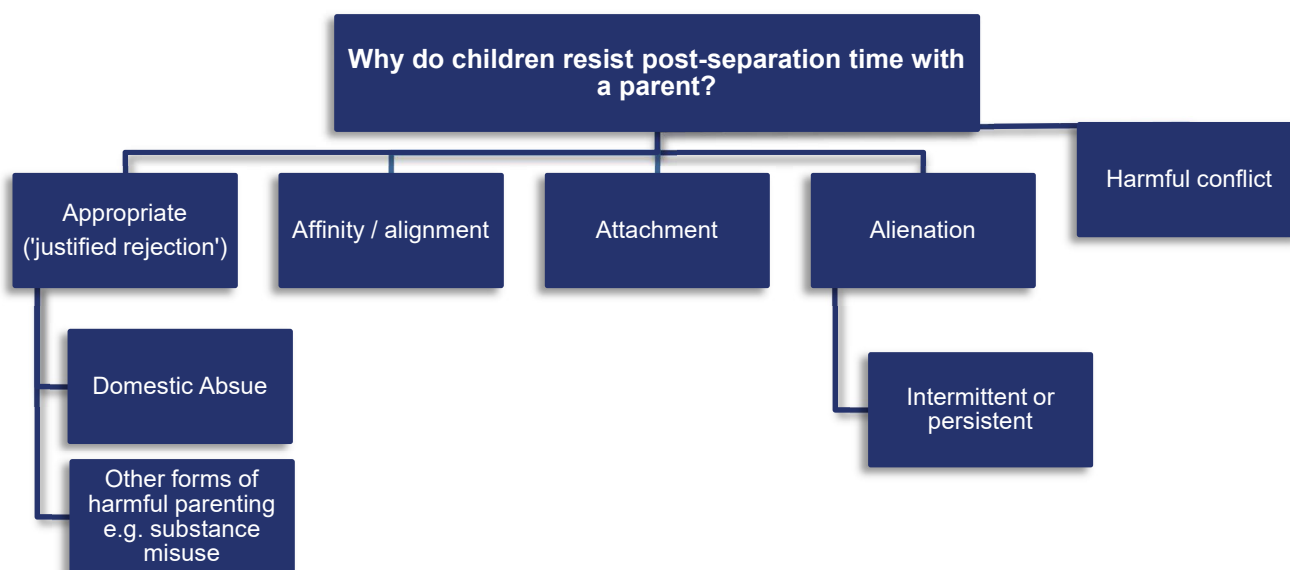
## Assess the Reasons for a Child Resisting or Refusing Time With a Parent or Carer

**Please note:** The child may also refuse or resist a parent as a response to conflict. Kelly and Johnston (2001) identified that “*resistance can be rooted primarily in the high-conflict marriage and divorce (e.g. fear or inability to cope with the high-conflict transition)*”. If this is identified as a factor at any point in the case refer to the tools and practice guidance on [harmful conflict](#), which includes potential impacts on children and information about interventions aimed at reducing parental conflict.

Resistance or refusal by the child may occur for a range of reasons. Perhaps the child has been harmed by the parent or is frightened of them (known as *appropriate justified rejection*) (Fidler, Bala & Saini, 2013). There may be reasons to do with the child’s active choices about how they want to live their life, or perhaps they have been affected by the ‘alienating behaviour’ of one or both parents.

The reasons for a child refusing or resisting a relationship with a parent/family member can be categorised as the four A’s (Fidler, Bala & Saini, 2013), set out below:

- Appropriate justified rejection
- Alignment / affinity
- Attachment
- Alienation



- Use your case plan for planning your interviews with the child and parents and/or carers to enable you to gather relevant information about why the child is resisting or refusing time with a parent.
- Direct work with children can be a powerful method for helping parents see the conflict through the eyes of the child.

- The Child Impact Analysis approach to s7 reports allows for a creative and dispute resolution focused approach throughout the life of the case, allowing you to be creative with the work you undertake to secure an outcome which is more closely aligned with the best interests of the child.
- You can promote the use of the [parenting plan](#) and also consider a court-ordered referral to a [WT4C programme](#).
- Harmful conflict and domestic abuse are distinct from 'alienation' and each other. 'Alienation' is one of a number of reasons why the child may reject or resist spending time with a parent. Indeed, some cases may involve allegations of domestic abuse at the same time as counter allegations of 'alienation'



## Key Practice Points: Alienating Behaviours and Child Impact

### **Definition: Alienating Behaviours and Child Impact**

The definition of parental alienation as a concept in family court cases, its surrounding terminology and its scale remain subject to debate. Whilst there is a lack of an agreed single definition, Welsh Government and Cafcass Cymru recognises that some parents can behave in a way that alienates the other parent from their child's life and that these behaviours can have a significant adverse impact on the emotional wellbeing of the child. Cafcass Cymru does not recognise parental alienation as a syndrome or a classification but as 'alienating behaviours'. The most important issue for us is that these behaviours, when they occur, are appropriately dealt with using the existing regulatory and legal framework. The debate about whether alienation is a syndrome can be a distraction from the necessary focus on the impact on the child. Your role is to understand children's individual experiences and how they are affected by behaviours.

It is important to recognise that the term parental alienation refers to a wide range of behaviours spanning from a parent being critical of the other parent, causing disruption to planned contact arrangements or fabricating evidence and making allegations to damage and/or end the child's relationship with the other parent. The emotional impact upon the child will be dependent upon the extent of the alienating behaviours the parents' exhibits, the age and development of the child and the child's emotional resilience. Undoubtedly, such behaviour can be emotionally abusive to children.

- Early identification of behaviours which are not intentionally seeking to exclude one parent from the child's life is important e.g. withholding a session of time with the other parent as a response to the child being returned late, may over time result in the child 'taking sides and opting out of seeing one parent'. If there are indications that the child's previously good relationship is being undermined and this is not justified it requires further exploration. These behaviours can include:
  - \* a parent constantly badmouthing or belittling the other;
  - \* limiting contact;
  - \* forbidding discussion about them; and
  - \* creating and/or supporting 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 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).
- Both men and women can demonstrate 'alienating' behaviours. While 'alienation' can be demonstrated solely by one parent, it is often the case that a combination of child and adult behaviours and attitude, with both parents playing a role, can lead to the child rejecting or resisting one parent.
- Information on the history and context of parental alienation can be found in the article: Kelly. J & Johnston. J (2001) *The alienated child; a reformulation of parental alienation syndrome*. Family Court Review, 39 (3) pp. 249 – 266.

## Key Practice Points: Appropriate Justified Rejection

### **Definition: Appropriate justified rejection**

Justified rejection by the child to spending time with a parent or realistic estrangement because of harmful parenting, including neglect or abuse or significant parenting limitations.

### **Factors and indicators:**

- \* There are allegations of abuse or neglect.
- \* There are allegations of domestic abuse, this could also include coercive and controlling behaviour, which could feature in addition to other factors or be a stand-alone feature.
- \* The child feels unsafe or very unhappy in the care of the other parent, these feelings should be explored via the use of focussed direct work.
- \* The parent the child lives with has acted protectively.
- \* Rejection of the other parent is justified due to non-existent, interrupted or minimal involvement, inexperience or poor parenting which may or may not reach the level of abuse or neglect.
- \* The other parent has unmanaged mental health difficulties, such as personality disorder, or substance and/or alcohol misuse issues or other factors that impact on their capacity to provide attuned and consistent care.

Where these factors are present you should refer to the [domestic abuse practice guidance](#); consider the presenting issues and determine the need for the court to carry out a fact finding hearing – see Cafcass Cymru's [Finding of Fact guidance](#).

In addition, the child and adult's need for safety and protection should be a priority. Therefore it may be that the practitioner needs to prepare a 16a Risk Assessment Report and/or complete a safeguarding referral to the local authority.

**Link:** [Cafcass Cymru Safeguarding Operational Procedure](#)



## Assess Indicators of Domestic Abuse and Other Forms of Harmful Parenting

- The first step in assessing the reasons for the child's resistance or rejection of a parent is to consider whether domestic abuse or other forms of harmful parenting are factors.
- Domestic abuse is not a 'conflict between parents', it is the abuse of one person by another, in the setting of an intimate relationship with an [imbalance of power](#).
- Note that children may be subject to coercive and controlling behaviour as a means of alienating them from a parent as part of a longer history of the alleged perpetrator controlling the victim and continuing this abuse through family court litigation. Practice Direction 12J says that the court must consider the impact on and risk to the parent with whom the child lives ahead of making any Child Arrangement Order.

If domestic abuse, including coercive and controlling behaviour, is a potential factor refer to the [practice guidance on domestic abuse](#). This includes where the following indicators are alleged, present or suspected – either now or in the past (including, but not limited to):

- \* Information relating to a primary perpetrator
- \* Physical violence
- \* Sexual violence
- \* Coercive, controlling behaviours (towards a child or as an adult)
- \* Stalking behaviours and 'jealous surveillance'
- \* Power imbalance
- \* Threats to kill; any known or alleged threats must be taken seriously until sufficiently assessed to reduce potential risk and safeguard the child and others at risk
- \* One or both parents report or present as being afraid
- \* One or both parents were in a previous relationship that was abusive
- \* Children imitate violent behaviour
- \* Presence of degrading or humiliating behaviours
- \* Features of 'honour' based violence and / or features of forced marriage
- \* Psychological abuse such as calling the victim names, undermining the victim's self-esteem or sanity, making victims think they are to blame, threatening to kill themselves

If the following indicators are alleged, present or suspected either now or in the past refer to the tools and guidance for assessing the [impact of harmful parenting](#). These include but are not limited to:

- \* Alcohol and/or drug misuse which is harmful to the child
- \* The impact of mental health difficulties, including personality disorders, that are harmful to the child
- \* Neglect
- \* Physical abuse
- \* Sexual abuse
- \* Emotional and / or psychological abuse (including radicalisation)

**If appropriate justified rejection does not appear to be a factor for the reason for the child's resistance or refusal, proceed to consider the other possible reasons for this.**

## Assess the Pre and Post Separation Parent / Child Relationships, with Focus on Considering Affinity, Alignment and Attachment

- Set clear expectations with the parents that the focus of your work will be on what the impact for the child is using these Child Impact Analysis [template letters](#) to parents to assist. These letters can also be helpful to give to parents when a Child Impact Analysis is not being prepared (i.e. 16.4, FAO)
- Use your case plan to think about how you will gather information from parents, children and professionals to answer the following questions:
  - › What is each parent's perception of the pre-existing relationship with the parent being resisted? If so, what was the quality of this?
  - › Has the quality of the relationship deteriorated post-separation?
  - › How were the parenting tasks and responsibilities shared before separation?
  - › What is the capacity of each parent to meet the child's developmental needs, particularly their emotional needs, considering the separation?
  - › Does the child have any additional or complex needs? If so, what has been the role of each parent in meeting these needs and what will these roles be in future?
- Consider the key practice points below on affinity/alignment and attachment in developing your analysis.



## Key Practice Points: Affinity/Alignment

### **Definition: Affinity/Alignment**

Affinity is where the child does not have strong negative feelings for the other parent but prefers spending time with one parent. Alignment between a parent and child may develop before, during or after separation as part of naturally occurring preferences or from the other parent's non-existent, interrupted, or minimal involvement, inexperience or poor parenting (which does not reach the level of abuse or neglect).

### **Factors and indicators:**

- \* Resisting a parent, particularly in the early stages after separation, could result from one or more forms of 'benign post-separation parental rejection' such as dislike of tougher rules at one house, dislike of upheaval or anger at a departing parent (Clarkson & Clarkson, 2006).
- \* An alliance may occur because of the child's indignation at the departed parent's behaviour and resistance to seeing that parent may be entirely understandable, at least initially.
- \* Older children and teenagers may resist time with a parent as part of normal adolescent behaviour and exercising increased independence and personal choice.
- \* Brothers and sisters may have different reasons for their acceptance or rejection of time with a parent.

### **Next steps, case planning and support:**

- If the reasons for the child's resistance indicates affinity/alignment, explain this to the parents and encourage them to reflect on the impact of their behaviour on their child.
- Consider local and online options for signposting the parents and children for support and guidance on post-separation parenting.
- Completing a [Parenting Plan](#) and/or [WT4C](#) referral may also be beneficial.
- Is it appropriate for the CAWAC to be completed? If not, why not?

## Key Practice Points: Attachment

### **Definition: Attachment**

Age or gender appropriate reactions for resisting time with a parent for attachment reasons, including separation anxiety.

### **Factors and indicators:**

- \* From an attachment perspective, a child or young person's distress and hostility to the parent they don't live with may be interpreted as an attempt to activate care-giving responses from the other parent. If the child does not receive Parent A's endorsement of Parent B, it triggers '*proximity-seeking behaviours*' in the child towards Parent A. Proximity-seeking behaviours could include crying, clinging, defiantly rejection the other parent, aggression, withdrawing or attentively caring for Parent A.
- \* The child is not likely to have conscious awareness of their attachment behaviours; children do not always '*know*' that they are using such strategies to protect their relationship with their primary caregiver.
- \* Consider the possibility that the child's behaviour and feelings may be distorted by the attachment strategy of the child as his/her means of maintaining loyalty to or eliciting care from the parent they live with. See the section below on considering the child's wishes and feelings in relation to their emotional and mental health and wellbeing.

### **Next steps, case planning and support:**

- Encourage both parents to reflect on how their behaviour affects their child and to think about how, for example, handover arrangements or frequency or length of time with the other parent may be adapted to support the child.
- Consider use of the [Parenting Plan](#) and/or [WT4C](#) as with affinity/alignment.

(With thanks to Asen & Morris (2019, not yet published) for contribution to this section)

## Key Practice Points: Alienation

### Cafcass Cymru Literature Review and Further Work

In April 2018 CASCADE – Children’s Social Care Research and Development Centre at Cardiff University, published the ‘*Review of Research and Case Law on Parental Alienation*’ commissioned by Cafcass Cymru. The review aims to provide an evidence base to inform practice in Cafcass Cymru.

**Link:** CASCADE Literature Review: [Review of research and case law on parental alienation \(April 2018\)](#)

The authors of the review point out that:

*“The notion of parental alienation was first recognised by Wallerstein and Kelly in 1976, but it was Gardner’s assertion in 1987 that parental alienation was a syndrome, that is, a mental condition suffered by children who had been alienated by their mothers, which has led to debate over the last 30 years. However, despite a wealth of papers written by academics, legal and mental health professionals, there is a dearth of empirical evidence on the topic.*

*Research in this area is dominated by only a few authors who appear polarised in their acceptance or rejection of the nature and prevalence of parental alienation. Such variability means that there is no commonly accepted definition of parental alienation and insufficient scientific substantiation regarding the identification, treatment and long-term effects (Saini, Johnston, Fidler and Bala, 2016).”*

The literature review has been helpful in informing and consolidating our approach to working with cases which feature children who resist and refuse contact.

#### Practice Point

The key implications for practice as set out in the review (pg. 42-43) and are summarised as follows:

- Good practice is to identify the reasons and to analyse those reasons as to why a child is refusing or resisting contact the Reasons tool and/or CAWAC could assist in appropriate cases.
- Where the basis for refusal appears irrational you will work on the basis that the court will want to strive to maintain or resume safe contact arrangements for the child.
- Allegations of alienation or disputed facts about the child’s refusal to attend contact should be flagged with the court at the earliest opportunity. Early identification of the issues is crucial, which can reduce the risk of delay and the issues becoming entrenched - this view is supported by research and judicial guidance. You need to feel confident in requesting a fact finding hearing or recommending appointment of r16.4 guardian, if the case cannot be progressed without these interventions.

### Practice Point (continued)

- You need to be mindful, that any advice/recommendations given to the court prior to any determination of the facts, will need to consider all of the options available. Your analysis will need to consider an 'either/or' approach, i.e. the options in the event of findings being made and then also those where findings are not made, also including the options if findings are found to be partly true.
- Where a court does make a finding which evidences that a parent has behaved in a way that would alienate a child from the other parent that amounts to a risk of emotional harm, family court advisers need to be cautious in assessing or recommending a particular intervention because the evidence base for effective intervention is very limited. NB: Cafcass Cymru does not provide advice or recommendations as to interventions when alienating behaviours has been found to be the key feature in the case.

It is important to note the conclusion of the literature review which, in summary explains there is a limited evidence base around the subject of parental alienation. It does clearly acknowledge how crucial it is to demarcate between circumstances where the child is justified in not wanting to spend time with a parent from situations where there is no rational reason for that position.

### Practice Point

Where there is evidence to suggest that a child is subject to significant harm, or is at risk of this happening, as a result of alienation which may amount to emotional abuse, a referral should be made to the local authority in accordance with [safeguarding procedures](#). Included in your considerations should be whether to prepare and file a 16a Risk Assessment report updating the court and outlining the presenting risks, enabling the court to consider the issues and further directions on an urgent basis.

### Practice Point

Reported court judgments emphasise a proactive approach to ensuring that children have contact with their non-resident parent. Where allegations or issues of alienation arise, early determination of the facts is seen as the essential factor in achieving the best outcome for the child. You can use this guidance at any stage of a case to assist you in determining if alienation is the key feature. If you are able to establish that early on, it should be flagged with the court and a clear approach to manage the case identified.

**In September 2018, Community Care Inform (CCI) produced a podcast on alienation involving Julie Doughty (the lead author on the literature review) and Sarah Parsons, Principal Social Worker and Assistant Director in Cafcass (England).**

**Here is the link to the podcast: <https://www.ccinform.co.uk/learning-tools/learn-on-the-go-podcast-parental-alienation/>**

As with all assessments, the case analysis should begin with and follow what is happening for each child, considering any risk posed to them and the impact of parental behaviour and their wider experiences.

| Key practice points                |   |
|------------------------------------|---|
| Consider:<br>Child impact and risk | <ul style="list-style-type: none"> <li>› <b>Past</b> – What has been happening for this child?</li> <li>› <b>Present</b> – What is happening now?</li> <li>› <b>Future</b> – What might happen?</li> <li>› <b>Risk</b> – How likely is it to be repeated?</li> <li>› <b>Impact on the child</b> – How serious would it be?</li> </ul> |

*Identify and assess the impact of alienation on the child, including emotional harm*

- Kelly and Johnston (2001) caution against labelling children as alienated ‘too often’ without a full exploration of all the subtle and complex reasons for their resistance or refusal.
- The increasing number of allegations of alienation in the family courts and the risk of over identification, provides a further reason for balanced, nuanced, child-centred guidance drawing on as wide a knowledge base as possible. See article by Linda Neilson, 2018.

**Link:** [Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights?](#) Linda Neilson (2018) Fredericton: Muriel McQueen Fergusson Centre for Family Violence Research.

- Early identification of behaviours which are not intentionally seeking to exclude one parent from the child’s life is important e.g. withholding a session of time with the other parent as a response to the child being returned late, may over time result in the child *‘taking sides and opting out of seeing one parent’*.



## Impact for Children: Exposure to Extreme Forms of Alienating Behaviours can be Emotionally Harmful to the Child

Alienated children can be at risk of short-term emotional distress and long-term adjustment difficulties (Fidler, Bala & Saini, 2013). Children can develop distorted belief systems that impact on their internal working models of self and others. The potential impact on the child and their outcomes include:

- Loss of important relationships with a parent and / or wider family.
- Dislikes the traits that they have inherited from the alienated parent and belief that they must be 'bad' if they share them.
- Low self-esteem and a belief that they are unloved by the alienated parent.
- Experience of severe guilt or betrayal in late adolescence and adulthood for rejecting a parent and others.
- Mental health difficulties, such as depression, anxiety or personality disorder. The focus in the case becomes how to help a child recover a degree of normal development and reduce symptoms of emotional, psychological or mental ill-health.
- Experiencing poor modelling of healthy adult relationships and conflict resolution can lead to children's own relationships and understanding of healthy relationships being adversely impacted.

Trauma informed practice recognises that the impact of living through traumatic and stressful events and relationships can result in a range of mental health and wellbeing difficulties, other than post-traumatic stress disorder, including:

- alcohol/substance abuse,
- depression,
- anxiety problems,
- childhood behavioural disorders,
- psychosis and some personality diagnoses.

However, it is worth pointing out that not all children exposed to alienation become alienated. A nuanced approach to assessment is necessary, recognising that alienating behaviours are on a spectrum and that the impact on the child varies according to their individual resilience and vulnerability, prior relationships and other influences and factors.

Although these negative long-term consequences have been reported by adults who experienced alienation in their childhood, empirical findings about outcomes are mixed and hampered by being retrospective and not taking account other potential explanatory factors (Drozd, Saini & Olessen, 2016).



## In my shoes – experiences of young people in their own words

Please note that these real-life stories are anonymised to protect the identities of the young people

*Jane:* “I live with my dad now, but my sister still lives with our mum. It’s my mum who has done things like change my sister’s surname and stop contact between my sister and my dad’s extended family who have not seen her since around 2013. She would take my sister to court hearings and tell her what to say. My sister would throw Christmas presents and birthday presents back in my dad’s face with a grin on hers. I see my dad’s pain and hurt at not seeing my sister.”

*Ayesha:* “Parental alienation feels like you’ve heard so many things from one (parent) it starts to become believable. Although you don’t know the truth, you’re made to feel like it’s the only truth. You’re constantly made to feel as if the other parent hates you, wants nothing to do with you. Badmouthing one another and others getting involved agreeing (with them). When you walk around the streets on your own, you always see that perfect family: mum, dad and two children and you think to yourself that it’ll never be you.”

### Patterns of alienating behaviours

Not all alienating behaviours by a parent the child lives with will be of the same degree of intensity and the impact will vary. For example, the child is likely to be influenced by the emotional intensity of the negative comments about the other parent. The range of behaviours from intermittent to persistent are best seen on a spectrum, rather than as discrete categories.

The diagram below illustrates how alienating behaviours are not all of the same intensity or level of persistence and includes some of the indicators of intermittent and persistent alienating behaviours and their varying impact on the child.



#### Intermittent:

Intermittent, intentional words or actions aimed at either undermining the child’s relationship with the other parent as a result of hurt or anger or emotional vulnerability. They may feel genuinely concerned for the child in the care of the other parent, but these concerns are unfounded (adapted from Judge and Deutsch, 2017).

#### Persistent:

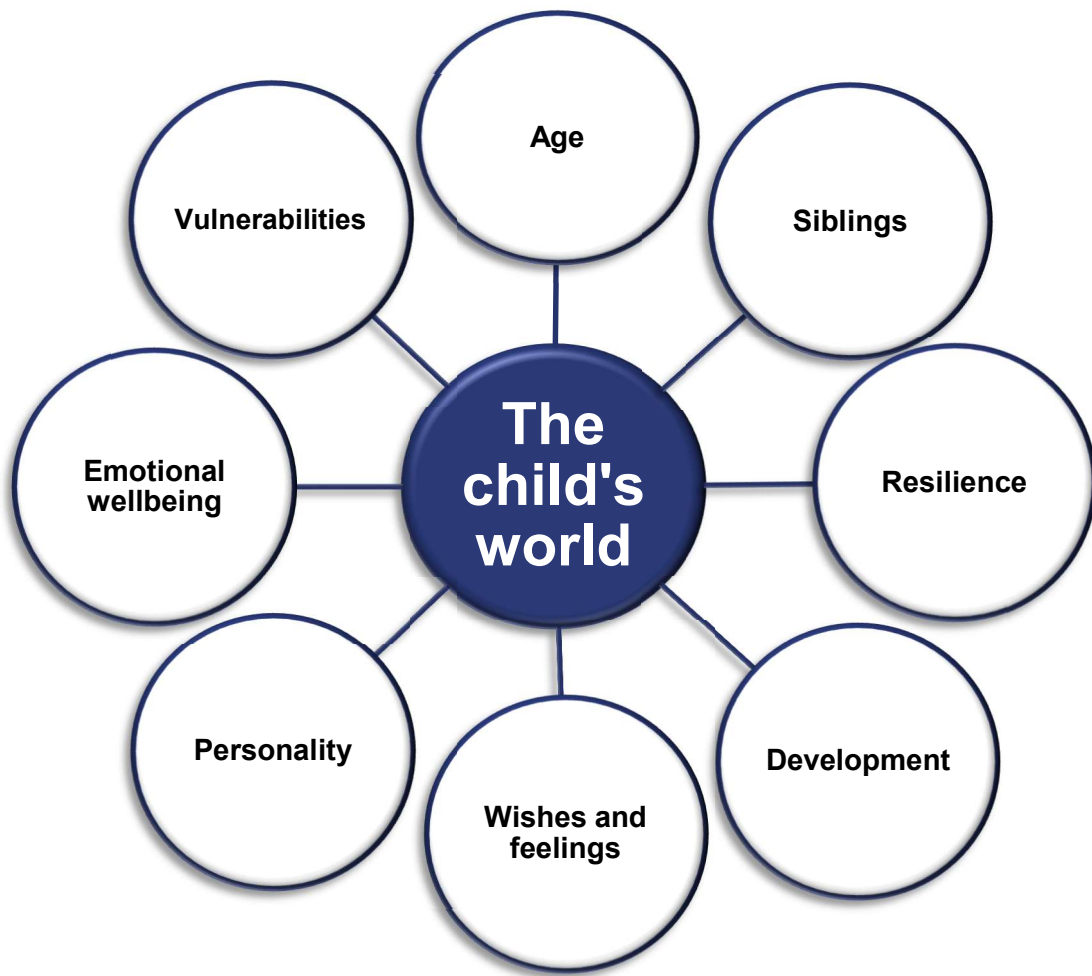
Persistently acting in a way to hurt the other parent and destroy their relationship with the child, rarely showing empathy, self-control or insight and taking on an obsessive quality (adapted from Judge and Deutsch, 2017).

### Indicators:

- Active and persistent campaign to undermine and destroy the other parent's relationship with the child.
  - Unable to recognise or accept that the child may have wishes and feelings that are separate from their own.
  - Denies or undermines the value of the relationship between the child and the other parent (and sometimes their extended family).
  - Lacks empathy and/or is unwilling to forgive.
  - Has made allegations of abuse against the other parent which the court has found to be false.
  - Where there are unsubstantiated allegations of abuse, they cannot be convinced otherwise, even when there is evidence to the contrary.
  - Is not motivated to seek help to restore the child's relationship with the parent (or extended family and friends where applicable).
  - The alienating behaviours are intentional, although their actions may be direct, indirect or a result of protective behaviours based on genuine beliefs.
  - Mental health difficulties or personality disorder may be contributing to the alienating behaviours.
- Some recognition of the value of the child's relationship with the other parent (and their extended family where applicable).
  - However, intermittently exhibits alienating behaviours or strategies.
  - Understands that what they are doing is wrong and in this sense there is an element of intentionality connected to their pain and anger at the end of the relationship.



The impact on the child will vary according to factors in the child's world. Every child is unique. Intermittent and persistent alienating behaviours are likely to be harmful, but the degree and type of harm will differ for each child as will the best course of action to reduce or overcome the harm.



## Analysis, Conclusion and Preparing Your Report When Alienation is the Key Feature in a Case

### Points for Consideration

- One parent may be alienating the child without any contribution to this by the other parent. However, it is often the case that each parent is playing some role in this.
- Family members, friends, professionals and the court (particularly when proceedings are protracted), can become entangled in the harmful impact on the child. Consider what contribution people in the child's network are making. This could be a positive support for the child or more negative.
- Persistent adult behaviour, which has a cumulative effect, is likely to have more impact on the child than single incidents. How emotionally charged the alienating comments and behaviours are will also influence the degree of impact on the child.
- Are arrangements for handovers safe and helpful for the child? Is the child unhelpfully influenced by who is present?
- Consider again whether there are indicators that allegations of alienation are being made as a form of post-separation abuse, as part of coercive and controlling behaviour towards both the other parent and / or the child.
- Consider the child's diversity in its widest sense, including in relation to their identity.

### Next steps and support

- Availability of effective interventions remain problematic because of its cost and lack of consensus about the effectiveness of alternative options.
- Consider a recommendation for an early fact finding hearing by the court or an early appointment of a Children's Guardian under rule 16.4, with a clear and focussed remit, is required.
- Consider whether the court will require expert assessment regarding any psychological or mental health difficulties within the family.
- A recent review of interventions internationally suggests that there is no single protocol for the assessment and treatment of cases where alienation 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.
- Refer to the [Top Tips](#) set of guidance documents produced by the Family Justice Young People's Board for working with children and young people.
- The child's views should be reported directly, using their own words where possible, to bring this to life for the parents and court. For example, embed their words into a report or support them to write a letter to the judge.
- If the child has been exposed to the alienating behaviour, there may be tension inherent between their wishes and feelings and their best interests.
- If your recommendations are not in line with the child's wishes and feelings, it is best practice to let them know about this in an appropriate way.
- In order to make a thorough assessment of how the child behaves with each parent, it is crucial that observations are made of the child with each parent alone. It is key to your assessment, that the child is made available for these observations and to see the parent who is seeking to spend time with the child.

## Reflect on your Analysis, Including Potential Sources of Bias

When considering your conclusions or within reflective supervision, have reference to these points and questions:

- Reflect on your analysis of the reason for the child's resistance or refusal of time with a parent.
- Refer to the tools used and summarise what they have told you.
- What is the specific risk to the child? Is the resistance justified or an understandable response by the child that should be respected? Is the risk that their relationship with a parent could be damaged beyond repair, for no good reason other than the alienating behaviour of another parent? Or is it that alienation is a factor, but is so deeply entrenched that reintroducing time with the other parent (or 'forcing') a child against their expressed wishes would be very harmful?
- What does this tell you about the best arrangements or support for the child going forward?
- Consider all possible forms of bias, including gender bias and the impact of personal and cultural norms on your thinking.
- Have you retained your focus on the impact and risks for the child and tried to help the parents to do the same?
- Reflect on the cultural sensitivity of your assessment. Have you taken account the cultural context of the child and their identity needs?
- When reflecting on your analysis refer back to your case and revisit the questions you asked at the beginning of the case about what is happening for this child; see page 11. This helps to ensure there are no loose ends in your assessment and brings focus to any risks and child impact as you reach your recommendations.
- Be mindful of our commitment to [UNCRC](#) and the potential impact on children of not endorsing their wishes and feelings.



## Make Recommendations in the Child's Best Interest, Focusing on Positive Change for the Child

- Consider as early as possible whether the appointment of a Children's Guardian and children's solicitor under rule 16.4 is required to provide separate representation for the child.
- Maintaining the focus on the impact on the child at all times and making clear links between the analysis and the recommendations that 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.
- Where you believe the child is suffering or likely to suffer significant emotional harm, consider the need to refer the case to the [local authority](#), or whether to recommend to the court that the local authority produce a section 37 report. If you are making a safeguarding referral, consider how to make the referral impactful. Consider speaking to the relevant LA manager in advance.
- If a change in where the child lives is being considered, is the involvement of an expert necessary? What will this contribute in addition to your own social work analysis?
- Once you have written your report and before you file it, go back to the beginning of your assessment. Are all the risks dealt with? Has anything been missed, or has an issue been overlooked during the life of the case? Of the issues remaining, consider your advice to the court about how these should be addressed?

### Using a balancing exercise approach to assist with recommendations for the child:

- The assessment needs to consider the strengths and risks posed by both parents. You 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, in terms of undertaking a systematic review of the 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.
- Your recommendations should seek to find resolution for the child, this will mean weighing up the realistic options and also forecasting the likelihood of each parent being able to work with what you have recommended and with one another (if appropriate).

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?
- › The child's age and an analysis of what this means
- › 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 alienation?
- › 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?

#### **Change of arrangements as to where the child lives:**

- › Does the parent with whom the child lives, support contact with the other parent & attitude towards the other parent – impact on the child?
- › Does the child's level of distress quickly ease when spending time with the parent with whom the child does not usually live?
- › Previous relationship with the parent with whom the child does not normally live?
- › Length of time since the child spent time with the parent with whom they do not live? When did contact break down?
- › Circumstances of the parent with who the child does not live? Do they have suitable accommodation and access to child care?
- › Impact on education & other relationships and friendships?

#### **Continued placement with the resident parent:**

- › Is the parent with whom the child lives engaging and demonstrating any further insight or ability to change?
- › Is there some level of time being spent with the other parent and extended family members?
- › Parent child relationship with both parents?
- › Other factors influencing the child – Consider the 4 A's (page 4)
- › Has the child witnessed post separation conflict between the parents?  
Could this account for their refusal to spend time with their parent?
- › Is the child showing other signs of emotional distress/harm? Interface with other agencies to gather information.

### **No direct contact with the parent with whom the child does not live:**

- › What will be the impact on the child in the short or long term? Consider in the short term what level of distress enforcing contact is having on the child and the emotional impact of doing so.
- › Can relationships with other family members of the parent with whom the child does not live be put in place?
- › Is there likely to be change in the future? Think about whether these arrangements will need to change in the future? How will the 'door' to the relationship be left open for the child now and in the future?

### **Local Authority – placed in foster care:**

- › Balance emotional impact of moving to a stranger vs remaining with parent with whom the child normally lives.
- › What are the likely long term plans and likely success of any such plans?
- › Are there any family members that can assist?
- › Is such a move proportionate?

### **Use of contact centres:**

- › Consider to what ends: for further assessment? For supported reintroduction? Has this previously helped? What would that look like? Supported, supervised.
- › Willingness of all parties to engage.

### **Family Assistance Order:**

Link: [Family Assistance Order Guidance](#)

- › Are the parties willing to engage?
- › What will this look like?
- › What are the likely outcomes?
- › What is the likelihood that this will illicit change?

## **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 s37.
- A referral by Cafcass Cymru to the local authority may need to be considered.
- Where a child is suspected, alleged or believed to be at risk of harm, Cafcass Cymru has a duty under s16A to advise the court through a [risk assessment report](#).



- 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 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 Involving Alienation

### Mali's Story



Mali, aged 7, was being prevented from having a meaningful, loving and supportive relationship with her father. Mali's mother was adamant that her father should have no role in her life and held these beliefs so firmly that when the court, Cafcass Cymru and social services all concluded that Mali should live with her father, mother absconded with the child. She was missing for several days, with increasing concerns for the both the welfare of Mali and also her mother.

Mali did not want to see or live with her father, she was very firmly aligned with her mother, however there was no justifiable reason for her refusal to see her father – over and above her reflecting the views of her mother. There was a psychological assessment undertaken of mother, which stated that she required therapy to help her shift her views of father. She would not engage in the therapy offered. Due to the severity of the emotional harm being caused to Mali by her mother's behaviour, the court made an interim care order, meaning that the local authority shared parental responsibility with both parents. This enabled Mali to be removed from her mother's care and placed with father. Mali was found by police in mother's care, after they absconded following the court confirming it would be making the order for Mali to live with her dad. Initially, Mali was distressed and anxious, however following a period of close monitoring by the social worker and visits by the children's guardian she showed signs of settling and of being calm. Mother was offered supervised contact due to the risk of absconding, however she failed to take advantage of this and at the time of conclusion of the case, mother had not asked to see Mali.

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."

## Jac's Story



Jac was 2 years old at the time of his father's first application, Jac's parents were not in a relationship at the time of his birth and Jac's father found that making arrangements to spend time with him was becoming increasingly difficult. Jac had three older half siblings and one younger brother, his older siblings had no existing relationship with their fathers. It was established through the court proceedings relating to Jac, that all of the respective fathers of the older children had made numerous court applications to spend time with their children. However, these arrangements had broken down over time. Cafcass Cymru was ordered to complete a s7 report to consider the amount of time Jac should spend with his father.

The progress of the case was hampered by mother's inability to meaningfully promote the relationship between Jac and his father. Jac's mother made a range of allegations about Jac's father, including that bruising seen by mother on Jac's body was caused by father during a brief contact session. Jac's mother also made allegations that father posed a sexual risk to Jac. As the issues in the case became increasingly complex, the court made an order pursuant to rule 16.4 for Jac to be represented by a children's guardian and solicitor. Despite this, the prospects for Jac to have a meaningful relationship with his father continued to be hampered by mother. She would ensure that Jac was not available on the identified date/time. She would call the police if father was a few minutes late and she would allow the older children denigrate and swear at father if they saw him in the street. Jac was not allowed to return from spending time with his father with any gifts or new clothes. A s37 report was ordered by the court in order for the local authority to consider the need to share parental responsibility – in addition safeguarding referrals were made in respect of the other children. No further action was taken by the local authority and their s37 report concluded that the local authority would not be issuing care proceedings.

Despite numerous efforts to engage with mother and for Jac to enjoy a relationship with both parents, no progress was being made. There was no justifiable reason as to why Jac should not see and spend time with his father. Cafcass Cymru recommended strongly to the court that Jac should move to live with his father, the analysis undertaken showed that the prognosis for mother to meaningfully promote father's role in Jac's life was slim. She would persistently intervene in arrangements and deliberately set about to promote the active rejection of Jac's father by Jac. Mother refused to engage in a psychological assessment, despite one being ordered, she changed Jac's surname at the GP and nursery and also told them that father was to have nothing to do with Jac should he contact either agency.

This case was before the court for 2 ½ years before the final outcome was made, there were three judgements made, all making findings that either mother had made up allegations against father or that she was deliberately hampering the positive progress of contact. Jac did move to the care of his father, with his father promoting an ongoing relationship between Jac and his siblings. Father would make Jac available to spend time with his mother and managed the arrangements well.

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## Acknowledgements

It is acknowledged that this practice guidance was developed with key input and consultation with the following:

- › With special thanks to Cafcass
- › Cafcass Cymru family court advisors and learning and development practice lead:
  - Polly Lauchlan, Practice Manager – Mid & West Wales
  - Kevan Lee, Family Court Advisor – South Wales
  - Fiona Bevan, Family Court Advisor – Mid & West Wales
  - Caroline Crosswood, Senior Learning & Practice Development Manager

Cafcass Cymru would like to extend its thanks to all those who offered their time and contributions to the development of this practice guidance.



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| <b>Author:</b>                 | Beth Altman  |
| <b>Date signed off by SLT:</b> | 27 June 2019 |
| <b>Document review date:</b>   | 1 July 2020  |

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