
Comisiynydd Plant Cymru Children's Commissioner for Wales

Sally Holland

By e-mail only

To: David Rowlands AM, Chair, Petitions Committee, National Assembly for Wales

9 April 2018

Dear Chair,

Petition P-05-751 Recognition of Parental Alienation

Thank you for your letter on behalf of the Petitions Committee dated 16th March 2018, in relation to the above named petition.

The Petitioner had previously written to me regarding this matter in March 2017, prior to filing the petition, and I attach a copy of the response that was sent to the petitioner at that time for your information.

I note the specific actions proposed in the current Petition and would respond to each point in turn, as follows:

We propose the following action by Welsh Government:

Recognise 'Parental Alienation' as emotional abuse of children with a definition incorporating the one given by the Ministry of Justice (paragraph 1 here <https://petition.parliament.uk/petitions/164983>).

This point is addressed directly in the attached correspondence.

Commission and fund mandatory training for professionals including social work and Cafcass Cymru staff, in recognising Parental Alienation including pathways to protect children from harm.

In my previous response I suggested that the Petitioner contact Regional Safeguarding Boards as they are responsible for ongoing training of social workers and other staff. I would repeat this suggestion.

There may also be merit in the Welsh Government exploring the current training available to CAF/CASS staff in order to ensure that this is being actioned for them in addition.

As regards pathways, the current child protection processes and All Wales Child Protection Procedures would apply here so there is no requirement for additional pathways to be set out in my view.

Establish and fund a national campaign to inform children and families about Parental Alienation and the harm that it causes.

I would be concerned that a national campaign could be difficult as the topic is particularly sensitive and “*fraught with difficulties*”¹ as previously noted by Anthony Douglas of CAFCASS England. It is not the sort of topic that would lend itself easily to a public campaign in my view, as each case will be entirely unique to its own circumstances, and would need very careful and meticulous delivery if such a campaign was targeted at children and young people. In addition, even where parental alienation (or implacable hostility as it is often termed in the UK) is evident, the court and relevant professionals will still be under a mandatory duty to consider what action is in the child’s best interests in all of the circumstances. This is their right under current legislation and case law for England and Wales, as well as under Article 3 of the United Nations Convention on the Rights of the Child (UNCRC). It is not as straightforward as to say that one parent has acted inappropriately and therefore the child has suffered harm and should be removed from their care for instance; any response will need to meet the child’s best interests.

As Children’s Commissioner for Wales, I think that the views and voice of the child will always be important in family cases, as set out in the welfare checklist of the Children Act 1989, so for me it is clear that professionals should always be considering the child’s views in any such case.

Place a duty on Welsh Ministers to act to protect children from abuse and harm where Parental Alienation has been identified.

In adopting the UNCRC through the Rights of Children and Young Persons (Wales) Measure 2011, Welsh Ministers are under a duty to have due regard to the Convention when exercising their functions. The UNCRC contains a right for children to be kept safe from harm (Article 19) and also a duty on the state to take all appropriate legislative and administrative measures to ensure that this is the case. This would potentially include decisions in relation to CAFCASS such as funding and training, as noted above.

However, as noted in the petition’s cover letter, this is further complicated by family justice being reserved to the UK Government and not devolved to Wales. In that sense the child protection processes themselves have to be dealt with according to laws and processes that govern both England and Wales.

It is my understanding that discussions have taken place with senior judges and the Ministry of Justice on forming a protocol to the Family Procedure Rules that would cover parental alienation and how it should be dealt with through the court process. It is my view that this is the appropriate way for those discussions to take place. I would be happy to respond to any public consultation on the introduction of such a protocol.

In summary, I believe that the current guidance and processes, although presently subject to revision, remain able to encompass implacable hostility/parental alienation and ensure a response that is focused around the needs, views and best interests of the child. I think ongoing training around the issue may be of benefit for practitioners generally, but would be concerned about the potentially negative messaging of a public campaign – and therefore the negative impact one could have on children - if one were to take place.

¹ <http://www.telegraph.co.uk/news/2017/02/12/divorced-parents-pit-children-against-former-partners-guilty/>

Comisiynydd Plant Cymru
Children's Commissioner for Wales
Sally Holland

I trust that the above evidence is useful as you and the Committee continue to consider the petition.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sally Holland', written in a cursive style.

Sally Holland
Children's Commissioner for Wales

Encl. *E-letter to Mr Apreda – 16 March 2017*
