

Serial Non-Compliance

Where and how do you draw the line on serial non-compliance and a child's refusal, how cases get there and what prevents them from getting there?

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Introduction

1. Sadly, a large proportion of my practice is spent advising parties in cases where children are experiencing emotional harm, manifesting in their resistance to contact with one parent, as the result of the actions of the (usually) resident parent. The factual matrix and presenting needs of all of the parties is often complex.
2. I will discuss the practicalities of enforcement below, but my own practice is to attempt to use as many aspects of the court process to try and rewind the harm, if possible. These cases can be painstaking and the work required is often urgent.
3. I was asked to discuss enforcement as a result of, [B v C & Anor \[2026\] EWFC 66 \(B\)](#) (HHJ Stott, Family Court at Watford, 28 January 2026), which is as extreme an example of contravention of the court process as you could wish to find. A sobering (and short) read of nearly five years, thirteen hearings and eight judges failing to obtain the wishes and feelings of a young person let alone managing to make contact work.
4. None of this happens in a vacuum, and all a court can do is make an order. It cannot manufacture a parent's goodwill, a child's willingness, a therapist in a county where there is none, or a contact centre that closed last year. The question is therefore not which order is the most severe that the facts will bear, but which order, of those actually available, is most likely to produce the thing your client needs. Those are different questions.
5. I will not deliver a seminar about how I would tackle a case where resistance is present from inception to end but rather look at each plank within the process individually and discuss how we ensure that it is sturdy enough, that if it all goes wrong you have the necessary sanctions available to you having exhausted every remedy.
6. As part of that, firstly ensure that you have the right factual framework. The court must consider "harm" as part of the welfare checklist before making any child arrangements order. Ensure you use the right terminology as the basis of any schedule of findings sought and ensure that the order is properly drafted. (Please see my earlier WP seminar on fact finding). Push for early and immediate resolution of lack of compliance within proceedings, be that compliance with directions to ensure every hearing is effective or compliance with any orders that provide the basis for, or provide support for better child arrangements. Ensure that you have exhausted every avenue within proceedings that

might provide support for your client and that promotes the child's welfare. That will include consideration of local authority support if matters do not progress and potentially a transfer of residence. This is not a sanction, but a welfare based way of unravelling harm.

7. I suppose what I am looking at is avoiding reaching the end point by remaining welfare and child focussed. My advise would be to organise your case around the child as much as possible.
8. Necessarily this seminar focuses on sanctions in cases of RRR, which is a type of emotional harm. The court must act quickly in these case and deploy every available tool. This seminar is an effort to flag most of the tools in our kit.

AT A GLANCE

- Be clear about the harm in issue. Terminology is important. The [FJC guidance of 11 December 2024](#) treats “parental alienation syndrome” as “a harmful pseudo-science” (para 2) and warns that even the use of “alienating behaviours” risks according it “misplaced legitimacy” (para 4). The question is now the child's unexplained reluctance, resistance or refusal, considered in sequence (para 10). “Implacable hostility” has gone, and a schedule of allegations still using that terminology is to be avoided.
- Prevention is procedural, and possibly therapeutic. Front load proceedings as much as possible and in parallel with therapeutic exploration of the family dynamic. Get contact moving as quickly as possible. Whilst doing so bear in mind that there is no evidence base for alienation-specific treatment at all ([FJC guidance](#), para 91, citing the WHO). Arrangements or intervention plans must be based on a holistic welfare analysis. Drafting is important. An activity condition or a direction, imperative drafting, a penal notice served, [s.11H](#) monitoring and (possibly – a resource dependent option – for team discussion) a [s.16](#) family assistance order. All of these are available at first instance. I will try to deal with not being afraid of third-party involvement within this document or I will ask WP for that to be my next seminar paper!
- There is “a limit beyond which the court should not strive to promote contact” ([Re S](#) [2004] EWCA Civ 18, para 29); and in the face of alienating behaviour the court must “respond with exceptional diligence and take whatever effective measures are available” ([Re S \(Cult\)](#) [2020] EWCA Civ 568, para 13). Everything that practitioners can do about non compliance lies somewhere between those two authorities.
- [B v C & Anor \[2026\] EWFC 66 \(B\)](#) is a depressing account of how serial non-compliance defeats the court: a total lack of engagement let alone compliance ending with no enforcement order, no child arrangements order, no order at all (para 48). It is a case where the mother never attended court. Not on a single occasion. The LA was unable to help in any way and the judge accepted the LA's suggestion that threshold was not met (possibly incorrectly given

that the child was unreachable to professionals, out of school and completely refusing any contact with her father) The case went on for some 200 weeks. It's an extraordinary read.

- Watch the drafting of any order. The wording may become (is always!) important. “To ‘allow’ is to concede or to permit; to ‘make available’ is to put at one’s disposal ... no more and no less” ([Re L-W](#) [2010] EWCA Civ 1253, para 75). Draft in the imperative.
- A [s.11I](#) warning notice is not a penal notice ([FPR 37.2](#)). Committal requires a penal notice on the face of the order and personal service (FPR 37.5(1))
- Anticipated futility is not a reason to decline to sentence: “It cannot be the case that a parent can repeatedly refuse to comply with orders made in the best interests of their child, knowing that a judge may well in those circumstances dismiss the committal proceedings as serving no purpose” ([Re B](#) [2025] EWCA Civ 1048, para 40). This is the case that you should read immediately after *B v C*.

Other approaches?

- Transfer of residence is not a “last resort” ([Re L](#) [2019] EWHC 867 (Fam), paras 53–59) — but it is not an automatic consequence of a finding, and never a sanction for non-compliance ([FJC Guidance, December 2024](#), paras 74, 89–90).
- The Child Focused Model (formerly Pathfinder) may help. [PD12B \(Pilot\)](#) para 17 gives you an updated Child Impact Report with fresh police and local authority disclosure at the first enforcement listing, before the judge who made the order. But para 19.3 discourages the reviews these cases depend on, and both published evaluations found the review stage barely operated — three cases out of thirty-nine.
- For older children there is a statutory time limit ([s.9\(6\) CA 1989](#)); the practical stop is proportionality. But “parental responsibility does not shrivel away, merely because the child is 14 or even 16” ([Re H-B](#) [2015] EWCA Civ 389, para 76). These cases require a clear team strategy from the outset.

Terminology

9. The [Family Justice Council’s guidance of 11 December 2024](#) — properly titled *Guidance on responding to a child’s unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour*. At para 2: “Despite the lack of research evidence, and international condemnation, reference is still made to the discredited concept of ‘parental alienation syndrome’. For the avoidance of doubt, the Family Justice Council (FJC) recognises that ‘parental alienation syndrome’ has no evidential basis and is considered a harmful pseudo-science. Concepts of ‘parental alienation syndrome’ and ‘parental alienation’ are increasingly exploited within family litigation.”
10. It goes further at para 4: “Given that ‘parental alienation syndrome’ has no evidential basis, there are concerns that its use as a term, or any associated terms such as ‘alienating

behaviours’, accords it misplaced legitimacy.” Even the replacement term is held at arm’s length.

11. So, what do we say instead? Para 5: the guidance “will therefore refer to a child’s unexplained ‘reluctance, resistance and refusal’ to spend time with a parent (RRR ...) wherever possible”, using “Alienating Behaviours” only “where psychological manipulation by a parent has resulted in RRR”. The centre of gravity moves from the adult’s attitude to the child’s presentation. That is the whole shift, and it is why “implacable hostility”, a description of a parent’s state of mind, inferred and unfalsifiable, has gone.
12. My view is that this is a key shift taking place throughout the private law landscape.

The Glossary, verbatim

Reluctance, resistance or refusal (RRR)	behaviours by a child concerning their relationship with, or spending time with, a parent, which may have a variety of potential causes.
Alienating Behaviours (AB)	psychologically manipulative behaviours, intended or otherwise, by a parent towards a child which have resulted in the child’s reluctance, resistance or refusal to spend time with the other parent.
Appropriate justified rejection (AJR)	situation where a child’s rejection of a parent is an understandable response to that parent’s behaviour towards the child and/or the other parent.
Attachment, affinity and alignment (AAA)	reasons why children may favour one parent over another, or reject a parent, which are typical emotional responses to parenting experiences and not the result of psychological manipulation by a parent.
Protective behaviours (PB)	behaviours by a parent towards a child in order to protect the child from exposure to abuse by the other parent, or from suffering harm (or greater harm) as a consequence of the other parent’s abuse.

13. Cafcass has adopted the FJC definition verbatim and works to the same framework. Its current practice guide, [Understanding why a child does not want to spend family time with a parent](#) (version 2, implemented 7 July 2025, part of the Child Impact Assessment Framework), organises the analysis around the “four As” (appropriate justified rejection, alignment, affinity, attachment, and alienating behaviours) and says: “There should be no label quickly applied to explain the issue, as there are many reasons that may account for the child not wanting to spend time with a parent.”
14. In [Re L \(A Child\) \[2019\] EWHC 867 \(Fam\)](#) our then President decided the appeal on *emotional harm*, not on the labels (para 73). In [Re C \[2023\] EWHC 345 \(Fam\)](#) at para 103 alienation is “a question of fact for the Court to resolve and not a diagnosis”, and “the identification of ‘alienating behaviour’ should be the court’s focus, rather than any

quest to determine whether the label ‘parental alienation’ can be applied”. [Re Y \[2026\] EWFC 38](#) at para 75 now sequences the inquiry.

15. In terms of how to tackle this situation at the outset firstly the court must be invited to fact find on the allegations of harm. Without understanding what the harm is we cannot understand how to prevent it or ameliorate it or unravel it. Usually this needs to be done quickly.
16. Here the Court of Appeal in **Re S (Parental Alienation: Cult) [2020] EWCA Civ 568** provides the key guidance

“When a child’s resistance/ hostility towards the other parent is not justified and is the result of psychological manipulation by the other parent. To that may be added that the manipulation of the child by the other parent need not be malicious or even deliberate. It is the process that matters not the motive.”

“In summary, in a situation of parental alienation the obligation on the court is to respond with exceptional diligence and take whatever effective measures are available. The situation calls for judicial resolve because the line of least resistance is likely to be less stressful for the child and for the court in the short term. But it does not represent a solution to the problem. Inaction will probably reinforce the position of the stronger party at the expense of the weaker party and the bar will be raised for the next attempt at intervention ... it is emphatically not necessary to wait for serious, worse still irreparable, harm to be done before appropriate action is taken. It is easier to conclude that decisive action was needed after it has become too late to take it.”

17. Assume then, that you have your findings, that you have your Part 25 expert assessment, that you have your plan. Assume the court has made an order implementing that plan.

Unravelling the harm

18. Ideally you do not get to a point where you are left to grapple with non-compliance. Ideally you use the court process to obtain an order that goes some way to unravelling the harm.
19. I have discussed in other seminars the need to use the right experts. In cases such as these asking a clinical psychologist to assess the family is likely to really assist the court with the balance of harm inherent in the welfare analysis. Do invite your selected expert to consider whether there are any external issues or undiagnosed issues within any of the family members that might require assessment so that all parties are clear about the barriers to effective contact. Those might be barriers we associate with vulnerability or that we see in other ways within the court process, but bear real consideration.
20. But what does one do if there is a plan and an order (or if there is not and there is simply no engagement)?

Where do you draw the line?

The outer limit

21. The proposition that there is a limit exists in precedent familiar to us all e.g. Butler-Sloss P’s, in [Re S \(Contact: Promoting Relationship with Absent Parent\) \[2004\] EWCA Civ 18](#).

“... the court may have the evidence that the continuing efforts to persuade the mother to agree to contact are having a disproportionately adverse effect upon the child whose welfare is paramount and the court may [find] it necessary, however reluctantly, to stop trying to promote contact. That is a very sad situation but may be necessary for a short or for a longer time if the welfare of the child requires it. One aspect of proportionality which has to be weighed in the balance is the length to which a court should go to force contact on an unwilling child and on the apprehensive primary carer. At this point the factor of proportionality becomes all-important since there is a limit beyond which the court should not strive to promote contact and the court has the overriding obligation to put the welfare of the child at the forefront and above the rights of either parent.”

[Re S \[2004\] EWCA Civ 18](#), *para 29*

22. And four paragraphs later:

“It is, therefore, most important that the attempt to promote contact between a child and the non-resident parent should not be abandoned until it is clear that the child will not benefit from continuing the attempt.”

[Re S \[2004\] EWCA Civ 18](#), *para 33*

Exceptional diligence

23. Where a child’s reluctance, resistance or refusal is said to be the product of psychological manipulation, Peter Jackson LJ’s statement in [Re S \(Parental Alienation: Cult\) \[2020\] EWCA Civ 568](#) at para 13 is key:

“In summary, in a situation of parental alienation the obligation on the court is to respond with exceptional diligence and take whatever effective measures are available. The situation calls for judicial resolve because the line of least resistance is likely to be less stressful for the child and for the court in the short term. But it does not represent a solution to the problem. Inaction will probably reinforce the position of the stronger party at the expense of the weaker party and the bar will be raised for the next attempt at intervention ... it is emphatically not necessary to wait for serious, worse still irreparable, harm to be done before appropriate action is taken. It is easier to conclude that decisive action was needed after it has become too late to take it.”

24. Every case in which a court concludes that it is now too late is a case in which, at some earlier point, it was not.

How do cases end up here? Points to avoid pitfalls

The anatomy of drift

25. The issue is often some combination of the same five things: an order drafted in permissive language that cannot be enforced; a penal notice that was never served, or never asked for; a first breach met with correspondence rather than a listing; a case with no allocated judge and therefore no overview; and a support intervention ordered so late that the child has already settled into a position. This is my generalised view. We don’t

have any data on how cases get here that I can usefully identify (send in any that you do have please).

26. The family court system is also (my opinion) at breaking point, which makes it harder to restart contact before positions solidify. [Family Court Statistics Quarterly for January to March 2026](#) records 15,534 new private law cases in the quarter, up 16 per cent year on year; mean time to disposal 35 weeks, down about five weeks; 52 per cent disposed of within 26 weeks. Note also what is *not* there: data on children involved by order type remains paused, and there are no published figures at all on enforcement applications or repeat applications.

NCDR

27. The *Pre-Application Protocol* in private children law, (updated 31 May 2024) inserted as para 1A and Annex 2 of PD12B by [PD Update No. 5 of 2024](#). Para 1A.1: it “outlines the steps parties should take before starting any court proceedings, including trying to resolve their dispute by non-court dispute resolution, where this is safe and appropriate.” Annex 2 requires parties to explore the Child Arrangements Information Tool and Cafcass resources, consider separated parenting programmes and non-court dispute resolution, and attend a MIAM unless exempt. Judges “will ask what steps each party has taken to comply”.
28. It is expressly disappplied where the parties are agreed, where the child is subject to emergency, care or supervision proceedings, or where “there is evidence of domestic abuse, risk of harm to a child or risk of the removal of the child from the United Kingdom”.
29. The MIAM regime was tightened by the [Family Procedure \(Amendment No. 2\) Rules 2023](#), in force 29 April 2024. The mediator’s exemption was removed. “Violence” became “abuse” throughout. The financial exemption rose from “unreasonable hardship” to “significant financial hardship”. The exemption for a respondent who could not be contacted was removed, so an applicant must now attend a standalone MIAM.
30. [FPR 3.4\(1A\)](#) now provides that where “the timetabling of proceedings allows sufficient time for these steps to be taken, the court should encourage parties, as it considers appropriate, to — (a) obtain information and advice about, and consider using, non-court dispute resolution; and (b) undertake non-court dispute resolution.” [PD3A](#) paras 10A to 10E: the duty applies “**at every stage in proceedings**” (10A); [Form FM5](#) must be filed at least seven days before the first hearing, verified by a statement of truth (10B–10C); the court may identify gaps between hearings for non-court dispute resolution and adjourn for it — *party agreement is no longer required* (10D); and failure to attend does not affect the substantive decision, but “the court may take the parties’ conduct in relation to attending non-court dispute resolution into account when considering whether to make an order for costs” (10E).
31. Of course, where there is domestic abuse, none of it applies — and the [FJC guidance](#) at paras 14 and 15 records the concern that allegations of alienating behaviour “are used as a form of post-separation control/abuse, and as a litigation tactic to silence survivors of domestic abuse”. Screening comes first, always. [Re Y](#) at para 75: where abuse is alleged alongside alienating behaviour, the abuse must be subject to fact finding.

Alternative tools:

32. There are some lighter touch tools within the Act for cases where there are indications of resistance but no red flags that require a profound case strategy. Make sure the order is drafted properly and possibly use s11A creatively. This is not just a tool to send people on domestic abuse courses.
33. Activity directions and conditions? Under [s.11A](#) a direction can only be made while the court is considering what order to make and cannot be made when disposing finally of the proceedings. A condition under [s.11C](#) attaches to the child arrangements order itself. Any such direction must be drafted in the imperative. This is the [Re L-W](#) point, dealt with below.
34. Obviously include a warning notice under [s.11I](#) (mandatory in any event) and, where resistance is already visible, a penal notice on the face of the order with a direction for personal service.
35. Monitoring under [s.11H](#) — a Cafcass officer to monitor compliance with specified provisions and report. The period “may not exceed twelve months” (s.11H(6)).
36. A family assistance order under [s.16](#). It requires a Cafcass or local authority officer to “advise, assist and (where appropriate) befriend” a named person; it lasts twelve months unless a shorter period is specified (s.16(5)); and *s.16(4A) where* the order runs alongside a contact provision in a child arrangements order, the officer may be directed “to give advice and assistance as regards establishing, improving and maintaining contact”. Under s.16(6) the officer can be directed to report back on whether the s.8 order should be varied or discharged. These are seldom used as resource strapped local authorities tend not to prioritise this work. Consent of every named adult is mandatory (s.16(3)(b)) (the child’s consent is not required) and the former “exceptional circumstances” requirement was removed from October 2007. Under [PD12M](#) the court must first obtain the appropriate officer’s opinion on whether a family assistance order would be in the child’s best interests and “how the family assistance order could operate and for what period”, which may be given orally or as part of a s.7 report.

Other support:

37. [Planning Together for Children](#) replaced the Separated Parents Information Programme, which stopped taking new referrals on 29 March 2023. It is delivered for the Ministry of Justice with which now confines expert permission to psychologists registered by a statutory body or chartered by the BPS. Please see my other White Paper talks on Part 25.
38. A really good recent example of an early-intervention package is [Re T and G \(Allegations of Alienating Behaviours\) \[2025\] EWFC 15 \(B\)](#) (DJ Cockayne, Dudley, 30 January 2025), where the allegations failed at the second element of the FJC test and transfer of residence was refused. The court instead built a six-limb package: a stepped contact framework beginning with sibling activities before direct paternal contact; therapeutic support co-ordinated with school, autism services and CAMHS; parenting education on supporting a child with ASD; a family group conference or guided mediation subject to agreement;

a six-month family assistance order with a local authority assessment alongside; and a s.91(14) order for three years (save for enforcement).

A note on the Child Focused Model

39. Pathfinder replaced the previous court process – known as the Child Arrangements Programme (CAP) – with a new model, incorporating three phases: (1) information gathering and assessment, (2) interventions and/or decision hearing, and (3) a review stage.
40. The President described the effect in [his View of April 2026](#): the model “turns the CAP on its head by moving the stage at which the court and the parties receive a detailed report about the child ... from the end of the process to a time before the first court hearing”. In the same document he said that “the CFM cannot any longer be seen as a ‘pilot’” and that “Government has committed some £82 million to support the roll-out ... to each of the remaining 32 court centres over the course of the next three financial years”, eight in the first year and the remaining twenty-four between April 2027 and March 2029.
41. The Court of Appeal has given some useful transition guidance. In [Re D \(Change of Circumstances: Domestic Abuse Allegations\) \[2026\] EWCA Civ 969](#) at para 23 the Court observed that the Child Arrangements Programme “is in the process of being replaced by the national rollout of a new procedure, piloted in Dorset and North Wales as the ‘Pathfinder’ programme and now renamed ‘Child Focused Courts’”, and cautioned that references to existing rules may not apply in Child Focused Courts areas during the transition. Practitioners should check the current PD36Z schedule and the relevant Designated Family Judge’s own website before drafting; go-live is progressive and local, not national on a single date.
42. Enforcement is explicitly dealt with, and para 17 of PD12B (Pilot) provides that gatekeepers must allocate at the initial gatekeeping step and, “if possible, the case should be allocated to the judge who made the order”; that enforcement cases “should be concluded without delay” and be listed within twenty working days of issue, or within ten working days of the filing of a new or updated Child Impact Report where one is directed; that the need for a fresh report and fresh safeguarding checks must be decided at the outset, particularly where three months or more have elapsed since the order; and that the powers on unexcused breach include referral to Planning Together for Children, variation of the order, an enforcement order or suspended enforcement order, compensation for financial loss, and contempt.
43. On a Child Focused Courts enforcement application the judge can have, at the *first* listing, an updated report containing police and local authority information and the child’s current wishes before the judge who made the order instead of adjourning for an addendum s.7 report. Set against [B v C](#), where the equivalent material arrived, in effect, in 2025.
44. Para 19.1 requires proceedings to be timetabled for resolution “as soon as safe and possible”, and para 19.3 provides that cases “should not adjourn for reviews unless necessary”; para 19.5 offers s.11H monitoring or a s.16 family assistance order instead. For a case with a child’s entrenched refusal, the staged review can be crucial. Both published evaluations bear this out. The [process evaluation of March 2025](#) found the review stage “not regularly utilised” owing to confusion about its purpose, and recorded

the structural difficulty that once a final order is made the case is closed. The [children and families evaluation of January 2026](#) found that despite being told their cases would be reviewed, “most participants found that the review stage was very rarely implemented”, only three cases out of thirty-nine.

45. My hope is that the Child Focused Model reduces the *number* of cases that reach the position in [B v C](#), because it front-loads the evidence and enforces judicial continuity. The practice may tend to build review into the order itself, s.11H monitoring, or a s.16 family assistance order with a s.16(6) reporting direction, rather than to rely on a review being listed.

Other available options

46. All a court can do is make an order. The question at every stage for me is “which order, of those available, is most likely to produce the thing my client actually wants”. Those are different questions and they frequently have different answers. Although NB:
- The order must impose a performable obligation in the imperative. See 5.4 below; this is the [Re L-W](#) point and it is fatal.
 - A warning notice under [s.11I](#) must have been attached. It is mandatory on every child arrangements order, and under [s.11K](#) its attachment is a precondition of an enforcement order.
 - If committal is ever going to be in contemplation, a penal notice must be on the face of the order and the application personally served ([FPR 37.2, 37.4\(2\)\(e\), 37.5\(1\)](#)). A warning notice is not a penal notice.

What can we do?

Power	Source	What it needs first
List it, before the same judge	PD12B para 21.2; PD12B (Pilot) para 17.2	Nothing. 20 working days of issue.
Vary the order	s.8; PD12B para 21.6	A welfare analysis. Not a sanction.
Transfer of the child’s care	s.8	A pure welfare case. Never a sanction. I Set it out here to show that this is about harm and not harming a parent
Activity direction or condition; referral to Planning Together for Children	ss.11A–11C; PD12B (Pilot) para 17.3	
Monitoring; family assistance order	s.11H; s.16	FAO needs the consent of every named adult and a PD12M opinion.

Power	Source	What it needs first
Enforcement order — unpaid work, 40–200 hours	s.11J; Sch A1 para 3B(1)	Breach beyond reasonable doubt; warning notice; s.11L suitability.
Compensation for financial loss	s.11O	Proved loss; capped at the actual loss.
Costs	FPR 28.1; CPR 44.2(2)	Reprehensible conduct or an unreasonable stance: Re S [2015] UKSC 20.
Committal for contempt	FPR Part 37	Penal notice and personal service. Criminal standard.
Public law: s.37 direction, interim care order	s.37; s.38	Threshold, a coherent care plan, and a local authority.

Listing, and the judge

47. [PD12B, para 21.2](#): “The Gatekeepers shall list any application for enforcement of a child arrangements order for hearing, before the previously allocated judge if possible, within 20 working days of issue. Enforcement cases should be concluded without delay.” Para 21.1 lists what the court must then consider — whether the facts of non-compliance are agreed or need finding, the reasons for it, how the child’s wishes are to be ascertained, whether Cafcass advice is needed, the risks of a further or different order, whether a parenting programme or non-court dispute resolution is appropriate, whether an enforcement order may be appropriate, and the welfare checklist. Para 21.6 sets out the range of powers.
48. In a Child Focused Courts area, [PD12B \(Pilot\) para 17](#) is the equivalent and slightly better: allocation at the initial gatekeeping step, “if possible ... to the judge who made the order”; listing within twenty working days of issue or ten working days of the filing of an updated Child Impact Report; and a decision at the outset on whether fresh safeguarding checks are needed, particularly where three months or more have passed.
49. Make sure that all activity directions have been made by this stage including planning together for children.

Vary the order

50. Variation under [s.8](#) is expressly among the powers on breach ([PD12B para 21.6](#); [PD12B \(Pilot\) para 17.3](#)); a handover that has become a flashpoint moved to a neutral venue, a schedule made less frequent but longer, indirect contact given a mechanism. **Where it goes wrong:** Variation must be justified on welfare grounds. It can feel like facilitation of non-compliance, for example when contact is then reduced to make it begin to work.

Drafting

51. In [Re L-W \(Children\) \[2010\] EWCA Civ 1253](#) Munby LJ set aside enforcement, compensation and committal orders against a father due to how the order was drafted:

“To ‘allow’ is to concede or to permit; to ‘make available’ is to put at one’s disposal or within one’s reach. That was the father’s obligation; no more and no less.”

[Re L-W \[2010\] EWCA Civ 1253](#), para 75

“The father may have been under a parental or moral obligation to do these things, but on the wording of these orders he was not, in my judgment, under any legal obligation such as to render him in breach of the orders for failing to do them, let alone for failing to achieve — to ‘ensure’ — that contact actually took place.”

[Re L-W \[2010\] EWCA Civ 1253](#), para 76

52. The burden lies throughout on the applicant to establish that it *was* within the respondent’s power to do what the order required, not on the respondent to show that it was not.
53. So: impose specific, positive, performable obligations in the imperative — “the mother shall deliver E to the contact centre at 10.00”, not “shall allow” or “shall make available”.

Monitoring and family assistance

54. [Section 11H](#) permits a Cafcass officer to monitor compliance with specified provisions and report; the period “may not exceed twelve months” (s.11H(6)). [Section 16](#) permits a family assistance order requiring an officer to “advise, assist and (where appropriate) befriend” a named person, for twelve months unless shorter (s.16(5)), with s.16(4A) permitting a direction to advise and assist “as regards establishing, improving and maintaining contact” and s.16(6) permitting a reporting direction on whether the s.8 order should be varied or discharged. Both are dealt with at 4.3 above. Both are expressly offered by [PD12B \(Pilot\) para 19.5](#) as the alternative to a review hearing. (Dealt with above)

Enforcement order: unpaid work

55. Under [s.11J](#) the court may make an enforcement order imposing an unpaid work requirement if satisfied beyond reasonable doubt that a person has failed to comply with a provision of a child arrangements order. The burden of proving reasonable excuse then falls on the respondent, on the balance of probabilities. The applicant must be a person with whom the child lives, or whose contact is provided for, or who is subject to a condition or the child, with leave. A warning notice must have been attached ([s.11K](#)).
56. [Schedule A1](#) governs the order: not less than 40 and not more than 200 hours (para 3B(1)); the order must specify the home local justice area (para 3); revocation is available where the order should not have been made, circumstances have changed, or there has been satisfactory compliance (para 4); and on breach of the enforcement order itself the court may make the requirement more onerous or make a further enforcement order (para 9). Under [s.11L](#) the court must be satisfied the person is suitable for unpaid work

and that it is available, and must consider the welfare of the child; [PD12B \(Pilot\) para 17.4](#) recommends a Cafcass report on suitability.

57. Schedule A1 was amended with effect from 11 May 2026 by the Sentencing Act 2026, with para 3A(3) omitted. The twelve-month completion window practitioners remember does not appear in the current consolidated text. Check the amended Schedule.
58. Check that the evidence supports the standard of proof and that a warning notice was attached. Problems arise where the application is made against a parent for whom unpaid work is plainly unsuitable, so s.11L defeats it; or, as in [B v C](#) (para 48), the breach is proved and the court then declines to make the order because it can see no purpose in it.

Compensation for financial loss

59. [Section 11O](#) permits an order that the person in breach pay compensation for financial loss caused, on the same beyond-reasonable-doubt finding and subject to the same reasonable-excuse defence and warning-notice precondition. The award “may not exceed the amount of the applicant’s financial loss”, and the court must have regard to the individual’s financial circumstances and to the child’s welfare. In practice it covers wasted travel, holidays and childcare. It is worth pleading even where the sums are small, because it forces the court to make findings about each specific missed occasion — which is exactly the record you need if you are later going to argue that the pattern is serial.

Where it goes wrong: loss is asserted but not evidenced

Costs

60. The general practice of no order for costs in children cases stands, displaced only by “reprehensible behaviour or an unreasonable stance”: [Re T \(Children\) \[2012\] UKSC 36](#) at para 44, and [Re S \(A Child\) \[2015\] UKSC 20](#). In private law it was restated in [Re E \(Children: Costs\) \[2025\] EWCA Civ 183](#) at para 23. The jurisdiction is FPR 28.1 with CPR 44.2(2) — not FPR 28.3, which is financial remedy only.

“There is a general practice of not awarding costs against a party in family proceedings concerning children, but the court retains a discretion to do so in exceptional circumstances. These include cases in which a party has been guilty of reprehensible or unreasonable behaviour in relation to the proceedings. This practice applies equally in public law and private law proceedings, and irrespective of whether a party is legally aided. Nor is there any difference in principle between fact-finding hearings and other hearings. The court can make costs orders at any time: FPR 28.1.” [Re E](#) §23

61. [Re M \(A Child: Costs\) \[2026\] EWCA Civ 381](#) Peter Jackson LJ observed at para 59 that resisting an appeal is “unlikely to amount to conduct which is unreasonable or reprehensible” and at para 66 that “satellite litigation about costs in child welfare cases is to be discouraged”.

Committal

62. The application is made under [FPR Part 37](#). The order breached must have carried a penal notice, defined by r.37.2 as “a prominent notice on the front of an order warning

that if the person ... disobeys the court's order, the person ... may be held in contempt of court and punished by a fine.

Transfer of Residence

63. Transfer of residence is not a “last resort” ([Re L](#) [2019] EWHC 867 (Fam), paras 53–59) — but it is not an automatic consequence of a finding, and never a sanction for non-compliance ([FJC Guidance, December 2024](#), paras 74, 89–90).
64. This application has to be meticulously planned.
65. It can work. You may need to enlist third party or LA assistance.

The public law route

66. [A Father v A Mother & Ors](#) [2025] EWHC 2464 (Fam) (26 September 2025), where, faced with a local authority that thought proceedings should cease, the court made a s.37 direction and interim care orders for four children, holding an interim care order to be “a necessary and proportionate interference in the Article 8 rights of this family”
67. A direction under [s.37](#) also obliges the local authority to consider, under s.37(2)(b), whether to “provide services or assistance for the child or his family”, with a hard eight-week deadline (s.37(4)). [FJC guidance](#) para 95 records the Guardian’s ability to invite a s.37 direction where removal is contemplated, applying Wall J’s requirement in *CDM v CM* [2003] 2 FLR 636 that there be “a coherent care plan of which temporary or permanent removal from the residential parent’s care is an integral part”.

Where it goes wrong: the court makes the direction and the local authority declines to act — which it is entitled to do, provided it gives reasons. There is no order compelling an application. In [B v C](#)

Prove it then use the court process to fix it

68. By far the better option is to work around the welfare needs of the children and to make that intention clear from the outset. Since [Re C \(‘Parental Alienation’; Instruction of Expert\)](#) [2023] EWHC 345 (Fam) at para 103 the question is “a question of fact for the Court to resolve and not a diagnosis”, and the court’s focus is on identified behaviours rather than the label. [Re GB](#) [2023] EWFC 150 applies that to Part 25 applications.
69. The [FJC guidance](#) at para 10 sequences the proof. Three elements must be established: (1) the child is reluctant, resisting or refusing to engage in a relationship with a parent; (2) that reluctance is not consequent on the actions of *that* parent — appropriate justified rejection — and is not caused by any other factor such as the child’s alignment, affinity or attachment; and (3) the other parent has engaged in behaviours which have directly or indirectly impacted on the child, leading to the reluctance. Two propositions from the same guidance are worth knowing by heart: at para 13, behaviours of this kind which actually impact on the child’s relationship with the other parent are “relatively rare”, and “RRR cannot in itself amount to evidence of psychological manipulation”; and at para 18, no such finding will be made in a case where findings of domestic abuse have produced an appropriate justified rejection.

70. Case management matters as much as proof. Para 34: “It is incumbent on the court to case manage robustly to avoid, whenever possible, Alienating Behaviours being raised as an issue for the first time late in proceedings.” At the first case management hearing, para 38: “Simple assertions are not enough.” [Re T and G \[2025\] EWFC 15 \(B\)](#) is an example of this.
71. And in [Re Y \(Experts and Alienating Behaviour: The Modern Approach\) \[2026\] EWFC 38](#) (20 February 2026) the President set aside findings from 2019 and 2020 which had removed two children from their mother on the evidence of an unregulated “psychologist”, five years after the event. Para 75 sets out the modern approach in seven steps: the inquiry is into the child’s reluctance, resistance or refusal, not the parental allegation; where domestic abuse is alleged alongside it, “the focus of the fact-finding must be to first determine the issues of domestic abuse”; and experts should not be appointed “unless and until there is clarity and, if necessary, facts that have been found, as to the parents’ past behaviour”. Para 73 confines expert permission to psychologists registered by a statutory body or chartered by the BPS. Para 5 is the sentence to read twice: “every agency involved in these proceedings can be seen to have been at fault”.

When enough is enough

Why

72. The purpose of sanctions was addressed in [Re B \[2025\] EWCA Civ 1048](#) para 25: there are two objectives, “One is to mark the court’s disapproval of the disobedience of its order. The other is to secure compliance of that order in the future.”
- Will this order change the behaviour? If yes, it is worth making;
 - If it will not change the behaviour, will it nevertheless mark the breach in a way that matters — to the court’s authority, or to the child’s eventual understanding of what happened? If yes, it may still be worth making.
 - If neither, it is punishment for its own sake at the child’s expense, and [s.1\(5\)](#) supplies the answer. (No order!)

When

73. Enforce early. [Re A \[2013\] EWCA Civ 1104](#) at para 61: “The first time that a judge should give serious consideration to whether or not he or she will ... be prepared to enforce a contact order should be before the order is made”, and if enforcement is not in contemplation “an alternative judicial strategy ... must be developed”. [Re S \[2020\] EWCA Civ 568](#) at para 13: inaction “will probably reinforce the position of the stronger party ... and the bar will be raised for the next attempt at intervention ... It is easier to conclude that decisive action was needed after it has become too late to take it.”
74. The Strasbourg line is to the same effect: there is “a duty to exercise exceptional diligence in view of the risk that the passage of time may result in a de facto determination of the matter” (*Hoppe v Germany*, para 54, as cited by Munby J in [Re D](#) at para 27), and “effective respect for family life requires that future relations between parent and child not be

determined by the mere effluxion of time” (*Sylvester v Austria*, para 69, cited at the same paragraph). And the empirical proxy points the same way: in [Hunt and Macleod](#), two of the four significant predictors of contact being ordered were pre-existing contact and the resident parent’s opening position.

75. So the practical rule is that the first unexcused missed handover is the moment of lowest entrenchment. Often dealt with by letter it is the time to build your strategy here.

When enough is enough

76. There is a limit, and it is Butler-Sloss P’s, at [Re S \[2004\] EWCA Civ 18](#) para 29: “there is a limit beyond which the court should not strive to promote contact”. But the same judgment supplies the discipline, at para 33: the attempt “should not be abandoned until it is clear that the child will not benefit from continuing the attempt”. And Munby LJ’s six propositions at [Re C \[2011\] EWCA Civ 521](#) para 47 require the judge to “grapple with all the available alternatives before abandoning hope of achieving some contact”.
77. What does “grappling” look like when it is done properly? A good recent illustration is not an enforcement case at all. In [Re CX \(No 2\) \(Domestic Abuse: No Contact\) \[2026\] EWFC 230](#) (Mr Justice Garrido, 13 August 2026), the court ended all contact between a six-year-old and her father. Counsel for the father had urged the court to find a space between continuing contact and none. At para 68:

“The space that Ms King encouraged me to find, where both mother can be treated and recover, and CX can continue to have some form of contact with her father, has sadly proved illusory. All possibilities short of no contact have been robustly tested, not least with Dr Jones, but ultimately they were found wanting. I have come to the conclusion that contact of any form is simply incompatible with mother’s recovery from her Complex-PTSD.”

[Re CX \(No 2\) \[2026\] EWFC 230](#), para 68

78. “every option short of this one has been tested, and here is why each failed”. The judge went on, at para 70: “In the final analysis, my decision is not finely balanced. In my judgment, the immediate cessation of contact, whilst painful in the short term, is the only way to secure CX’s medium and long term welfare”.
79. The framework it applies is [Re H \(A Child: Contact: Domestic Abuse\) \[2024\] EWCA Civ 326](#) (Peter Jackson LJ, 10 April 2024), which adopted the principles collected in [D v E \(Termination of Parental Responsibility\) \[2021\] EWFC 37](#): contact is to be terminated “only in exceptional circumstances where there are cogent reasons for doing so, as a last resort, when there is no alternative, and only if contact will be detrimental to the child’s welfare”; there is a positive obligation on the judge to take measures to promote it, “grappling with all available alternatives and taking all necessary steps that can reasonably be demanded, before abandoning hope”; and the question requiring stricter scrutiny is whether the court has taken all necessary steps “as can reasonably be demanded in the circumstances of the particular case”.
80. “Where these considerations conflict, the court must identify the best solution for the child or, where there is no good solution, the least worst one.”

[Re H \(A Child: Contact: Domestic Abuse\) \[2024\] EWCA Civ 326](#), para 46

Older children

81. From Munby P in [Re H-B](#) at para 74: “nor ... is it acceptable for a parent to shirk their responsibility by sheltering behind the assertion that the child will not do, or even that the child is adamantly opposed to doing, something — and this, I emphasise, is so whatever the age of the child.” And:
82. “... parental responsibility does not shrivel away, merely because the child is 14 or even 16, nor does the parental obligation to take all reasonable steps to ensure that a child of that age does what it ought to be doing ... what one can reasonably demand ... is that the parent, by argument, persuasion, cajolment, blandishments, inducements, sanctions ... or threats falling short of brute force, or by a combination of them, does their level best to ensure compliance. That is what one would expect of a parent whose rebellious teenage child is foolishly refusing to do GCSEs or A-Levels ... Why should we expect any less of a parent whose rebellious teenage child is refusing to see her father?”
83. [Re H-B \[2015\] EWCA Civ 389](#), para 76
84. That builds on McFarlane LJ (again as he then was) in [Re W \(Children\) \[2012\] EWCA Civ 999](#) at paras 75–78 — delivering contact may be “a very big ask”, but “tough or not, part of the responsibility of the parent with care must be the duty and responsibility to deliver what the child needs”, and it is “not ... acceptable for a parent to shirk that responsibility and simply to say ‘no’ to reasonable strategies”.
85. Time is absolutely of the essence - [Section 9\(6\)](#) — no s.8 order is to have effect beyond a child’s sixteenth birthday save in exceptional circumstances. It was applied in [Re H-B \(Contact\) \[2015\] EWCA Civ 389](#) at para 3 to the sixteen-year-old, J. In [B v C](#) E was fifteen at judgment and sixteen in the November following.

Ending Proceedings with No Contact

86. Again Re CX is interesting here. Note the following:
87. CX was six. In the original proceedings a district judge had found the father’s conduct towards the mother to have been “extreme emotional and psychological abuse ... over many years”. A 2023 order provided for graduated progression from supervised to unsupervised contact. By 2026 the mother and the guardian sought an order for no contact at all; the father opposed it. The expert, diagnosed the mother with Complex PTSD and set out a three-phase treatment model, concluding that “meaningful trauma processing is unlikely to commence safely whilst she remains effectively exposed to her perpetrator”. Garrido J found the realistic timescale for resolution of her symptoms to be “unlikely to be less than three years” (paras 31–32). What he then built is the template.
 - **Findings, made and recorded.**
 - **Expert evidence that produces a timetable, not just an opinion.** Dr Jones gave a three-stage model with phase 2 requiring “at least 6 months”.
 - **A [s.91\(14\)](#) order matched to that timetable.** Para 72: “there is little point putting mother’s recovery in danger by limiting the ... order to two years rather than three. I have set out the realistic timeframe for Dr Jones’ recommended three stage process above.”

- **A defined route back.** The father may apply for permission without notice to the mother in the first instance, and the judge reserved it to himself: the application will come before him “with the advantage of my accumulated knowledge about this case” (para 73). An ending with no route back is not proportionate; an ending whose route back lands in front of a judge who has to learn the case from scratch is not effective.
- **Ancillary protection, proportionate and preferably by undertaking.** A three-year prohibition on the father travelling to the area where the mother lives and works, save in the course of his employment, to be taken by undertaking if offered and otherwise by order, because it was “a necessary and proportionate response to help to alleviate mother’s anxiety, aid her recovery and ultimately promote CX’s welfare” (para 73).
- **An information regime, so the ending is not a disappearance.** Quarterly written updates about CX from the mother via her solicitor; no direct contact between the father and CX’s school for the same three years, with educational information coming through those updates instead (paras 79–80). The judge refused the father’s request for six-weekly reports, holding that quarterly “strike the right balance between maintaining the breathing space for mother ... and ensuring that father remains aware of developments in CX’s life”.
- **A goodbye.** One final contact at which the father would say goodbye, on an agreed narrative to be developed by both parents and the guardian; the guardian satisfied that her presence *at* the contact was unnecessary but available before and after and remaining in the vicinity if needed (paras 71, 82–83). And the father was permitted to give CX a photograph album he had prepared. A child who is told a relationship has ended, and given something to keep, is in a different position from a child whose parent simply stops arriving.
- **Support through the transition.** The guardian to remain involved in the short term. A [s.16](#) family assistance order was considered and not made only because the parties assured the court it was unnecessary (para 75)

Conclusion — practical takeaways

- Prove the FJC’s three elements in sequence, with a registered or chartered expert if any ([FJC guidance](#), para 10; [Re Y](#), paras 73, 75).
- Draft in the imperative.
- Warning notice on every order; penal notice and personal service wherever hostility is apparent ([FPR 37.2](#), [37.4\(2\)\(e\)](#), [37.5\(1\)](#)).
- Ask for the [PD12B para 21.2](#) listing — twenty working days, same judge — at the first breach, in writing.
- One judge, one strategy, one timetable ([Re A \[2013\]](#), paras 60–61).
- Put the unexhausted alternatives on the record before the court stops ([Re C \[2011\]](#), para 47).
- Run transfer of residence on welfare only ([Re L](#), paras 53–59; [FJC guidance](#), paras 74, 89–90, 94).
- Keep the public law route live — s.37 and interim care orders are not exhausted ([Re M \[2003\]](#); [A Father v A Mother \[2025\]](#)).

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21.9.26