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CHAMBERS

How do you prove parental alienation and what and what evidence would satisfy the Court that an 'alienating' parent has changed their behaviour?

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- **What is Parental alienation**
- **How to prove it**
- **How to evidence change?**

What is Parental Alienation?

McFarlane P in his keynote address at the Families Need Fathers Conference 25 June 2018:

“I readily accept that in some cases a parent can either deliberately or inadvertently turn the mind of their child against the other parent so that the child holds a wholly negative view of that other parent where such a negative view cannot be justified by reason of any past behaviour or any aspect of the parent-child relationship”

Academic analysis:

the unwarranted rejection of the alienated parent and an alliance with the alienating parent, characterised by the child's extreme negativity towards the alienated parent due to the deliberate or unintentional actions of the alienating parent so as to adversely affect the relationship with the alienated parent (Baker and Darnall, 2007, Baker and Darnall, 18 2006; Johnston, 2003)



An alienated child may demonstrate behaviours consistent with aiming to please or avoid recrimination from the alienating parent (Gomicide, Camargo and Fernandes, 2016)

Unlike parental estrangement - where there is a basis for rejecting a parent such as neglect, abuse, abandonment or domestic violence - parental alienation refers to unjustified fear, hatred and rejection.

However, there is a relative absence of studies that demonstrate methods to differentiate parental alienation from estrangement, leading Gomicide et al (2016) to recommend that parental alienation be considered when there is no real motive for the child's denigration of the alienated parent.

<https://gov.wales/sites/default/files/publications/2018-05/review-of-research-and-case-law-on-parental-alienation.pdf>

World Health Organisation

During the development of ICD-11, a decision was made not to include the concept and terminology of ‘parental alienation’ in the classification, because it is not a health care term. The term is rather used in legal contexts, generally in the context of custody disputes in divorce or other partnership dissolution.



The broader category of 'caregiver-child relationship problem' was seen as adequately covering aspects of this phenomenon that could be the focus of health services

<https://www.who.int/standards/classifications/frequently-asked-questions/parental-alienation>

Cafcass

Cafcass uses the term alienating behaviours to describe circumstances where there is an ongoing pattern of negative attitudes, beliefs and behaviours of one parent (or carer) that have the potential or expressed intent to undermine or obstruct the child's relationship with the other parent.

<https://www.cafcass.gov.uk/grown-ups/parents-and-carers/divorce-and-separation/what-to-expect-from-cafcass/alienating-behaviours/>

Outcomes

Re A (Intractable Contact Dispute: Human Rights Violations) [2013] EWCA Civ 1104; [2014] 1 FLR 1185 at 53: 12 years of proceedings, 82 court orders, 7 judges, 10 CAFCASS officers, no contact

Re D (Intractable Contact Dispute: Publicity) [2004] EWHC 727 (Fam); [2004] 1 FLR 1226 (Munby J): 5 years of proceedings, 43 hearings, 16 judges, no contact

Re A (Children) (Parental Alienation) [2019] EWFC B56 8 years of proceedings, 36 hearings, 10 professionals, no contact despite an attempted change of residence

Re S (Parental Alienation: Cult) [2020] EWCA 568

Peter Jackson LJ:

- 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. Above all, the obligation on the court is to keep the child's medium to long term welfare at the forefront of its mind and wherever possible to uphold the child and parent's right to respect for family life before it is breached.

- In making its overall welfare decision the court must therefore be alert to early signs of alienation. What will amount to effective action will be a matter of judgement, but 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.

Proving it

- MIAMS/NCDR
- FHDRA
- Cafcass Safeguarding Letter

Proving It

- FPR 12J
- *K v K* [2022] EWCA Civ 468
- *M (A Child - Private Law Children Proceedings- Case Management- Intimate Images)* [2022] EWHC 986 (Fam)

Proving It

- Fact-finding hearing
- *Re B-B (Domestic Abuse: Fact-Finding)* [2022]
EWHC 108 Fam

Behaviour Change

- Cafcass Child Impact Assessment Framework:
<https://www.cafcass.gov.uk/grown-ups/professionals/ciaf/>
- Separate Representation for Child - FPR 16.4
- Expert instruction – FPR Part 25

Behaviour Change

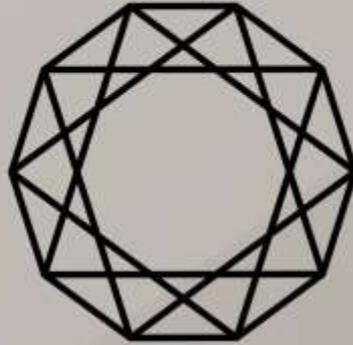
- Review
- Final Order
- Family Assistance Order



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Thank you for your attention.

Questions?



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