

# Family Justice Council Consultation: Draft Guidance on Responding to allegations of alienating behaviour

## Response from Support Not Separation & Women Against Rape

### Introduction

The [Support Not Separation](#) (SNS) Coalition (co-ordinated by Legal Action for Women) includes organisations of single mothers, women of colour, women with disabilities, rape/domestic abuse survivors, breastfeeding advocates, psycho- therapists, men and social workers. We defend mothers and children against unwarranted separation and the devaluing of the mother-child relationship. We are in contact with hundreds of mothers and other primary carers, and children, family law professionals, organisations and concerned individuals.

In January 2017 Legal Action for Women published our Dossier [Suffer the Little Children & their Mothers](#) which documented 56 cases of mothers fighting in the family courts to stop violent fathers having unsupervised contact or residence of children, and against children being forcibly taken into care and/or adopted. In July 2021 we updated this [research](#) based on the experiences of 219 mothers of 411 children. At least **76% of the mothers had suffered domestic violence and many had been accused of “parental alienation” in family court when they reported the violence.**

Our evidence to the “**parental alienation/alienating behaviours**” Guidance consultation is based on extensive collective self-help casework with hundreds of women and on campaigning. We run monthly self-help meetings where mothers share their experiences and a number of organisations contribute their expertise. They are: All African Women’s Group, English Collective of Prostitutes, Global Women’s Strike (GWS), Women of Colour GWS, Single Mothers’ Self Defence, WinVisible (women with visible and invisible disabilities) and Women Against Rape.

[Women Against Rape](#) (WAR) is one of the member organisations in SNS. It has been particularly involved in documenting victims’ experiences of “parental alienation” and this was at the forefront of its lobbying work on the [Domestic Abuse Act](#). Since 1976 WAR has taken up thousands of individual cases, setting a number of legal firsts. It campaigns for justice, asylum, protection and compensation, and has won changes in the law such as getting rape in marriage recognised as a crime.

Together we have worked for decades with mothers fighting to keep their children (Legal Action for Women was founded in 1982). In the last 10 years a growing movement of mothers, especially single mothers, struggling to protect our children from violent fathers has exposed a family court system which backs these abusers rather than the victims of their domestic and/or child abuse.

### Family Justice Council (FJC) - conflict of interest

We note that the Co-Chair of the FJC working group is Dr Jaime Craig (HCPC Registered Clinical Psychologist Chartered Psychologist). He is sole owner of [Family Psychology](#)

[Services Ltd](#) (in which he holds between 50-75% of shares) which provides expert testimony in family court on “parental alienation”. There is an inherent conflict of interest in someone who has a vested interest in the “**parental alienation**” “industry” acting as Co-Chair of this working group. And even more so that he also chaired the working group which produced the report: [Psychologists as Expert Witnesses in the family courts in England and Wales](#), May 2022.

### **Context for Guidance on “alienating behaviours”**

**Flying in the face of substantial official international recognition of the *illegitimacy* of “parental alienation”, it is shocking that the FJC now wants to formalise and legitimise “alienating behaviours” by producing this Guidance. We completely reject this Guidance and urge the FJC to look again at the evidence against “parental alienation” taking into account the body of official evidence and the points made below.**

“Parental alienation” (referred to from now on as PA) was invented by a discredited [US psychiatrist](#) who promoted *paedophilia* – a fact which seems to be constantly ignored. The term “alienating behaviours” (referred to from now on as AB) is simply “parental alienation” by another name at a time when PA has been **rejected by a number of countries**, including Scotland, Spain and Italy and by the World Health Organisation and the United Nations. (see below)

The Introduction to the Guidance states that “*it does not aim to explore the research literature into the concept of “parental alienation”, the socio-political context in which such allegations arise or to give an historical account*”. **So this Guidance has NO context and NO evidence base. It is therefore an attempt to repackage a dangerous and harmful misogynistic practice invented and promoted by domestic violence deniers to divert attention from their crimes and prevent women and children from getting the protection they are entitled to from the courts.**

The Introduction further states that “*‘Parental Alienation’ has for some time been a vexed and highly emotive concept with polarized opinion in the research literature, and one which has gained significant publicity and political attention internationally.*” There is broad international agreement that abusive and violent behaviour against women and children in the home by men is rife, and **it is a scandal that family courts continue to invoke PA or AB to reassert men’s control over women and children** who try to escape.

PA has no basis in science and there is no agreed definition of PA. It is the product of a growing industry borne of misogyny in family courts that seeks to reinstate any father, even those with a history of violence, as head of household.

There can be no “good practice” using PA/AB. Family courts have until recently evaded public scrutiny because of the rules on secrecy, and this has allowed PA claims by abusive fathers to multiply.

Together with other women’s organisations and individuals, we successfully fought against the inclusion of PA as a form of domestic abuse during the passage of the [Domestic](#)

[Abuse Act](#) and against its inclusion in the Act's [Statutory Guidance](#). It was a blatant attempt to take over legislation designed to protect victims of domestic abuse which is overwhelmingly perpetrated by men against women and children, so that it would protect the perpetrator rather than the victim. This was defeated and we will continue to fight against any new attempt, including by the Family Justice Council, to use PA/AB to reinstate men's power over women and children.

## Domestic Violence

Guidance which is gender neutral is invariably used against victims. The Guidance does not recognise that **domestic violence is a gendered crime** (as defined by CEDAW)<sup>i</sup>. Two to three women every week are murdered by a partner or ex, often despite police involvement. Between April 2019-March 2020, 1.6 million women aged 16-74 experienced domestic violence<sup>ii</sup>. In the year to September 2021, police recorded 67,675 sex offences against children<sup>iii</sup>. These crimes were committed overwhelmingly by men.

Disabled mothers are more than twice as likely to suffer domestic abuse than non-disabled mothers<sup>iv</sup>, and more likely to stay with abusive partners as it is more difficult to leave. They are twice as likely to attempt suicide as their abuse is more severe and frequent.

**Abusive fathers routinely accuse mothers of “alienating” their children when mothers report domestic or child abuse** in order to maintain their control over women and children. Despite 70-90% of family court cases involving domestic abuse, only 1% of court orders result in no contact<sup>v</sup>.

**Contact with violent men endangers children and mothers**, causing physical and psychological harm, even death. The Sunday Mirror<sup>vi</sup> documented 69 children killed (2004-2020), 78% by fathers with a history of violence (domestic and sexual) which had been known to police, children's services, family courts.

This evidence is ignored by many professionals in the family court. Instead, they take their lead from the misogynist fathers' lobby to peddle myths and misinformation about women falsely reporting rape and domestic violence. Crown Prosecution Service research showed that in a 17 month period, just six women were prosecuted for falsely reporting domestic violence, while there were 111,891 prosecutions for domestic violence, that is, 0.005%. 35 women were prosecuted for false reports of rape compared to 5,651 prosecutions for rape, that is 0.62%. Three others were prosecuted for false reports of both rape and domestic violence<sup>vii</sup>. In fact the real number is even less; WAR has helped women who were accused of lying after a biased and negligent police investigation and went on to win compensation and the prosecution of their attacker.

The real scandal is that rape has been practically decriminalised, with a conviction rate of under 1%, and cases that can take four years to reach court.

The family courts are even less accountable to the public as their hearings are not open to the public. They have evaded established rape and domestic violence laws, long fought for in criminal courts. A single judge has the power to rule on whether they believe a mother's testimony and many are invested in protecting “fathers' rights” regardless of the impact on

children and their mothers. Yet it is overwhelmingly mothers who are the primary carers of children and their first protectors.

The cost of living crisis, profiteering landlords, welfare cuts and zero hours contracts have impoverished mothers, especially single mothers, and forced many to stay with or go back to abusive men in order to protect their children from hunger and homelessness. Such financial dependence on a man's wage is an open invitation for men to abuse their power over women and children.

### **Presumption of contact and PA**

In 2014, following strong lobbying by fathers' organisations which deny domestic violence, the "[presumption of contact](#)" – that children need a relationship with both parents – was incorporated into the Children Act 1989. This has encouraged fathers to use the family courts to insist on contact with children, regardless of how much time/caring they had spent with the children previously, and whether or not they had been violent to the mother and/or the children.

As a result, children who are terrified of their father and do not want any relationship with them are being forced to see them, live with them. If they refuse, they are put into foster care, separated from siblings and/or given to other family members – punishment to force them into contact with a man they are scared of. As the [London Victims Commissioner](#) said: this is "state sanctioned child abuse".

In our casework with hundreds of mothers and children each year, we have witnessed the growth of an industry backing men who invoke PA – it is becoming the normalised tactic whenever domestic abuse or child abuse is reported by mothers. In our recent self-help meeting, of eight women (of different races and nationalities), every single one was struggling against a man with a history of violence, including rape, against the mother, and in some cases also against the children. All the mothers had been accused of "parental alienation" after raising concerns about the father's violence and the impact of forcing children into unsupervised contact with a man they feared or hardly knew. In two cases, the children were fostered after they refused to see their fathers; 12-year-old twins were separated and put in foster care in order to "persuade" them to see him. As we write, another 12-year-old is threatened by Social Services and CAFCASS with being taken from his mother and put into foster care because he refuses to spend time with his violent father. To force a child into contact with a violent man by removing him from the care and protection of his mother is child abuse by the state.

### **The fathers' lobby and the professionals that benefit financially from PA are embedded in the family courts**

Research by Dr Adrienne Barnett<sup>viii</sup> shows a resurgence of "parental alienation" allegations after 2016, and a resurgence of misogynist fathers' groups which deny domestic violence, especially Families Need Fathers (FNF). Many fathers' groups and law firms openly advertise their expertise on fathers' rights using PA.

FNF are now embedded in the court system through a close relationship with the current and previous presidents of the family court, and with CAFCASS (the body supposed to protect children's interests has five fathers' organisations on its board!<sup>ix</sup>). It is most outrageous that CAFCASS officers are often first to minimise domestic violence and accuse mothers of PA in their reports, continuing to "diagnose" "alienating behaviours". They then recommend children be forced into unwanted contact, prioritising a father's "right to contact" over the child's expressed wishes, which they conveniently ignore whenever the child says what they don't want to hear.

The Family Justice Council must urgently investigate CAFCASS's worryingly close links with groups like Families Need Fathers, whose undue influence on their policy is abundantly clear. We have protested since 2017 about the regular attendance of CAFCASS senior officers at Families Need Fathers' [Annual Conferences](#). This year it is a CAFCASS senior social worker who is speaking, alongside two "experts" in PA, and the President of the family court, whose close connection to FNF is also deeply worrying.

Court appointed psychiatrists, CAFCASS officers and social workers prioritise fathers' "right" to contact over children's safety and welfare. As a result, once an allegation of "parental alienation" or "alienating behaviours" is made, mothers face an uphill battle disproving it and challenging the professionals who rally to defend it.

CAFCASS, social workers, psychologists and psychiatrists routinely dismiss the protective bond between mother and child, remove children, split up siblings and put them into foster care to force them into contact with fathers.

Judges do not hear expert evidence on the devastating impact and lifelong trauma caused to children by being taken from their mother – their primary carer – and put into the "care" of strangers.

Neither the Ministry of Justice nor CAFCASS provide figures on "outcomes", but in the US, [Prof Joan Meier](#) studied a decade of published judgements and found that mothers' claims of abuse, especially child physical or sexual abuse, increased their risk of losing custody, and fathers' cross-claims of "alienation" virtually doubled that risk.

An industry of unregulated unscrupulous PA "experts" has developed, revered and elevated by CAFCASS, social workers and judges. These "experts" recommend therapy for "parental alienation" as if it is an illness, usually for the mother and child, then offer to provide that therapy, often for a substantial fee. Yet the World Health Organisation ruled that PA is not a health condition or psychological illness. These same "experts" sit on regulatory or consultative boards reviewing family court procedures, leading to judgements biased against mothers<sup>x</sup>.

Fostering and adoption "services" are largely privatised and make millions of pounds in profit, charging local authorities hundreds of thousands of pounds to look after children in residential homes<sup>xi</sup>.



## Recommendations

- Abolish “presumption of contact” and prohibit unsupervised contact when there has been domestic abuse.
- End all reference to “parental alienation” or “alienating behaviours” and ban so called PA/AB “experts”, regulated or not. Value a child’s reasons for wanting no contact with fathers accused of violence. Desist from forcing children into unwanted contact – that is child abuse.
- [Statutory Guidance on coercive control](#) which makes clear how violent men manipulate in order to retain their control over their victims should inform the family courts, not PA. For example: *“A perpetrator may manipulate the victim or those around them to make the abuse less visible or undetectable altogether. Perpetrators may also be particularly adept at manipulating professionals, agencies and systems, and may use a range of tactics to maintain contact with, and control over the victim. Perpetrators may also seek to minimise allegations, normalise the behaviour and discredit or undermine the victim’s account or credibility.”*
- Take account of the protective bond between mothers and children, and of the actual harm caused by breaking that bond.
- Abolish “possible future harm” which enables social workers and courts to inflict actual harm in the name of a speculative future.
- Family courts must be open just like criminal courts are. Criminal courts protect victims’ anonymity, so can family courts.
- Remove family court judges’ power to rule on the veracity of rape allegations.
- Abolish No Recourse to Public Funds which forces immigrant women to stay in violent relationships or face destitution.
- Reinstate legal aid for all court proceedings.
- Ensure that mothers who ask for support (including financial support) they are entitled to under Section 17 of the Children Act or under the Care Act 2014, receive it rather than being pushed into “child protection”. Local authorities claim they have no money to support families to stay together yet spend millions on removing children into privatised foster and institutional care. If mothers and all primary carers were paid a Care Income for their work of raising and protecting children, many fewer children would end up in state “care”, traumatised and facing the worst “outcomes” for their future.

## Official rejection of “parental alienation”/alienating behaviours

A/HRC/53/36: [Custody, violence against women and violence against children](#) - Report to the UN Human Rights Council by the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem June-July 2023

“The report demonstrates how the unscientific and pseudo concept of parental alienation is used in family court proceedings by abusers as a tool to continue their abuse and coercion and to undermine and discredit allegations of domestic violence by mothers who are trying to keep their children safe . . . It also shows how the standard of the best interest of the

child is violated by imposing contact between a child and one or both parents and by prioritizing it, even where there is evidence of domestic violence”.

The Domestic Abuse Commissioner’s Report [The Family Court and domestic abuse: achieving cultural change](#), July 2023

“This report aims to highlight the damaging use of the term or concept of so-called ‘parental’ alienation (and its synonym ‘alienating behaviours’, amongst other terms utilised to encompass the same concept) as counter-allegations in the Family Court, and the chilling effect it is having on victims and survivor’s ability to raise domestic abuse’. . .When custody decisions are made in favour of the parent who claims to be alienated without sufficiently considering the views of the child, the child’s resilience is undermined and the child continues to be exposed to lasting harm.”

[Domestic Abuse Act 2021 Statutory Guidance Consultation](#): government response (accessible) Updated 13 April 2023

“Responses relating to removing reference in the guidance to parental alienation and alienating behaviours raised issue with the concept of ‘parental alienation’. Responses highlighted that ‘parental alienation’ and the related ‘alienating behaviours’ are widely contested terms. There is a growing body of evidence about false allegations and the impact that the fear of false allegations can have. . . It is argued that academic theories on the existence and prevalence of parental alienation should not be accepted without analysis of the impact on survivors of domestic abuse and their children. It was also highlighted that research indicates fears of such counter allegations have prevented survivors from disclosing domestic abuse to the court and accessing support services. . . . The consultation responses highlighted a lack of shared understanding of ‘parental alienation’ - its definition and implications, and how to approach it in practice. Therefore, explicit references to ‘parental alienation’ and ‘alienating behaviours’ have not been made in the finalised draft.”

The [Ministry of Justice’s Harm Report](#) June 2020

- an allegation of “parental alienation” meant that the parent who is the subject of the allegation is treated as an “alienator”, rather than as a protective parent with well-founded fears of abduction or violence.
- court professionals gave weight to the views of any child who wanted contact with a father, but dismissed the views of those who did not.
- allegations of “parental alienation” are taken more seriously than allegations of domestic abuse and other forms of harm.

[The World Health Organisation](#) (WHO) February 2020

Announced that it had removed this pseudo-scientific concept from its index and classification. “Indeed, the mere presence of this notion, wherever it is in the Classification, would favour its instrumentalization by its promoters and its use by violent men in family courts, as recalled in the [Collective Memo of Concern to: World Health Organization about « Parental Alienation »](#). The alienation hypothesis inherently relies on two flawed

assumptions: (i) that children do not ordinarily fear or resist a non-custodial parent without manipulation by the other parent, and (ii) that a child's hostility toward or fear of the other parent, can in fact be caused solely by the favoured parent's negative influence (or programming), regardless of the child's own experience".

16 October 2023

End

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<sup>i</sup> [\[i\]](#) The Ministry of Justice [review](#) 2020 confirmed that it is overwhelmingly women who are the victims of violence and men the perpetrators, and that the courts are biased against women and children. (According to ONS figures, in the year ending March 2018, 92% of defendants in domestic abuse-related prosecutions were men; 83% of victims were female and around 95% of calls to domestic abuse helplines in the same year were made by women.)

<sup>ii</sup> Office for National Statistics (ONS) Crime Survey for England & Wales

<sup>iii</sup> Report of the Independent Inquiry Into Child Sexual Abuse, 2022.

<sup>iv</sup> Safe Lives, [Disabled People and Domestic Abuse](#)

<sup>v</sup> Domestic Abuse, Child Contact and the family courts, All-Party Parliamentary Group on Domestic Violence Parliamentary Briefing, April 2016

<sup>vi</sup> [Children killed rises to 69](#), Geraldine McKelvie, Sunday Mirror, 20 February 2021

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[https://www.cps.gov.uk/sites/default/files/documents/publications/perverting\\_course\\_of\\_justice\\_march\\_2013.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/perverting_course_of_justice_march_2013.pdf)

<sup>viii</sup> Dr Adrienne Barnett [How claims of parental alienation are being used as a means to silence victims of domestic abuse](#) published 28 April 2020 by Rights of Women

<sup>ix</sup> Families Need Fathers have repeatedly attacked mothers by accusing them of making 'false accusations' of domestic abuse, claiming that it is a 'motorway to legal aid' and, against all the evidence, that 'there is widespread abuse of men and boys in the context of the family courts. ....' Despite their blatant misogyny, Families Need Fathers and other similar father organisations have become embedded in the family court process: they are "stakeholders" of CAFCASS and on the Advisory Board of a new [Review of the Presumption of Parental Involvement](#)

<sup>x</sup> For example, Dr Eia Asen who regularly provides "expert" testimony on "parental alienation" on fathers' behalf, sits on the [Family Division's Transparency Review](#), commissioned to look into media/public access and reporting in the family courts.

<sup>xi</sup> <https://supportnotseparation.blog/2022/04/20/obscene-profits-being-made-from-childrens-and-mothers-misery/>