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Parental Alienation: what does it mean and how do we deal with it?

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What is Parental Alienation?

Reasons why children resist post-separation time with a parent (Cafcass Child Impact Assessment Framework: Alienation);

- Appropriate/justified rejection: domestic abuse, other forms of harmful parenting e.g substance abuse
- Affinity/alignment
- Attachment
- Harmful conflict
- Alienation

What is Parental Alienation?

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

- What is important is the behavior, not the label. Is the behavior abusive/harmful and is protective action needed?
- For working purposes, the Cafcass definition is sufficient:

“when a child’s resistance/hostility towards one parent is not justified and is the result of psychological manipulation by the other parent”

What is Parental Alienation?

Potential signs of parental alienation (*Re S (Parental Alienation: Cult) [2020] EWCA Civ 568*):

- Portraying the other parent in an unduly negative light to the child
- Suggesting that the other parent does not love the child
- Providing unnecessary reassurance to the child about time with the other parent
- Contacting the child excessively when with the other parent
- Making unfounded allegations or insinuations, particularly of sexual abuse

What is Parental Alienation?

Signs a child has been alienated:

- Unjustifiably one sided opinion of parent
- Vilification of parent amounts to a campaign against them
- Trivial, false, irrational reasons to justify dislike/hatred
- Talks openly and without prompting
- Revises history
- Extends dislike/hatred to extended family
- No guilt / ambivalence regarding their attitude
- Speech appears scripted, uses adult language
- Claims to be fearful but is aggressive, confrontational
- Lacks compassion and empathy
- Doesn't want to unite with the other parent at any cost
- False allegations
- Refuses gifts or visits on special occasions

The impact on the child

- Become aligned with the alienating parent
- Experience of self hatred
- Longer term significant mental health issues including depression, substance abuse, anxiety, and low self esteem
- Difficulty forming relationships
- Risk of repeating behaviour with the next generation
- Very rigid processing
- Extreme internalisers

Competing Arguments

- Warring parents find it difficult to spot their own behaviours
- Allegations of alienation can be signs of domestic abuse, and vice versa
- The child develops their own desire not to see the other parent, separate from the alleged alienator
- Child won't see the parent due to past experiences despite encouragement/best efforts
- Transfer of residence/foster care are likely to further undermine the relationship between the child and other parent
- End proceedings/adjourn to allow time for therapeutic intervention

Case Law Update

- Re C (Direct Contact: Suspension) [2011] EWCA Civ 521
- A (A child) [2013] EWCA Civ 1104
- Re A (Children)(Parental Alienation)[2019]EWFC
- Re S (Parental Alienation: Cult) [2020] EWC Civ 568

How do we deal with it?

- Spot alienation early in proceedings
- Avoid delay
- Joinder – consider at early stage
- Fact Finding hearing
- Experienced experts
- Judicial continuity
- Investigations must look deeper than what the children ‘say’
- Balancing the risk of harm

Options available to the Court

- Child Arrangements Orders
- Joinder and r16.4 children's guardian
- Expert evidence
- Psychotherapeutic treatment
- Parenting programme
- Section 37 report/LA involvement
- Family Assistance Order
- Enforcement
- Transfer of residence (immediate or suspended): *Re L (A child) [2019] EWHC 867 (Fam)*
- Wardship: *T (Parental Alienation) [2019] EWHC 3854 (Fam)*

Resources

- Cafcass Child Impact Assessment Framework:
<https://www.cafcass.gov.uk/grown-ups/professionals/ciaf/resources-for-assessing-child-refusal-resistance/>
- Julie Doughty – Review of Research and Case Law on Parental Alienation (April 2018), Cardiff University School of Law and Politics (commissioned by Cafcass Cymru)
- Serious Parental Alienation by Francesca Wiley WC (1 Garden Court)

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