



# Parental alienation: guidance from the Family Justice Council

Allegations of “parental alienation” or “alienating behaviours” have become an all-too-common feature of children disputes, and particularly in high-conflict matters. As such, the need for judicial guidance in this particular area was great, and ought to be on every family solicitor’s radar. In December 2024 the Family Justice Council issued its long-awaited views on this thorny area: “Guidance on responding to a child’s unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour”. This article provides a summary and examines the impact that this guidance will have on the way in which allegations of alienation will be dealt with in proceedings moving forward.

## **Alienating behaviours**

There is no statutory definition of parental alienation. Whilst cautious to avoid legitimising the term of “parental alienation”, for the purpose of exploring this concept the FJC has adopted the following definition of “alienating behaviours” within the report:

*“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.”*

This specific, wide-ranging, and most importantly multi-faceted definition can be deployed in a variety of different circumstances. At its heart is a refusal or reluctance to engage with the other parent, when there is seemingly no other explanation for such a response, and often where there are concerns surrounding one party’s ability to promote a relationship between the child and the other parent. Examples could include:

- a child physically refusing to attend face-to-face contact
- a child refusing to engage with any form of phone calls



- a child requesting that one parent does not attend any of their school or extracurricular activities
- a child repeating negative remarks about the other parent and an overt inability to express any positive feelings towards the other parent

The ever-increasing reliance on allegations of “*parental alienation*” has been the subject of intense debate and criticism over recent years. It often comes down to the battlelines being drawn between, on the one hand, a parent stating they are following their child’s intensely held wishes and feelings, and on the other, the disappointed parent suggesting that this refusal is borne out of the other parent’s actions. In particular, concerns have persistently been raised that allegations of alienation are weaponised in response to allegations of domestic abuse raised by the other party. Women’s Aid has summarised this issue through stating that:

*“Put simply, when mothers raise concerns about whether contact between a perpetrator of domestic abuse and a child is safe, they are accused of attempting to ‘alienate’ the child from the father. They are also accused of making false allegations of domestic or child abuse.”*

### Key points from the guidance

The FJC guidance is essential reading for all children law practitioners. One of the key specific points made in the report is that there is no diagnosable “*syndrome*” of parental alienation. The following elements would need to be proved before “*alienating behaviours*” could be established:

- 1) the child is reluctant, resisting or refusing to engage in, a relationship with a parent or carer; and
- 2) the reluctance, resistance or refusal is not consequent on the actions of that parent towards the child or the other parent which may therefore be an *appropriate* justified rejection by the child, or 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 that have directly or indirectly impacted on the child, leading to the child's reluctance, resistance or refusal to engage in a relationship with that parent.

There are many reasons why a child might be reluctant to spend time with a parent and these should be considered before any findings of *"alienating behaviour"* are made.

For example, the child's rejection of the parent might be appropriate in the circumstances of previously harmful parenting or harmful behaviour towards the other parent. This situation is referred to in the guidance as an *"appropriate justified rejection"*. Alternatively, the child may simply have a greater *"attachment, affinity and alignment"* to one parent. This could occur as a result of a child trying to protect their relationship with the parent they spend more time with, or it could represent an emotional response to the child's own experiences of their parents. A child's reluctance to spend time with one parent does not necessarily equate to there having been any form of manipulation exercised. There is sometimes no clear explanation for a child's reluctance to spend time with one parent, but again this does not mean that there has been alienating behaviours.

Careful consideration must be given to any context of domestic abuse when there are allegations of *"alienating behaviours"*. There is acknowledgement within the guidance that a parent's decision to not promote contact between the child and the other parent could be a *"traumatic response on the part of the victim parent"* who has been subjected to domestic abuse. Alternatively, they could simply be exercising *"protective behaviours"* to safeguard the child.

Experts should not be instructed to make *"findings"* of alienating behaviours. Expert evidence from a psychologist may, however, assist the court in making welfare decisions when alienating behaviours are present.

The wishes and feelings of children must be considered carefully in cases where alienating behaviours are established, unless there is strong evidence to suggest that a child cannot express their own wishes due to parental manipulation. Caution must be exercised when examining the language used by a child to express their opinions. There might be many reasons why a child may use repetitive or adult language. For example, a child might simply be trying to be more persuasive in expressing their views through employing more sophisticated language. This does not necessarily mean that the child has been *"coached"* into expressing a certain opinion.



Welfare considerations must remain paramount when dealing with cases involving allegations of alienating behaviour. In particular, great consideration must be given to the impact on a child when an order for change of care is contemplated. The guidance is clear that *“the court should avoid making orders for the transfer of the care of children as a sanction for a parent’s refusal to help restore the disrupted relationship”*. A finding that a parent has engaged in alienating behaviour does not automatically mean that a change of care will be in the child’s best interests.

Where findings of alienating behaviour have been made, the court should consider whether it is necessary to appoint a 16.4 Guardian to represent the child. The court should also consider whether the child should be represented separately from the Guardian if their views diverge.

If it finds that alienating behaviour is a feature of the case, the court will likely seek advice from Cafcass to ascertain the appropriate support that could be offered to a family. The court should also consider whether there are any interim measures which could be implemented. Findings of alienating behaviour will be *“relatively rare”* as, despite the prevalence of allegations, research suggests that few child-parent relationships are actually impacted by alienating behaviours.

The President of the Family Division, Sir Andrew McFarlane, who is also chair of the FJC, comments that :

*“In my view this guidance is required to ensure greater consistency of approach across the courts and to improve outcomes for children and families and to protect children and victims from litigation abuse. It has my endorsement and I encourage everyone working within the family justice system to read it carefully.”*

A copy of the full guidance can be found via [judiciary.uk/ guidance-and-resources/](https://www.judiciary.uk/guidance-and-resources/)

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