

Un-heard: Lived Experience in a Hostile System

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The APPG



This APPG was set up as a forum to work with representatives to increase awareness of the issues in child-centric family courts relating to the concept of parental alienation. It is essential that the child's voice is prioritised in relevant proceedings. Thus, the APPG is trying to address the issues that arise due to the weaponised use of 'parental alienation' allegations in family courts.

Members:

Chair: The Right Honourable Jess Phillips MP

Vice Chair: The Right Honourable Jane Hunt MP

Officer: The Right Honourable Kate Kniveton MP

Officer: The Right Honourable Rosie Duffield MP

Introduction



“The APPG’s report makes clear the continuation and scale of harms to victims of abuse in family court. Mothers are discriminated against; human rights breaches are common. Children reporting abuse are subjected to professionals making counter-allegations about their disclosure of abuse instead of helping them stay safe.

The results are in from our call for input to mothers in family court. Just under two hundred mothers, who are responsible for over 300 children subject to family court proceedings, responded to our call for input. In a society in which male violence against women and children is prevalent, justice systems must act robustly to protect citizens. Governments are legislating to reduce harm to victims in the criminal process, yet not in the family setting. The family court presides over 52,000 private law children’s cases annually (Government UK, 2022), regularly trying allegations of abuse to make findings of fact. Victims can be in both the criminal and family court systems in parallel proceedings yet receive a hugely different response from each system (The Law Society, 2007). Mothers reported great disparity of treatment in the family court in comparison to all other agencies they were involved with. Mothers often reported brutal responses in family court that are not exhibited in other systems dealing with the same matters, symptomatic of silo working. The issue of silo working was raised in the Ministry of Justice Harm Report (Ministry of Justice, 2020).

Parliament is currently legislating to strengthen the law for abuse victims to make a fairer society for those subjected to this egregious, often life-changing crime. The Victims Bill is currently passing through Parliament, yet the scope of the Bill does not currently extend to the family court (Parliament UK, 2023). Victims who have children are likely to experience two entirely different state responses concurrently without reform. Children are victims of abuse too.

Amid rising controversy regarding the use of parental alienation expert witnesses in family court, the use of such experts continues despite the risks they present for parents and children alike (British Psychological Society, 2022). Sir Andrew McFarlane in a landmark ruling in February 2023 stated that it was the role of Parliament to determine

the issues in allowing experts to operate without regulation (The Guardian, 2023). Parliament has yet to begin work on any legislation aimed at ensuring family court proceedings reach safe, fair outcomes for adult and child victims of domestic abuse.



It is therefore no surprise that the responses to our call for input contained accounts of appalling conduct of court professionals, hostility, and discrimination along with human rights, clinical, and legal failings.

In the call for input, participants were asked what they wanted to see from their elected representatives, and how they wanted the issue of harm in family court to be solved. The answer is clear. Voters want Parliament to legislate to reduce the harm in family court. It's time that the Government acted and recognised the damage caused by the family court to the health, lives, and safety of mothers and children. What does that mean? As a

basic first step, it means ending the age of self-regulation for experts helping to make decisions about children's lives; it means requiring all court professionals to be bound by a code of practice; and it means prohibiting the use of parental alienation allegations against adult and child abuse victims. But more than that, it requires a comprehensive overhaul of our outdated family court system. At present, current and proposed victims' legislation has little bearing on the harm to victims in the family court, particularly children (UK Parliament, 2023). The goal of preventing these harms should be at the heart of legal frameworks whether that cover both the criminal and civil settings.

The United Kingdom has ratified the Istanbul Convention, which requires states to act robustly on violence against women and children, regardless of whether that violence happens within or outside of custody arrangements (Council of Europe, June 2022). I hope this report, along with other reports published on this issue, marks a turning point in how politicians respond to these issues. Stopping the wide-ranging, multi-level impacts that domestic abuse causes is one of the greatest challenges of our time. For too long, the government has failed to treat the family court's response to domestic abuse as the serious political issue that it is, whilst saying it is 'tough on crime'. The court is where the buck should stop for domestic abuse, not the place where an abuser is allowed to continue".

Natalie Page

Survivor Family Network CIC



1. The Call For Input

This report is principally based on a survey conducted in Autumn 2023. The call for input aimed to obtain an up-to-date view of cases in the family court that cited domestic abuse. The call for input was shared publicly on social media, to a diverse and widespread number of followers who were invited to re-share the survey on their social media feeds to encourage wider participation. The survey was designed to encourage detailed responses as well as quantitative data. 197 mothers completed the survey, most of whom fell into the 36-49 age category.

Through the mothers' data, the survey also accounted for the experiences of approximately 306 children. The youngest of these was 6 months old. The mean age range was 6-10 years, closely followed by 11-15 years. The children's ages recorded in the survey are understood to be the ages at which they were involved in proceedings.

1.1 Overwhelming themes of discrimination

21% of participants were from a mixed or minority ethnic group (excluding white minorities). 80% of participants felt they were discriminated against during proceedings on one or more of the Equality Act 2010 protected characteristics. Participants felt strongly that their ethnicity in particular was a prominent factor in their voices being unheard, belittled or minimised.

This theme was even more prevalent among those who self-declared as not originating from the UK, who were sometimes openly criticised in court for their use of the English language or their pronunciation. One participant noted, "Being a foreigner is a big disadvantage here".

1.2 The “Hotbed” Myth

Although 23% of those surveyed reside in the South East of England, there were no discernible trends to suggest that some areas of the UK demonstrate particularly prevalent “hotspots” for pseudoscientific theories used to remove children from mothers. Rather, the data demonstrated the wearying fact that no court or area of England and Wales appears to use a trauma-informed approach to help achieve sound, safe outcomes for children subject to family court proceedings.

1.3 Public Law or Private Law

Family law cases mainly fall into two categories, private and public law.

Private law cases relate to parental disputes involving their children, such as those occurring during divorces or separations. These cases usually involve decisions about child arrangements, such as who the child lives with or spends time with. Private law applications can cover a wide range of issues; from a change of name or registering Parental responsibility to applications for relocation of children domestically or abroad with one of the parents. Private law cases may also involve extended family members like grandparents (Judiciary UK, 2018).

On the other hand, public law refers to situations where local authorities intervene to safeguard children from harm. These cases often involve instances of abuse or neglect (Judiciary UK, 2018).

95% of respondents to our call for input said that their cases were private law, and only 5% of participants in the call for input indicated their case was public law.

1.4 Lengthy Proceedings

In the call for input, only 17% reported that their cases went on for less than 12 months. 31% said their proceedings lasted between 1 and 3 years, and 20% answered that their cases lasted 3 to 5 years. Unfortunately, many cases went on for an even lengthier amount of time, with 10% of respondents answering that their proceedings continued for over 5 years. Worryingly, 3% said their proceedings lasted for over 10 years.

This demonstrates that family court proceedings involving domestic abuse often take place over a lengthy period. Studies show that women, whose health and well-being are already negatively affected by domestic abuse, find private law proceedings (in this study, 95% of respondents said that their cases were heard privately) anxiety-provoking and disruptive (Women's Aid, 2016). In one study, 74% of women reported that they feared for their safety in court (Coy *et al*, 2012). Thus, the knowledge that a significant proportion of survivors are

forced to participate in proceedings that are ongoing for years, is alarming.

2. Unheard: Children's Voices in Family Court

Under the 'welfare checklist' set out in Section 1(3) of the Children's Act 1989, courts are required to listen to the "ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)", however research shows that children's voices are not adequately listened to during child arrangement disputes (Nuffield Family Justice Observatory, 2021). Responding to our call for input, 92% of survivors said that they did not believe their voice was heard in court, and/or that their experience of abuse was adequately considered.

Whilst children of all ages have the right to be considered and heard in matters concerning them, older children are more able to communicate their wishes and feelings. They are more likely to be

deemed Gillick Competent (The NSPCC, 2022). As children grow, it is thought that more emphasis is given to their communicated wishes, which should then be given careful consideration by the court. Key research demonstrates that children want to be more involved in decision-making when their parents separate (Nuffield Family Justice Observatory, 2021). However, 88% responding to our call for input said their child was not adequately listened to by the court. This sentiment is in line with prior research, which has demonstrated that there is a 'selective approach' taken to the consideration of children's wishes in the family court, dependent on how agreeable the child is to maintain contact (Coy *et al*, 2012; Harrison, 2008) This is particularly significant given the survey also demonstrates that the majority of children were, when the court proceedings were still ongoing, over the age of 11, and more often than not, would be able to articulate their wishes and feelings clearly and effectively.

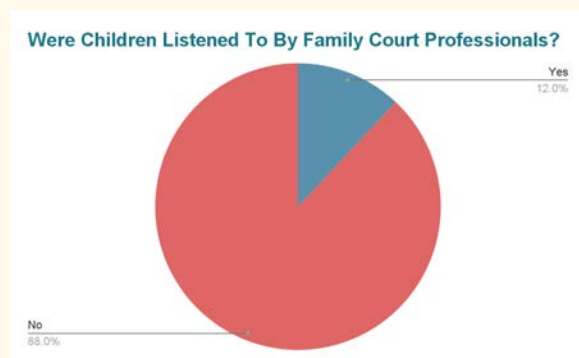
Further, under the Domestic Abuse Act 2021, the children would be considered victims of domestic abuse in their own right. Therefore it is worrying that children's voices often go unheard in proceedings.

69% said that the child(ren) demonstrated reluctance to have contact with the other parent. The basis of this reluctance was rarely properly explored by the court. Even where the court was presented with clear evidence that the child was being abused by the father and this was the reason for the child's reluctance to have contact, the court would often dismiss those concerns.

The family courts are not only hearing concerns about domestic abuse from mothers. Children are also spoken to as part of the process in most cases.

Children made professionals aware of abuse they had been subjected to or witnessed in over half (56%) of cases. In cases where children disclosed abuse, they referred to name calling,

gaslighting, and humiliation in 26% of cases; slapping, shoving, hitting, and strangling in 20% of cases; controlling and coercive behaviour in 20% of cases, breaking things, threats of suicide and displaying weapons 16%, and sexual abuse in 6% of cases. A further 6% of children also reported economic abuse such as control over the family income, interference with education, and damage to their property to the court.



If parental alienation was alleged it was usually *after* the child disclosed abuse indicating that it is a weapon used against children as well as adults to obfuscate such reports. Children who reported abuse found their claims rebutted using parental alienation theory at a rate of 45%, however, 41%

continued to report abuse throughout proceedings despite this being alleged.

53% said the allegation of parental alienation affected how professionals responded to the child. Qualitative responses to the survey outlined how mothers were blamed for their children's reports of abuse, and how children were pushed into contact with a father they have reported as subjecting them to abuse.

Mothers expressed that their children were groomed by professionals to spend time with the person they have reported, particularly in cases where children had reported sexual abuse. One mother said: "There was an open police investigation into our daughters disclosures of sexual abuse by her father. The police requirements were that the father should have supervised contact only and should not be left alone with the children at all for the duration of their investigation. Despite this, the family court judge ignored the police requirements, and transferred the children to live with their father despite

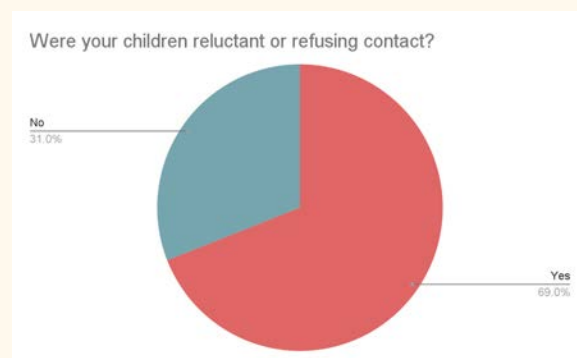
there being a live police investigation at that time. The investigation then collapsed as the transfer of residence and finding of PA undermined it."

Mothers were blamed for their children's reports by being accused of parental alienation.

2.1 Mother-Blame by Extension

Children were treated as an extension to their mother – and their abuse disclosures were therefore viewed by professionals as the fault of the mother.

It was assumed a child's abuse disclosure arose from the mother exposing children to negative views about the father. Children are victims under the Domestic Abuse Act 2021, yet their reports are dismissed by family court professionals using parental alienation theory frameworks.



The civil arm of the state is actively discouraging reports of abuse when it occurs in families. In vanishingly rare cases where Cafcass officers did share concerns about abuse, they were also dismissed by the judge.

It's commonly reported that mothers were told by professionals that "you'd force them to go to school and this is no different", when professionals want to achieve contact - even if by force or coercion - towards a child reluctant about contact or refusing contact. However, this is a damaging parallel used to compel mothers to force a child into contact with someone whom the child says has harmed them. Comparatively, if a child is abused on school premises parents and children would have a right to voice those

concerns. Families would likely take steps to remove the child from the situation if it was not adequately addressed, and they would not be criticised for doing so. Children have the right to contact with both parents and a right to education - if it is safe, rather than regardless of whether it is safe. Our findings show that children who are not safe disclose this to professionals.

Professionals often respond by coercing them into spending more time with the person they reported as abusive rather than

taking steps to minimise their risk of harm.

One mother pointed

out how the fear of alienation allegations in her first family court proceedings negatively affected her ability to safeguard the child in subsequent proceedings. In the first set of



proceedings, she was under immense pressure to speak positively about the father in court. She had to always paint him in a positive light to the child and the court, despite the mother and the court knowing he was abusive.

Subsequent proceedings arose because the abuse had worsened, and she needed to limit his access to the child to keep her safe. The previous positive reports followed the father, and the subsequent reports of abuse were treated less seriously as there were positive reports on the record. The previous reports were essentially a construct to avoid being punished using parental alienation theory. When it came to properly protecting a child at increased risk, she was unable to do so.

A system that minimises reports of abuse due to parental alienation theory (Birchall, 2021) is unable to safeguard children when they need it most.

2.2 Compelled Gaslighting

Qualitative accounts described mothers being compelled by professionals to tell a frightened child who reported abuse

that their fears were wrong and that the father was a safe person. Mothers were coerced into gaslighting their children about the abuse that the child directly experienced or witnessed, to make them spend time with their abusive fathers. One mother said: "[I was] told they were too young to understand. Order was made compelling me to make them go to contact. Told that clear recollection of events was "unreliable" as they could not give specific dates (since they were 4 year's old)"

2.3 Reporting Abuse Leads to More Contact

Children who reported abuse against their father were more likely to be ordered to spend more time with him, rather than less. Three-quarters (75%) of mothers who completed the survey indicated that the abusive parent's contact with the child increased rather than decreased following proceedings citing abuse, and 70% said that this contact was completely unsupervised. In 24% of cases, the child was moved to

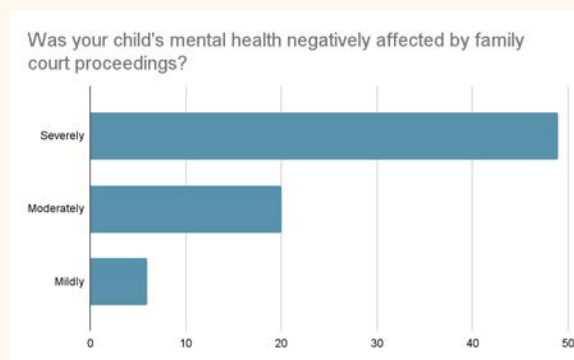
live with an abusive parent, and mothers lost contact entirely with the child in 33% of those cases.

Public campaigns exist to encourage people to speak up about abuse, and the family justice system's responses are entirely at odds with this.

2.4 Children's Long-Term Mental Health Risks

Consequently, children in family court face a range of negative outcomes.

Three-quarters of mothers completing the survey reported that their children's mental health was negatively affected by family court proceedings, and 69% felt their children's mental health was moderately or severely affected by the court process.



Children affected by family court proceedings exhibited psychological distress such as intensified anxiety, and self-harming behaviours (World Health Organisation, 2022; Peterson, Joseph and Feit, 2014). Increased contact with the person the child was reluctant or refusing contact with on the grounds of abuse presented a wide range of negative impacts on children which was not limited to their mental health. In addition, 22% reported that the child's physical health was affected such as recurring stomach aches, bed wetting, weight loss, and other physical signs of abuse. A further 21% said it affected the child's relationships with others as the perpetrators' behaviour shaped their relationships with family and peers. Many parents observed that increased contact with a perpetrator affected their child's education, 16% found that their child's participation and progress at school was negatively affected as a result.

It is important to remember the length of time proceedings last when

considering mental health outcomes for children, only 11% of cases were ended in under a year. Most participants in our call for input had been in proceedings longer than a year, and 10% were in proceedings longer than five years. The impacts on children's mental health are concerning due to their severity and longevity.

One mother raised the impact of proceedings on the child's mental health to a CAFCASS officer who said, *"if your daughter harms herself as a result of these proceedings you'll just have to call an ambulance won't you."*



3. Silenced: Adult Victims Voices

Parental Alienation is not a term that is found in any diagnostic manual, it is nonetheless used routinely in family courts throughout the country (Home Office, 2023).



Originating in the 1980s, it has managed to persist in various guises. The theory is used to silence claims of domestic abuse and shift focus away from the perpetrator as the abuser and source of the problem, to the victim(s) as the source of the problem (Home Office, 2023).

3.1 Sophisticated and Heinous: The use of Parental Alienation Theory

The problem they are trying to address is a child's resistance or refusal to have contact, usually with someone they are saying was abusive to them or their mother.

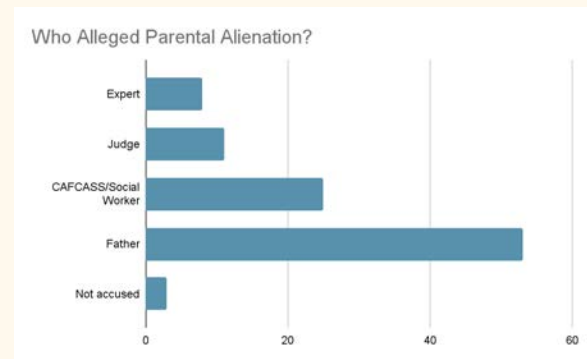
Sophisticated as it is heinous, accusations of parental alienation by fathers and court-appointed experts resonate louder in the court's ears than evidence of domestic and child abuse (United Nations General Assembly Human Rights Council, 2023). A father or court professional can simply allege parental alienation to explain why the mother is not supporting a child's contact with their father, sidelining abuse allegations. Parental alienation theory dictates that it is a mother's irrational distrust or hostility that is damaging the child's relationship with their father, rather than the father's abusive conduct (James and Holt, 2021). This is often spoken about in court as maternal hostility to sidestep the controversial label of parental

alienation. The conclusion drawn from this unfounded theory is that the mother is causing harm to the child, and thus the child must be removed from her care

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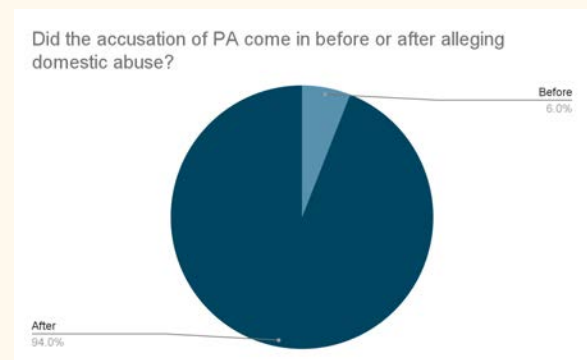
3.2 Courtroom Responses to Abuse Reports

Responses to reports of domestic abuse was commonly an allegation of parental alienation, with 68% being accused of parental alienation; Most of the accusations came from the father (53%), CAFCASS or social worker (25%), or the judge (11%) or an expert witness (8%). The accusation of alienation came in after a victim reported abuse in most cases (94%), and 44% of the counter-allegations were made by court-appointed professionals.



For victims, alleging abuse is likely to lead to either the father or the system alleging alienation. In only 6% of cases was alienation alleged before allegations of abuse.

One participant commented that she was being threatened with the child being removed from her care without due process: “The judge accused me of alienation with no fact-finding to determine it”.



“The case was not heard properly. I could not explain the abuse because if my narrative was negative then that would be evidence of alienation, especially to Cafcass.”

For mothers, this makes it difficult to protect their children as when they report abuse, they find those reports rebutted by a range of people in the court process making counter-allegations against the victim.

In 23% of cases, the parental alienation allegation came in before the fact-finding hearing, and in 16% of cases, it came after a fact-finding hearing. 60% of mothers accused of parental alienation did not have a fact-finding.

Detailed responses were submitted by participants about how parental alienation allegations affected the case.

“All professionals sided with the perpetrator and threatened to take the kids away.”

“I was threatened that...the children could go into care....so I had to agree to unsupervised visits”

Allegations of parental alienation are understood to neutralise claims of abuse and incapacitate victims from raising allegations or dealing with abusive behaviour (Tomkins *et al*, 2022). Any negative expressed by the mother or children about the father in this context is considered evidence of alienation. It creates a circular narrative where the victim is damned if they do and damned if they don't – the victim cannot limit his behaviour and she cannot limit his ability to create opportunities for that behaviour to be perpetrated. However, if the mother objects to unsafe contact, the victim runs the risk of losing their

children to the perpetrator (Birchall, 2021).

“He had been violent to both our lads, but to the court it was like it never happened”

Many reported losing their children or facing the threat of losing their children, essentially for voicing negative aspects of (usually) the father’s behaviour or concerns about previous or ongoing domestic abuse.

3.3 Maternal Hostility

The mother is then tasked with proving a negative: that she is not hostile to the father. The parental alienation narrative hides the cruelty of the reality: if a mother or a child raises concerns about abuse, these concerns are viewed as further evidence of parental alienation. Abuse disclosures are summarily

dismissed after being repackaged as a symptom of “maternal hostility”.

“It meant that every time the children spoke of the abuse they had experienced and/or witnessed [it was] put down to them being coached.”

This means genuine safeguarding concerns are not investigated (Ministry of Justice, 2020). Parental alienation, if found by the court, has dramatic consequences for children such as being moved to live with the parent they expressed reluctance or refusal to have contact with on the grounds of abuse. As mothers explained, the allegation of parental alienation changed the entire focus of the case:

“It made it difficult to speak out against the abuse and seek support. We felt forced to ignore the abuse, shove it under the

carpet and get on with contact as if only the right to contact with the abusive parent mattered....It gave the judge, perpetrator and Cafcass an unreasonable excuse to shift blame onto me as the mother, who was already a victim of DA. Family court and PA has felt like abuse in the form of gaslighting and.. gagging...”

“I can no longer raise any concerns about my child due to it being labelled alienation and I am forced to agree to unsafe contact arrangements including [sic] me having contact with father to demonstrate I am supporting contact”.

3.4 The Origin of Parental Alienation Accusations

Not all of those surveyed instigated proceedings as a direct result of domestic abuse, although most cases cited it. It is therefore highly significant

that an overwhelming 95% report parental alienation was subsequently used against them after they made an allegation of domestic abuse. This reinforces the evidential basis for the use of parental alienation theory as a tactic: the child and/or mother alleges domestic abuse, and the father or professionals then allege parental alienation to counteract the abuse claims.

Interestingly, the call for input findings demonstrates that parental alienation allegations are made even in the absence of a court-appointed expert ‘diagnosing’ parental alienation. 54% reported that parental alienation allegations were made but no expert was involved. This demonstrates the extent to which this pseudoscience has been permitted to dictate the course of proceedings.

The call for input results demonstrate that this tactic occurs, and is successful, even when it is children who disclose abuse rather than their mothers. 56% stated that it was their child or children who disclosed abuse by the father to the

court. This included psychological, sexual and physical abuse, and controlling and coercive behaviour. The overwhelming majority of these disclosures by children were made before or during proceedings. Significantly, they were not disclosed after parental alienation allegations were made. Only 30% of these disclosures were made by the child to the mother. Most were made to third parties such as teachers or social workers.

3.5 Outcomes following parental alienation allegations

Even if subsequently dismissed, parental alienation allegations can steer the court's attention away from the primary consideration of a child's best interests and the risk of harm they may be placed at.

“Once PA was alleged, everything was viewed through that lens. The children's disclosures were

minimised, their voices were silenced, and my evidence all meant nothing. The most innocent, loving and natural mother-child interactions were turned into something sinister, to use as 'proof' of PA.”

“It totally discredited me as a witness, escalated proceedings causing me further financial and emotional harm, and prevented me from protecting my children.”

Following allegations of parental alienation, mothers often abandon their claims of abuse not because they are unfounded, but because they are attempting to protect the contact they have with their child. One mother noted that she was threatened with the children going into care if she did not agree to the perpetrator having unsupervised contact. She could then only agree to him having unrestricted

access to the children despite the case citing domestic abuse.

3.6 How Professionals Respond to Parental Alienation Allegations

53% confirmed that allegations of parental alienation impacted how professionals involved reacted to a child's reluctance to have contact with their father. In 1 in 4 cases, the allegation had originated from court professionals such as CAFCASS officers and Social Workers. Mothers described how professionals reacted.



“The Judge said if a child refuses, you should physically lift them out of your car and put them into the father's car.”

“Initially I was told not to force my child to have contact. When alienation was alleged by the father, all of this changed. I was no longer believed. The social worker and cafcass and therefore judge immediately decided my child wanted no contact because of alienation, rather than the evidence of physical and emotional abuse.”

Many comments under this section of the call for input focused on CAFCASS' inability to properly assess a child's best interests once parental alienation allegations are raised. CAFCASS' website includes a section on “alienating behaviours” which is an unhelpful endorsement of pseudoscientific parental alienation theory (CAFCASS, no date). The majority of CAFCASS officers do not appear to recognise that parental alienation is often used as a tactic to rebut abuse allegations and exert control over adult and child

victims. There appears to be a general lack of awareness in related professional circles outside of the courtroom (GPs, social workers, psychologists, counsellors, teachers) of how and why parental alienation theory is typically used, and the impact on adult and child victims thereof.

3.7 Complaints

Some mothers submitted complaints about the treatment they received from family court professionals. Qualitative accounts suggest that if a mother complains about a professional involved in the case, such as a CAFCASS officer or an expert psychologist, this is used by the court to strengthen the court's maternal hostility/parental alienation arguments. In such instances, the rationale typically put forward by the father and by professionals involved in the case) is that if the mother has complained this is simply evidence of her refusal to accept the views of the court. This leads to a dangerous 'groupthink' where the mother's views of

the case are undermined by the very existence of her complaint.

Complaints about court-appointed psychological expert witnesses have gone either unacknowledged or not properly investigated by an inept regulator, the Health and Care Professions Council. This body, which is tasked with protecting the public, has been identified as failing on several key fitness-to-practice criteria by the Professional Standards Authority in 2019 (Professional Standards Authority, 2019).

Regulators' responses were substantially lacking, indicating the issues identified about the HCPC by the Professional Standards Authority were not sufficiently addressed. From November 2022, Survivor Family Network CIC oversaw several complaints to the HCPC, which regulates health and clinical professionals, concerning the conduct of expert witnesses who were instructed by the court to conduct psychological assessments. Persons

regulated with the HCPC are bound by the rules of the regulator (The HCPC, 2023). Concerningly, a caveat to their complaints process meant that anything an expert says or does in the courtroom is outside of the HCPC's remit, which meant that as soon as the expert walked into the courtroom, they were free from regulatory oversight.

Clinical professionals have a strict code of practice, which sadly is not enforced sufficiently enough when it comes to experts in family court. The HCPC is a light touch regulator. The complaints we monitored were dealt with slowly, some were still ongoing without any kind of resolution a year after submitting them. The HCPC responses to clients' complaints revealed they were unconcerned about experts using non-clinical theory in diagnosis, such as parental alienation, which cannot be diagnosed. Mothers who submitted complaints to the HCPC were then followed up with by the HCPC for further information. However, the

requests for information were such that essentially, they required the mothers to do the regulator's job of investigating their complaints. Experts who were under investigation were still permitted to take court instructions for new clients despite live and ongoing investigations regarding their conduct. Some mothers were forced to have further assessments or addendum reports prepared by the expert whom they had complained about, even when the mother withdrew her consent to be assessed by that particular professional. One mother stated:

“I thought I had a right to complain about the pseudoscience used and the blatant misogyny demonstrated by the expert in our case. I thought that my complaint would be thoroughly investigated. Instead, it was dismissed and used against me.”

If an expert is unregulated there is no regulator to complain to, and no route to recourse should something go wrong, which presents a greater level of risk for families. Unregulated experts are still being instructed by the family court to inform the court's decisions regarding children, despite recent controversy (The Guardian, 2022; The Guardian, 2023).

“Once my complaint about the expert had been ordered by the judge to be disclosed in proceedings, I was then brutally cross examined on it. My complaint was used to suggest that I did not accept the father should have contact. When giving his evidence, the expert about whom I had complained stated my complaint indicated my harmful views were more extreme than he had thought, and he now definitely recommended that my

daughter was removed from my care.”



3.8 The harmful effects of family court proceedings

Over 70% of those surveyed stated that court participation negatively affected their child's/children's mental health. This reinforces previous findings of the Harm Report.

82% reported hostility from the judge or courtroom.

Participants gave detailed examples of the hostile, rude and generally damaging

things that were said and done by court professionals in their cases which caused, contributed to or exacerbated their trauma.

4: Court outcomes

Increasing contact between a child and an abusive parent is, at the very least dangerous and, in the most serious cases, it is fatal (Saunders, 2004; Women's Aid, 2016). Children may be at risk of physical, sexual, and psychological abuse during contact (Harwood, 2021), and their mothers are not safe either. Abuse often increases in intensity upon separation; one study found that 76% of women who used domestic violence outreach centres experienced post-separation abuse (Harrison, 2008). Therefore, the findings of the survey are distressing as many women recounted how increased contact was ordered between their child(ren) and the perpetrator.

Our call for input revealed that in 75% of participants' cases, increased contact was ordered by the court (or had been ordered if they were in live proceedings at the time of the survey), between their child(ren) and the abusive parent in their proceedings. 70% reported that this involved their child(ren) being left alone with the abusive parent, who was entirely unsupervised.

Concerningly, 24% of participants said that their child(ren) had been moved to live with the perpetrator, or that a move was proposed if they were in live proceedings at the time of the survey. Sadly, 33% of mothers said that they were not permitted to maintain contact with their child(ren) after the move, in stark contrast to the court's often-stated priorities to maintain contact with both parents.

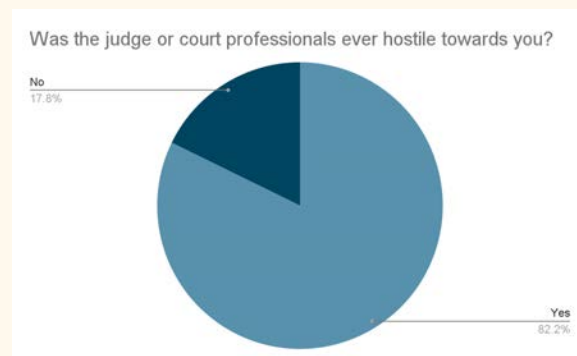
Therefore, it comes as no surprise that many mothers and children who have been subjected to abuse are unhappy with the outcomes of their cases. 63% of mothers stated that they were

unsatisfied with the outcome of their case, 16% said that they were satisfied (and the remaining 21% said that their cases had not reached an outcome).

The above data highlights the need for change; many survivor mothers and children are not happy with how the family court system is managing cases that involve domestic abuse, and decisions are often being made that endanger mothers and children. Family courts must acknowledge that abusive parents are not safe parents and to protect victims unsupervised contact should never be ordered where there is a history of domestic abuse.

4.1 Professional Hostility

The courtroom presents a hostile environment for mothers who report abuse. They are likely to face discrimination. Some mothers did report that they had a good judge and were treated well by the family court.



However, the overwhelming majority, over 82% of participants in our call for input, stated they had experienced hostility from court professionals in the courtroom, including the judge. Qualitative responses were submitted, which identified a range of ways the court was hostile to mothers identified as victims of domestic abuse. Such as brushing evidence off as irrelevant if it identified anything bad about a father, making threats of prison towards victims of abuse, or other derogatory comments. Judges losing their temper was reported along with actively discouraging mothers' participation in justice. Access to justice is a human right under Article 6 of the European Convention on Human Rights². Judges

² European Convention on Human Rights 1950, Article 6

were reported to deny special measures provided under the Domestic Abuse Act 2021³. Solicitors instructed by Cafcass on behalf of the children were identified as removing mothers' evidence of abuse from bundles, and judges or court staff were reported as turning off mothers' microphones while they were giving evidence in remote hearings, and even holding hearings without the mother, or holding hearings without the mother knowing what was going to happen.

“I was threatened with prison, discriminated against for my disability, and had a final hearing without me knowing they were going to change my child’s residency. I was told, “Just because he abused you it doesn’t mean he will abuse the children”.

Worryingly, mothers who experienced ill health in the courtroom were not sufficiently helped and were compelled

to continue with court hearings. One mother collapsed in the courtroom and was hospitalised for two days following the way the judge spoke to her during that hearing. A recently published case involved a heavily pregnant mother being compelled to take her blood pressure on the witness stand and having to continue with the hearing despite evidently being in poor health⁴.

Mothers and children reporting abuse were chastised for ‘not getting along with’ their abusers. Recent abuse findings and criminal convictions were brushed off as ‘historical’ despite the consensus of understanding around domestic abuse - that it does not stop after the relationship ends.

Post-separation abuse is now a crime, yet it appears to go largely unrecognised in family court .

Some court professionals and judges expressed biased or misguided opinions about the abuse the mother was reporting, using myths and stereotypes

³ The Domestic Abuse Act 2021, s 63

⁴ SP v DM [2023] EWHC 2089 (Fam) (17 August 2023)

about victims and what they ‘look like’ – such as “it is implausible that a well-qualified woman like you could have been a victim of domestic abuse.” Professionals' and Judges' comments to and about victims revealed a critical lack of understanding about domestic abuse, despite their recent commitment to training (Judicial Office, 2021).

4.2 Shock and Law

The survey asked mothers what shocked them most about being in family court. Many mothers reported that their perception of the justice system was shattered when they experienced family court proceedings citing domestic abuse. Most people in a democratic society hold fundamental beliefs about a ‘just world’ and what that means, and mothers stated it was traumatic to have that belief completely unseated upon entering the family court.

“They just accepted his word over my evidence”

“It just seemed so one-sided towards the father”

Mothers wrote about the shock of realising the disregard for their human rights and the simultaneous elevation of the father’s human rights - who was alleged or known to be abusive. Mothers identified the disregard of their rights and described it as ‘discriminatory’ and ‘misogynistic’ because human rights are universal, yet they did not see them being universally applied. Mothers felt that family courts operated with a lower standard of integrity compared to other institutions and compared to their expectations about the justice system in general. They reported shock about professionals misreporting things that were said by the mothers. Mothers wrote about their shock at how different the family court was compared to the

rest of the justice system and the rest of society. Outside the closed doors of the family court, professionals advise women to leave abusive partners in order to keep their children safe. Behind those closed doors, the message is very much reversed. Mothers are ordered to send their children to spend time with a person who has been found to have perpetrated domestic abuse⁵.

“Up until this point, all professionals support and encourage you to leave a domestic abuser and they emphasise the safety of the children. In the family court, they encourage contact at all costs which is often unsafe and causes further trauma to a family who has already been through enough.”

Mothers alleging abuse were shocked at how traumatic the experience was and the effect the proceedings had on them

and their children. It is well documented that domestic abuse being minimised in the family courtroom is a common occurrence, with detrimental outcomes for mothers and children (Ministry of Justice, 2020). Mothers reported shock about the minimisation of their reports and evidence of abuse. They described judges openly making comments in the courtroom that abuse doesn’t matter or that rape or abuse is irrelevant to child contact. A mother described their shock at being found guilty of alienation without trial or evidence, it was simply decided by the judge. Many mothers described being bullied in the courtroom and their evidence of abuse being summarily omitted or dismissed. The dismissiveness continued even when there had been witnesses, police involvement, MARAC and social worker concerns about abuse perpetrated by (usually) the father. It was felt that other organisations and agencies understood domestic abuse, but this was not understood in the family court.

⁵ Hunter and Barnett 2018

The call for input asked mothers to describe the worst thing that was said to them by professionals, and what shocked them most during the court process.

“The report said mum was dragged into the bathroom from the bedroom and father tried to lock her up. The judge went, ‘yea, so?’ It was piercing. Family court has felt like the second round of endless abuse and mockery of our suffering.”

“I have a live complaint ... due to the way the Judge spoke to me during a hearing. As a consequence of this behaviour, I collapsed in the court room and was hospitalised for two days. “

“The father must be in the child’s life regardless of what he has done.”

“[The judge] gave thumbs up to father’s witnesses and spoke with an entirely pleasant and amenable tone to him and them however, in contrast, shouted at me, was rude and curt to my witnesses and disabled them being able to give evidence”

“You are just a bitter mother”.

“The court said ‘he has to see his dad. You need to get used to it and rip the plaster off. We all lie to our kids, father Christmas isn’t real so what’s the harm in saying what he allegedly witnessed was a dream?’ “

“These screens turn my courtroom into a circus, maybe your ex’s behaviour is a result of you creating drama.”

“Credit was given to my ex-husband for not assaulting me

in front of the children. And the judge said he “seemed very reasonable”. And they declared they had no safeguarding concerns despite the ongoing police investigation into rape, domestic violence and coercive and controlling behaviour”

“They said I need to invite my abuser to my home, place photos of him in my home.”

“The judge told me I was too intelligent to be abused.”

5: Conclusion

The call for input painted a bleak picture of the family courts, where more often than not, victims were treated with contempt, derision, doubt, and outright hostility. Victims were also treated with

a one-size-fits-all approach in that most cases led to more contact between the perpetrator and the children, consistent with criticism that the family court has a ‘contact at all costs’ position.

Domestic abuse victims responding to the call for input described their horror when they experienced two vastly different faces of the state in different parts of the justice system. The response to domestic abuse needs to be consistent across departments that deal with this egregious crime.

The writing was on the wall for the family court three years ago with the publishing of the Harm Report. The report made a significant number of recommendations for the family court to reform. They have not been addressed anywhere near substantially enough (Birchall, 2022), suggestive of a pervasive cultural problem within the family court.

5.1 Children's Distress

Children suffer disproportionately when they are the subject of family court proceedings. Largely, their wishes, feelings, and disclosures of abuse are frequently reframed and weaponised against the non-abusive parent, most often the mother. This causes children major mental health impacts which could have been otherwise avoided by using a more child-centric approach. Children did not just suffer from poor mental health and trauma, they experienced physical symptoms too. As a result of the proceedings, mothers described how children would display increased distress behaviours such as bed-wetting and self-harm. They described how the proceedings negatively affected their participation in education and their relationships with their peers and others. Children in proceedings experienced increased physical malaise such as recurring stomach aches and unexplained physical pain, along with heightened anxiety and distress. The results from the call for input revealed that children subjected to the practices in the family court failed to thrive due to a range of difficulties compared to when they were not in court.

5.2 Re-victimisation

The comments on the call for input were damning and too voluminous to include all in this report. The vast majority of respondents revealed how they were subjected to discrimination, hostility, and unprofessional conduct; how they and their children were put in harm's way, and how their concerns were ignored even with compelling evidence. The overriding theme that emerged was how skewed the scales were in favour of the party accused of abuse, and how easy it was for the alleged abuser to flip the tables and have the victim treated as the perpetrator. A range of research shows that DARVO is thought to be a tactic often used by perpetrators of interpersonal violence (Harsey, 2017). DARVO in the context of family court proceedings, encourages profound re-victimisation. However, this report revealed that a worrying proportion of

professionals were the ones making the allegations against child and adult victims of abuse, making state actors complicit in secondary abuse. Being revictimised by the court must never be experienced after being subjected to criminal acts the state has legislated against. Instances where this tactic is used not by the abuser, but by the state, must be recognised as a miscarriage of justice.

The effects of parental alienation allegations on the direction of the case were described in detail by the mothers responding to our call for input. They identified that the case changed rapidly and was effectively led down a path where only one result was possible; that the mother was indeed an alienator. They described that their access to justice was purposefully impacted once parental alienation was alleged. They outlined how their human rights were sidelined or entirely deprioritised.

5.3 Unmanageable Safeguarding Risks

Most concerning of all, was the effect of parental alienation allegations on children's safeguarding. Once parental alienation has been alleged it clouds the narrative of the case and causes professionals to actively dismiss and ignore children's reports of abuse. Worse, it compels professionals to push the children into the arms of the very person they reported for harming them or their family, with obvious and potentially lethal (Saunders, 2004; Women's Aid, 2016) safeguarding implications.

5.4 Unsafe, Unscientific, Unreliable

The most commonly reported concern from mothers in the family court was the seemingly unbridled use of parental alienation theory and the blanket acceptance of it in the justice system among professionals. Parental alienation theory's usage is as controversial as it is cruel. The theory relies on blaming victims of abuse which leads to unmanageable safeguarding risks for children (BBC, 2023). It should be of great concern to Parliament and the public alike that the justice system is using discredited

pseudoscience to form judgments and make life-changing decisions for children. Equally, clinical professionals ‘diagnosing’ parental alienation should be of great concern. Court-appointed psychologists operate largely outside of scrutiny by virtue of being in the courtroom and subject to strict confidentiality conditions (The HCPC, 2018). In reality, this means that some court-appointed experts have been diagnosing the undiagnosable without any consequence. Parental alienation cannot be and is not diagnosed or treated in any other setting outside of the court process (Re C [2023] EWHC 345).

The cases that were described in the call for input detailed how once parental alienation was alleged, the case proceeded down a path that appeared pre-determined and circular. Professionals responding to a child disclosing abuse quickly make the decision that their mother put them up to say that. Unsafe outcomes are all but guaranteed when professionals dismiss children’s concerns and reframe what they hear to suit a theory. Therefore, children’s voices must be transmitted, not translated to the court.

5.5 Punished for Protecting

Many mothers stated that they ended up entirely cut off from their children after reporting abuse in family court proceedings. Conversely, fathers who were alleged abusers had the court bending over backwards to facilitate contact ‘no matter what they have done’. Effectively, the worst punishment is meted out to the person who reported crimes rather than committed crimes against them or their children. The implicit threat to mothers is clear that if you keep talking about abuse, there may be greater, life-changing repercussions for your children. Such a threat has a silencing effect once in court which was a prevalent theme throughout the responses to the call for input. Mothers were at pains to be positive at all times about their perpetrator to avoid re-victimisation. It was encouraging that mothers still advocated strongly for their children’s safety and still acted protectively, despite the adversity they found themselves

in. It was the system's response to those reports, disclosures and evidence of abuse that was woefully lacking.

5.6 Voters Call for Reform

A key aspect of the call for input involved survivor mothers rating how important they believed different proposed and current reform options were to change the family court system to make it a safer place for survivors of domestic abuse. The participants rated these based on whether they believed the reform option was 'somewhat important', 'important' and 'very important'.

The options included:

1. The government should legislate to prohibit the use of parental alienation and the use of so-called parental alienation experts.
2. The government should establish regular monitoring mechanisms to oversee the effectiveness of family justice systems to protect victims of domestic abuse.
3. The government must ensure mandatory training for justice system professionals such as judges, on gender bias, the dynamics of domestic violence, and the connection between allegations of domestic abuse.
4. The government should implement detailed guidance for the judiciary that requires them to examine each case based on its facts.
5. The government must ensure and maintain a list of approved experts for the family law system and provide a formal complaint forum and an enforceable code of practice that examines any conflicts of interest.
6. No evaluations must be made in family law proceedings without considering the relevant criminal law and/or child protection proceedings.
7. The government must ensure that the experts employed are qualified and professionally regulated.

8. The government must ensure that selective interpretation of the child's view is avoided, thus the child must be accurately and independently represented in family law procedures without influence.
9. The government must ensure there is a public inquiry into the use of the pseudo-concept of parental alienation theory.

All the options had a majority vote of 'very important', this indicates that survivors believe that there needs to be a comprehensive change to the system. However, certain options were more popular than others. The five options that had been rated as 'most important' the highest number of times and referred to most in respondent's detailed comments in the call for input were:

1. The government must ensure mandatory training for justice system professionals such as judges, on gender bias, the dynamics of domestic violence, and the connection between allegations of domestic abuse and parental alienation.
2. The government must ensure that any experts employed are qualified and professionally regulated. The government must ensure and maintain a list of approved experts for the family law system and provide a formal complaint forum and an enforceable code of practice that examines any conflicts of interest.
3. The government should implement detailed guidance for the judiciary that requires them to examine each case based on its facts.
4. The government must ensure that selective interpretation of the child's view is avoided, thus the child must be accurately and independently represented in family law procedures without influence.

5. The government should legislate to prohibit the use of parental alienation and the use of so-called parental alienation experts.

Research indicates there are a plethora of issues in the family court system which prevent adult and child victims of domestic abuse from receiving the support they need, and the justice that they deserve. From abusers and professionals weaponising ‘parental alienation’ allegations to a culture of hostility and disbelief in the courtroom, there are many risks for victims in the family court system. Reform is required urgently, and this can be achieved by implementing the recommendations mentioned further, below. Adult and child abuse victims should no longer be re-traumatised, put at risk or treated with disrespect in the courtroom. They should not be forced into unsafe contact arrangements with criminals, and it must be acknowledged without delay that abusive parents cannot be safe parents. Children should never be coerced, compelled, or forced into contact with someone they know to be abusive.

6. Parliament’s Role in Family Court Reform.

The family justice system accepted several recommendations (Ministry of Justice, 2020) for reform but has not enacted changes swiftly, effectively or widely enough, leaving many families at risk of negative impacts. Over 50,000 child arrangement cases are heard in family courts in England and Wales annually (Government UK, 2022). 63% of survey participants whose children’s cases had concluded said they were unhappy with the outcome, and just 16% said they were satisfied with the outcome.

This means that the family court is indeed getting it right some of the time, for some victims of abuse, which is encouraging. The issue is consistency and disparity of treatment towards victims of abuse across England and Wales. There is a vast disparity between accounts of cases where it has gone relatively smoothly and without incidents

and others where one decision has led to a catalogue of failures culminating in human rights infringements and unsafe outcomes for children. There was no postcode lottery or geographical hotspots revealed in the data. This was indicative of a more generalised problem which depended on the court professionals on the case in question, and their tendency to rely on pseudoscientific theory or stereotypes about victims which influenced decisions.

The President of the Family Division, Sir Andrew McFarlane ruled in a landmark judgment that it was the job of Parliament to legislate the use of unregulated parental alienation expert witnesses, which came into controversy again in February 2023 (The Guardian, 2023). However, expert witnesses present only one facet of a wider, more embedded problem regarding the use of pseudoscience in family court as evidenced by this report.

Parliament's role to protect the public should not be understated in terms of necessity and complexity. Judicial independence must be maintained for a functioning democracy. Equally, a functioning democracy also depends on the rule of law and the fair treatment of all citizens. We asked the participants of the call for input, who are voting-age mothers, what they wanted Parliament to do.

The respondents to our call for input recognised the scale of the problem, with the blanket acceptance and application of parental alienation theory by court professionals. It is not limited to unregulated expert witnesses, despite most unregulated witnesses being proponents of parental alienation theory. If they were regulated, the use of the theory is more likely to come under scrutiny, but victims are still not likely to get meaningful recourse due to inadequate regulatory frameworks (HCPC Defence Barristers, 2019).

Legislation relating to family court was explored in the context of the then Domestic Abuse Bill which was aimed at the criminal justice system (Hansard, 2021). For families

in family court, it means that they are out of scope for current legislation or within other Bills currently in Parliament. As such, we urge that Parliament table tailored legislation to protect victims and children in family court, or widen the scope/table amendments to the Victims Bill to accommodate and protect victims in the family court.

The groundbreaking Domestic Abuse Act was given Royal Assent in 2021. This means that since the legislation has passed, children are considered victims of abuse in practice in every other system. It presents inconsistencies with state responses to domestic abuse. A victim can concurrently be in both the criminal and family court systems, each system giving the victim conflicting responses (The Law Society, 2007). Efforts need to be made to standardise responses to victims. A victim being simultaneously in the criminal and civil systems can simultaneously be treated as a victim in one part of the justice system and treated as a perpetrator in another, which is farcical. The Victims Bill is now before Parliament which will strengthen and enhance the response to domestic abuse, building robustly on the pioneering steps taken by Parliament in the Domestic Abuse Act 2021. Yet it leaves the family court behind.

As such, Parliament must proceed to consider the creation of a Bill to reduce the harms experienced by child and adult victims of abuse in family court. Commonly, victims end up in both the civil and criminal justice systems (The Law Society, 2007). The UK has now ratified the Istanbul Convention which requires states to act robustly on issues related to violence against women and children. GREVIO and the UN Special Rapporteur Reem Alsalem (United Nations General Assembly Human Rights Council, 2023) have raised serious concerns about the treatment of abuse victims in family court (The Council of Europe, 2022). The United Kingdom ranks 15 in the World Justice Index (World Justice Project, 2023) which is the lowest of all Commonwealth countries.

7. Recommendations.

Urgent scoping to assess the potential for stand-alone legislation or amendments to current or proposed legislation to protect victims in family court to include:

7.1 One: Legislation to prohibit the use of parental alienation theory in the family court.

Britain would not be the first country to take the step of banning the use of parental alienation theory in family court. Italy (Center for Judicial Excellence, 2022) and Spain (United Nations, 2022) have prohibited the use of parental alienation theory in children's cases for safeguarding reasons and the United Kingdom should follow suit. The United Nations Special Rapporteur on Violence against Women and Girls, GREVIO and the Istanbul Convention all highlight the danger associated with the use of parental alienation theory due to the risks it presents to adult and child victims of abuse. Parental alienation theory is well known to be a perpetrators weapon of choice which should not be legitimised. The knowledge that 44% of counter-allegations of parental alienation came from professionals tasked with protecting families is of urgent concern. It indicates that despite the current international understanding of how parental alienation allegations are weaponised against victims, professionals are behaving in ways which are construed as collusion with alleged perpetrators.

Public policy must be careful about endorsing the use of fringe theories or unscientific concepts to deter lawful behaviour. It is entirely lawful, natural, and expected for parents with safeguarding concerns to act protectively towards their children. The use of parental alienation theory ensures that mothers who act protectively are prevented from

doing so. Conversely, in other parts of the system, mothers who fail to act protectively towards their children are punished. Prohibiting the use of parental alienation will go some way to building a bridge between two siloed systems that are currently entirely at odds with one another on this crucial aspect of safeguarding. CAFCASS' current understanding of parental alienation is that they do not accept the 'disorder' but they do accept 'alienating behaviours'. Current approaches mean that CAFCASS' response to child and adult victims is unchanged, despite the slight semantic shift between 'parental alienation' and 'alienating behaviours.' Further, the acceptance and indeed the use of the theory by judges and court professionals damages the integrity and effectiveness of the justice system itself, creating circular, prolonged cases and overstepping the rights of mothers and children.

It is well documented that the use of parental alienation theory disenfranchises children which is likely to be a significant factor in poor mental health outcomes in the context of court proceedings. Children find they are not truly listened to and their concerns are not taken into account, because they have been repackaged as something else - parental alienation. They then must live with the often severe consequences that can accompany that. They find their original concerns ignored, and therefore not addressed.

Many mothers who previously brought concerns about domestic abuse to the court and lost their children find themselves in a situation they self-identify as alienation. Many of these mothers would have lost their children due to the use of parental alienation theory and its guises. By banning the use of parental alienation theory, it should also be recognised that some parents withhold contact, particularly after a change to who the child lives with. It is important to recognise that the party withholding contact in these circumstances was originally the alleged perpetrator of domestic abuse. After separation and subsequent litigation, the abusive behaviour continues in the form of post separation abuse through the child arrangements. In most of these cases there was a preceding pattern of domestic abuse which simply continues - especially when the court

decides the child arrangements in ways that allows them to do so. Mothers approaching the court using parental alienation theory in such situations do not find it to be a ‘magic wand’ in the same way it may have been used against them. The justice system appears to understand ‘alienation’ as something that exclusively mothers do when they allege abuse or try to limit a perpetrator.

The Domestic Abuse Commissioner recently published their long-awaited report advocating a new model to tackle the issue of a child’s resistance and refusal of contact in the context of domestic abuse. This model should be adopted, but can only be done successfully by prohibiting the entrenched use of controversial parental alienation theory. The RRR Model (Home Office, 2023) advocates a common-sense approach to prioritise the voice of the child, and get to the root of their resistance towards contact in a domestic abuse aware setting while prioritising the voice of the child. The model gives an effective framework for professionals to understand the complexities of domestic abuse and coercive control post-separation.

Given the severe mental health impacts on children in family court proceedings, the government should prioritise the implementation of the RRR model in place of the unfettered use of pseudoscientific theory which is causing harm to children.

Further, the model creates a framework for when a perpetrator is utilising the child as a tool to further control, usually by attempting to isolate the child from the non-abusive parent.

7.2 Two: The government must implement an enforceable code of practice for court-appointed experts and professionals, including formal complaints and independent review mechanisms.

A statutory framework should exist for the protection of victims of abuse who have children, who are arguably more likely to end up in family court. A code must create standardised practices for the family justice system to adhere to, aimed at getting to the heart of the disparity of treatment of victims between the criminal and civil systems respectively. The responses to the call for input revealed that the family court professionals are operating at a level that is failing victims. Creating standardised codes of practice for professionals in the court system would ensure fairer treatment for all, reducing re-victimisation, re-traumatisation and poor mental health outcomes for children. The government must ensure that any court-appointed experts employed are qualified and more rigorously regulated and maintain a list of approved experts for the family law system. By providing a formal complaint mechanism and an enforceable code of practice, public confidence in the justice system and access to justice can be improved.

7.3 Three: Statutory domestic abuse training for all justice system professionals

The government must ensure and oversee the content of mandatory training for justice system professionals such as judges and CAFCASS officers. It is inconceivable that those

presiding over abuse cases and making decisions for children are not sufficiently aware of the nuances and patterns of domestic abuse. The public looks to judges and professionals as the experts on their lives and trusts them with decisions that can alter their family life. When victims are faced with victim blaming and the use of myths and stereotypes about domestic abuse, they know the professional has no insight into domestic abuse. Training is therefore vital to elevate professional understanding of domestic abuse in families, and to restore trust and confidence in the family justice system. It should include detailed information on gender bias, the dynamics and risks of domestic abuse, and the connection between allegations of domestic abuse and parental alienation. Former Justice Secretary Dominic Raab refused to disclose information regarding current domestic abuse training practices which did not inspire public confidence in how they have chosen to tackle the skills gap. The public have a democratic right to transparent information about the current understanding of domestic abuse and how it will be treated in the context of the justice system.

7.4 Four: Legislation to strengthen and protect the child's voice in family court proceedings.

The call for input revealed repeated catastrophic child safeguarding failures, most of which was directly linked to how the child's voice was presented in proceedings due to an overriding expectation of child contact. The government must ensure that selective interpretation of the child's view is avoided, thus the child must be accurately and independently represented in family law procedures without influence or theorisation. Too often, the responses to the call for input revealed how children's disclosures of abuse were reframed to fit a theory, rather than communicated to the court. Their

wishes and feelings about how much or how little time they wanted to spend with someone they feared were re-positioned to be a ‘symptom’ of an undiagnosable condition. This meant that the child’s wishes and feelings were pitted against the mother to elicit a desired outcome, often before facts had even been established. By prioritising the child’s voice and ensuring it can be heard unfiltered in proceedings the government can be confident it is doing right by children. Research demonstrated that children wanted more say in matters that concern them, which is also enshrined in the United Nations Convention on the Rights of the Child. The call for input evidence underscored how children’s voices were sidelined or used against them if they expressed reluctance or refusals about contact. They were listened to if they came up with the ‘right’ answer, the answer the professional wanted to hear, in line with the presumption of contact. If deviating from that, the professionals were more likely to reframe, dilute or completely translate the child’s wishes to being that of the mother and not the child. Often, mothers reported that professionals entirely misrepresented what children said during wishes and feelings assessments. Not reporting the child’s wishes as communicated left room for theorisation which frequently changed the course of the case, and led to unsafe outcomes. The experience of going through traumatic family court proceedings for a child in cases citing abuse had major health impacts on the children concerned. Strengthening children’s voices in matters concerning them, and taking into account their safety fears with a genuine desire to safeguard them, may reduce negative mental and physical health outcomes for children in the justice system in future. After coming out of a pandemic which had profound impacts on the mental and physical health of children nationwide, there is a greater imperative responsibility to reduce adverse impacts on children where adverse impacts are known to occur. Children’s voices should be centralised in proceedings to ensure they are heard and their safety needs are fully met in line with a set of prescribed standards. Legislation should consider how the child’s wishes are communicated and what evidence of that conversation is available to

parents and the court. The stakes are high in family court cases and the child's voice being miscommunicated can have significant consequences for families. Considering the gravity of what the court can adduce from the child's wishes and feelings, it is imperative that robust and inspectable methods of obtaining the child's voice are put in place by the government.

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Bibliography

Birchall, J (2022) *Two years, too long: Mapping action on the Harm Panel's findings*
Available at:

<https://www.womensaid.org.uk/wp-content/uploads/2022/06/Two-Years-Too-Long-2022.pdf>

Birchall, J. (2021) “Parental alienation: A dangerous and harmful concept’ *Women’s Aid*, Available at:

<https://www.womensaid.org.uk/parental-alienation-a-dangerous-and-harmful-concept/>

CAFCASS (no date) ‘*Alienating behaviours*’ Available at:

<https://www.cafcass.gov.uk/parent-carer-or-family-member/applications-child-arrangements-order/how-your-family-court-adviser-makes-their-assessment-your-childs-welfare-and-best-interests/alienating-behaviours>

Center for Judicial Excellence (2022) *The UN Commission on the Status of Women United Against Parental Alienation* Available at:

<https://centerforjudicialexcellence.org/2022/03/18/the-un-commission-on-the-status-of-women-united-against-parental-alienation-italian/>

Council of Europe (2022) 3rd General Report on GREVIO's activities Domestic violence: Countries should improve child custody safety and victim protection (report)
Available at:

<https://www.coe.int/en/web/istanbul-convention/-/3rd-general-report-on-grevio-s-activities>

Council of Europe (no date) *Key facts about the Istanbul Convention* Available at:

[https://www.coe.int/en/web/istanbul-convention/key-facts#:~:text=The%20Istanbul%20Convention%20specifies%20several,where%20applicable%2C%20otherwise%20sanctioned\).](https://www.coe.int/en/web/istanbul-convention/key-facts#:~:text=The%20Istanbul%20Convention%20specifies%20several,where%20applicable%2C%20otherwise%20sanctioned).)

Coy *et al* (2012) *Picking up the pieces: Domestic violence and child contact* Rights of Women

Domestic Abuse Act 2021

European Convention on Human Rights 1950

Government UK (2022) *Courts Data: Family Courts* Available at:
<https://data.justice.gov.uk/courts/family-courts/#table-tab-courts-family-total-cases>

Harrison, C (2008) 'Implacably Hostile or Appropriately Protective?: Women Managing Child Contact in the Context of Domestic Violence' *Violence Against Women* 14(4), pp. 381-405. doi: [10.1177/1077801208314833](https://doi.org/10.1177/1077801208314833)

Harsey, S (2017) 'Perpetrator Responses to Victim Confrontation: DARVO and Victim Self-Blame' *Journal of Aggression, Maltreatment & Trauma* 26(6), pp. 644-663 doi: <https://doi.org/10.1080/10926771.2017.1320777>

Harwood, J (2021) 'Presuming the status quo? The impact of the statutory presumption of parental involvement' *Journal of Social Welfare and Family Law* 43(2), pp. 119-142. doi: <https://doi.org/10.1080/09649069.2021.1917713>

HCPC Defence Barristers (2019) *HCPC failing to meet six Fitness to Practise standards* Available at:
<https://hcpcdefencebarristers.co.uk/2019/08/18/hcpc-failing-to-meet-six-fitness-to-practise-standards/>

Home Office (2023) *The Family Court and domestic abuse: achieving cultural change* Available at: [the-family-court-and-domestic-abuse-achieving-cultural-change](https://www.homeoffice.gov.uk/family-court-domestic-abuse-achieving-cultural-change)

James-Hanman, D and Holt, S. (2021) 'Post-Separation Contact and Domestic Violence: our 7-Point Plan for Safe[r] Contact for Children' *Journal of Family Violence* 36(3), pp. 991-1001. doi: [10.1007/s10896-021-00256-7](https://doi.org/10.1007/s10896-021-00256-7)

Judicial Office (2021) *Judicial College Strategy 2021-2025* Available at:
[https://www.judiciary.uk/wp-content/uploads/2022/07/Judicial College Strategy 2021-2025 WEB.pdf](https://www.judiciary.uk/wp-content/uploads/2022/07/Judicial-College-Strategy-2021-2025-WEB.pdf)

Judiciary UK (2018) *Family* Available at:
<https://www.judiciary.uk/about-the-judiciary/our-justice-system/jurisdictions/family-jurisdiction/>

Nuffield Family Justice Observatory (2021) *Children's experience of private law proceedings: Six key messages from research* Available at:
<https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/10/Childrens-experience-of-private-law-proceedings.pdf>

Parliament UK, Hansard (2021) *Domestic Abuse Bill: Volume 809* Available at: <https://hansard.parliament.uk/lords/2021-01-25/debates/218A33F6-D938-4EDB-A7AF-070FAE5D2330/DomesticAbuseBill>

Petersen, Joseph and Feit (2014) *New Directions in Child Abuse and Neglect Research*. Washington DC: National Academies Press Available at: <https://www.ncbi.nlm.nih.gov/books/NBK195987/>

Professional Standards Authority (2019) *The Authority publishes its annual review of the Health and Care Professions Council for 2018/19* Available at: <https://www.professionalstandards.org.uk/news-and-blog/latest-news/detail/2019/08/09/the-authority-publishes-its-annual-review-of-the-health-and-care-professions-council>

Re C [2023] EWHC 345 (Fam)

Saunders, H. (2004) *Twenty-nine child homicides: Lessons still to be learnt on domestic violence and child protection* Women's Aid, Available at: <https://equation.org.uk/wp-content/uploads/2012/12/Twenty-nine-Child-Homicides-Summary.pdf>

SP v DM [2023] EWHC 2089 (Fam)

Summers, H. (2022) *Appeal court kicks out judge's ban on police investigation* The Guardian, 17 July. Available at: <https://www.theguardian.com/law/2022/jul/17/appeal-court-kicks-out-judges-ban-on-police-investigation>

Summers, H. (2023) *Psychology body says costs ruling 'unfair' in appeal on use of unregulated experts in England and Wales* The Guardian, 12 November. Available at: <https://www.theguardian.com/uk-news/2023/nov/12/psychology-body-says-costs-ruling-unfair-in-appeal-on-use-of-unregulated-experts-in-england-and-wales>

Summers, H. (2023) *Tighter regulation of psychologists in family law cases up to MPs, says senior judge* The Guardian, 26 February. Available at: <https://www.theguardian.com/law/2023/feb/26/tighter-regulation-of-psychologists-in-family-law-cases-up-to-mps-says-senior-judge>

The British Psychological Society (2020) *Use of unregulated family court expert witnesses 'damaging and dangerous', says BPS* Available at: <https://www.bps.org.uk/psychologist/use-unregulated-family-court-expert-witnesses-damaging-and-dangerous-says-bps>

The HCPC (2018) *Fitness to practice - Raising concerns* Available at:
<https://www.hcpc-uk.org/concerns/raising-concerns/>

The HCPC (2023) *Understanding the regulation of psychologists* Available at:
<https://www.hcpc-uk.org/news-and-events/blog/2023/understanding-the-regulation-of-psychologists/#:~:text=The%20HCPC%20protects%20the%20public,continue%20to%20meet%20our%20Standards.>

The Law Society (2007) *Related Family and Criminal Proceedings* Available at:
[RelatedFamCrimPro.pdf](#)

The Ministry of Justice (2020) *Assessing Risk of Harm to Children and Parents in Private Law Children Cases* Available at:
<https://consult.justice.gov.uk/digital-communications/assessing-harm-private-family-law-proceedings/>

The NSPCC (2022) *Gillick Competency and Fraser Guidelines* Available at:
<https://learning.nspcc.org.uk/child-protection-system/gillick-competence-fraser-guidelines#skip-to-content>

Thomas, E (2023) *Family courts: Children forced into contact with fathers accused of abuse* The BBC, 4 September. Available at: <https://www.bbc.co.uk/news/uk-66531409>

Tomkins *et al.* (2022) *Parental Alienation and Domestic Abuse*. University College London. Available at:
https://www.ucl.ac.uk/risk-disaster-reduction/sites/risk_disaster_reduction/files/parental_alienation_and_domestic_abuse_policy_brief.pdf

UK Parliament (2023) *Parliamentary Bills: Victims and Prisoners Bill* Available at:
<https://bills.parliament.uk/bills/3443#:~:text=A%20Bill%20to%20make%20provision,of%20the%20Parole%20Board%3B%20to>

United Nations (2022) *Spain: UN experts denounce child custody decision that ignores evidence of sexual abuse* Available at:
<https://www.ohchr.org/en/press-releases/2022/02/spain-un-experts-denounce-child-custody-decision-ignores-evidence-sexual>

United Nations Convention on the Rights of the Child 1989

United Nations General Assembly Human Rights Council (2023) *Custody, violence against women and violence against children: Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem* Available at:

<https://www.ohchr.org/en/documents/thematic-reports/ahrc5336-custody-violence-against-women-and-violence-against-children>

Women's Aid (2016) *Safe not sorry: Key issues raised in research on child contact and domestic abuse* Available at:

<https://www.womensaid.org.uk/wp-content/uploads/2016/01/FINAL-Safe-not-sorry-FOR-WEB-JAN-2016.pdf>

Women's Aid (2016) *What must change so children are put first in child contact arrangements and the family courts* Available at:

<https://www.womensaid.org.uk/shop/reports/nineteen-child-homicides/>

World Health Organisation (2022) *Child Maltreatment* Available at:

<https://www.who.int/news-room/fact-sheets/detail/child-maltreatment>

World Justice Project (2023) *World Justice Project: Rule of Law Index* Available at:

<https://worldjusticeproject.org/rule-of-law-index/downloads/WJPIInsights2023.pdf>