

Response to Family Justice Council consultation on the draft guidance on responding to allegations of alienating behaviour

by Dr Elizabeth Dalgarno – Lecturer in Healthcare Sciences, The University of Manchester, and Director & Founder, [SHERA](#)

Introduction

In this response, we will use the terms ‘parental alienation’, ‘alienating behaviours’, and ‘alienation’ interchangeably. We do so because the academic literature is quite clear that ‘alienating behaviours’ is not at all removed in any way in its construct, definitions, or application from ‘parental alienation’, or indeed Gardner’s original ‘Parental Alienation Syndrome’ (see Mercer and Drew, [2022](#); Sueur and Prigent, [2022](#)).

The Family Justice Council should also be aware that as the pseudo belief system – as noted by the [United Nations Special Rapporteur](#) – has received more attention and international condemnation, its proponents have altered their language, now referring to ‘[psychological splitting](#)’ and ‘[implacable hostility](#)’. We refer to all terms relating to ‘alienation’ in inverted commas, to make clear that we do not accept their validity as evidence-based concepts.

We divide our response into four key sections:

- The lack of evidence for ‘alienating behaviours’
- The need for proper regulation of expert witnesses in family courts
- The use of accusations of ‘alienating behaviours’ to silence and discredit survivors of domestic abuse
- The need to centre the voice and rights of the child in court

Hereafter, the “Draft guidance on responding to allegations of alienating behaviour” will simply be referred to as the “draft guidance”.

Lack of evidence for ‘alienating behaviours’

We acknowledge the purpose of this draft guidance, to provide more information and practice for courts in handling accusations of ‘parental alienation’. However, we raise an issue with the fundamental basis of this draft guidance – that it will not consider the research literature on ‘alienating behaviours’. We recognise that the Family Justice Council (FJC) intends to provide practical guidance for dealing with allegations of ‘alienating behaviours’, but this guidance cannot consider how such allegations should be responded to by courts and professionals without recognising that it lacks a credible research base; to take it at face value now without a critical analysis is to legitimise a harmful pseudoscience, which will only make it harder to remove in the future.

‘Parental alienation’ is an unscientific belief system. It is [broadly rejected by the scientific community](#), having no robust evidence, with many studies being methodologically weak, non-random, not generalisable, and based on unreliable applications of the label.

The belief system of ‘parental alienation’ was developed by the now [widely-discredited Dr Richard Gardner](#). Gardner’s work was largely self-published and received no peer review, and there remains [no agreed definition](#) of ‘alienating behaviours’, even among advocates of the concept. As noted above, current conceptualisations of ‘parental alienation’ are not at all removed from that of Gardner’s original 8 ‘[indicators](#)’. In fact, these are the same indicators referred to in the draft

guidance. The same is the case for Cafcass, which bases its current definition upon two ‘parental alienation’ papers. These papers also rely on Gardner’s original indicators of ‘parental alienation’ (Cafcass, [2023](#) [screenshot below]):

There is no single definition of ‘alienating behaviours’. We use the term to describe behaviours where one parent or carer expresses an ongoing pattern of negative attitudes and communication about the other parent or carer that have the potential or intention to undermine or even destroy the child’s relationship with their other parent or carer. These behaviours can result from a parent’s feelings of unresolved anger and a desire, conscious or not, to punish the other parent or carer. Alienating behaviours range in intensity and their impact on children.

“These behaviours can include negative attitudes, communications and beliefs that denigrate, demean, vilify, malign, ridicule or dismiss the child’s other parent. It includes conveying false beliefs or stories to, and withholding positive information from, the child about the other parent, together with the relative absence of observable positive attitudes and behaviours.” (Johnston and Sullivan, 2020).

“Alienating behaviours can also include spurning, terrorising, isolating, corrupting, or exploiting, and not responding appropriately to the child’s emotional needs. These tactics can foster a false belief that the parent who has been subject to the alienating behaviour is dangerous or unworthy. Children may adapt their own behaviours and feelings to the alienating parent to ensure that their attachment needs are met.” (Baker, 2010).

Baker, A.J.L. (2010) ‘**Parental alienation**: A special case of parental rejection’, *Interpersonal Acceptance*, 4, pp. 4–5.

Johnston, J.R. and Sullivan, M.J. (2020) ‘**Parental Alienation**: In Search of Common Ground For a More Differentiated Theory’, *Family Court Review*, 58(2), pp. 270–292. doi:[10.1111/fcre.12472](#).

Considering this, it is challenging to see how the draft guidance can be satisfied with an agreed definition to be applied as standard, nor on what basis this definition has been drafted.

More recent developments of the belief system have been further heavily criticised, as there is a [dearth of reliable evidence](#) on the concept, the prevalence of allegations of ‘parental alienation’, effects, and measures for intervention.

Internationally, ‘alienation’ is not a universally accepted argument. The World Health Organization [removed](#) it from the International Classification of Diseases in 2020, while the European Association for Psychotherapy determined the concept to be “[unsuitable for use](#)”. In Catalonia and Italy, ‘parental alienation’ is [no longer valid in courts](#), following a series of high profile cases where children were placed in sole residency with an abusive father. Following recent visits and reports from GREVIO (responsible for monitoring implementation of the Istanbul Convention), authorities in [Croatia](#) and [Cyprus](#) are also taking steps against the application of ‘parental alienation’ by professionals, including within the judiciary.

In March 2022, the UN Commission on the Status of Women [denounced the use](#) of the “pseudo-scientific” belief system in legal proceedings, while the [2023 report](#) of the UN Special Rapporteur for Violence against women and girls, its causes and consequences, called on world leaders to prohibit all ‘parental alienation’ and related ‘pseudo-concepts’ and ‘experts’. We further add that proponents of ‘parental alienation’ make false claims that the sheer mass of research on the topic indicates it is no longer a pseudo-concept. This is a flawed perception. There was a large body of literature for

many years claiming that for example, homosexuality was a mental illness. We now know of course this is not the case. Therefore, we urge the judiciary to note that the extant literature on 'alienation', represents multiple studies which are highly questionable, as they are based on samples often from the client base of 'alienation' 'experts' (representing conflict of interest) or are deeply flawed methodologically (e.g. they are retrospective studies prone to recall, selection and confirmatory bias). There are no causal studies in existence demonstrating any links between 'parental alienation' and health/attachment impacts to children, which would need to account for many variables to ensure that there is indeed a causal link between so-called 'alienation', and no other variables, causing those impacts.

Given the lack of any credible supporting evidence for 'alienation', and the international pushback against it, we argue in the strongest possible terms that any allegation of child abuse or manipulation is treated by the courts through the established statutory frameworks on controlling and coercive behaviours, and domestic abuse – not through the lens of a pseudoscientific concept with no basis in evidence or law.

To support this position, reference is made throughout the draft guidance to "manipulation"; language that is aligned to that of the statutory frameworks on [domestic abuse](#), and [controlling and coercive behaviours](#). As such, it would be logical for the draft guidance to use these frameworks – recognised in law – as the basis for dealing with allegations of child manipulation. This is of the upmost importance, given that the [consultation on the domestic abuse statutory guidance](#) (screenshot below) firmly rejected the use of 'alienating behaviours', providing their reasons for this. **Considering this, we strongly recommend against the draft guidance departing from the government's firm position on this and question the benefits of this siloed working.**

6. **The consultation responses highlighted a lack of shared understanding of 'parental alienation' - its definition and implications, and how to approach it in practice.** Therefore, explicit references to 'parental alienation' and 'alienating behaviours' have not been made in the finalised draft. The statutory guidance recognises that there are a range of ways that perpetrators may seek to emotionally or psychologically abuse a victim or control or coerce them, such as by isolating them and belittling them, including in front of third parties, and using children to exert control. In parallel the guidance recognises children as victims of domestic abuse in their own right and the scope for abuse to continue post-separation. With respect to such behaviours, it is noted that they are unlikely to exist in isolation. Instead, they are more

⁴ Cascade. [Review of research and case law on parental alienation](#). Commissioned by Cafcass Cymru: 2018.

Domestic Abuse Act 2021 Statutory Guidance: Government response

likely to indicate a wider pattern of behaviour by the perpetrator. The draft Controlling or Coercive Behaviour statutory guidance outlines the impact of such behaviour on children in parental and familial relationships, as well as young people's intimate relationships. It also recognises how children can be used by a perpetrator to control a victim or make it harder for them to leave an abusive relationship. The guidance will support agencies in identifying and responding to controlling or coercive behaviour and reducing risk to victims, including children.

We are also concerned that, on page 2, the draft guidance states that it *“does not aim to explore the research literature into the concept of ‘parental alienation’”*. However, on page 14, it refers to *“Forslund et al (2022) Attachment goes to court: child protection and custody issues”*. Similarly, on page 9, the draft guidance alludes to children *“demonstrating an attachment strategy”*. It is unclear what attachment strategies are being referred to, or where this language has originated. If these strategies are to be explicated, the draft guidance must be clear what research evidence they are based on, as a prerequisite for accepting it as pertinent to the final guidance. It must therefore, also apply the same due diligence to any definitions and frameworks for so-called ‘PA’, which at present it has not.

If the guidance is indeed to refer to research literature and scientific evidence, then this must be the case consistently throughout.

Proper regulation of expert witnesses

The concept of ‘alienating behaviours’ must be seen as an issue of medical credibility. No credible medical professional would claim that smoking tobacco is healthy – the overwhelming, scientifically-rigorous evidence base says otherwise. In the same way, the court must recognise that no credible psychiatric professional would endorse, ‘diagnose’, or seek to ‘treat’ ‘alienation’ in a child. Indeed, the Chair of the Association of Clinical Psychologists, [Prof Mike Wang](#), has stated that:

“The organisation is aware of unregulated experts making findings of so-called parental alienation and doing tremendous harm. I’ve seen children taken away by the force of the state on the basis of parental alienation.

“But what the public needs to know is that there is an international consensus that the evidence-base on parental alienation is not sufficiently robust to be making decisions about child-contact arrangements.”

We advise in the strongest terms that the FJC does not depart from the informed clinical expertise of qualified clinical psychologists. We question on what basis the draft guidance is qualified to make decisions on child attachment, health, and wellbeing, which overrides and undermines this professional position.

We recognise that the draft guidance makes note that courts should be *“mindful of the need to appoint an expert with the relevant qualifications and expertise to conduct a whole family assessment”* (page 12). **However, this is currently not the case, and a regulatory basis for this must be implemented, rather than leaving it to the discretion of the court.**

Furthermore, we are concerned that the draft guidance in its current state is contradictory. It accepts that an expert with relevant qualifications can and should conduct whole family assessments, but simultaneously empowers judges to make findings on issues pertinent to ‘attachment, health and wellbeing’. **We worry that this represents an inconsistent approach to the need for expertise and qualifications with the draft guidance. We also highlight that the consideration of multiple social determinants of health are not considered in the guidance, nor judicial training, such as gendered inequalities, structural violence against women, deprivation, education, environmental, and other factors.**

Focussing only on behavioural aspects individualises a problem, but individuals do not live in a societal vacuum. This is noted in global evidence, including the government’s own Violence Against Women and Girls strategy, which named violence against women and girls as a [‘national threat’](#). **This emphasises an urgent need for training and awareness in terms of taking a whole systems**

perspective, and we reiterate our past calls for an urgent overhaul of the family court system in its entirety, informed by many – including those who [represent minoritised groups](#).

To support this, training and regulation must be provided for the judiciary to enable them to distinguish between qualified and unqualified experts. Given that this has so far been lacking, it is not enough to leave it to the ‘discretion’ of the judiciary. There should be clear standards for the professional qualifications and organisational memberships required of an expert witness. Currently, Parliament and the judiciary remain at [an impasse](#) where the appropriate regulation of such professionals remains inconclusive, and therefore with potential to result in serious harm.

We recognise that the draft guidance refers to the FJC/BPS 2023 guidance. **However, the latter should be law, not guidance**, to ensure that only adequately qualified professionals, regulated by professional bodies, are recognised by the courts as expert witnesses. **The FJC should be ensuring this important issue is clarified urgently by Parliament before any further guidance is issued.**

More concerningly, and in addition to this, the [President of the Family Court announced](#) last week that where there is a deprivation of liberty order (DOL), *“It is not for the Court to become a regulatory body or the overseer of the regulatory process”*. As a result, the courts will no longer be required to ascertain that the child is placed in a regulated accommodation. While we recognise the courts face resource problems and feel this is not their responsibility to ensure regulation, we believe this further highlights a ‘fast and loose’ approach to the well-being of children. Children must be safeguarded, and we are concerned that this lack of consistency in ensuring regulation of those involved in child-welfare matters is now widely accepted and even encouraged by the courts. **We urge the courts to implore government to address these urgent matters before providing further guidance.**

It is notable Judiciary UK have released a suicidal ideation [signposting leaflet](#) for parties, and thus implicitly acknowledges the gravity of the potential impact of proceedings on the health and wellbeing of parties and the potential to cause serious harm. Yet, there remains no framework in terms of ensuring appropriately qualified health and medical professionals are those solely working with parties. The guidance on ‘alienating behaviours’ will further enshrine processes which are already lacking in rigour, as well as the potential for serious harm to emerge from unaccountable and unregulated professionals.

We recognise that the draft guidance states that the *“court will also wish to caution itself against appointing experts to assess a family where the expert has a financial interest in the delivery of subsequent services”* (page 12).

However, the draft guidance also states that the *“costs of an expert will be considerable. Where the child has been joined as a party (as will usually be the case) all parties will be required to contribute to the costs, save where the court conducts an assessment of each parties’ means and concludes that the adult parties are unable to contribute by reason of their impecuniosity”* (page 10).

To ask the court to caution itself is unreasonable. The guidance cannot both acknowledge the substantial costs of expert witnesses as an accepted part of the judicial process, while simultaneously cautioning against experts with a financial interest in delivery of subsequent services. Previous research and investigation has revealed [a cottage industry of ‘expert’ witnesses](#), who are often prolific self-publishers of anecdotal information. For those without a clinical or scientific background, it can be difficult to differentiate between ‘good’ and ‘bad’ evidence, with unqualified ‘experts’ given the same – or more – weight as a regulated, qualified professional.

Certainly, [work by SHERA](#) has highlighted the issue of a vested financial interest by self-declared 'expert' witnesses in 'diagnosing' 'alienation' in a child, as acknowledged by the draft guidance. These 'experts' are appointed by the court when an accusation of 'alienation' is made. What the parents are often unaware of is that this will lead to extremely costly [assessments and 'treatments'](#) for 'parental alienation'. [Both parents](#) will often be expected to pay for this, or – in the UK – the taxpayer, through the child's legal funding.

'Assessments' of 'alienating behaviours' [can cost upwards of £6,000](#). During these processes, children are coerced into saying that the 'treatment' has worked, and they are now reunified with the parent they had supposedly rejected, despite that 'parental alienation' assessments in reality [make children more resentful to the 'rejected' parent](#).

We recognise the acknowledgement in the draft guidance of the vested financial interest of unregulated 'expert witnesses', but we argue that the vetting procedure be given a statutory basis, rather than being at the court's discretion. Until this is achieved, the FJC cannot and should not be providing guidance, which may cause further harm. The only way to ensure courts are appropriately screening expert witnesses is to ensure there are clear and mandatory regulations on the minimum level of qualification and professional body membership required for instruction of an expert witness.

'Alienation' as a counter-allegation to silence survivors of domestic abuse

The concept of the burden of 'proof' for allegations of 'alienating behaviours' is troubling (page 4 of the draft guidance). The [Ministry of Justice Harm Report](#) heard from mothers who had been advised by their legal professionals not to raise in court their experience of domestic abuse at the hands of their ex-partner, because of the risk that this will lead to counter-allegations of 'alienating behaviours'. In this context, an allegation of domestic abuse is therefore the minimum burden of proof needed for a counter-allegation of 'alienating behaviours'. This is clearly dangerous, and forces survivors of domestic abuse into silence about their experience lest they face allegations themselves.

There should be no acceptable burden of proof for allegations of 'alienating behaviours' because it is a concept which lacks any credible scientific basis. Therefore, there is no level of 'evidence' that is sufficient to support it.

It must be recognised by family courts that allegations of 'alienation' in themselves constitute coercive and controlling behaviour, and may be an extension of previous abusive behaviour into the context of family courts.

Spurious allegations of domestic abuse are made – but rarely. Between 2018 – 2021, the [Metropolitan Police recorded](#) 365,353 domestic abuse offences, of which 50 (0.01% of the total) were deemed to be false. Given that counter-allegations of 'alienating behaviours' are made in [nearly 70% of cases](#) involving allegations of domestic abuse – and that allegations of 'parental alienation' are five times more likely in cases of alleged domestic abuse – it is clear that the use of 'alienating behaviour' allegations is a cynical mechanism to deflect allegations of domestic abuse, and seek to position the survivor of abuse as an abuser themselves.

The [Ministry of Justice Harm Report](#) found that there is a 'pro-contact culture' within family courts, resulting in a lack of understanding of the different forms that domestic abuse takes. It concluded allegations of 'alienating behaviours' were used systematically to silence and diminish abuse allegations. Some survivors even reported being advised by professionals, including their own

lawyers, not to raise domestic abuse because the courts would take a negative view of this, and that it may be used against them as evidence of ‘alienating behaviours’.

One mother said; *“I am the one who faces false allegations of parental alienation and brainwashing... the professionals don’t know how to identify a real victim and are easily manipulated by the perpetrator”*.

The women we spoke to in [our recent study](#), as featured in a [BBC documentary](#), provide a graphic depiction of the costs of ‘parental alienation’ allegations to their psychological and physical health (see also Barnett, [2020a](#); [2020b](#); Birchall and Choudhry, [2022](#); Hunter et al., [2020](#) (MoJ Harm Report); United Nations Special Rapporteur for Violence Against Women and Girls, its causes and consequences (UNSRVAWG) report to the Human Rights Council, [2023](#)).

In such circumstances, the parent accused of ‘alienating behaviours’ often has no other option than to withdraw their allegations of domestic abuse, to demonstrate that they do not harbour ‘negativity’ towards the other parent, regardless of previous patterns of abuse.

We recognise that the draft guidance highlights domestic abuse as a potential risk factor which must be *“adequately and safely considered”* when looking at the behaviour of children and parents. However, this guidance does not acknowledge that the risk associated with an allegation of ‘alienation’ means that some parents may not disclose their experience of domestic abuse. Not until the pseudoscience of ‘parental alienation’ is prohibited from courts can we be confident that survivors of domestic abuse can speak freely about their experiences – both parents and children.

As it stands, on page 3 of the draft guidance, in the flow chart provided, ‘alienating behaviours’ are placed on par with domestic abuse. This is counter to the recommendations of the Domestic Abuse Commissioner who notes: *“Allegations of a child resisting contact must first be ascertained to clarify if a child is (i) in fact resisting contact or (ii) if the child’s response is a consequence of such abuse. The absence of identification of domestic abuse through (1) should not rule out the presence of domestic abuse.”* (Domestic Abuse Commissioner, [2023](#)).

Allegations of domestic abuse must be investigated and concluded before any consideration is given to the notion of ‘parental alienation’ – not in concurrence, as could currently be the case in the draft guidance.

The guidance in its current form would also mean legal professionals are being tasked with evaluating why a child is resisting and/or refusing contact with one parent from a [deductive position](#). That is, the *a priori* hypothesis that ‘parental alienation’ is a possible reason for this resistance/refusal that must be confirmed or refuted. Deductive reasoning is highly vulnerable to confirmational bias, which can corrupt and invalidate evaluation to the detriment of all involved. As implied by the Domestic Abuse Commissioner, resist/refuse dynamics must be understood through an *inductive* process that is open to all possible hypotheses. **The draft guidance, and other court guidance on this matter, must be worded in a manner that minimises confirmatory bias and invites inductive, and not deductive, investigation.**

On page 8 of the draft guidance, it is stated that *“the court must gather the evidence and make findings in relation”* to ‘alienating behaviours’. **However, it is not made clear who in the court this is incumbent upon; the judge, the clerk, Cafcass, or others.**

This is concerning, given there are notable ongoing concerns regarding Cafcass. For example, there is extensive [literature](#), including the [MoJ Harm Report](#), [empirical studies](#), and news reports highlighting a tendency for Cafcass to align with non-resident parents and as prioritising the parental rights of

fathers over those of mothers and children. A further example is provided below from the Guardian article entitled *'Twisted priorities mean Cafcass has failed to protect children from abusive parents'*:

"Cafcass workers and social workers have seemed to regard it as their role to persuade the child to agree to contact with their father, irrespective of the father's behaviour (this includes cases where the father has been convicted of offences related to domestic abuse) and of the stated wishes of the child." (The Guardian, [2020](#)).

Also on page 8 of the draft guidance, it is stated that the court *"must carefully examine what/why and when the allegations of alienating behaviours were first reported to be an issue"*.

Yet earlier on page 6, the draft guidance states that *"If, at a later stage in the proceedings, the court is persuaded that there is an issue of alienating behaviour which it would be relevant, proportionate, and necessary to determine, earlier case management decisions must be reviewed accordingly."*

We are concerned that these contradictory statements will allow for allegations of 'alienating behaviours' to arise and be dealt with at any stage of proceedings. **There should instead be clear and consistent guidance on the timing of allegations of 'alienation', whether this timing is important or not, and what the evidential reasons are for this.**

It is notable the judicial college is providing training on the *"impact"* of 'parental alienation' and 'alienating behaviours', and yet only how to manage *"allegations"* and *"issues"* of sexual abuse or domestic abuse (Judicial College Prospectus, [2022](#), p20 [screenshot below]). We are concerned at this wording, as it implies confidence in an evidential link between 'alienating behaviours' and 'impacts' on children, despite no credible causal study having evidenced this, while discussion of sexual abuse and domestic abuse is treated as mere *"allegations"*. We caution that this appears to be a starting point of disbelief of sexual and domestic abuse, as detailed and criticised in the Ministry of Justice Harm Report ([2020](#)).

While we recognise that this falls outside the scope of the draft guidance, given that it is training that the judiciary will be replying on when handling cases of alleged 'alienating behaviours', we strongly recommend that the judicial college update the wording of this to be clear that there is no evidence base for 'alienating behaviours', and to reflect the lessons of the 2020 Harm Report that fear of disbelief is a barrier to survivors of abuse raising allegations.

Private Law Continuation Seminar

Aim

To inform judges of recent developments and to develop their judgecraft in the practical case management and conduct of Fact-Finding Hearings including those involving Litigants in Person.

To increase awareness of the role of the media in the light of the President's Transparency Project. To inform and update the current initiatives from Cafcass and to consider issues around Police Disclosure.

Learning Objectives

Following the lectures supported by seminar materials and work in syndicate judges will be able to:

- Be aware of recent developments in law, practice and procedure relevant to private family law children cases.
- Be aware of issues relating to jurisdiction post-Brexit.
- Consider **issues of domestic abuse and the preparation for and conduct of Fact-Finding Hearings in the light of *Re H – N (and others)* and associated cases.**
- Be confident in their treatment of vulnerable parties and their engagement in the process.
- Be aware of the scope and use of police disclosure.
- Be aware of the correct approach in cases involving **allegations of sexual abuse.**
- **Gain an insight into the impact of parental alienation.**
- Be aware of and able to manage requests from the media to attend and the scope of reporting.

The voice and rights of the child

The draft guidance makes note of the need for the wishes and feelings of the child to be weighed in the balance of judgement (page 13). We acknowledge this as compliant with the legislation that underpins child arrangements proceedings in England and Wales, the [Children Act 1989](#), which professes that: “*the child's welfare shall be the court's paramount consideration*”; and Article 12 of the [United Nations Convention on the Rights of the Child](#) (UNCRC) (ratified by the UK in 1991), which proclaims: “*States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child*”, as it is questionable whether the paramountcy of a child's welfare can be upheld if they are voiceless regarding their own views on their welfare.

However, we are troubled that in practice, this is rarely the case. The draft guidance is not at all clear on how the wishes and feelings of the child are to be considered, and indeed, runs counter to this, as outlined below.

On page 4 of the draft guidance, it states that the court must be satisfied that three elements are established before concluding ‘alienating behaviours’ have occurred: “

- a) the child is refusing, resisting, or reluctant to engage in, a relationship with a parent or carer;*
- b) the refusal, resistance or reluctance is not consequent on the actions of the non-resident parent towards the child or the resident parent; and*
- c) the resident parent has engaged in behaviours that have directly or indirectly impacted on the child, leading to the child's refusal, resistance, or reluctance to engage in a relationship with the other parent.”*

We are clear that there are no suitable criteria for concluding ‘alienation’, as it lacks any rigorous or consistent evidence base which is a prerequisite for being satisfied it has occurred. Nonetheless,

we believe that the criteria set out above are particularly open to misapplication, and respond to each point in turn:

- a) Children resist, refuse, or are reluctant to engage for a number of reasons which are not always representative of child manipulation. For instance, preference for a particular parent, or preference for location of one parents' home linked to friendship circles, etc. There are too many other factors which may affect this element for it to be linked solely to manipulation.
- b) How exactly will the court determine if it is consequent on the actions of the non-resident parents? Again, we suggest that mapping of coercive controlling behaviours is essential to this. The draft guidance is unclear on how exactly these actions and consequentiality are determined – the level of detail required is severely lacking. Moreover, 'alienating behaviours' are not directly observable and therefore always reliant on recall – which is prone to bias. Coercive control can be demonstrated through tangible evidence such as control of finances, abusive communication, and other established behaviours as set out in the controlling and coercive behaviours framework and statutory guidance and also the [Crown Prosecution Service guidance](#).
- c) Again, 'alienating behaviours' are not observable, and neither is 'the direct impact on the child'. There are no academically rigorous studies in existence which have evidenced a direct link between alienating behaviours and any impact on children. All the available studies are self-reported or retrospective – based on recall or correlational, or based on small samples conducted by biased alienation 'experts' on their own 'patients' – a clear case of confirmation bias and conflict of interest. We reiterate: **there is zero evidence for a causal link between 'alienating behaviours' and 'impacts on children'**. There are, however, decades of research where causal links between domestic abuse/coercive control and impacts on children can be evidenced – further reinforcing the need to use domestic abuse and coercive controlling frameworks to examine child manipulation, and not pseudo-concepts or experts (as noted by the UN Report to the Human Rights Council [2023](#)).

Page 4 of the draft guidance further continues to give 'examples' of 'alienating behaviour'. We list and refute them below.

- *"repeatedly or constantly criticising or belittling the other."*
 - Many separated – and unseparated – parents may belittle one another. It is an illogical leap to argue that this creates 'impacts on the child', and is far too universal a behaviour (and lacking in any evidence) to be listed as an example of 'alienating behaviours'.
- *"unjustifiably limiting or restricting contact or undermining contact."*
 - What are the criteria for just/unjust limitation of contact? This is too vague, and reflects the consistent misapplication/non-application of [Practice Direction 12J](#), relating to Child Arrangements & Contact Orders: Domestic Abuse and Harm.
- *"forbidding discussion about the other parent."*
 - Survivors of domestic abuse may understandably not want to discuss an abusive parent with their children. We again refer to the recommendations of the Domestic Abuse Commissioner, wherein allegations of domestic abuse must be fully investigated before consideration is made of 'alienating behaviours'.
 - **The draft guidance must be clear that a range of protective behaviours are used by survivors of domestic abuse (adults and children), and these should not be mistaken for evidence of 'alienation'.**

- *“creating the impression that the other parent dislikes or does not love the child, or has harmed them or intends them harm.”*
 - If this has occurred, it would be child manipulation – and as such, can be explored using the established statutory guidance frameworks on controlling and coercive behaviours, and domestic abuse. There is no need to consider these through the lens of a pseudoscientific concept when suitable, existing frameworks exist.
- *“denying emotional responsiveness to the other parent or spurning, terrorising, isolating, corrupting, or exploiting them.”*
 - Again, this can be explored through extant frameworks on child abuse – not pseudoscientific concepts.

On page 5 of the draft guidance, passing reference is made to alignment and attachment issues as a factor in resistance, reluctant, and refusal, and the differences between alignment and attachment. However, guidance is given on how to navigate these differences. Additionally, words like “relevant”, “proportionate”, and “necessary” are not at all defined in the draft guidance. **Clear definitions of these terms are essential.**

We also question on what basis in law the court has the power to enforce *“contact with the members of the wider family members of the alienated parent”* (page 14). **It must be made clear what range of powers the draft guidance is referring to here, and how this is justified within the context of prioritising the wishes and feelings of the child.**

And we are deeply concerned with and strongly opposed to the following passage (page 15):

“In appropriate cases the Guardian may make a referral to the local authority if they consider that a child is at risk and provide the relevant safeguarding information. A local authority may provide a bridging placement for a child to stabilise before a move of residence or to act as a neutral base from which they can build up / develop a relationship with the non-resident parent where there has been an absence of opportunity for them to spend time together. There may be very rare cases where the child is unable to continue to live within the family.”

Removing any child into social care will be extremely [traumatising](#). [Ofsted reported](#) children made 1,965 complaints of abuse against their foster carers from 2021 to 2022, a staggering 24% increase from the previous year’s figures (1,585 complaints), 34% of which were deemed valid. Prior to that, Ofsted reported children were already reporting being abused in foster care and residential [homes](#) at an alarming rate, with at [least a quarter of these allegations](#) being substantiated.

Therefore, the draft guidance is promoting a high-risk strategy in removing children from a parent based on a pseudo-concept, and potentially placing that child in a position where they are frightened, traumatised, and at risk of abuse by others. We also question why ‘attachment’ is relied upon so heavily in relation to the ‘alienated parent’ and yet, the draft guidance as it stands would mean breaking the current attachment the child has with the preferred parent. **We are concerned that these contradictions in the draft guidance reflect the conclusions of the Harm Report and numerous studies, which indicate courts are siding with perpetrators of abuse.**

Relatedly, we highlight the recent judgement in [SP vs DM](#), and how it may affect the draft guidance: specifically, the assertion that ‘no finding’ of domestic abuse is equivalent to ‘a false allegation’. This would be a logical fallacy, and provide worrying evidence to support the findings of the Harm Report that there is a starting position of disbelief for allegations of domestic abuse. With respect to the draft guidance, how would it apply when a non-resident parent alleges ‘alienating behaviours’ and there is a finding of no ‘alienating behaviours’? Would this parent be classified as one who too

makes false allegations, and therefore have their influence on the child considered? How does this fit into the draft guidance, and indeed any new case law which is rapidly changing in this landscape?

This gives further weight to the argument that only frameworks defined in law and statute such as the Domestic Abuse Act and the Coercive and Controlling Behaviour frameworks should be used to explore child manipulation, and not 'parental alienation' or 'alienating behaviours', which have no basis in statute or law.

Conclusion

The gravity of the issues, contradictions, and need for clarity outlined above lead us to recommend that the draft guidance be fully redrafted to thoroughly align with existing statutory frameworks. While we acknowledge the intention of the draft guidance to provide practical case management, we are concerned that, in its current form, the draft guidance risks legitimising a pseudoscientific concept, which will increase harm to adults and children in the family courts. Instead, and in line with the growing international consensus, the draft guidance should reject the concept of 'alienating behaviours'.

Finally, we highlight that, as it stands, PD12J does not refer to 'alienating behaviours', and neither does any other statute. We argue that currently, the laws relevant to private law family court proceedings are not being upheld, and that there appears to be a pattern of new policies and guidelines (as well as case law on which new precedents are set) being created which subvert the rule of law relevant to family court. Therefore, we strongly urge the courts to be stringent in their approach to ensuring justice and safeguarding, in line with these statutes.