

## Intractable disputes and alienation, Interventions & Outcomes

### SLIDE 3: Areas of discussion:

- **INTRACTABLE DISPUTES:** Which are in essence disputes that have become lengthy and/or serious, in the absence of risk of abuse and violence, are often described in a legal context as ‘intractable’. There are 3 cases I shall briefly discuss the more recent, re R G(Children: Intractable Dispute) [2019]; Re J 2014] ; Re A (A Child) (Intractable Contact proceedings) [2013]
  
- **ALIENATION:** Both parental alienation and Parental alienation Syndrome.
  - Parental alienation describes a process through which a child becomes estranged from a parent as the result of the psychological manipulation of another parent. The child's estrangement may manifest itself as fear, disrespect or hostility toward the parent, and may extend to additional relatives or parties.
  - The term parental alienation is used to describe a process involving one parent (the alienating parent) teaching a child to reject the child's other parent (targeted parent), to experience fear when they are around that parent, and to avoid having any contact with them. The result of parental alienation is the breakdown of the relationship a child has with a parent or damage to that relationship (Darnall, 2011). There is currently no one definitive set of behaviours that constitute parental alienation; however, the defining feature is an attempt by the alienating parent to eradicate the relationship between the child and the targeted parent without reasonable justification (Meier, 2009). It is important to note that a child rejecting a parent on reasonable grounds, such as in response to parental abuse or neglect, constitutes estrangement (Garber, 2011) not parental alienation (Gardner, 2001; Reay, 2015). There has been considerable debate about the validity of parental alienation as a syndrome.
  - PAS: No single definition, although the term ‘parental alienation syndrome’ (PAS) has been rejected by the courts. An unjustified denial of contact by the resident parent is occasionally described in a court judgment as ‘parental alienation’ and/or ‘implacable hostility’.
  
- **JUDICIAL RESPONSES:** When intractable contact dispute cases fail to be resolved there are generally common reasons. How the cases are managed by the court and professionals involved in proceedings. Some of those cases are salvageable, while for others the long length of proceedings acts as a bar to the court entertaining a different approach.

#### **SLIDE 4: Intractable disputes:**

- Lord Justice McFarlane at the NAGALRO (The Professional Association for Children's Guardians, Family Court Advisers and Independent Social Workers) Annual Conference in 2018 keynote address said:

*It is in my view, unhelpful to look at every case to see if it is possible a label of Parental Alienation Syndrome.' In such cases, that there has been 'alienation', with a small 'A', will normally be a given; it is that factor which will often render the case 'intractable'. The existence of alienation of itself can only be damaging to a child. It must be grim to grow up having a profoundly negative view of one of your parents. In some cases, such a negative view may be justified by the actions of that parent, but often life is not so black and white and a more nuanced, ordinary and tolerable view of both parents will have been justified had an imbalanced status quo as to contact not become established.*

- A definition:
  - An **intractable conflict** is a **conflict**/dispute that is so severe in nature that the **conflict** seems impossible to resolve and can have a profound impact on the parties involved, namely the child.
  - **Intractable contact disputes** are nearly always attributed at some point, explicitly or implicitly, to the child having been 'alienated' from the non-resident parent.
  - "Intractability" is a controversial concept, which means different things to different people. The term can be seen as too negative a term it suggests impossibility of resolution – perhaps not worth dealing with!

Key features: Key features of intractable disputes:

- Intractable contact cases are some of the hardest to resolve
- Entrenched views and an inability to compromise resulting in a court process.
- Q v R (intractable contact) 2017 chronology running some 41 pages.
- Reason why they are of concern, is that invariably the costs to the child of being caught in the middle of ongoing high conflict is an emotional and developmental price.

#### **SLIDE 5: G (Children) (Intractable Dispute), Court of Appeal (Civil Division) [2019] EWCA Civ 548**

- Judgment Date 3 April 2019
- Judges: Longmore LJ; Peter Jackson LJ; Coulson LJ
- **Summary**
  - This is the second judgment from the Court of Appeal in a long running private law Children Act dispute. The Father had appealed a previous decision successfully during the course of the litigation: see, P-G (Children) [2015] EWCA Civ 1025. In that judgment, the Court of Appeal had set aside findings of fact made against the Father and said that the trial judge's reliance on (subsequently)

discredited section 7 reports created “a strong prima facie perception of unfairness”.

- 2<sup>nd</sup> Appeal by Father against:
  - the making of s. 91(14) order prohibited any further applications for 3 years.
  - NO direct contact until the father had completed therapeutic work to address his hostility towards the children's mother.
  - Parents separated in 2013 (children aged 5 and 2)
  - Initial application by the M for Residence order and injunction alleging DV
  - Since that time uninterpreted litigation over 6 years
  - Since July 2015 the father had issued 56 applications, and there had been about 30 hearings across 40 days.
  - 2<sup>nd</sup> appeal outcome: The father’s appeal was dismissed
  - The history of the case is therefore complicated and lengthy, but it should be noted that, following the Father’s successful appeal in 2015, the case had been afforded complete judicial continuity and was allocated to HHJ Handley throughout.
  - The themes of the litigation were, broadly, that:
    1. The children were ambivalent about seeing their Father or expressed a wish not to see him. Some contact had taken place successfully, but other contact had not been successful, and the girls had been distressed. By the time of the final hearing from which the Father appealed, no contact was taking place between him and the children.
    2. The Father alleged that the Mother was not supportive of contact and that she was causing the children emotional harm. The Mother was found, in January 2017, not to have been giving the girls the emotional permission required for them to build a relationship with the Father and HHJ Handley further found that she was not “promoting and encouraging contact with the required drive or determination”.
    3. The Father did not trust the professionals involved in the case.
    4. The Father was found to have lost sight completely of the children’s welfare. He had, for example, at times refused supervised contact even when the children had asked to see him, because he felt it was unnatural. HHJ Handley found in April 2018 that:

*“The father lacks insight into the children’s welfare needs. He is unable to prioritise the children’s welfare above his own wishes and goals. He harbours a deep-rooted sense of hostility to the mother to the extent that his behaviour is harmful to her emotional and psychological welfare and in consequence is likely and almost certainly going to impact upon her parenting and hence be damaging to the children.”*

- The Court at first instance had been assisted by, and relied upon, an assessment of the family by Dr Jo Stevenson, a psychologist. Dr Stevenson gave evidence at the Final hearing and the Judge found her to be an impressive and child-focused witness.
- From 2015 to April 2018, the litigation continued, with two particularly important hearings: one in January 2017 when the Judge broadly favoured the Father’s case and made adverse findings against the Mother and one in April 2018 in which the Judge found against the Father, made an order for very limited indirect contact only, and made a section 91(14) order against the Father. The Judge in his final order made it clear that

the Court hoped that the Father would follow Dr Stevenson's recommendations and seek therapeutic intervention such that his relationship with the children might eventually be re-established. It was against this latter decision that the Father appealed.

- The Father's grounds of appeal are summarised at paragraph 39 of the judgment, and separated into four strands:
  - (1) Procedural issues of unfairness and delay:
  - (2) Compartmentalisation and inconsistency:
  - (3) Not pursuing all reasonable routes to maintaining contact:
  - (4) A s.91(14) order was disproportionate:
- The Court of Appeal ultimately dismissed the Father's appeal. Lord Justice Peter Jackson concluded that, "... since 2015 the Judge has diligently and sympathetically attempted to revive the father's relationship with his children but has been forestalled by the mother's earlier lack of support for contact and by the father's increasingly extreme attitude." After considering each strand of appeal in detail, the Court notes at paragraph 69 that:
- "In the end, the Judge's fundamental findings
  - that the children would suffer emotional harm if they were placed with the father or required to have direct contact with him against their wishes, and
  - that the father has completely lost sight of their welfare
- effectively determine the outcome of the trial and of this appeal. They were conclusions securely based upon professional advice and upon the Judge's own very extensive knowledge of this family. They have certainly not been shown to have been wrong and nor has there been any serious procedural irregularity."

#### **SLIDE 6: Re J-M [2014] EWCA Civ 434**

##### **FACTS:**

- At the time of the appeal, the child was 14 years old, living with mother (M). The last time he saw his father (F) was in October 2010.
- The matter has a long history.
- Chronology of proceedings: Proceedings commenced when child a baby. 2005 a child made a party. A consent order 2009 for regular contact. Further order 2010 included staying contact. Feb 2011 enforcement proceedings. Nov 2012 refusal of F's application for direct contact, setting aside the original order, order for indirect contact. F sought permission to appeal, so granted by HHJ John April 2013 limited to the issue of whether harm of cessation of direct contact in any form outweighs the harm arising out of attempting to initiate some contact against the child's wishes and feelings. Appeal dismissed in June 2013. Appeal against the order for no direct contact. Permission granted
- Black LJ confirmed that following the Supreme Court decision of Re B [2013] UKSC 33 the proper approach to an appeal against an order that there should be no direct contact between a parent and child is for the appeal court to consider whether the decision of the lower court was "wrong" and the epithet "plainly" which had featured in the traditional formulation was inappropriate or otiose. Although Judge John had considered the appeal before the Judgment in Re B, and had used the traditional formulation to describe his approach, that in itself did not invalidate his decision as his scrutiny of the district judge's decision had covered the ground contemplated in Re B. The Court confirmed that the

district judge's decision not to permit the instruction of an expert was a case management decision and as such would be particularly difficult to dislodge on appeal. There was nothing on the facts of the case which would merit interference with that decision.

- The Court considered the balance of harm and F's arguments that the judge had failed to admit relevant evidence, that MX's attitude was attributable to his mother and her family, and that further attempts should be made to reintroduce contact. The Court was satisfied that the district judge was aware that it is likely to be detrimental to a child not to have some sort of direct contact with the parent with whom they do not live and that the court should not cease from striving to achieve this except when the end of the road has been reached. The Court found that the judge did not ignore the previous positive contact between MX and F, nor F's commitment. Nor did the judge overlook the part played by the mother's negative attitude, but was faced with a 14-year boy who was very clear that he did not wish to have any relationship with F.
- The Court found that neither of the judgments below revealed errors which warranted interference from the Appeal Court. Appeal dismissed
- Although, on an appeal against an order that there should be no direct contact between a father and son, a circuit judge had described his approach in terms that had later been held by the Supreme Court to be inappropriate, that did not invalidate his decision. The circuit judge's scrutiny of the decision of the judge below had covered the ground contemplated by the Supreme Court.
- Appeal dismissed.

**SLIDE 7 : A (A Child) (Intractable Contact Dispute: Human Rights Violations), [2013]**

EWCA Civ 1104

Judges: Aikens LJ; McFarlane LJ; Briggs LJ

- Summary: Where a mother had maintained a long-term unjustified and implacable hostility towards contact between an unimpeachable father and their daughter, the family justice system as a whole had failed to meet its duty to afford paramount consideration to the child's welfare when, after more than a decade of uninterrupted litigation, it acted on the teenager's wish for the court proceedings to end by refusing the father contact and refusing him liberty to apply. The court outlined the duties of the family court in matters relating to parental contact.
- Held: Appeal allowed.
  - (1) The importance in welfare determinations of a child's wishes and feelings would increase proportionately with the child's age and level of understanding. In some cases, those views would be determinative, *D (A Child) (Abduction: Rights of Custody), Re* [2006] UKHL 51, [2007] 1 A.C. 619, [2006] 11 WLUK 391 applied (see paras 36-38 of judgment). While a parent's implacable hostility should rarely deter the court from ordering contact where the child's welfare otherwise required it, it had become acceptable for a judge to take a more robust judicial approach, choosing an outcome as best meeting the child's welfare needs, which might be directly contrary to their expressed wishes, *TE v SH* [2010] EWHC 192 (Fam), [2010] 1 F.L.R. 1785, [2010] 1 WLUK 3 approved. Human rights violations might also arise from a refusal of direct contact. The court's duty to afford paramount consideration to the child's welfare involved an exercise of judgment. The traditional appellate approach to the exercise of judgment was to intervene only when a decision was "plainly wrong". When making care

orders, a judge's duty was "more than to exercise a discretion"; that same level of duty applied to orders depriving a parent of contact. In care and contact cases, judges had an additional obligation under the Human Rights Act 1998 s.6(1) not to determine the application incompatibly with the European Convention on Human Rights 1950 art.8, *G v G (Minors: Custody Appeal)* [1985] 1 W.L.R. 647, [1985] 4 WLUK 184, *B (A Child) (Care Proceedings: Appeal)*, *Re* [2013] UKSC 33, [2013] 1 W.L.R. 1911, [2013] 6 WLUK 280 and *G (A Child) (Care Proceedings: Welfare Evaluation)*, *Re* [2013] EWCA Civ 965, [2014] 1 F.L.R. 670, [2013] 7 WLUK 976 applied (paras 36-46). (2) An appellate court had a duty to intervene where decisions in lower courts demonstrated a process which was not compatible with a party's right under art.6 or art.8 of the Convention to procedural fairness. In the instant case it would be wrong for the court to look into individual judicial decisions spanning more than a decade, but it was clear that, collectively, its combined interventions had resulted in procedural failings and a violation of F's and D's human rights. While human relationships were not the court's responsibility, it had to utilise available resources to produce effective determinations. The court should have taken a much tougher line much earlier, by analysing the evidence for itself, reaching key conclusions, exercising forward-thinking, and ensuring that adverse consequences resulted from non-compliance. A wronged parent might be reluctant to push for enforcement proceedings, but such reluctance did not relieve the court of the responsibility for enforcing its own orders. It had extensive powers to do so and was expected to use them, *A v N (Committal: Refusal of Contact)* [1997] 1 F.L.R. 533, [1996] 10 WLUK 165, *S (A Child) (Contact Dispute: Committal)*, *Re* [2004] EWCA Civ 1790, [2005] 1 F.L.R. 812, [2004] 12 WLUK 7 and *L-W (Children) (Enforcement and Committal: Contact)*, *Re* [2010] EWCA Civ 1253, [2011] 1 F.L.R. 1095, [2010] 11 WLUK 132 applied. The approach of Munby LJ in *L-W (Children)* was to be particularly commended (paras 47-65). (3) In making the disputed order, the judge's focus had been upon the "here and now" without consideration of evidence from the past. His decision was not "wrong", but it was deficient in its analysis and it violated art.8 rights. It was therefore unjust within the meaning of CPR r.52(11)(3) and had to be set aside. That would be an unwelcome decision for D. Although the family justice system had part-responsibility for the current state of affairs, ultimate responsibility rested with M, who could unlock the intractable situation by permitting D to have a normal relationship with F (paras 74-80).

**SLIDE 8: ALIENATION:** Heading for parental alienation and parental alienation syndrome

**SLIDE 9: Definition of parental alienation**

- What is parental alienation:
  - While there is no decisive single definition, we recognise parental alienation as when a child's resistance or hostility towards one parent is not justified and is the result of psychological manipulation by the other parent. It is one of a number of reasons why a child may reject or resist spending time with one parent post-separation. All potential risk factors, such as domestic abuse, must be adequately and safely considered, reduced or resolved before assessing the other case factors or reasons.
  - We use the term 'parental alienation', defined as the unwarranted rejection of the alienated parent by the child, whose alliance with the alienating parent is characterised by extreme negativity towards the alienated parent. This happens

when the actions of the alienating parent (deliberate or unintentional), adversely affect the relationship with the alienated parent (Baker and Darnall, 2007)

- The definition of parental alienation itself as a concept in family court cases, its surrounding terminology and its scale remain under debate, meaning there is no clear data as to its extent.

#### **SLIDE 10: Impact on the child:**

- Gardner says that alienation can be mild, which is not perceived as problematic, to moderate to severe.
- Mild cases- child taught to disrespect, disagree with, act out antagonistically against the targeted parent (Gardner 2002: 96)
- Variance occurs in the internalisation of alienation, children experiencing conflicting emotions of anger, & resentment alongside feelings of love, sadness, and guilt (Godbout and parent, 2012, Baker 2006)
- New Law Journal in January 2020 co-written by Dr Jo Stevenson, Senior Clinical Psychologist refers to children:
  - (i) under aged 10 years are more prone to struggle with their stress
  - (ii) toddlers and adolescents are more vulnerable to stress
  - (iii) in extreme cases children experiencing extreme stress and increased lack of availability of a consistent quality relationship may subconsciously present with 'tension reduction behaviours in attempts to self-regulate their distress, include self-harming, anti-social behaviours, oppositional behaviours, substance abuse.
- The biopsychosocial-spiritual effects of parental alienation are devastating. For both the alienated parent and the child, the removal and denial of contact in the absence of neglect or abuse constitute cruel and unusual treatment. As a form of child maltreatment, parental alienation is a serious child protection matter as it undermines a basic principle of social justice for children: the right to know and be cared for by both of one's parents. She also talks about the primary motives driving such behaviours, to "get back at their spouse, jealousy, some extort monies (*Psychology Today* one writer Susan Heiter, PHD PAS: *What is it, and who does it' Feb 2018*).
- Fundamental principles underpinning contact:
  - Must remember that the concept of enduring parental responsibility and the 'no order' principle in s.1(50 CA 1989 underpin that it is primarily the parents joint responsibility to make contact work safely and is beneficial to the child (Re W (Direct Contact) [2012] EWCA Civ 999)
    - The child's welfare is paramount consideration;
    - child's best interests to have contact with both a non-resident parent;
    - The court has powers to enforce orders for contact which can exercise if this is would promote the child's welfare; and
    - where direct contact is not safe, it is normally in the child's best interests for indirect contact to be maintained (*Re O (Contact: imposition of Conditions [1995] 2 FLR 124*)

**SLIDE 11: CHARACTERISTICS OF ALIENATING PARENT:**

- In the Psychology Today one writer Susan Heiter, PHD PAS: What is it, and who does it' wrote the alienating parent shows narcissistic or borderline tendencies.
- Review research and case law on parental alienation by Julie Doughty talks about the determinants suggests that mothers are more likely to alienate (Johnson 2003, Vassilou and cartwright 2001)
- Parental alienation appears to eb reflective of child residence arrangements with the resident parent (Beebe and sailor 2017; Bala, Hunt, and McCarney 2010)

Aligned parent tend to:	Alienated parent tend to:
<ul style="list-style-type: none"> <li>• Alienating Parent: Gender differential?</li> <li>• More reflective of resident status/Mothers: more likely to make negative comments/ Fathers: more likely to encourage disrespect and defiance towards the other parent</li> <li>• Deny the importance of the relationship between the child and alienated parent</li> <li>• Engage in intrusive behaviours such as frequent phone calls when the child is visiting the other parent</li> <li>• Encourage the child to act as informant about the other parents' home</li> <li>• Discuss adult issues with the child</li> <li>• Compel the child to become a messenger</li> <li>• Blame the other parent for their own feelings of loss and grief.</li> <li>• Being unable to separate their child's needs from their own.</li> <li>• Manipulating their children into unquestioning loyalty</li> </ul>	<ul style="list-style-type: none"> <li>• Defensive</li> <li>• Avoidant of relationships</li> <li>• Externalise blame</li> <li>• Limited insight as to their own behaviour</li> <li>• Controlling &amp; powerful</li> <li>• Less child centred and more self-centred</li> <li>• Less empathy for others</li> <li>• Quick to blame others for their problems</li> <li>• Place their needs above those of their children</li> <li>• May also play a role, either because of poor parenting or powerlessness</li> <li>• Wary of upsetting the child.</li> <li>• Fearful, angry and helpless</li> <li>• May withdraw or become passive, thereby reinforcing negative messages to child</li> </ul>

**SLIDE 12:** psychologists in main authors on the topic and invariably recommend family therapy/individual therapy.

- Insufficient evidence of the outcome
- Potentially forced reunification can backfire
- Lack of evaluation of the treatments and potential outcomes



**SLIDE 13: QUOTE** taken from the Julie Doughty

<https://gov.wales/sites/default/files/publications/2018-05/review-of-research-and-case-law-on-parental-alienation.pdf>

- *There is a paucity of empirical research into parental alienation, and what exists is dominated by a few key authors. Hence, there is no definitive definition of parental alienation within the research literature. Generally, it has been accepted that parental alienation refers to the unwarranted rejection of the alienated parent by the child, whose alliance with the alienating parent is characterised by extreme negativity towards the alienated parent due to the deliberate or unintentional actions of the alienating parent so as to adversely affect the relationship with the alienated parent. Yet, determining unwarranted rejection is problematic due to its multiple determinants, including the behaviours and characteristics of the alienating parent, alienated parent and the child. This is compounded by the child's age and developmental stage as well as their personality traits, and the extent to which the child internalises negative consequences of triangulation. This renders establishing the prevalence and long-term effects of parental alienation difficult...*

**SLIDE 14: QUOTE:** Parental Alienation Syndrome Richard A Gardner MD:

- *"...a disorder that arises primarily in the context of child custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified and so the parental alienation syndrome explanation for the child's hostility is not applicable"*
- PAS: No single definition, although the term 'parental alienation syndrome' (PAS) has been rejected by the courts, an unjustified denial of contact by the resident parent is occasionally described in a court judgment as 'parental alienation' and/or 'implacable hostility.
- Some argue that PAS is a misnomer because it assumes a cause leading to a prescribed intervention rather than a concept of 'implacable hostility as a statement aimed at understanding particular situations for which a large range of explanations is possible, with no single solution.
- Julie Doughty, in her paper 'Review of Research and case law on parental alienation commissioned by Cafcass April 2018- The notion of parental alienation was first recognised by Wallerstein and Kelly in 1976, but it was Gardner's assertion in 1987 that parental alienation was a syndrome:
  - **Definition of PAS:** *Since the 1970s, we have witnessed a burgeoning of child-custody disputes unparalleled in history. This increase has primarily been the result of two recent developments in the realm of child-custody litigation, namely, the replacement of the tender-years presumption with the best-interests-of-the-child presumption and the increasing popularity of the joint-custodial concept. The assumption was made that mothers, by virtue of the fact that they are female, are intrinsically superior to men as child rearers. Accordingly, the father had to provide to the court compelling evidence of serious maternal deficiencies before the court would even consider assigning primary custodial status to the father. Under its replacement, the best-interests-of-the-child presumption, the courts were instructed to ignore gender in custodial*

*considerations and evaluate only parenting capacity, especially factors that related to the best interests of the child. This change resulted in a burgeoning of custody litigation as fathers now found themselves with a greater opportunity to gain primary custodial status. Soon thereafter the joint-custodial concept came into vogue, eroding even further the time that custodial mothers were given with their children. Again, this change also brought about an increase and intensification of child-custody litigation. (Julie Doughty as above)*

- *In association with this burgeoning of child-custody litigation, we have witnessed a dramatic increase in the frequency of a disorder rarely seen previously, a disorder that I refer to as the parental alienation syndrome (PAS). In this disorder we see not only programming ("brainwashing") of the child by one parent to denigrate the other parent, but self-created contributions by the child in support of the alienating parent's campaign of denigration against the alienated parent. Because of the child's contribution I did not consider the terms brainwashing, programming, or other equivalent words to be applicable. Accordingly, in 1985, I introduced the term parental alienation syndrome to cover the combination of these two contributing factors (Gardner, 1985a, 1987b).*

- The *parental alienation syndrome* (PAS) is a disorder that arises primarily in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from the *combination* of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present the child's animosity may be justified, and so the parental alienation syndrome explanation for the child's hostility is not applicable. *Richard A. Gardner, M.D.*

**SLIDE 15: Parental Alienation Syndrome: QUOTE another definition by Dr Weir**

- *"There are children who show an extraordinary degree of animosity towards a parent with whom they once had a loving relationship. Most of these children will show some or all of [a cluster of psychological responses]. Within an individual child (and between children in the same family) the presence of the features can vary rapidly over time and place, but in their full manifestation are so surprising and unique as to be unforgettable. The proposed term "Alienation" applies only to the cluster of psychological responses in the child with no need to presume a deliberate campaign of denigration by one parent. There is now research data supporting a multifactorial aetiology for "Alienation" following parental separation, involving contributions from both parents and vulnerabilities within the child."*

**SLIDE 16: Primary Symptoms:**

The primary symptoms of the PAS are:

1. Campaign of denigration;
2. Weak, frivolous, and absurd rationalisations for the deprecation;
3. Lack of ambivalence;
4. The "independent-thinker" phenomenon;
5. Reflexive support of the alienating parent in the parental conflict;
6. Absence of guilt over cruelty to and/or exploitation of the alienated parent;
7. Presence of borrowed scenarios;
8. Spread of the animosity to the extended family and friends of the alienated parent.

## Parental Alienation Syndrome

- Julie Doughty, in her paper 'Review of Research and case law on parental alienation commissioned by Cafcass April 2018-
  - *Parental alienation syndrome, a term coined in the 1980s by child psychiatrist Dr. Richard A. Gardner, occurs when one parent attempts to turn the couple's children against the other parent. A parent who is angry at the spouse or ex-spouse accomplishes this estrangement by painting a negative picture of the other parent via deprecating comments, blame, and false accusations shared with the children. They may also "hoard" the kids, doing all they can to thwart the other parent from spending time with them.*

### PAS: How to detect it and what to do about it by (Bone and Walsh: 1997)

1. Involves the active blocking of access or contact between the child and the absent parent. The rationale used to justify it may well take many different forms. One of the most common is that of protection
  2. Unfounded or false allegations, the most strident expression of this is the false allegation of sexual abuse
  3. Deterioration in the relationship since separation
  4. Intense fear reaction by the child/ren
- All the criteria listed above can be found independent of each other in highly contested dissolutions but remember that the appearance of some of them does not always constitute PAS. When all four are clearly present, however, add the possibility of real abuse has been reasonably ruled out, the parental alienation process is operative. This does not necessarily mean, however, that it is succeeding in that the children are being successfully alienated from the target parent. The best predictor of successful alienation is directly related to the success of the alienating parent at keeping the children from the target parent. When there are substantial periods in which they do not see the other parent, the children are more likely to be poisoned by the process. Another variable that predicts success is the child's age. Younger children generally are more vulnerable than older ones. Also, another variable is the depth and degree of involvement of the pre-separation parent-child relationship. The longer and more involved that relationship, the less vulnerable will be the children to successful alienation. The final predictor is the parental tenacity of the target parent. A targeted parent often gives up and walks away, thus greatly increasing the chances of successful alienation.

## SLIDE 17: Judicial responses

- The uniqueness of each set of facts (Not one solution)
- The prominence of the welfare-based analysis (W& F may not be determinative, see A (A Child) (Intractable Contact Dispute: Human Rights Violations), [2013] EWCA Civ 1104)
- A practical approach to achieving good outcomes required from all involved
- Judicial continuity (Critical, see Re G [2019] (as above )
- Timetabling
- Setting Judicial strategies

**SLIDE 18:** Look at these cases they make important and interesting reading for how the courts are prepared to deal with alienation, some of which is extracted below.

- Enforcement- Re A (Re A Intractable Contact Dispute) [2013] EWCA 1104
- Active case management- Re M(Children) (Ultra-Orthodox Judaism: transgender parent) 2017 EWCA Civ 2164
- C v D and another [2018] EWHC 3312 (Fam)
  - Fact Finding hearing at an early stage: (e.g. Re D (Re D (A Child: Parental Alienation [2018] EWFC B64)
  - Transfer of residence, (e.g. Re H (Re H (Parental Alienation) [2019] EWHC 2723 Fam NB: Re A (Re A (Children: parental Alienation) [2019] EWFC B56)
- Re R (A Child: Appeal: Termination of Contact) [2019] EWHC 132 (Fam)
- **Re A: Discussed above**
- **M (Children), Re [2017] EWCA Civ 2164:** Court of Appeal judgment overturning decision of Mr Justice Peter Jackson in J v B (Ultra-Orthodox Judaism: Transgender) [2017] EWFC 4, [2017] WLR(D) 142, in which he refused direct contact and ordered indirect contact only between a transgender father and her five children from an Ultra-Orthodox-Jewish community.
- Background
  - The father, a transgender woman previously a member of the North Manchester Charedi community, brought an application for direct contact with her five children in 2015. Although critical of the community and their attitudes, Mr Justice Peter Jackson (as he then was) ultimately determined that the risk of psychological harm posed to the children by having direct contact with their father was too great, on the basis that they, as well as their mother, would be ostracised by the Ultra-Orthodox Charedi community. Despite setting out fifteen formidable reasons in favour of direct contact, he ultimately concluded that the likelihood of the children being marginalised or excluded by a community the parents agreed they should remain a part of, was such that only indirect contact was in their best interests.
  - The Court of Appeal disagreed in a 138-paragraph judgment which includes a thorough analysis of the Family Court's duties under the Human Rights Act 1998, and the best interests of children in the face of discrimination and

intransigence from a parent or third party. The matter has now been remitted to the High Court for further consideration.

- The judgment

The father's appeal succeeded on all three grounds of appeal, as set out at [§40]:

i) In his careful survey of the wide constellation of cultural and religious concerns, the judge ultimately lost sight of the paramountcy principle.

ii) The judge failed to evaluate why indirect contact and the giving of narratives to the children about their father's transgender status was in the children's best interests and direct contact was not.

iii) The judge failed to exhaust the court's powers to attempt to make direct contact work.

The Court set out the two principles it considered central to the issues in hand: first, that the function of a judge sitting in the Family Court is to act as the "judicial reasonable parent", emphasising at [§60]:

*"the judge in a case like this is to act as the "judicial reasonable parent," judging the child's welfare by the standards of reasonable men and women today, 2017, having regard to the ever changing nature of our world including, crucially for present purposes, changes in social attitudes, and always remembering that the reasonable man or woman is receptive to change, broadminded, tolerant, easy-going and slow to condemn. We live, or strive to live, in a tolerant society. We live in a democratic society subject to the rule of law. We live in a society whose law requires people to be treated equally and their human rights are respected. We live in a plural society, in which the family takes many forms, some of which would have been thought inconceivable well within living memory."*

And second, that judges have a positive duty to attempt to promote contact, and in line with Re C (Direct Contact: Suspension) [2011] 2 FLR 912, that requires grappling with all the available alternatives before abandoning all hope of achieving contact, prematurely. The Court of Appeal reiterated that contact is to be stopped only as a last resort and only once it has become clear that the child will not benefit from continuing the attempt.

The Court of Appeal's four "Reasons for disagreeing with the analysis of the judge" are set out at §76-81. They are as follows:

First, that the judge had not asked himself "a number of highly pertinent questions", including how his conclusion could follow from his role as a judicial responsible parent applying the standards of reasonable men and women in 2017, in circumstances where the community's focus was as much on itself and the adults as it was on concern for the children [§77]. Furthermore, the Court of Appeal considered whether Peter Jackson J's judgment could be acting as the "judicial reasonable parent" adopting the reasonable parent's broadminded and tolerant approach but was nonetheless driven to a conclusion dictated by the practices of a community which he characterised as involving discrimination and victimisation.

Interestingly the Court of Appeal drew parallels with cases involving parental alienation and the robust approach of judges when dealing with such issues. When faced with such intransigence, the **Family Court may change the child's residence, make them a**

**ward of court, or even consider instigating public law proceedings.** Outlining those options, the Court of Appeal noted: "Is the approach, should the approach, be any different merely because religious belief, practice or observance is in play? The answer in essence must be: No." [§64-6]

Second, that the judge did not address, head on, the human rights issues and issues of discrimination that arose. [§78]

Third, that the judge did not sufficiently explain why indirect contact was feasible while direct contact was not, in circumstances where the concern of the community was to shield its children from knowledge and exposure to such matters as transgender and to restrict its children from coming into contact with children who have such knowledge or have been so exposed. In essence, the Court of Appeal could not discern the difference between these children having indirect or direct contact where the risk being guarded against was 'knowledge' of transgender. [§79]

Fourth, that the judge "gave up too easily" and decided the issue of direct contact without a single attempt to make it work [§80]

Finally, at [§84-135], the Court of Appeal set out, in full, the legal position under the Equality Act 2010 and Articles 14 and 9 of the ECHR, making the Family Court's duties (sitting as a public body within the meaning of the Human Rights Act 1998) very clear.

In particular, the Court of Appeal provided guidance for the High Court when the matter is considered in due course, including:

The Court should consider whether there would be unlawful conduct in the face of an order for direct contact, and if so, to what extent that unlawful conduct should be given weight in any welfare analysis. The Family Court cannot be absolved of its duty under the Convention even if the parents agree (as they did in the present case) that the children should remain within the community which represents the source of the discrimination [§98].

Following the series of well-established principles in relation Article 14, the High Court must now "scrutinise with care the suggested justification for the apparent discrimination which the father faces on the ground of her transgender status, not least to ensure that the court itself does not breach its duty under section 6 of the HRA." [§115].

Even if Article 9 is engaged, pursuant to Article 9(2) the State can impose a restriction on a religious belief, observance or practice where the restriction is necessary in a democratic society. The court may still order some form of direct contact with the children, even if the implementation of that order does not fully respect the religious beliefs, practices and observances of the community, if those beliefs etc are not compatible with the values of a democratic society. Importantly, the Court of Appeal doubted that the actions of the community to exclude the children from the rest of the community could be considered to be a manifestation of those beliefs for the purposes of Article 9, taking account of Strasbourg jurisprudence. [§122, §130-134]

Concluding, the Court of Appeal commented at [§138]:

*"In our judgment, the best interests of these children seen in the medium to longer term is in more contact with their father if that can be achieved. So strong are the interests of the children in the eyes of the law that the courts must, with respect to the learned judge, persevere. As the law says in other contexts, "never say never". To repeat, the doors should not be closed at this early stage in their lives."*

- Cv D and Another [2018] EWCA 3312 (Fam)
- This case involves a unique set of circumstances which justified the removal of parental responsibility. In practice, it is more likely that the court will make other less draconian orders to advance the child's welfare, although the outcome will depend on the individual circumstances of each case.
- Frances Judd QC sitting as a deputy High Court judge granted the mother's (M's) applications to discharge the father's (F's) parental responsibility (PR) and change the child's (B's) surname but declined to extend a non-molestation order without an application being made on notice.
- In August 2012, B was registered under the emotional abuse category at a child protection conference because of concerns about F's intimidating and controlling behaviour. M and B moved to live with M's parents and the case was closed in 2013. In 2016, M applied for and obtained specific issue and prohibited steps orders permitting B to be immunised and assessed for autism.
- In October 2017, B's autism assessment, outlining B's condition and the support needed, was sent to F. Subsequently F sent unpleasant emails to various people referring to B in derogatory terms and consenting to B's surname being changed. F posted written material about B to M's neighbours and was banned from attending B's school for being aggressive and intimidating towards staff members and for using inappropriate language.
- F repeatedly behaved in an abusive, intimidating and unpleasant manner towards M and others involved in B's care and was incapable of changing his behaviour. The way this affected and would affect decisions about B was the central issue. The professionals looking after B needed to do their jobs without impediment. B had special needs that required support and assistance in the coming years. B's care would be compromised if his family was placed under stress and if decision making about him led to conflict and delay.
- It was in B's best interests for F's PR to be discharged because any lesser order would not meet B's welfare needs. Although orders could be made permitting M to arrange treatment for B and make decisions about his schooling, while prohibiting F from contacting her or professionals involved in B's care, it was not possible to cover every eventuality. If the menu of orders failed to cover a particular issue, the court considered it likely that F would make use of the situation to behave as he had previously.
- The decision is notable, as unlike other decisions discharging PR, this case did not involve serious physical or sexual abuse, but emotional abuse. A father's parental responsibility of his six-year-old child was removed and the child's surname was changed where the father had rejected the child and derided his autism, and had used his parental responsibility to obstruct the mother's efforts to consult professionals and make necessary decisions concerning the support required for the child's health, wellbeing, education and general upbringing.

**D (Re D (A Child: Parental Alienation [2018] EWFC B64:**

Before His Honour Judge Clifford Bellamy

- *This private law Children Act application relates to a teenage boy; D. D is aged 13. On 23rd November 2016 his mother applied to the court to vary a residence order, originally made in 2008, and for a child arrangements order providing that D should live with her. The father immediately responded by issuing an application for a specific issue order seeking the return of D to his care. D is a party to*

*these proceedings and a children's guardian ('the guardian') has been appointed for him. The applications come before me now for a finding of fact hearing. This is my judgment relating to fact finding issues*

- *In the light of those 'typical behaviours' displayed by D, I am satisfied on the simple balance of probability that D has become alienated from his father.*
- *I am equally satisfied that the cause of D becoming alienated from his father is the mother's behaviour as I have described it in this judgment. I am concerned that some responsibility may also attach to her partner, T, though as he has not provided any evidence, written or oral, it is not possible for me to make a finding on that point.*
- *I have no difficulty at all in making those two findings. It is the third question that is the most difficult. Has D become alienated from his father as a result of a deliberate course of conduct by the mother or has she unwittingly behaved in a way that has caused the alienation? I have reflected very carefully on that issue. The assessment and prediction made by Recorder McLaren QC, albeit some nine years ago, have proved to be remarkably accurate. The mother has always had a burning desire that D should live with her. She has not let the truth stand in the way of her ambition. Neither, I fear, has she allowed consideration of the potential harm to D that would likely be caused by the obsessive pursuit of her ambition stand in her way. I am satisfied that in this case this mother has deliberately alienated D from his father. I find accordingly*

#### **Re H (Re H (Parental Alienation) [2019] EWHC 2723 Fam**

- Keehan J orders a change of residence as the only realistic option to meet the child's welfare best interests in a case of parental alienation. Reliance upon the expert evidence of Dr Braier; inadequacies in the reports of the SW and NYAS caseworker.
- Conclusions
- Keehan J accepted the opinion of Dr Braier without hesitation. He records that parental alienation is very harmful to a child, skewing the ability to form any and all sorts of relationships. He set out the factors for/against a move and did not underestimate the trauma of a move for H but concluded that any trauma or stress would be of short duration.
- Case worth reading in full, that Keehan J comments about the evidence, namely:
  - Mr Justice Keehan sets out the evidence of Dr Braier, who assessed both parents and H, at length. Dr Braier observed that H's current expressed wishes may reflect mother's difficulty in providing H with an accurate mirror of his own feelings as a child. H's presentation suggested he is triangulated within his parents' conflictual relationship and was prioritising his mother's needs over his own. His responses to the Child Attachment Interview, perception of parent's scale and Bene Anthony Family Relations test were all consistent with those typically seen in alienated children (exclusively negative messages to his father and paternal family and almost exclusively positive items towards his mother). H's lack of ambivalence made his presentation more likely to be alienation than estrangement resulting from his father's behaviour. His response was extreme and excessive, a presentation not seen in children whose parents have been neglectful or abusive. While H may on the surface appear to be fine emotionally, he is not.
  - Mother's views were entrenched. Therapeutic intervention aimed at a restoring H's relationship with his father whilst in the care of his mother was ill-advised. A change of residence may cause H transient distress. The court records Dr Braier's view that cases like these require practitioners with experience and



specialised training in the area of implacable hostility and alienation. For the transition, she recommended residential therapy with H and his father in the paternal home over at least 4 days and 4 nights, with a 12 week follow up of therapy sessions.

- A s.37 report was undertaken by a social worker with no previous experience of cases of parental alienation. The report was "woefully inadequate", being critical of the father but not of the mother and paying scant regard to Dr Braier's recommendations. The court took no account of the report or of the evidence of its author.
  - The court was critical of the NYAS caseworker. Her report contained serious omissions and deficits.
  - The court had the benefit of a transition plan prepared by an ISW.
  - The court formed a positive view of the father. Father readily accepted he had made errors in the past and had drawn H into the conflict, he had reflected on his past behaviours, was genuine in expressing remorse and was committed to undertake the work and therapy advised by Dr Braier.
  - Mother lied repeatedly in her evidence. She was wholly passive aggressive in giving evidence about supporting co-parenting and did not resist any opportunity to castigate and blame the father.
- Keehan J found the following:
    - Mother had alienated H from his father;
    - The absence of father from H's life has and will cause H emotional and social harm;
    - The only means by which H can enjoy a relationship with both parents is to transfer residence to the father.
  - The court made a child arrangement order for H to live with his father and spend time with his mother, subject to a three-month embargo on direct contact while H settles.

**Re A (Re A (Children: parental Alienation) [2019] EWFC B56):** Before HHJ Wildblood, who delivered a short Judgment, noting:

- *In a recent report to the court, one of this country's leading consultant child and adolescent psychiatrists, Dr Mark Berelowitz, said this: 'this is one of the most disconcerting situations that I have encountered in 30 years of doing such work.' I have been involved in family law now for 40 years and my experience of this case is the same as that of Dr Berelowitz. It is a case in which a father leaves the proceedings with no contact with his children despite years of litigation, extensive professional input, the initiation of public law proceedings in a bid to support contact and many court orders. It is a case in which I described the father as being 'smart, thoughtful, fluent in language and receptive to advice;' he is an intelligent man who plainly loves his children. Although I have seen him deeply distressed in court because of things that have occurred, I have never seen him venting his frustrations. It is also a case in which the mother has deep and unresolved emotional needs, fixed ideas and a tendency to be compulsive.*

**Re R (A Child: Appeal Termination of Contact [2019] EWHC 132:**

- The father's appeal was allowed in part, the order for indirect contact was continued and the s 91(14) order was discharged
- The mother, who was profoundly deaf, made an allegation against the father in 2013, when the child was about 7. After investigation, no action was taken by either the local authority or the police. In 2014 the mother and maternal grandmother made further allegations of physical abuse against the father. These were later found to be untrue by a judge. The parties separated in September 2014, when the mother left the family home with the child, complaining again of abuse of the child by the father. In the subsequent legal proceedings, no findings of fact were made, and the child began to spend time with the father, progressing from supervised, through supported to unsupervised and eventually overnight contact. In November 2015, the mother alleged that the father had threatened to kill the child and sought an occupation order against him, because he was refusing to leave the family home. On the basis of its own concerns about the mother's approach to contact, the local authority issued care proceedings in February 2016. By this stage the father was seeking an order for the child to live with him.
- All the outstanding applications were eventually considered in 2016. A psychologist reported a positive approach by the child to contact with the father and expressed the view that the child was likely to reach the diagnostic criteria for ASD. The psychologist recommended that the child remain living with the mother, with regular contact with the father and a high level of monitoring by the local authority, with family therapy if needed. This was eventually agreed to by the parents, as was a threshold included in the order, expressed in terms of the child having suffered emotional harm because of ongoing conflict between the parents. The legal representatives all agreed that it was not in the child's best interests for the court to make findings of fact. A supervision order was made.
- Contact became increasingly difficult after this. In early 2017, shortly after another overnight contact, the mother stopped all contact. In May 2017, the father issued an application to enforce the child arrangements order; in September 2017, the local authority applied for an extension of the supervision order. An updated report was produced by the child psychologist. In the guardian's view, contact would only work if there was further intervention, and such intervention was likely to be damaging to the child, so indirect contact only should be ordered.
- In July 2018, the judge made findings of fact, including that the father became angry with the child and shouted at him when it was not necessary to do so, but that the father's actions had not been such that the child had suffered harm. In relation to the mother, the judge found that she: had been dishonest on many occasions; had encouraged the child both directly and indirectly in his beliefs; had primed the child to make allegations against the father to the police and others which were not true; had, since 2013, engaged in a course of conduct with the intention of preventing the child from having any contact with the father and the paternal family; had, since 2013, had been implacably hostile towards the father having contact with the child; had alienated the child from the father from 2015 onwards, causing the child significant long-term harm; and had breached court orders. This was against the background, the judge decided, of the mother's strong and firmly held, though incorrect, belief that the father presented a risk to the child. Despite these findings, the judge determined, agreeing with the guardian, that the child, aged 12 years, was to live with the mother and only to have indirect contact with the

father, by means of the father sending letters, cards or gifts, by post once per month for 6 months, and thereafter fortnightly. The judge made orders pursuant to s 91(14) Children Act 1989 to last until 27 August 2019, in respect of spending time with the child and until 27 August 2020, in respect of with whom the child would live. The local authority had originally been seeking the extension of a supervision order, granted in July 2016 but were granted permission to withdraw that application, on the basis that they now considered that the threshold had not in fact been crossed, despite the fact that the judge had found as a fact that the mother had caused the child long-term harm.

- The father lodged an appellant's notice in the Family Division in respect of the child arrangements orders, not in relation to the supervision order. He was given permission to appeal against the decision that indirect contact only was appropriate. An appeal in respect of the supervision order would have been to the Court of Appeal not the Family Division and, given that his principal complaint related to the child arrangements order, he focused his efforts (and his financial resources) on challenging the order of most direct relevance to him and to the child and the mother. The local authority was nonetheless identified as respondent to the appeal; they did not attend.
- The High Court judge allowed the father's appeal and remitted the case to a different judge.
- This appeal highlighted a difficulty that both litigants and the court faced where in complex private law cases there was an interface with public law, which could be dealt with at the same level of the judiciary at first instance but where the paths parted company for appellate purposes.
- It was easy with the benefit of hindsight to criticise the threshold agreed in 2016. The proceedings had then been ongoing for 18 months, serious allegations had been made by the mother against the father (including several to the police) and serious allegations of emotional abuse or alienation had been made by the father against the mother. Equally, given that contact had appeared to be moving forwards in a positive way with the support of the local authority, it was hardly surprising that all parties had thought it would be counter-productive to contact between the child and the father to embark on a highly contentious fact-finding at that stage. The court was inclined to agree. It was never easy to know when to embark on fact-finding and when to let sleeping dogs lie. Some dogs remained asleep for very lengthy periods and allegations faded into the background. Other dogs who had appeared to be soundly asleep could quickly awaken and deliver a nasty bite as the allegations re-emerged with full force. Differentiating between the two was never easy and there were no clear markers which pointed to one rather than the other. It was of course essential that the social work professionals, the lawyers and the judge expressly considered the issue and the respective benefits of or harm that fact-finding might result in or engender and that this was openly recorded. This approach would be consistent with the practice set out in PD12B and PD12J, para 18 and would ensure that the issue was not overlooked.
- One of the findings made by the judge had been that the child had suffered significant emotional harm as a result of the mother's actions and was likely to suffer further significant emotional harm as a result of the mother's actions. This particular finding had been contrary to the local authority's conclusion that the threshold for public law intervention was not met. That finding having been made prior to a final determination of the private law applications and in particular the contact application, the parties and

the court should have reflected upon the finding and what further role the local authority might have been required to play in fulfilment of their statutory obligations to the child.

- The evidence of the clinical psychologist was that efforts to reinstate contact should be pursued. The effect of her evidence was that the child would suffer significant harm if his relationship with his father was lost. She had considered that the harm he would suffer in his mother's care could be ameliorated by undertaking therapeutic work to enable the mother better to meet the child's emotional needs. She had considered that if the mother did not make progress in her capacity to meet the child's emotional needs, the harm he might suffer in her care could outweigh the harm that would be caused by removing him from her care. The decision to terminate contact and to end the proceedings without further investigation carried with it the inevitable consequence that the child would remain in the care of his mother and be exposed to this risk. The combined benefits of facilitating the re-establishment of contact and addressing the mother's capacity ought to have led to the conclusion that further enquiries were required to address those issues. The judge had placed insufficient weight on the medium to long term harm that the child might suffer, as compared to the short-term harm that he would suffer by the continuation of the proceedings or further work on contact.
- Although no party had put before the court evidence of the therapeutic resources that could be deployed to address the risks identified by the psychologist, it was clear that there was a gap in the enquiries made, as a result of the parties not having been in a position to pursue to a conclusion the enquiries the psychologist had recommended. In those circumstances the court should not have proceeded to a final determination that there should be no contact, as there were still potential steps that could be taken to promote contact. The end of the road had not been reached.

## SLIDE 19: Alternative Options

### What options are there outside of court?

- Supervised/supported contact at an early stage,
- Mediation or family therapy, to see if discussing their respective feelings about contact in an open and safe environment can help them reach an agreement.
- Involving a psychologist on a consultancy basis/starting family therapy/combining treatment with workshops about alienation and its impact. Mindful that
- Clients may consider obtaining psychological assessments.
- Note in June 2019 A REVIEW OF THE CHILD ARRANGEMENTS PROGRAMME [PD12B FPR 2010]
  - In June last year, a review of the current Child Arrangements Programme was produced. Within the report, it is suggested that there should be a greater emphasis on out of court resolutions and a focus placed on avoiding delays. There is a suggestion that there is a more sophisticated approach taken to 'triaging cases' but there are no specific suggestions as to how to deal with intractable disputes (see <https://bit.ly/35KcNMN>).
- Generally, therapists/psychologists will say that:
  - Parental alienation requires legal and therapeutic management to enhance family functioning
  - Awarding primary parental responsibility to the targeted parent and providing specialized family therapy is effective in ameliorating parental alienation

- A specialized form of systemic family therapy for parental alienation can improve family functioning and prevent further parental alienation

## SLIDE 20: QUOTE

- NAGALRO Annual Conference 2018 - President

*I wish to say something now about “alienation”. For some time, there has been debate as to whether or not the holy grail of “parental alienation syndrome” actually exists. For my part, I have never regarded it as important to determine definitively whether or not psychologists or psychiatrists would be justified in attributing the label “syndrome” to any particular behaviour in this regard. In time gone by, there was similar debate as to whether a diagnosis could be made of “Munchhausen’s Syndrome by Proxy” in such cases the focus of the Family Court, rightly, moved away from any psychological/psychiatric debate in order to concentrate on the particular behaviour of the particular parent in relation to the particular child in each individual case. If that behaviour was found to be abusive then action was taken, irrespective of whether or not a diagnosis of a particular personality or mental health condition in the parent could be made.*

END