



13 April 2018

David Rowlands AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear David Rowlands AM

RE: Petition P-05-751 Recognition of Parental Alienation

Thank you for your recent letter dated 16 March 2018 regarding a request for the views of Welsh Women's Aid about the issues raised by this petition.

As the umbrella body for violence against women, domestic abuse and sexual violence specialist services in Wales, our work is informed by our national network of 23 specialist services, and we also collaborate closely with UK umbrella bodies and children's charities. As such, our concerns about this petition are informed by our work on domestic abuse and sexual violence, and our work for and with children and young people. Our concerns also align with the position of other organisations, such as NSPCC Cymru and Women's Aid Federation England.

Summary: our response to specific petition demands

- Recognise 'Parental Alienation' as emotional abuse of children with a definition incorporating the one given by the Ministry of Justice (para. 1 <https://petition.parliament.uk/petitions/164983>).
- Commission and fund mandatory training for professionals including social work and Cafcass Cymru staff, in recognising Parental Alienation including pathways to protect children from harm.
- Establish and fund a national campaign to inform children and families about Parental Alienation and the harm that it causes.

We recommend that the National Assembly **should not** 'persuade' the Welsh Government to formally recognise 'parental alienation' as a specific form of child abuse in Wales, **nor** should mandatory training for professionals be commissioned on 'parental alienation'. We also recommend that the National Assembly should **not** fund a national campaign to inform children and families about parental alienation and the harm it causes.

As evidenced below, 'parental alienation' as a concept it remains undefined, complex and contested and its scale is unclear. The Ministry of Justice definition is not a 'definition' as stated by "Families Need Fathers Both Parents Matter Cymru" in this petition. This is a reference to a response provided to another petition last year (which sought to recognise 'parental alienation' as a criminal offence¹) and has not been formalised or used elsewhere in publications or regulations by the Ministry. In responding to that petition, the Ministry of Justice argued that the Children Act 1989 contains adequate provisions to deal with these concerns citing that the family court has a range of powers to

¹ <https://petition.parliament.uk/archived/petitions/164983>

deal with such cases and therefore separate legislation is not needed to address ‘parental alienation’. The Ministry of Justice concluded that the current legal provision is fit for purpose and that practitioners have the capacity and specialist expertise to undertake this remit.

- *Place a duty on Welsh Ministers to act to protect children from abuse and harm where Parental Alienation has been identified.*

We recommend that the National Assembly should **not** place a further duty on Ministers to protect children where ‘parental alienation’ has been identified, because this would duplicate responsibilities and duties already in place.

In Wales, Ministers are already under a duty to have due regard to the United Nations Convention of the Rights of the Child (UNCRC) through the Rights of Children and Young Persons (Wales) Measure 2011, when exercising their functions and for states to ensure through legislation and policy that this is the case.. This includes the rights of children to retain contact with both parents *unless doing so would cause them further harm* (Article 9), the right for children to be kept safe from harm (Article 19) and protection of the best interests of children (Article 3).²

Professionals involved in court processes are also already bound by rules that govern that the child’s welfare should be of paramount consideration (welfare checklist under the 1989 Children Act). In Wales professionals are also bound by section 130 of the Social Services and Well-being (Wales) Act 2014 which defines abuse and includes psychological and emotional abuse and the duty to report, as well as by guidance in the All Wales Child Protection Procedures. The definition of emotional abuse in these Procedures is already wide-ranging and includes any forms of harm or abuse that has a negative and long term impact on a child and their development.

We urge all Petitions Committee members to consider our recommendations (above) and the following supporting evidence (below), when discussing the issues raised by this Petition.

Supporting evidence: ‘Parental alienation’ and domestic or sexual abuse

‘Parental alienation’ is commonly perceived to involve one parent turning a child against the other parent and the child then rejects this parent, yet as a concept it remains undefined, complex and contested and its scale is unclear. Recognition that there is a ‘syndrome’ of parental alienation is also highly disputed, and such a syndrome has not been recognised by the World Health Organisation or within family proceedings in our jurisdiction.

Although alienating behaviours can manifest in a number of ways with varying impact, it is generally accepted that when a child is rejecting or resisting one parent, this can involve a combination of child and adult behaviours and attitudes associated with separation or family breakdown. CAF/CASS reports, for example, that extreme examples of ‘parental alienation’ are a very small percentage of those cases that come before family courts.³

In cases of domestic abuse, we know that often perpetrators engage in overt or more subtle alienating and abusive behaviours with their children to try to turn them against the non-abusive parent (usually mothers). We also know that children are harmed by coercive controlling tactics, including continual

² https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_united_nations_convention_on_the_rights_of_the_child.pdf?ga=2.203887760.1230604889.1523451048-1234611693.1523451048

³ <https://www.cafcass.gov.uk/grown-ups/parents-and-carers/divorce-and-separation/parental-alienation/>

monitoring, isolation and verbal/emotional/psychological and financial abuses, perpetrated by fathers/father-figures against mothers. So victims of domestic abuse have legitimate concerns about the parenting capacity of the abusive parent and, following separation (which is the most dangerous time for victims of domestic abuse)⁴, many request safe/supervised/indirect contact to safeguard their children, because their children consider the abusive parent as threatening or frightening.

Research suggests it is a mistake to assume that a child's reluctance to have contact with the non-resident parent is simply due to brainwashing or 'alienation' by the resident parent, and that even relatively young children may have very clear reasons for resistance to contact.⁵ When a child has been abused by a parent, including when they live with a parent who is physically, emotionally and/or sexually abusing the other parent, then rejection of the abusive parent is often an adaptive coping strategy, and a child's refusal to have a continuing direct relationship with the abusive parent is justifiable estrangement, an attempt to keep themselves and their other parent safe.

Nevertheless, fathers' pressure groups commonly accuse non-abusive parents (overwhelmingly mothers) of being 'implacably hostile', of emotionally manipulating and alienating their children from contact with their fathers following separation. Yet our experience, supported by evidence, shows that the reverse is true, and that mothers who have experienced domestic abuse frequently try various ways to promote contact if it is safe and in the child's best interests to do so.⁶ Worryingly, there is a growing public perception that mothers are flouting contact orders and courts are failing to uphold compliance, but research (e.g. by the Nuffield Foundation) shows this is inaccurate: such cases constitute a minority of enforcement cases, most of which arise because of unresolvable parental conflict, serious welfare concerns, or the children's own wishes (as outlined above).⁷

'Parental alienation' is being used by perpetrators, in our experience, to discredit allegations of domestic abuse made by mothers and to explain a child's anxiety and fear about contact with that parent, often despite the presence of welfare concerns which are far more likely to be the reasons for the child's reaction. We are concerned that during family proceedings, more weight can be given to this than to domestic abuse itself, because of the incorrect assumption made by some professionals that once a relationship has ended, the abuse has also ended.

Research by Women's Aid Federation England with Queen Mary University London (forthcoming) evidences that family justice professionals increasingly accept 'parental alienation' as a credible and common 'syndrome' in the absence of scientific validity. In some cases, this research shows, women who raised domestic abuse as a safety concern in relation to child contact were accused by their abusive partner of 'parental alienation' and of making up the experiences of domestic and child abuse, and women lost residency and contact with their children as a result.

⁴ According to the *Femicide Census* 77.4% of women killed by their ex-partner or ex-spouse were killed within the first year that followed that separation. *The Femicide Census: 2016 findings* p.5 <https://1q7dqy2unor827bqjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2017/12/The-Femicide-Census-Report-published-2017.pdf> [accessed 03.04.18].

⁵ Fortin, Hunt and Scanlon (2012) "Taking a longer view of contact: The perspectives of young adults who experienced parental separation in their youth"

⁶ For example, Hunt, J. and McLeod, A. (2008) *Outcomes of Applications to Court for Contact Orders After Parental Separation or Divorce*, London, Ministry of Justice; Thiara, R.K. and Gill, A. (2012) *Domestic Violence, Child Contact and Post Separation Violence: Issues for South Asian and African-Caribbean Women and Children; A Report of Findings*, London, NSPCC; Morrison, F. (2015) "All over now? The ongoing relational consequences of domestic abuse through children's contact arrangements", *Child Abuse Review*, 24 (4), 274-284.

⁷ <https://www.nuffieldfoundation.org/sites/default/files/files/enforcement%20briefing%20paper%20final.pdf>

Our concerns about the way ‘parental alienation’ is being used, are reinforced by research which shows family courts have frequently minimised the impact of domestic abuse which leads to contact arrangements that are often unsafe.⁸ For example, analysis of serious case reviews from England and Wales published between January 2005 and August 2015 concluded that there have been significant failings in family courts and child contact arrangements that actively minimised the possibility of further harm to children/young people and the non-abusive parent. This research outlined the stories of 19 children and 2 mothers who were killed by a parent or partner who was a perpetrator of domestic abuse, in circumstances relating to child contact (formally or informally arranged).⁹

In Wales, consultation undertaken by an independent facilitator for Welsh Women’s Aid¹⁰ with 69 survivors of violence and abuse, raised significant concerns in this area:

- Survivors spoke of their experience of perpetrators using the family court system to continue to abuse and control them, and of the family justice system prolonging and reinforcing the abuse they had experienced by perpetrators;
- Survivors told us they felt the abusive parent’s right to see their children overrides the safety and well-being of children during family court proceedings, despite the intent of the law to put the child’s safety, wishes and feelings first;
- Survivors spoke of their concerns about their children being subject to ongoing emotional and other forms of abuse, as a result of family court decisions that allow unsafe contact with the abusive partner/parent.
- Survivors felt that, unlike improvements in the criminal justice system, the family justice system did not appear to understand domestic abuse, its impact on mothers and children, and their need for support.

This consultation specifically recommended that Welsh Government prioritise “*Improved awareness of and response to violence against women, domestic abuse and sexual violence by professionals involved in the family justice system (CAFCASS Cymru, judges and court personnel, contact centres), and safe child contact with parents/carers following separation, in cases of domestic abuse and sexual violence.*”

Supporting evidence: *Changes to guidance for family courts and social work practice*

The Ministry of Justice and the President of the Family Division recently issued a revision to guidance for judges and magistrates for child arrangements proceedings where there are allegations, risks associated with, or admissions of domestic abuse – Practice Direction 12J.¹¹ This applies to any family proceedings in the family or high courts. Courts will be required to follow the revised guidance at all stages of the proceedings and specifically at the first hearing, and must consider whether domestic abuse is raised as an issue. This guidance came into force on 2nd October 2017 and shows the extent and seriousness with which domestic abuse needs to be considered in these circumstances.

⁸ Harrison, 2008; Bagshaw et al., 2011; Caffrey, 2015; Morrison, 2015.

⁹ Women’s Aid England published research in 2016 as part of the Child First campaign, which Welsh Women’s Aid participated in, - “Nineteen Child Homicides” (Bristol: Women’s Aid, 2016) <https://1q7dqy2unor827bgjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2016/01/Child-First-Nineteen-Child-Homicides-Report.pdf> (accessed Oct 2017)

¹⁰ Y. Rehman, ‘Are you listening and am I being heard? Survivor Consultation: A report of the recommendations made by survivors of violence against women, domestic abuse and sexual violence, to inform the National Strategy in Wales’, <http://www.rhianbowendavies.com/wp-content/uploads/2016/09/Are-you-listening-and-am-I-being-heard-FINAL-July-2016.pdf>, Welsh Women’s Aid, 2016.

¹¹ Practice Direction 12J - Child Arrangements & Contact Order: Domestic Violence and Harm https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j

CAFCASS Cymru has already undertaken a programme of training to improve their understanding on the dynamics of domestic abuse, in particular on new legislation regarding coercive controlling behaviour, so that they can effectively identify and take action in cases where such abuse exists. Nationally, ‘Ask and Act’ training is also being rolled out for social workers in Wales, under the National Training Framework to help professionals earlier identify and respond to domestic abuse, sexual violence and other forms of violence against women.¹²

CAFCASS (in England) is also reviewing its practice, by piloting a ‘High Conflict Practice Pathway’, a practice framework being developed to help practitioners systematically assess cases which feature adult behaviours associated with high conflict, which includes, but is not limited to, ‘parental alienation’. It supports the accurate and early identification of exactly what is happening for each child, and aims to distinguish between parental alienation and the justified rejection of a parent by a child due to inappropriate, abusive or harmful behaviour.

Welsh Women’s Aid welcomes this revised Practice Direction 12J guidance and further improvements in practice and training undertaken by CAFCASS Cymru, as it is hoped that this will improve the rights of children and young people and survivors of domestic abuse to live free from abuse and violence in Wales.

In summary, these petition demands would not be in the best interests of children and young people and their safety, and would also be replicating much of the legislation and policy already in place concerning the emotional abuse of children:

- The most likely reason that a child becomes estranged from a parent is that parent’s own behaviour, and the use of ‘parental alienation’ label against the other parent only serves to deflect attention away from those behaviours.
- More dangerously, parental alienation can mask domestic violence and child abuse (physical, emotional, sexual or neglect). Indeed, it is in the perpetrators’ own interests to blur the distinction between abused children and ‘alienated children’, and to reframe the behaviour of fearful abused women as ‘alienating’, so that professionals question, for example, whether gathering evidence of abuse (interviews with psychologists, medical examinations or discussions with the child) is gathering proof or further evidence of alienating behaviour.
- There is already a great deal of work underway to safeguard and support children in Wales, and to better identify and respond to domestic abuse and sexual violence. Labelling the concerns of victims of domestic abuse as ‘parental alienation’ or the responses of sexually abused children as ‘alienated’ will only serve to further endanger children, who may already be deeply traumatised after living with violence and abuse and who need access to protection, safety and support. ***If any resources are to be allocated to improve the lives of children, we would recommend this be allocated to supporting children and young people directly who are impacted by domestic and sexual abuse.***

¹² Part of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.

Thank you for this opportunity to contribute our expertise to this area as the umbrella organisation for violence against women, domestic abuse and sexual violence specialist services in Wales.

If you require any further information or evidence, around this or any other related matter, please do not hesitate to get in touch.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'E. Butler'.

Eleri Butler MBE

Chief Executive Officer,
Welsh Women's Aid