



## Submission to the Department of Justice Consultation on Parental Alienation

June 2022

Founded in 1976, Treoir is the national federation of services for parents who are not married to each other. Treoir, in partnership with its member agencies, promotes the rights and best interests of unmarried parents. Treoir recognises the diversity of family life in Ireland and believes that all families, especially those where parents not married to each other have equal rights to respect, care, support, and protection. In addition, Treoir supports and promotes the rights of all children as outlined in the Irish Constitution and in the United Nations Convention on the Rights of the Child.

**The following statements of principle underpin and inform Treoir's work:**

- unmarried parents and their children should enjoy the same rights as married families and they should be supported, recognised, and treated equally;
- the rights of all children as set down in the United Nations Convention on the Rights of the Child (1989) should be respected;
- all children have a right to information about their parents and where-ever possible to be loved, and cared for by them;
- all unmarried families, such as, LGBTI+ parents, ethnic minorities including, members of the Traveller community, and immigrants should be supported;
- unmarried parents should enjoy the same rights as other families in accessing housing, health, education, training, and employment.

Treoir welcomes the opportunity to make a submission to the Department of Justice consultation on parental alienation. Every year our National Specialist Information Service responds to thousands of calls from lone parents, unmarried fathers, cohabiting parents, extended family, and professionals. The recommendations in this submission are informed by the experiences of those contacting this Service.

## 1. What is parental alienation?

Treoir knows from first-hand experience that conflict related to access, decision-making, and custody, is the reality of life for many parents and their children. This may be viewed as the social process which arises in complex emotional contexts where both parents seek custody of children and in some cases, against the wishes of the other parent.

There is no agreed definition of parental alienation, and the concept has no evidential validity. However, it has been cited in the Irish court. This is a worrying development as the term is ill-defined, often misunderstood and misused and does not offer a solution to what is very often, complex and multifaceted issues. Other problems with the concept of parental alienation include its failure to consider that people other than parents influence children such as grandparents, aunts, uncles, parental friends, and new partners.

In the context of parental alienation children are depicted as victims of manipulation and control, or both.<sup>1</sup> The reality of course is that children can become anxious, depressed, or have negative relationships with others for a variety of reasons that stem from a range of causes.

Mediation and a post separation parenting plans agreed by parents are much more effective mechanisms to resolve conflicts. The use of post separation parenting planning, access to conflict resolution, mediation and other emotional support services are preferable to court procedures. The pursuit to criminalise parental alienation would lead to increased litigiousness in child custody and access cases which are best resolved through alternative dispute resolution processes such as mediation, co-counselling, shared parenting and parenting support organisations.

## 2. Impact of parental alienation

While parental alienation has no agreed definition, when it is alleged in real-life situations in the family courts, to child protection services, or to the Gardaí, it has the potential to harm the targeted parent and especially the child. In the context of the current move towards prioritising and vindicating “the best interests of the child” the use of term is problematic and raises questions about whose interests the concept actually serves. Nonetheless this has not prevented the term taking root in family courts in recent years in both the UK and

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<sup>1</sup> Parental alienation should be criminal offence. F. Garland in *The Irish Times*, 1/9/ 2015

Ireland. Indeed, commentators have noted how the term is often used in domestic abuse cases by the accused to discredit allegations made against them by an ex-partner.

Callers to our Information Service have recounted how the term was used in court by a father to discredit the mother during access hearings, even when the latter had never been denied access. The fact of the matter is that fathers, even in domestic abuse situations still get access from the courts. What is described as parental alienation may be as simple as a mother trying to protect her child from unsafe contact with the other parent, or a child deciding they do not want to spend time with a person. Moreover, using terms like parental alienation can add to what is already a very conflictual situation, which can in turn increase the destructive impact of conflict on children. <sup>2</sup>

The promotion of the term parental alienation and its emergence in the language of the family courts is worrying without a proper definition, well defined criteria for recognising it and the impact it has on children. For example, seen in the context of the adversarial nature of the family law system and the over reliance on the courts to deal with complex issues in the face of poor investment in services, the term parental alienation has become just another adversarial tool in the struggle over children's and parental rights. <sup>3</sup>

### **Going forward: what needs to be done**

Treoir believes there needs to be a shift towards a clear focus on children's needs and best interests when considering parental rights, in the context of access and custody. The current adversarial nature of the Family Law System prevents an emphasis on protective, positive parenting strategies, for which both parents should be accountable, following relationship breakdown. Resources need to be reoriented towards ensuring supports are available to enable shared parenting, where this is safe and appropriate. Going forward Treoir would urge the Department of Justice to:

- Continue with the important work of reforming the family law system.
- Ensure the rights and best interests of children is given legislative expression and that resources are provided to ensure services are put in place to vindicate these

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<sup>2</sup> Jail time for parental alienation not in best interests of children. *The Irish Times* 14/9/15

<sup>3</sup> 'Revisiting Parental Alienation Syndrome, Scientific Questions, Real World Consequences.' D. Surface in *Social Work Today*, Vol. 9 (5) p 26.

rights.

- Raise awareness among judges and members of the legal profession so they think more critically about the issue of parental alienation.
- Begin training (specialist) judges and members of the legal profession in family law.
- Invest in the development of family access contact centres so they are available and free of charge, in towns and cities across the country.
- Invest in supports for fathers that include counselling, parenting, and conflict resolution.
- Reform the legal aid system so children are represented in family law proceedings, and parents have access to decent, timely, and accessible legal aid no matter where they live.
- Reform the CFR Act so children can choose if they wish to have access visits with a parent.
- Address the disjuncture between the criminal and civil (family) law systems whereby a father who is found guilty of domestic abuse can still get access to a child.
- Increase investment in the National Mediation Service to ensure waiting times of no more than four weeks across the country.
- Actively promote and invest in shared parenting and conduct a national information campaign promoting the importance of both parents in a child's life.

## **WHAT IS THIS ABOUT?**

The Department of Justice committed to undertake a public consultation on the issue of parental alienation as part of Justice Plan 2022. Consultations are an important opportunity for stakeholders and citizens to express their views and inform the Department's thinking on whether any legislative and/or policy changes may be required on a range of issues it is responsible for.

## **WHAT IS PARENTAL ALIENATION?**

Parental alienation generally refers to a process through which a child becomes estranged from a parent as the result of the psychological manipulation of the other parent. It may also refer to situations where one parent is wrongfully influencing their child or children against the other parent. As a concept, parental alienation is contested, and little is known about how different jurisdictions and systems address it.

There is no clear agreed definition of parental alienation in Ireland and there are no reliable statistics on its prevalence. However, the term has been increasingly cited in the Irish courts

## **WHAT ARE WE ASKING YOU TO DO?**

The Department wants to provide an opportunity for people to give their views on parental alienation. In particular, we would like to hear about:

- your views of and/or experiences of it;
- its impact;
- how it might be responded to in the future.