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**FAMILY
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The Family Court Journal aims to provide a forum for sharing good practice and fostering debate about working with children and young people involved in family proceedings and related matters. Submissions are welcome from anyone with an interest in the family justice system. The views expressed by contributing authors are not necessarily those of the Editor or the Editorial Board.

Notes for Contributors

Contributions will be reviewed in accordance with Editorial policy. Notes and guidance for contributors are available from the Editor.

We are looking for articles on research findings, analysis of policy or law, case

studies or reports of innovative practice. Letters and suggestions for book reviews and films, etc are also welcome.

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Editorial – John Mallinson

The re-launch of the Family Court Journal has been a while in coming and those of us involved offer our sincere apologies for the delay. In saying that, a raft of unexpected issues and obstacles have arisen which has not helped.

The past three years since the last Family Court Journal was circulated in its original printed format have seen us all experiencing a very different world. This started in early 2020 with the COVID-19 pandemic that introduced us to massive lifestyle changes. Many suffered ill-health, some enduring the sadness of losing a loved one. Key workers struggling to cope whilst individual acts of kindness and selflessness flourished. Most family units were pushed and pulled in different directions with inevitable winners and losers. Children lost out in respect of their ongoing education, personal development, and social skills, sometimes further impacted by inconsistent home circumstances brought about by the Covid restrictions.

In February 2022, the conflict in Ukraine started due to aggression from Russia. This has caused unimaginable suffering and destruction alongside the dispersion of Ukrainian families especially children and mothers who have had to flee the war as refugees. Once again, the stability of family life has been disrupted and children are suffering the consequences of unexpected and traumatic events.

But around the world, children continue to suffer oppression, poverty,

abuse, poor education, and a lack of opportunity. It is not new but frustratingly sad that the cycle cannot be broken and better systems and resources put in place to ensure that all children and young people everywhere can look forward to a brighter better future.

This edition is a starting point to reconnect with colleagues, and all Family Court Section members should have received an open letter of invitation to submit articles [or ideas], research results, and book /article /film /documentary reviews. In this edition, there is an article relating to arbitration which, whilst not a new subject, is regularly being revisited as an option in our work with children and families.

Some thoughts are reflected in a piece derived from a lecture given by The President of the Family Division Sir Andrew McFarlane regarding practice within the Family Court system which ties in with an interesting debate about transparency [press] in the Family Court.

The subject of Parental Alienation is not new either but is a debate worth revisiting and could be read in conjunction with a broader article in Vol 7 No 1 Winter 2017 by Brian Kirby.

Finally, the role of the Local Authority Designated Officer [LADO] does not always spring to mind when working on cases but the function provided by the LADO is crucial to the ongoing safeguarding of children. The government has proposed to make it a criminal offence if professionals working with children and young people do not report sexual abuse.

Family Arbitration: an alternative to court and mediation for some families

Catrina Flynn

As an independent social worker, I have been appointed in several family arbitration cases to assist the arbitrator in making the best decision for the children concerned. When first approached, I was totally unfamiliar with the concept of family arbitration. Now with the benefit of a few cases behind me, I believe that family arbitration offers something unique to certain parents in dispute. In this article, I will set out what family arbitration is, how the IFLA (The Institute of Family Law Arbitrators) Scheme came about and how it works. Finally, I will give some reflections on my experience of family arbitration and include some comments from the service users.

Definition

Family arbitration is a form of private dispute resolution. The parties enter into an agreement under which they appoint a suitably qualified person (an arbitrator) to adjudicate a dispute and make a decision. It can be used to resolve financial disputes and issues concerning children. Family arbitration is thus akin to court proceedings as a family arbitrator will produce a decision after considering the evidence and each party's case. In financial cases the decision is called an *award*, and in children's cases it is called a *determination*.

Family arbitration is distinct from mediation in that a decision on the substance of the dispute between the parties is made by the family arbitrator, and the parties agree in the formal

arbitration agreement that the decision will be binding upon them. Sometimes a family arbitrator may consider that mediation could benefit a couple and would suggest this. Conversely, mediators may recommend family arbitration if it seems clear that a dispute, or one aspect of it, cannot settle in mediation.

Background

Arbitration is widely used in commercial disputes. In family proceedings the jurisdiction of the court cannot be ousted but there is no conflict between the role of the Family Court and the resolution of matters by IFLA arbitrations. The High Court and recently the Court of Appeal have supported arbitration awards, incorporating them into court orders.

The IFLA Scheme is a collaboration between Resolution, the Family Law Bar Association (FLBA), the Chartered Institute of Arbitrators (CIArb), and the Centre for Child and Family Law Reform (sponsored by The City Law School, City University, London). Following the introduction of the Financial Remedy Arbitration Scheme in 2012, interest grew as to the possibility of resolving children disputes under the IFLA Scheme. After wide and extensive consultation, the IFLA rules were amended in 2016 to permit specified children disputes to be included in the Scheme. The specified disputes are as follows:

- a: Where and with whom children shall live.
- b: The time spent with each parent.
- c: Arrangements concerning the children's upbringing.
- d: Relocation of children within

England and Wales.
 e: The international relocation of children on a temporary or permanent basis to “Hague” countries.

The Process

Preparatory Steps: The parents identify an arbitrator or, if they cannot reach agreement, ask the IFLA to select one for them. Some arbitrators offer a free introductory meeting.

The Application: The parents submit to the IFLA Administrator a form (ARB1CS) signed by both parties in which they describe and define the scope of the dispute they agree to arbitrate. They expressly agree to be bound by the family arbitrator's written decision. It is critical that the obligations upon the parents contained in the application are fully and clearly explained to them before they sign up for the process.

Safeguarding: The arbitrator will need to be assured that there are no safeguarding issues which may require the intervention of statutory authorities in the dispute. As part of the application the parents are required to make full and complete disclosure in relation to any safeguarding concerns. They complete a safeguarding questionnaire and obtain DBS checks.

The Arbitration Process: This will depend on the nature of the parents' dispute and their preferences as well as those of the arbitrator. It may be a document-only procedure or be conducted by telephone, remote or face-to-face meetings. The family arbitrator has the widest possible discretion to adopt procedures to suit the circumstances of the case. The procedure including a timetable

should be discussed and agreed at the outset along with the fees involved.

The arbitrator may appoint an independent social worker to talk with the children and parents, and afterwards prepare a report. Any fees (family arbitrator, sometimes solicitors and possibly an independent social worker) must be settled prior to receipt of the determination. The family arbitrator's decision must be committed to writing and delivered promptly. The decision will include written reasons and a formal determination. There is normally a requirement to convert the determination into a court order. Consideration should be given to the no order principle.

Reflections of the independent social worker (ISW)

To date, all of the family arbitration cases I have done have been about internal relocation. Maybe that is not a coincidence. These were situations where separated parents had worked out their own arrangements post-separation and, in the main, were getting on reasonably well until one of them wanted to relocate for one reason or another. So, there was a specific issue which had emerged and needed to be resolved. The parents were not raising concerns about the other parent's care of the children.

Speed: I was impressed by the speed with which the arbitration cases were completed. I generally became involved when the parents were about to sign their agreement to arbitrate. Over the previous two or three weeks the arbitrator had been explaining the process, answering questions, and

assessing suitability. From the point when the parents signed, each case took less than five weeks to complete the arbitration process.

This is in stark contrast to the length of proceedings when a court application had been made: the matter would have been protracted over many months. Whilst this is entirely understandable given reduced budgets, increased workloads, and the lack of court time slots, it is enormously frustrating for parents as indeed it is for dedicated court staff and professionals using the courts. The benefit of such a quick resolution is that difficult situations are not prolonged and parental positions are less likely to become entrenched. Such speed can only be achieved if the professionals and the parents have good availability and are able to respond promptly to communications and the tasks required.

Parental engagement with the process: It is the responsibility of the arbitrator to explain the process and ensure all the stages are followed. Within this framework, however, there is great flexibility as to how things are done. In one case, for example, the parents did not have solicitors, wrote their own position statements (with some guidance from the arbitrator) and they then wanted the arbitrator to make his decision without the need for a hearing. In another case, the parents had solicitors who prepared statements and the parents then wanted to have a face-to-face hearing with the arbitrator.

The role of the ISW is to bring in the children's perspective and focus on

their needs and welfare. How exactly this is done, however, is discussed and agreed between everyone. In one case, I reported verbally and in the others, I provided written reports. In terms of outcomes, in 75% of the arbitration cases I worked on, the parents settled the matter after they read the ISW report. The arbitrator then wrote a brief determination incorporating the agreement rather than a long determination which would have been required had the issue remained contested.

In all the cases, I observed various options being discussed and agreed with the parents throughout the process. It seemed to me that this dynamic of collaboration enhanced the parents' ownership of and commitment to the arbitration process. This perception was indeed confirmed in writing by several parents once their arbitration was concluded.

Communication: It is critical that the arbitrator and ISW are well prepared and clear on their respective roles/boundaries whilst at the same time being able to respond flexibly to parents. I was struck by the open communication that each arbitrator maintained with parents throughout the process. By email they explained every step with reasons as the process unfolded. The arbitrator set out options at various points and had email exchanges with parents to clarify any issues they raised. Such communication could not, of course, happen in the court arena. The parents commented that it felt very different: they understood exactly what was happening, they had their questions

answered and felt they had been properly heard.

Conclusion

Family arbitration is not the right option for many separated parents. Some parents need to go to court due to serious risk issues. Some parents are determined to go to court and will refuse to discuss their issues anywhere else. At the other end of the continuum are parents who may be able to resolve their issues themselves or through mediation. Somewhere in between is a group of parents who can co-operate but who need decisions made on specific issues. For them, family arbitration represents a new and positive option which is quicker, less costly, and less stressful than going to court.

Catrina Flynn

Independent Social Worker

References:

A Guide to the Family Law Arbitration Scheme [Fourth Edition] The Institute of Family Law Arbitrators

<https://ifla.tempurl.host/wp-content/uploads/Arbitrators.pdf>

Catrina is an Independent Social Worker, social work consultant and trainer.

Previously, she worked as a practitioner and service manager in Cafcass.

Challenges in the Family Court

Paul Walker

The President of the Family Court Sir Andrew McFarlane, and HHJ Dowding, the Designated Family Judge for Wolverhampton, Telford and Stafford spoke at Wolverhampton University on the 30th November 2022 to an audience made up of students considering a role in the family justice system and those from various fields and experience within it.

The President set an informal tone and outlined the role of the Family Court in dealing primarily with orders under Sections 8 and 31 of the Children Act 1989 which governs private and public law issues respectively. He gave a brief account of his career path from a novice criminal solicitor to his current position as President during an introduction to family law practice with children facing adoption.

The President touched on the challenges to current adoption protocols posed by the rise of the internet and its impact on keeping birth family details confidential. In some ways this simply emphasised the need to maintain social and genetic connections for children who had been legally severed from their original families through the adoption process. The additional impact of Parental Orders through surrogacy could have been added as an increasingly

common alternative for those wanting to have children of their own.

The rise in the number of private law cases before the Family Court involving domestic abuse has been evident for some time. The expansion of the definition of this type of harmful behaviour was long overdue. It was now more than an exercise in counting the number of injuries to a victim that was a feature of legal practice at the start of his career. Additionally, the change from previously used terms such as *custody* [of] and *access* [to] children towards '*arrangements*' had helped to prioritise the child's perspective. Alienation was another contentious label often used by parties to avoid taking responsibility for their part in the breakdown of family life with children involved.

Cafcass in Dorset and North Wales has piloted the Pathfinder Approach informed by Child Impact Reports. This involves more time and resources at an earlier stage but is said to be proving more effective in resolution of private law matters. It is an approach that is careful about the language used and challenges parents about how their current values and beliefs affect the children's relationship with them. It is a similar approach to the Family Drug and Alcohol Court that is making a difference in public law applications.

However, the resultant savings to the Family Court are quantified in

emotional rather than financial terms. This presents a rather blunter political tool when arguing for more investment to ease the burden of caseloads for Family Court Advisors.

The President also emphasised the need to tackle the drift away from the 26-weeks PLO timetable for public law cases. There will be a new initiative to address this. However, there was little comment on the increasing pressure on Local Authority and Family Court resources as a barrier to achieving it. The directive will challenge what may have become the normalisation of delay against the backdrop of a decade of funding cuts in the justice system.

Paul Walker

Family Court Advisor [Bank]

Paul has been a qualified Social Worker since 1999 and worked within Local Authority Children and Family teams before joining Cafcass in 2009 as a Family Court Advisor /Guardian.

Transparency in the Family Courts

Paul Walker

The slow progress over working towards disclosing the work of the Family Court justice system is identified as the constant tension between the need to improve public confidence in the process and maintenance of confidentiality for those involved. Perhaps the most relevant issue around this proposal for those working as Family Court Advisors is how to establish and sustain the trust of children and young people while being required to reveal the intimate details of neglect and abuse to the broader adult world.

The President of the Family Division, Sir Ian McFarlane took on the task of trying to kick-start the process by setting up the Transparency Implementation Group [TIG]. The remit was to include collecting data, reporting proceedings, releasing information to mainstream media outlets and internet bloggers, publishing judgments, communication with Family Courts and editors, listing Family Court online resources, and reviewing the impact and progress of the move towards more transparency. *[Confidence and Transparency: Transparency in the Family Courts, McFarlane A [2021] Courts and Tribunal Judiciary, London].*

There will be few Family Court Advisors who have not noticed the expectation to provide more written detail on recommendations and outcomes on

both private and public law matters over the past few years. We are rightly accountable for our contribution to decisions made in the Family Court where the futures of children and young people are at stake. All parties have the right to contest our interpretation of the way things have been to create often unbearable situations for children and young people in family life.

Our professional values and beliefs are openly challenged in the Family Court to ensure we are not biased in favour of one party or the other, towards keeping the child central to the process. The question of whether we should have to face accountability to the wider public through this transparency process may carry more significance when defending less optimal outcomes for children through our involvement.

The Transparency Implementation Group appears to recognise that the maintenance of children's trust and confidence to participate in Family Court proceedings would reduce if intimate details of family life were part of the public debate. They may need considerable persuasion to initiate or engage with proceedings if the process is perceived as the naming, blaming and shaming of those involved.

It is stated that TIG will deal with issues arising from the openness

/confidentiality debate by adopting a broader position of thought than a 'yes or no' approach [paras 5-9 *op cit* 2021] however, it can only be hoped that this takes full account of the unique experiences of the children and young people involved, their wishes and feelings derived from open discussion and explanation of purpose, and the concerns of the allocated Family Court Advisor.

The original 30 members of *TIG* first met on the 15 December 2021. It is now made up of five sub-groups.

Press attendance and reporting [pilot] sub-group

Three Family Courts were named for piloting at the end of October 2022 where the legal framework, training requirements, and evaluation processes have all been agreed. Reporters and legal bloggers will be allowed to attend and report on Family Court proceedings usually conducted in private subject to maintaining confidentiality of the parties and children involved.

Financial Remedies sub-group

Not relevant to the role of Cafcass.

Data Collection sub-group

It is claimed that this has *created a high-level road map for a data strategy*. We can only hope that it covers any flaws in resourcing along the way. The data collected will be expected to answer six key questions –

[1] what happens to a family before they come to court; [2] who comes to court; [3] what are their experiences of court; [4] how is the Family Court operating; [5] what decisions are being made about children and families; [6] what are the immediate and ultimate outcomes of these decisions.

It is worrying that there was no indication of how, or by whom, this information will be collected.

Consideration is being given to building-up from *HMCTS CCD: the Domestic Abuse Commissioner's projects*, and Cafcass data. This data-mapping process was due to conclude after a three-month period. The *TIG* will have to apply for funding of this process which may include recognition of the way resources are already stretched to the limit in Cafcass.

Media Engagement sub-group

This sub-group will work towards establishing a relationship of trust and confidence between the media and the Family Courts to ensure that any reporting of proceedings is reliable and well informed while maintaining the anonymity of the children and family members. It is hoped that such reporting will increase transparency within the family justice system which in turn, will result in enhancing public confidence considerably. The President of the Family Division will monitor and review this nationally with media and industry managers, and Designated Family Court Judges will meet with

regional *journalists*. There is less clarity about where legal media bloggers fit into this partnership scheme.

Anonymisation and publication of judgments sub-group

The Family Justice Young People's Board has been involved with focus groups from the judiciary. The proposal is to form an Anonymisation Unit to assist judges in preparing information for media release.

It may prove possible to set and maintain ethical standards for reporting Family Court matters through negotiation and an overview of the judiciary and mainstream media representatives. However, those disclosures amounting to a Contempt of Court through social media are likely to be harder to control.

TIG has emphasised and promoted the move to transparency as a way of shedding light on the work of the courts whilst not intending to put individual families under the spotlight of public scrutiny. It remains to be seen if the right balance can be struck between openness and confidentiality in this approach.

Paul Walker

Family Court Advisor [Bank]

Editor's additional notes –

Pros –

[1] Transparency can help the public understand the workings of the Family Court system. [2] Under the Transparency Order, children and families attending cannot be named or any information released that would identify them. [3] Names of individual social workers cannot be published unless ordered by the Court. [4] It may draw attention to the problems relating to delays such as backlogs and the increased number of people who are self-representing. [5] Transparency may promote the hard work that professionals undertake to ensure the welfare of the child. [6] It may also regulate judicial behaviour.

Cons –

[1] Potential to leak confidential information. [2] Local Authorities, their Directors of Children's Services, and senior members of Cafcass can be named. [3] Individual social workers /Cafcass practitioners can be named if ordered by the Court. [4] Family members are able to give statements if they wish to do so. [5] Reporters are allowed to access copies of some of the court paperwork including lawyers' summaries, case outlines and skeleton arguments. [6] Exposure of delicate, personal and private information.

Family Courts in the past have always been private to protect the identity and privacy of children, families and social workers involved in proceedings.

Some cases can have potentially damaging consequences for those involved and family proceedings can be emotional and highly stressful with stress levels being elevated unnecessarily by the reporting process. There is legislation supporting privacy in Family Courts – Section 97[2] of the Children Act 1989 makes it a criminal offence to publish any material that would identify or likely identify a child involved in family court proceedings. Also, under Section 12 of the Administration of Justice Act 1960, it says the publishing of cases which are brought under the Children Act 1989 or the Adoption of Children Act 2002 may be a contempt of court.

How would it work –

[1] Reporters must have an up-to-date press card to attend hearings. [2] Reporters can be invited to attend by either party. [3] Reporters can request to attend remote hearings. [4] Reporters can ask the parties' solicitors to disclose the documents they are entitled to see either in advance or at the hearing. [5] Transparency Order should be issued at the end of the hearing and can be adjusted by the judge to suit the facts of the case. [6] Reporters can speak to either party and /or professionals such as Local Authority social workers or Cafcass Children's Guardian's /practitioners. Reporters can also quote family members as long as they are not identified and do not breach the terms of the Transparency Order. [7]

Reporters will be able to quote what is said in Court by solicitors, judges, and parties as long as it remains anonymised. They can also quote the Interim /Final Order anonymously and only if it is not ordered otherwise. [8] Local Authorities and other organisations can be named unless ordered otherwise by the judge. [9] Children's Guardians cannot be named unless the court orders otherwise.

<https://www.bbc.co.uk/news/uk-64874989>

Professionals' perspective –

Whilst social work practitioners should promote and protect the confidentiality of individuals and their families, professionals have generally supported greater transparency to improve public understanding of the family court. However, children learning about their background through reports in the media can potentially be very harmful. A review found that children do not agree with having their lives shared publicly and so caution is needed. There is a danger of 'jigsaw' identification within communities and a likelihood that journalists will only report the exciting cases. A clear set of rules and restrictions is needed to protect witnesses and professionals whilst acknowledging that perpetrators of abuse will 'put on a show' which could distress and re-traumatise the victims of their abusive behaviour. It is unlikely that true anonymity will be achieved.

Summary

Allowing reporters to attend Family Court hearings is a complex and contentious issue with potential benefits and drawbacks. The potential negative consequences of public exposure in these sensitive and delicate cases should be considered carefully. The Courts will need to decide the impact of media coverage on the impartiality and fairness of the proceedings before making any decision on whether or not to allow reporters in.

John Mallinson

Editor /FCA

Parental Alienation

Peter Brooks

At the time this article was written, the concept of parental alienation [often emphasised with a capital 'P' and 'A' or abbreviated to PA] seems to be establishing itself as a diagnostic tool involving cases of family dispute. I worry that it is resulting in family disputes which are often complexed and nuanced, being labelled or being placed in a theoretical framework that is dubious in its origins and open to misconception. I bear in mind the ancient principle that all families are different, and practitioners should be aware of making comparisons and compartmentalising.

As a starting point, I refer to the historical idea of Parental Alienation. It was first mooted in 1985 by an American psychiatrist called Dr Richard Gardner who referred to *Parental Alienation Syndrome* which was incorrect as it is not a medical condition. The word 'syndrome' was subsequently dropped but I noted it reappeared again along with the word 'condition' which is another quasi-medical term. Dr Gardner described it as a 'childhood disorder that arises almost exclusively in childhood custody disputes.' I would disagree with the word 'exclusively', and the word 'disorder' creates images of mental ill-health.

It can be argued that parental alienation is a threshold process that

suggests psychological manipulation disproportionate to parents' behaviour. It has been suggested that the participation of professionals can lead to more conflict, that it is a form of abuse and can lead to mental disorder in children. However, it is not a diagnosable mental condition, and the concept of parental alienation remains controversial in terms of the psychological services and legal profession in the UK, and is not recognised by the American psychiatric, legal or medical professions, naming it as inadmissible in child custody hearings [Wood 1994]. However, there have been cases in American Family Court proceedings where a child has been moved to the care of the complainant parent as opposed to the parent the child may have chosen to live with. This is an example of where a child's needs can become secondary to decisions about fairness in a parental dispute.

Alienating behaviour in family disputes is often the result of parental conflict, but examples of deliberate alienation by one parent against the other are fairly rare. Therefore, it is important to address the dynamics of each family rather than encourage the idea of pre-meditated alienation. There is no proven diagnostic criteria or treatment programme and no generally accepted theory of parental alienation. Some mental health professionals have said that severe alienation can be classed as abuse,

but the concept of parental alienation remains controversial.

There are ways in which parents can be limited in their understanding of family relationships, or their behaviour may be affected by their own experiences of childhood and consequently, labelling them with parental alienation becomes unnecessarily punitive.

There are many reasons why one parent may wish to restrict the involvement of the other in their child's upbringing. There is a risk that valid concerns about a child's wellbeing can be side-lined by an allegation of parental alienation.

As a practitioner, I have, on more than one occasion, been witness to an allegation of parental alienation by the perpetrator of domestic abuse in the court room. I am reminded of a common strategy of counsel in other types of civil proceedings, known in the legal profession by the acronym DARVO – Deny, Accuse, Reverse Victim, Offender. Counsel for the accused would attempt to deny the allegations against their client, make allegations against the accuser, and thereby attempt to reverse in the minds of the court the positions of the appellant and the accused. I have personally seen this in Family Court cases and would say this is a powerful argument against placing labels on families that not only have a dubious

scientific base but can be used to mislead proceedings. It is a distressing experience to observe the victim of sometimes entrenched domestic abuse having to defend themselves in a court room against the alleged perpetrator.

It appears that further caution is required as the theory of parental alienation becomes accepted or perhaps promoted by interested organisations. Of particular concern is the recent proliferation of self-identified experts in parental alienation. This has been extensively reported in the press notably because many self-promoted experts are not formally qualified. This appears to be the result of parental alienation being established as some sort of treatable condition that can be identified by so-called experts, influencing court decisions about the future parenting of a child.

A website called *parental alienation* offers advice, treatment, and support on the basis this is a definable condition. Cafcass recognises the affects alienation by one parent has over the other but only in the context of the Child Impact Assessment Framework which initiates a holistic approach to issues of abusive behaviour and the effect it has on children.

For those working within the Family Court system, the impact of parental conflict on children in cases is

sometimes clearly evidenced but sometimes not. Therefore, each family should be assessed individually, and a child's particular experiences and needs have to be reviewed without attempting to attach convenient theories or labels. The risk of a child becoming the victim of *professional abuse* could result.

I do not wish to minimise the effect on children who find themselves caught up in adult conflict with a division of loyalties that could result. Neither do I seek to ignore cases where one parent may seek to marginalise the other. However, there may be very sound historical reasons for this. I note that research has shown only a small number of cases where unjustified alienation has occurred, and in my experience too, it is a rare occurrence. It is my concern this has become an accepted theory amongst some that has underpinned alleged expert opinion with potentially highly damaging consequences.

Parental alienation is a concept that has been seized upon by activist groups purporting to represent fathers denied or given limited contact with their children. Drs Sturge & Glaser in their review of 2000 rejected parental alienation as an admissible concept and elsewhere, for example the Canadian Department of Justice, parental alienation is described as *empirically unsupported*.

In my own casework, I can recall a case where a mother ensured the child rejected contact with his father, clearly in revenge for him ending their relationship. I mention this as a singular example. I have had many cases where alienation has been alleged without real foundation. For example, a child who resisted arrangements to see her father undoubtedly based on early childhood memories of aggressive verbal behaviour, with her mother making strenuous efforts to promote contact but being consistently accused of being the cause of resistance. Practitioners will all have similar examples. I wish to underline the recognition that there are occasional cases of deliberate alienation, greatly outnumbered by more complex dynamics. Hence, attempting to place a convenient label on nuanced family relationships is unhelpful in attempting resolution.

Peter Brooks

Family Court Advisor [Bank]

Sturge, C and Glaser, D. 2000. *Contact and Domestic Violence – The Experts' Court Report*. Family Law [Chichester] 30: 615-629

Peter commenced social work in 1983 and worked with adolescents helping them to lead lives without offending. He was a Probation Officer for thirteen years specialising in mental health disorders before joining Cafcass as a Family Court Practitioner in 2002, focusing on private law cases.

Keeping Children Safer – role of the Local Authority Designated Officer [LADO]

Justine Hosking

Introduction

Maslow's *Hierarchy of Needs* is common to all human beings and one of those fundamental needs is to feel safe and secure. This article is all about how the role of the Local Authority Designated Officer [a qualified lawyer] can operate to protect children from harm and promote their welfare by challenging safeguarding standards across the workforce involved with children.

Children's Welfare – from protect to promote

The Children Act 1989 made significant changes to child protection practice and procedure. The Act placed the welfare of the child at the center and laid down a challenge to all statutory agencies working with children and families to ensure that they worked together to enable the child to remain cared for at home unless this placed them at significant risk of harm.

It set out how statutory agencies should interact with the child and reflect other international developments setting out how member states should uphold the rights of citizens, *the United Nations Convention of the Rights of the Child* which came into force in the UK in 1992 and the *European Convention on Human Rights* in 1994.

Lord Laming's enquiry into the circumstances leading to the murder of Victoria Climbié [2004], and the Bichard Enquiry into the circumstances surrounding the murders of Hollie Wells and Jessica Chapman [2004] sent shockwaves through the system of agencies, organizations and professionals working with children. It highlighted potential dangers from adults whose job gave them access to children. The findings and recommendations from these two enquiries triggered a review and overhaul of the entire system of child protection. It placed a greater focus on how agencies and professionals work together to take a co-ordinated and pro-active approach to ensure that children are effectively safeguarded.

The role of the Local Authority Designated Officer [LADO] was implemented as part of the duties under s11 Children Act [2004] and further developed within the statutory guidance *Working Together to Safeguard Children* as set out in the current version of *Working Together* [2018] under Chapter 2: *Organisational Responsibilities*.

Chapter 2 [People in Positions of Trust] states that '*organisations and agencies working with children and families should have clear policies for dealing with allegations against people who work with children*'. The threshold for referral is defined as an allegation of –

- Behaviour that has harmed a child or may have harmed a child.
- Possible criminal offence against or related to a child.
- Behaviour that indicates a risk of harm to a child.
- Behaviour that indicates they may not be suitable to work with children.

The LADO is responsible for the management and oversight of allegations against people who work with children. There is a duty upon the children's workforce, employers, school governors, trustees, and voluntary organisations to inform the LADO **within one working day** of any allegation of this nature that comes to their attention or is made directly to the police.

Keeping Children safe in Education [2020] Part 4 provides similar statutory guidance to schools, colleges, and other educational settings on how to fulfil their safeguarding duties. These requirements relate to all permanent members of staff, supply /temporary staff, governors, and volunteers working in schools or college settings in respect of any allegation of abuse made now, or in the past, or in their current workplace, or a former employment working with children.

Recent Developments

Since the introduction of the role of LADO, there have been numerous high profile child sexual abuse Serious Case Reviews and enquiries, notably Savile [Operation Yewtree] and the ongoing *Independent Enquiry into Child Sexual Abuse* which reflect Sir Michael Richard's conclusion in 2004 that *'the harsh reality is that if a sufficiently devious person is determined to seek out opportunities to work their evil, no one can guarantee that they will be stopped. Our task is to make it as difficult as possible for them to succeed'*.

In December 2020, the Independent Enquiry into Child Sexual Abuse research team published its sixth thematic report in respect of child sexual abuse in the context of residential schools having previously published research on child sexual abuse in religious institutions, children's homes /residential care, custodial institutions, sports, and health care. The LADOs remit is to co-ordinate reports of incidents where professionals and volunteers who work with children can face allegations of harm or abuse.

The Independent Enquiry into Child Sexual Abuse review prompted the formation of the National LADO Network to provide guidelines and consider future developments of the LADO role and service. It has also developed a series of principles governing LADO services and has

developed benchmarking data as well as proposed standards to support LADOs locally. This is intended to offer individual LADOs guidance in what works when managing allegations. Minimum standards have been designed for LADO services albeit advisory and followed voluntarily.

Impact of the LADO role on the Family Court system

The LADO threshold of harm contains four criteria and when identified as relevant, they can have far reaching consequences for service users involved in the Family Court system. The LADO should be notified of any allegation made against a person deemed to be in a position of trust within 24 hours in order to seek advice and guidance on whether the concern constitutes a formal LADO referral or can be dealt with outside of this procedure as a complaint or a matter of practice by the employer or organization involved.

Behavior that has or may have harmed a child

The LADO oversees the investigation and makes a recommendation as to whether, on the balance of probabilities, the alleged incident confirms the intention of the person to have behaved in a way that has harmed a child or may have harmed a child. The definition of harm is interpreted in accordance with the nature of the persons work or volunteering role with children. There is

a higher expectation upon those who work or volunteer with children that their interaction and care of the child will enable that child to feel safe and secure in order to enable them to thrive and learn. It also takes into account the written policy, national minimum standards and expectations of the employer or organization involved rather than applying *significant harm* as set out in s47 Children Act 1989.

Some cases are straight forward, for example where evidence of an allegation is corroborated and indicates that a child has been physically harmed. Others are less straight forward, such as where an employee or volunteer has acted contrary to their safeguarding training, their organisations ethos and Codes of Conduct, and their behavior may have had a detrimental impact on a child's sense of safety.

Possible criminal offences against or related to a child

The majority of LADO referrals involve a multi-agency response to manage the professional allegations and to protect the child. The police provide valuable advice and support in most cases where consideration is given to whether the criminal threshold has been crossed. This includes cases ranging from common assault to grievous bodily harm, to offences under the Sexual Offences Act 2003.

Over that last two years, there has been a greater focus on national strategies to address child sexual abuse and contextual safeguarding including online abuse and sexual exploitation. LADOs have engaged in useful dialogue with local Child Protection Units on the use of *Child Abduction Warning Notices & Sexual Risk Orders* to disrupt harmful relationships between adults in a position of trust with children.

Behavior that indicates a risk of harm to children

The LADO is contacted where statutory agencies including the police and Children's Services have been able to identify people who work with children whose behavior in their private and family lives may create a *transferrable risk* into the workplace. They may be under police investigation and /or an open case with the Local Authority where their own children are subject to Child Protection concerns. If a child has witnessed domestic /drug abuse or suffered physical harm from a parent or carer, or the former has accessed images of child abuse, it is appropriate for the LADO to be notified in order to consider whether it is proportionate and reasonable to share this information with the person's employer. The LADO can offer advice on completing a risk assessment to determine whether there is a transferrable risk to the children they support or care for in a work setting. In these circumstances, the LADO *threshold of harm* may be met in two

respects; is it more likely than not that the person may behave in a similar way at work as they do at home; and can it be reasonably surmised that the person is not in a fit state to identify characteristics of trauma or distress in the children that they care for as a result of their own views of what constitutes trauma or, what is abusive behavior.

There has been an increasing number of referrals from other organisations including health professionals, school designated safeguarding leads, and Cafcass practitioners who have identified that the instigator or victim of abuse within a family setting also works or volunteers with children.

Behavior that indicates they may not be suitable to work with children

A significant change in the LADO threshold of harm and abuse occurred in 2020 following consultation between the National LADO Network and the Department for Education resulting in the inclusion of this fourth criterion. This criterion is now included in the Statutory Guidance *Keeping Children Safe in Education 2020* and the revised *Working Together 2018*. It is intended to cover those cases where a concern has been raised about the behavior of a member of the children's workforce but not directly towards a child outside the workplace.

Managing stability issues includes incidents alleged to have occurred

outside work and /or which do not necessarily include children. For example, domestic and drug /alcohol abuse, and disputes between neighbors. Employees and volunteers in the children's workforce should be trained to ensure they are aware of these extended responsibilities including co-operating with any investigation even though the original incident did not take place at work.

This criterion should have a considerable impact on an organisation's HR policies including its disciplinary procedures and allegations policy in order to address whether staff conduct should now be addressed as a wider child safeguarding issue rather than under a more general code of conduct. This may impact on staff references, Disclosure and Barring Service [DBS] and regulatory body referrals, but it will not apply retrospectively to ongoing disciplinary or conduct issues. It will also be necessary to review supply /agency staff contracts to clarify who is responsible for addressing allegations made against agency staff and how to respond in order to meet the requirements of *Keeping Children Safe in Education 2020*.

Local Statistics

There is a LADO in every Local Authority in England and Wales. LADOs are responsible for preparing an annual report setting out local data as well as identify themes and examples of good

practice. An increase in the number of referrals would suggest raised awareness nationally around safeguarding issues resulting from high profile abuse cases for example, in sports locations and religious settings.

The main referrers to LADO are schools and colleges [31%], police [32%], and Children's services [10%]. A smaller number of referrals are also received from Early Years providers, fostering services, health providers, NSPCC, Cafcass, residential settings and other charitable organisations. Sometimes, referrals come in from members of the public.

Data indicates that the agencies and organizations where a person of concern has been identified remains fairly consistent. 42% work in schools, 13% are foster carers, 8% transport children in taxis, and 5% arise from incidents in residential care settings. It reflects national trends where those working in the education sector, fostering, and residential care settings are at higher risk of an allegation being made against them by a child and where safeguarding provision within those areas is highly regulated and monitored. The LADO has continued to support and advise these organizations by providing an appreciative inquiry approach to allegation-management in order to learn lessons and endeavor to reduce the risks of further allegations being made.

In respect of the nature of harm reaching LADO threshold, physical harm accounted for 45%, and sexual harm 22% which is in contrast to data on those children who are subject to a Child Protection plan where physical harm is 11% and sexual harm is 4%. During the first two quarters of 2020 when COVID restrictions were imposed, reports of physical harm were reduced.

On completion of the investigation undertaken by the statutory agencies and employer, the LADO makes a recommendation which should be endorsed by all parties to demonstrate a shared understanding of the risk and intended outcomes of the agreed actions. This recommendation can have long-lasting consequences upon a person's ability to work with children, their reputation and mental health, and wider consequences for their family. The impact is taken into consideration as well as ensuring that the child's wishes, and views are taken into account.

On the balance of probabilities, 30% of cases processed during 2019 /2020 were substantiated. This means that the person of concern may face consequences such as additional training, warnings, demotion, or dismissal. They may also face criminal conviction or be subjected to Family Court proceedings. Where a person is dismissed or resigns /retires, and therefore is removed from the children's workforce as a result of

safeguarding concerns, there is a duty upon the employer or organisation to file a Disclosure & Barring Service referral on the basis that it meets the DBS [2] *test of harm*. Any national regulatory body also needs to be notified including Ofsted and any relevant professional association.

It is equally significant to the individual that the LADO makes it known when the allegation is *unsubstantiated* [33%] or *unfounded /false* [36%]. This underpins the need for the LADO process to be timely [8-10 weeks] and confidential to enable employees and volunteers to recover from the process. It is set out in *Keeping Children Safe in Education 2020* and is commonly adopted elsewhere that any unsubstantiated allegation should not be referred to in future employee references.

LADOs are often concerned in cases that present complex safeguarding issues that require careful management to ensure the final recommendations are balanced, reasonable and proportionate, remaining transparent and fair to all parties while maintaining the safety and security of the children who are always at the center of the process.

Intention behind the professional allegation

At the conclusion of a case, the LADO makes a recommendation on a balance of probabilities as to whether

the professional allegation is substantiated. If it is, this can lead to serious career and reputational consequences for the person of concern, their family and the organization for whom they work or volunteer. Part of the LADO recommendation is to advise the relevant parties whether the investigation reveals the intention behind the professional allegation. For example, it may be there is no factual dispute that a Teaching Assistant abruptly grabbed a child's hand and dragged them along but if the context was to prevent the child being run over or falling then this is very different to an incident taking place due to a loss of patience or temper by the Teaching Assistant due to a child's behavior at school.

Conclusion – Learning and disseminating lessons from LADO cases

Safeguarding children is one of those complex areas of professional involvement where there is rarely a straightforward analysis or solution. At the conclusion of a LADO case, a recommendation is made and an opportunity to reflect on wider organizational safeguarding practices to ensure how incidents of a similar nature can be reduced. This involves a combination of *black-box thinking*, reflecting on the LADO Annual Report, safeguarding themes, and learning from the National LADO Network annual conference. The key messages that are relevant to everyone, not just

those whose role and responsibilities include child protection and safeguarding are:-

- Safeguarding remains everyone's responsibility.
- Think about safeguarding holistically in all aspects of life; how curious and respectfully challenging are you; have sight of DBS certificates and read safeguarding policies of organizations involved in children's extracurricular activities; note the name of the Designated Safeguarding Lead Officer.
- School Governors, Trustees, and volunteers should be aware of the organisation's Safeguarding Policy and ensure the policy is relevant and has protective factors included and clear reporting lines are in place in the event a safeguarding concern should arise.
- Can the organisation demonstrate they have a consistent culture of staff accountability, transparency, and compliance with their Code of Conduct to minimise the risks of an allegation being made in order to protect children and staff.
- During any Family Court proceedings, seek details of the party's employment and any wider role that family members have regarding children. This will help to determine whether LADO

advice should be sought based on a transferrable risk or suitability issue.

- How often is safeguarding raised as an agenda item, training subject, and supervision topic [Ebbinghaus Forgetting Curve indicates that after 31 days, only 21% of information is retained].
- Recording and retention of all records remains relevant, appropriate and proportionate.

Justine Hosking

[Edited by John Mallinson]

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Justine Hosking is a public Law solicitor and more recently, the Principle Local Authority Designated Officer for Cornwall and the Isles of Scilly.

As the Principal Legal Officer for Cornwall Council's social care legal team, she was involved in the implementation of the Public Law outline and became the Chair of the Cornwall Family Justice Board. Her contribution to Child Protection and Safeguarding enabled her to be seconded as Crown Counsel to the Attorney General's Office on the Falkland Islands to advise the Government on the implementation of new children's legislation and guidance in relation to the Local Safeguarding Children Partnership.

Her recent role as Principal LADO provided an opportunity to promote a wider understanding and compliance with statutory guidance on safeguarding to those involved within the children's workforce. She regularly provided advice to multi-agency investigations into professional allegations, undertook safeguarding learning reviews, and provided themed workshops and training.

Professional notes, law & research

The Perceived Impact of Peer Parental Advocacy on Child Protection Practice 2023

Cardiff University

Summary

This report presents the findings from a mixed-methods evaluation of peer parental advocacy [PPA] in the London Borough of Camden. PPA is a form of peer advocacy whereby parents with lived experience of child protection support other parents to navigate and engage with the process. Research evidence suggests that parents can find the child protection process difficult, stigmatising and authoritarian. Proponents of PPA suggest that it has the potential to promote shared decision-making, improve relationships between social services professionals and families, and enable increased participation by parents.

This evaluation was conducted by Children's Social Care Research and Development Centre [CASCADE] based at Cardiff University with the aim of better understanding the perceived impact of PPA on child protection practice. The evaluation also focuses on developing a programme theory for the key elements of a successful PPA service.

Objectives

This evaluation aims to provide insights into the perceived impact of PPA on child protection in the London Borough of Camden by achieving the following objectives –

- Understanding how PPA is perceived to impact decision making, power relations and relationships between professionals and parents who are engaged with child protection services.
- Developing a programme theory that identifies enabling mechanisms to support future service delivery.

These objectives will to be achieved by addressing the following research questions –

- What are the key elements of the PPA service in Camden.
- What are parents and professionals' experiences of the PPA service.
- What potential impacts [both positive and negative] do parents and professionals identify who work with PPA's.
- Is it feasible to carry out an experimental or quasi-experimental evaluation in the future and if so, what would be the key considerations for designing such a study.

Methods

This qualitative study was carried out through a mixed-methods evaluation in which the theories that were developed focused on the context, the causes and outcomes rather than just outcomes alone. This involved an iterative process to understand casual links between the effects of PPA and the specific contexts they operate in.

The data was collected via semi-structured interviews, focus groups, observation of child protection conferences and in-person stakeholder workshops with parents, professionals and peer advocates. The fieldwork was carried out in Camden as it is the first local authority to set up a PPA service in England.

The study was done through two phases that consisted of the following three stages –

Phase 1: Building initial programme theory [IPT]

- Stage 1: identification of issues and context via a narrative review.
- Stage 2: initial interviews, focus groups, and observations to test assumptions and understandings.
- Stage 3: development of an initial logic model consolidating initial theory of effective PPA in Camden.

Phase 2: Testing and developing a refined final programme theory.

- Stage 4: additional individual interviews and focus groups to test IPT.
- Stage 5: key stakeholder meetings to present programme theory and obtain feedback.
- Stage 6: revisions to final programme theory based on feedback from stakeholders and interviews.

Key Findings

The mixed-method evaluation concluded that the key mechanisms to successfully implement PPA programmes include –

- Active engagement between the PPA and the parents.
- Advocates enabling effective parental communication and participation.
- Advocates building and facilitating trust between parents and CSC professionals.
- Advocates being supported by their local authority to do good work through effective oversight, training and support.

This evaluation contributes to an early evidence base in the UK context on the successful implementation of advocacy programmes. The main findings from this evaluation furthermore demonstrate that –

- Parental advocates may have a role in reducing the imbalance of power between parents and professionals [particularly social workers], facilitating effective

communication between the parties and helping parents to play a meaningful role in decision making.

- The role of PPA's can '*bridge the gap*' between parents and professionals thereby generating trust between parties.
- COVID-19 considerably impacted parental advocacy in Camden by reducing activities or moving them online. The online meetings could be challenging due to some participants lacking the necessary digital resources, stable internet connection or suitable devices which hindered the engagement of the parents.
- Whilst some participants suggested that peer advocates lacked the specialist knowledge to deal with certain aspects such as mental health or domestic abuse, others highlighted the strength in redressing the balance between parties and professionals in a more meaningful way. There is therefore an ongoing debate around the extent to which the peer advocates should be professionalised.
- The importance of effective recruitment, training and supervision needs to be taken into account in order to support parental advocates and mitigate the risk of advocates overstepping the mark.

Recommendations

This evaluation makes the following recommendations –

Further investment and evaluation of PPA services in other local authority areas - the research site was limited to one local authority [Camden]. The promising findings of the evaluation suggest a need for PPA to be explored and evaluated by other local authorities to see if the findings of this evaluation hold-up in other contexts.

Evaluating comparison groups – the evaluation found a clear preference from parents in respect of wanting an advocate with lived experiences. PPA should be evaluated more widely using a comparison group[s] who receive professional advocacy or no advocacy at all to help develop greater understanding around whether the findings of this evaluation translate to other forms of advocacy.

Tailored support and supervision for PPAs – the findings highlight a need for robust, personalised support, training and supervision for peer advocates to ensure that challenges such as complex social work procedures or personal trauma are managed. This will in turn enable advocates to engage in their roles more meaningfully.

Film Review - *She Said*

This fact-based film recounts events leading up to the revelations of sexual harassment and assault suffered by women in the movie industry at the behest of Harvey Weinstein who rose to an unassailable position of authority through the foundation of the entertainment company *Miramax* from the mid-1980s to 2005.

The film focuses on the struggle of two reporters from the New York Times in breaking down the wall of silence built up by Weinstein to prevent the revelations coming to light. Most of the women he sexually abused were effectively gagged by huge confidentiality clauses attached to payments not to go public about the ordeals they had suffered.

Those women drawn into the promise of success were left traumatised and without an acting career. One of the most shocking aspects was how many people working close to Weinstein knew about what was going on in this part of the music business but were too afraid to talk.

It raises important questions about how organisations can become a closed system to external scrutiny and the value attributed to women when consent is not based on choice. Such whistleblowing is far from an easy choice or without consequences one way or the other.

The issue of consent is a recurring theme for us all in matters before the Family Court. As practitioners, we are often faced with having to confront our values around whether 'yes' has any real meaning when 'no' is too uncomfortable to say.

When should domestic abuse cease to be a barrier to any form of contact between children and an alleged perpetrator? The Court often faces the unenviable task of sorting out the fact and possible fiction of rape and sexual harassment between intractable parties who will stop at little to destroy the credibility of each other.

The film draws out the unbearable pressure on women having to accept sexual harassment and assault as an everyday part of their personal and professional life. The burden of guilt they suffer to fit in with such collective denial is portrayed as tangible and ever present long after the events have occurred. It is initially only through the courage of a few that the whole edifice of sexual exploitation is challenged and falls.

Paul Walker

Family Court Advisor [Bank]

Film Review – *Women Talking*

Women Talking is a film which explores the contrasting responses of women to widespread and systemic sexual and physical abuse. The women in question are members of a remote, conservative, religious colony. The film is based on a true story, one that was fictionalized by author Miriam Toews in her novel of the same name. Toews herself was born in Mennonite community in Canada which she chose to leave when she turned 18 years of age. She has spoken of the Mennonite patriarchy and the misogyny inherent in the fundamentalism preached by its conservative leaders.

The shocking true story took place in a Mennonite community in Bolivia. Starting in 2005 when 130 women and children aged between 3 – 85 years were drugged and raped over a period of four years and their attacks were attributed to ghosts, demons or individual hysteria. In 2009, two men were caught when a woman woke up during an assault. Eventually, a group of men were arrested and charged. During the trial in 2011, seven of the eight defendants were found guilty.

In the film, whilst the men were held in custody, the women gather in a hayloft to decide how best to respond to what has happened to them: leave, stay, fight or do nothing. They engage in deep philosophical argument about

their options. Whilst the women have had minimal education, they have acquired significant wisdom through labour, child-rearing, prayer, and intuition. What begins to emerge is a powerful and sophisticated, collective, political consciousness. Away from their husbands, fathers, brothers and sons, the main characters experience a comfort that is clearly familiar and a freedom that feels new as they begin to step out from their defined, taken-for-granted roles.

Each of the main protagonists responds in a different way to the abuse: visceral anger, fear, quiet resignation, confusion, silence – responses with which practitioners in the Family Courts will be all too familiar. These reactions are also informed, however, by the rules of the community including obedience to the elders and the women's strong religious beliefs, especially in the command to forgive, *with failure to do so risking a soul's eternal salvation*. It could be said that by contemplating protests against arbitrary and unaccountable authority in the name of a higher truth, the women are in a way returning to the very roots of Protestantism.

This film is a story that is immediately timely and timeless when thinking about perpetrators such as Weinstein, the Metropolitan Police and the CBI. The subject matter is handled thoughtfully and sensitively. We are reminded that the dynamics around

abuse are complex and that progress is seldom made without collective action. It may sound like grim viewing but *Women Talking* is actually very warm with moments of humour and tenderness. The women laugh, sing together and comfort one another. It is ultimately a film which is full of hope for a better future.

Catrina Flynn

Independent Social Worker

And finally....

A Musing...



The Editorial Board invites anyone reading this Journal to make contact, submit an article, send in details of a case or relevant experience, an interesting or controversial judgement, concerns about practice or commentary relating to codes and conditions of service, positive or negative. Book or film reviews that link in some way to our role are always welcomed, news about meetings, lectures, seminars, or training courses can be of interest. Submissions can name the author, be anonymous or sent as suggestions for the Editorial Board to undertake further research and create an article from the idea sent in. Anything submitted can be very brief or longer, serious, lighter-hearted or even a quip. Cartoons are also welcomed.

The Family Court Journal is for all colleagues within Cafcass and further afield working with children and

families, on the frontline or behind the scenes. The Journal strives to provide an interesting read that informs, educates, enthuses, entertains and most of all unites colleagues. It is also intended to stimulate new membership within NAPO Family Court Section so please feel free to pass on a copy of the Journal in the hope that colleagues who have not yet become members will see that NAPO is a credible, worthwhile, and focused union that works hard for the benefit of its membership.

The Family Court Journal needs to have a wide range of articles in each publication which will hopefully be produced at least biannually. However, this will only happen if sufficient material is received. The Editorial Board is doing its best to create articles, but it is hoped everyone will become equally invested. Time, commitment, and confidence are the key elements to creating a flow of ideas.

Consent as an active process –

Power imbalance is something we must cope with every day of our lives. It affects our responses to others and their interactions with us. It is as unavoidable as the body language we constantly transmit and perceive at any given time of our personal and professional experiences.

The basis of consent is a choice, and it is only possible when there is a perceived balance of power between the parties involved. In other words, if

you feel uncomfortable about refusing a request, then agreement has no genuine meaning.

[Faye & Adams 1984]

Communication

Life is a sequence of once-occurring moments which are the only ones we can influence in the here-and-now [Bakhtin 1993]. The moment ahead is only there as many possibilities to be influenced by our inner voices [*that dialogue with ourselves*] and outer voices [*that dialogue with others*]; [Vygotsky 1983]. We are the voices that inhabit us, and our body language and words allow these to be seen and heard [Morson 1986. Pg 8]. The person we are is represented by our communication which is both informative and formative at any given time.