

Parental alienation. Latest developments.

Judgment was handed down on 20th January 2026 in a case called Re Y (Experts and alienating behaviours: the modern approach). Judgement in this case was delivered by the president of the family division. The court gave guidance on the use of unregulated experts, the court set out the modern approach on the issue of alienating behaviour. The court accepted the Family Justice Council's guidance that the alienation of a child is to be determined by the court. The courts investigation should be "... Unexplained reluctance, resistance or refusal to spend time with a parent rather than the allegations that one or the other parent may be making against the other."

Where there is reluctance, resistance or refusal to engage in a relationship with the parent the court will consider whether this is a consequence of the action of the estranged parent. This is where a parent has been abusive to the child or the caring parent. The abuse may, in many cases explain the child's resistance, reluctance or refusal. In practice therefore, the court will consider these allegations first and having done so, if, it is found that the estranged parent has not behaved in a way in which a child's reaction can be viewed as an appropriate, justified reaction and the court concludes that a child's reluctance, refusal or resistance is not caused by a child's alignment, affinity or attachment then only at this stage will the court focus on whether the caring parent has engaged in alienating behaviours that have directly or indirectly impacted on the child, leading to the child's reluctance, resistance or refusal to engage with the estranged parent.

In cases involving domestic abuse, including those where there are cross allegations of alienating behaviour, the court will first engage in a fact-finding mission to determine the issues around domestic abuse. The court should not begin determination of alienating behaviours before it has determined the allegations of abuse.

The court should not appoint an expert to advise in cases of reluctance, resistance or refusal by a child, until there is clarity or findings of fact as to the parent's past behaviour towards each other and the child.

Therefore, when alienation is raised in any childrens case the court must rule out whether a child's refusal, resistance or reluctance is as a result of the domestic abuse which would be understandable. In those cases where it is not a justifiable reaction to the abuse by a child, the court can move onto consider whether a parent has engaged directly or indirectly in alienating behaviours.

The court ruled that any expert instructed to assist the court should only be instructed after the issue of domestic abuse has been ruled on. The court made clear and affirmed the long-established principle that judges decide the facts and experts advise on the basis of those facts and not the other way round as was the case in the appeal before the court.