High Conflict Child Arrangement Cases

Handbook

Cafcass/NIS December 2016

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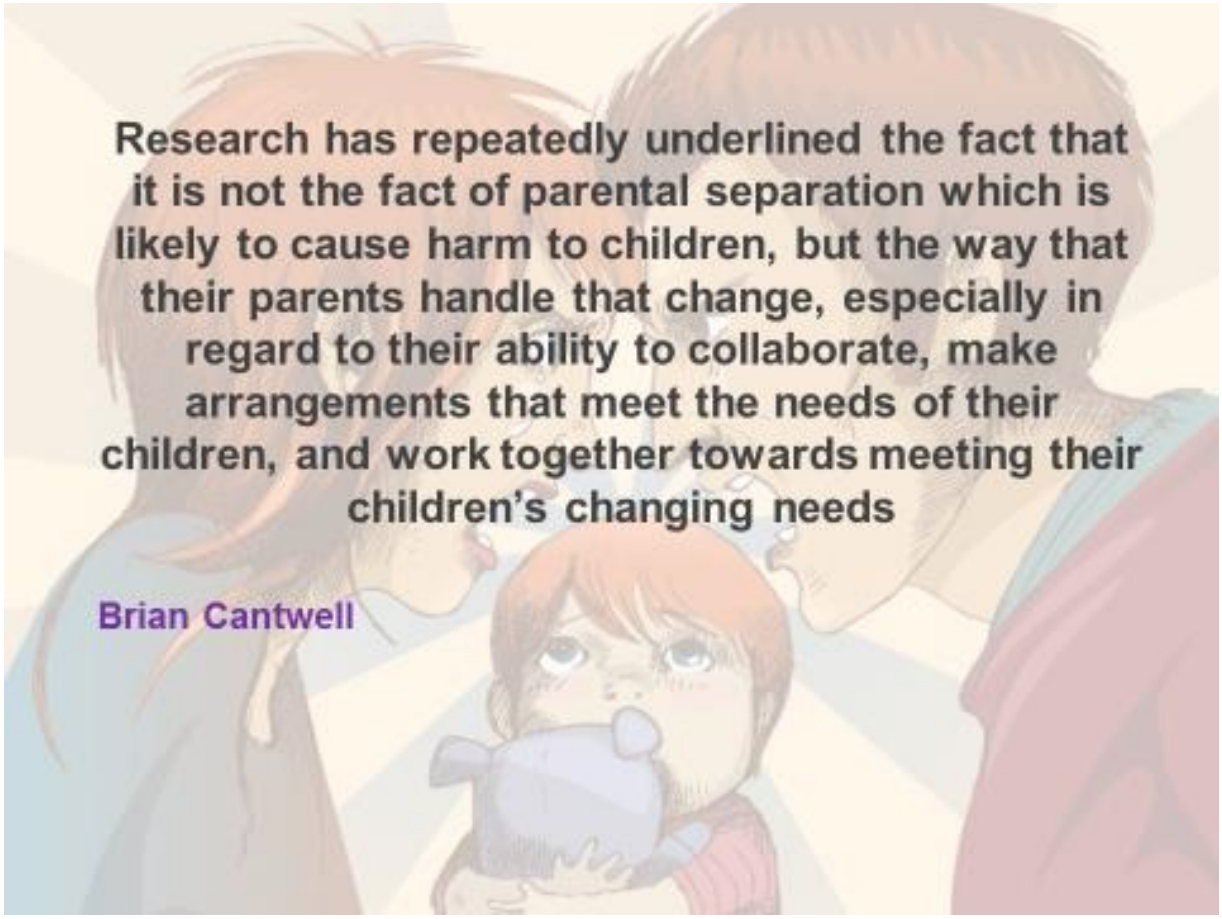


Parental Alienation (Syndrome)

This term has come to be used inappropriately. It is described as a Syndrome – a label coined in the US by Richard Gardner a psychiatrist in 1985, who coined the term to describe his clinical impressions of cases he believed involved false allegations of child sexual abuse.

However his work consisted largely of anecdotal evidence, it lacked credible research, and has no scientific evidence.

Cafcass staff should be careful in using the term 'parental alienation'

In recent years parental alienation syndrome has been alleged in many cases where a child refuses to see a Non-Resident Parent (NRP) and it has drifted into popular use. In some cases by a parent seeking to exercise power and control over the other.

Cafcass practitioners should be careful using these terms, as it risks confusion. That is not to say a child cannot be alienated by one parent against another.

They key issue for the Cafcass practitioner is the impact for the child. It is the task of an FCA to determine if the Resident Parent is unduly influencing the child or acting responsibly to protect.

References:

- Parental Alienation Syndrome and Alienated Children – getting it wrong in child custody cases. Carol S. Bruch. Child and Family Law Quarterly, Vol 14, No 4, 2002

- Is Parental Alienation Disorder a Valid Concept? Not According to Scientific Evidence. A Review of Parental Alienation, M. Brianna Pepiton, Lindsey J. Alvis, Kenneth Allen & Gregory Logid (2012) Journal of Child Sexual Abuse, 21:2, 244-253

Implacable Hostility

From: Enforcing child contact orders: Are the family Courts getting it right? Briefing by L Trinder, University of Exeter July 2013

'Implacably hostile' mothers were few

There is a strong public perception that the primary reason for the non-implementation of court orders is the implacable hostility and unreasonable behavior of resident parents, typically mothers. The reality is more complex. Drawing upon all the available sources, the research team identified four main types of case: (i) conflicted, (ii) risk, (iii) child refusing and (iv) implacably hostile/alienating (Boxes 1 & 2). The implacably hostile group was the smallest in our sample of 215 cases. Much more common were cases where parental conflict meant the parents were unable to make the order work in practice and cases where there were significant safety concerns regarding contact alleged by one or both parents.

Cantwell typology of parents in conflict

Temporarily dysfunctional – history of good parenting, collaboration; some awareness of impact of conflict on children; some willingness to accept help

Significantly conflicted – quite volatile, history of poor communication – genuinely wish resolution but find it difficult to achieve – need tight clear contracts

Stuck in conflict – unconscious interest in keeping it going- great difficulty in putting children's needs first – need firm court and social work control

Stuck Parents

The term 'stuck' both refers to parents who have become lodged in legal proceedings for a period of time and also parents who are emotionally 'stuck' in their personal conflict.

Invariably, there are long and complicated histories in these cases that serve to explain the conflict.

Parents will often be unable or unwilling to give up conflict because it serves a purpose in terms of managing other emotional issues in their lives.

According to Garber, the child who hears Parent A damn Parent B, who feels Parent A's terror in the presence of Parent B, and/or who has direct experience of Parent B's insensitive, unresponsive, or dangerous behaviour is at high risk of rejecting Parent B and thereby becoming polarized within the conflicted family system.

References

- A Guide to the Assessment of the Needs of Children whose Parents become involved in private law proceedings following Separation. Brian Cantwell 2009
- Cognitive-behavioral Methods In High-conflict Divorce: Systematic Desensitization Adapted To Parent–child Reunification Interventions Benjamin D. Garber
- The Chameleon Child: Children as Actors in the High Conflict Divorce Drama Benjamin D. Garber

The Reliability of Children's Wishes and Feelings in High Conflict Cases

Kirk Weir, child and adolescent psychiatrist, explores the reliability of some children's ascertainable wishes and feelings. He finds:

- Ascertainable wishes and feelings can't be relied upon in high conflict situations
- Research evidence which suggests, despite stated views to the contrary, most children had a positive experience where contact took place

"In a study of adults who claimed to have suffered alienation from a parent during childhood some reported that as children they had felt unable to openly express a wish to see the NRP and had secretly hoped that someone else would make the decision for them (Baker, 2007)".

The Child's Position in High Conflict Cases

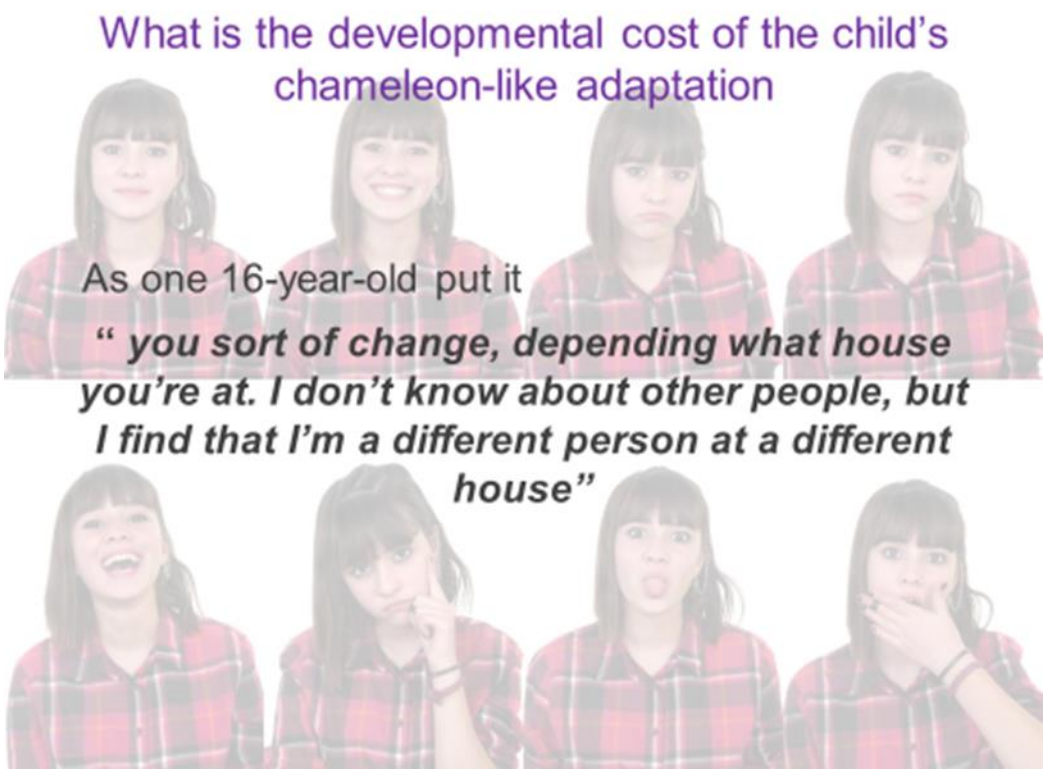
The child can experience conflicted loyalties which increase with separation, when hostility continues.

This conflict can create guilt as expressing love for one parent may feel like a betrayal of the other.

The child can express unreasonable negative beliefs about the NRP disproportionate to their actual experience with that parent.

The child may live in an environment where the RP and wider family members e.g. grandparents and new partners, may express vociferous negative opinion of the NRP.

Seldom is the child's alliance with Parent A and rejection of Parent B the exclusive result of one adult's actions but of the conflict.



References

- High-conflict contact disputes: evidence of the extreme unreliability of some children's ascertainable wishes and feelings. WEIR, Kirk Family Court Review 49(4), October 2011 pp. 788-800
- The Chameleon Child: Children as Actors in the High Conflict Divorce Drama Benjamin D. Garber
- Contact and Domestic Violence – The Experts' Court Report. Sturge, C. & Glaser, D. (2000) Family Law 615 (September).

Working with High Conflict Cases

Working with Children - Practice Advice

Where resistance to contact is inappropriate the RP may misuse the child's voice to achieve their own ends

Practitioners must use care in their analysis of the child's wishes and feelings.

Analysis should take account of the impact of the conflict and the difficulties they are likely to have in expressing their underlying hopes and feelings

Observing contact can be extremely helpful and important in these circumstances. The time spent with the NRP should be sufficient to enable a meaningful meeting (at least 2hrs)

When speaking to children it is important to check they understand that the dispute is between their parents and that it is for the court and not them, to decide what is best for them.

Scaling questions can set the scene and enable you to go on to ask what it would take to move forward. E.g.

Question: “On a scale of 1 -10 how much would you like to see your father?”

Answer: “2”

Followed up with

Question: “What would need to happen to move this to a 6?”

The Child’s Word Choice

Word choice can provide important clues relevant to the distinction between alienation and chameleon - like adaptation.

The child whose presentation has been scripted or coached and the child who is echoing a selfish parent’s thoughts about another is likely to use rote phrases and uncharacteristic language, which the child may not even understand.

The child who is resonating with the resident parent’s affect may struggle to put emotions into words and, when the child succeeds, will do so in words that are more clearly the child’s own

This child’s affect is an echo, unscripted, and in need of words

Children’s Beliefs about Parental Divorce Tool

Children’s Beliefs About Parental Divorce Scale

The following are some statements about children and their separated parents. Some of the statements are true about how you think and feel, so you will want to check **YES**. Some are NOT TRUE about how you think or feel, so you will want to check **NO**. There no right or wrong answers. Your answers will just tell us some of the things you are thinking now about your parents’ separations.

1. It would upset me if other kids asked a lot of questions about my parents.

   _____**Yes** _____**No**

2. It was usually my father’s fault when my parents had a fight

   _____**Yes** _____**No**

3. I sometimes worry that both my parents will want to live without me

   _____**Yes** _____**No**

4. When my family was unhappy it was usually because of my mother

   _____**Yes** _____**No**

5. My parents will always live apart

   _____**Yes** _____**No**

6. My parents often argue with each other after I misbehave

   _____**Yes** _____**No**

7. I like talking to my friends as much now as I used to

_____**Yes** _____**No**

8. My father is usually a nice person

_____**Yes** _____**No**

9. It's possible that both my parents will never want to see me again

_____**Yes** _____**No**

10. My mother is usually a nice person

_____**Yes** _____**No**

11. If I behave better I might be able to bring my family back together

_____**Yes** _____**No**

12. I like playing with my friends as much now as I used to

_____**Yes** _____**No**

13. When my family was unhappy it was usually because of something my father said or did

_____**Yes** _____**No**

14. I sometimes worry that I'll be left all alone

_____**Yes** _____**No**

15. Often I have a bad time when I'm with my mother

_____**Yes** _____**No**

16. My family will probably do things together just like before

_____**Yes** _____**No**

17. My parents probably argue more when I'm with them than when I'm gone

_____**Yes** _____**No**

18. I'd rather be alone than play with other kids

_____**Yes** _____**No**

19. My father caused most of the trouble in my family

_____**Yes** _____**No**

20. I feel that my parents still love me

_____**Yes** _____**No**

21. My mother caused most of the trouble

_____**Yes** _____**No**

22. My parents will probably see that they have made a mistake and get back together again

_____**Yes** _____**No**

23. My parents are happier when I'm with them than when I'm not

_____**Yes** _____**No**

24. My friends and I do many things together

_____**Yes** _____**No**

25. There are a lot of things about my father I like

_____**Yes** _____**No**

26. I sometimes think that one day I may have to go live with a friend or relative

_____**Yes** _____**No**

27. My mother is more good than bad

_____**Yes** _____**No**

28. I sometimes think that my parents will one day live together again

_____**Yes** _____**No**

29. I can make my parents unhappy with each other by what I say or do

_____**Yes** _____**No**

30. My friends understand how I feel about my parents

_____**Yes** _____**No**

31. My father is more good than bad

_____**Yes** _____**No**

32. I feel my parents still like me

_____**Yes** _____**No**

33. There are a lot of things about my mother I like

_____**Yes** _____**No**

34. I sometimes think that once my parents realise how much I want them to they'll live together again

_____**Yes** _____**No**

35. My parents would probably still be living together if it weren't for me

_____**Yes** _____**No**

Scoring

The CBAPS identifies problematic responding. A "yes" response on items 1, 2, 3, 4, 6, 9, 11, 13-19, 21, 22, 26, 28, 29, 34, 35 and a "no" response on items 5, 7, 8, 10, 12, 20, 23-25, 27, 30-33 indicate a problematic reaction to one's parents divorcing. A total score is derived by summing the number of problematic beliefs across all items, with a total score of 35. The higher the score, the more problematic the beliefs about parental divorce.

Source

Kurdek, L. A., and B. Berg. 1987. Children's beliefs about parental divorce scale: Psychometric characteristics and concurrent validity. *Journal of Consulting and Clinical Psychology* 55: 712-18. Copyright, Professor Larry Kurdek, Department of Psychology, State University, Dayton, OH 45435-0001. Used by permission of Dr. Kurdek.

Working with Parents – Practice Advice

The ability of a parent to see the issues from their child's perspective and understand their needs maybe undermined by their hostility to the other parent.

Make a plan and determine your approach and identify the right tools for the case. Case planning can really help you remain clear and focused.

Use a solution focused approach

In TA terms practitioners should remain in the adult role (neutral and in charge)

DeJong and Davies recommend:

From each parent in separate meetings:

- Hear their own individual accounts of their relationship and family history
- What might have begun well, of what went wrong
- What each feels they tried to do to improve the situation for the child
- Assess the insight of each parent into the impact on the child of their separation and their current dispute about contact
- Each parent's wishes in relation to contact

Questioning Style

A conversational style often takes longer and does not result in clear information.

Series of questions aimed at getting the facts.

Positively framed questions usually lead to more constructive responses, which assists in identifying parental hostility.

> "*How can you help your child have a positive relationship with (NRP)?"*
>
> *"What might you need to do differently to support your child go to his (NRP)?"*
>
> *"What sort of activities does your child most enjoy?"*
>
> *"What would you need (NRP) to do so that you would feel comfortable with your child spending time with them?"*

Tool for Parental Concerns about their Child

5 direct questions, useful in starting to narrow the issues.

Adapted from FOWLER, J (2003) A Practitioner's Tool for Child Protection and the Assessment of Parents.

Tool for Parental Concerns

What are the specific factors which you consider present a risk to the children?

How do you feel the children may be harmed?

Do you think your child/ren have suffered in any way?

What have you done to try to address these issues?

What do you feel needs to be done to address these concerns?

Tool for Parenting Knowledge and Styles

This tool looks into various aspects of parenting and has a range of questions covering children from birth to adolescence. Practitioners could consider sending this out prior to interview. It can help a practitioner determine if a parent can understand their child's needs according to their age and stage of development.

Adapted from FOWLER, J (2003) A Practitioner's Tool for Child Protection and the Assessment of Parents.

Tool for Parenting Knowledge and Style (spaces removed)

Why do babies cry?

How would you respond to the different types of crying?

What physical needs does a child have as s/he is growing up?

What emotional needs does a child have as s/he is growing up?

What educational needs does a child have as s/he is growing up?

How do you think children learn?

What kind of things do you think are naughty?

What things can a parent do when a child is naughty?

Would you ever smack your child? If so, what for?

Do you think children like to be cuddled? If so, when would you cuddle them?

Do you think that children should know that parents are 'in charge'?

If so, how would you let your children know you were in charge?

Should parents encourage imaginary play with small children, for example, having a tea party?

Should parents join in?

At what age do you think children would want to stop playing at having tea parties or imaginary play?

How often do you think parents should play with children?

How long do you think a child of 12 months will concentrate on one game/thing/activity?

- One minute
- Five minutes
- Ten minutes
- Fifteen minutes
- Thirty minutes
- Forty-five minutes?

Why do you think they can concentrate for that long?

At what age do you think children should be allowed to go to the shop alone?

When should children be allowed to have boyfriends/girlfriends?

When should children be allowed to stay up until 10.00pm?

At what age should children be allowed to stay in the house alone?

At what age should children be allowed in the kitchen unsupervised?

At what age should children be allowed a say in important family decisions – for example, whether a new partner should be allowed to move into the house?

How old should children be before they are allowed pocket money?

How old should a child be before they are told about contraception, masturbation, safe sex?

Is there an age when you think children should be allowed to watch pornographic films?

(Fowler, adapted)

Tools for use to inform analysis

Safe Contact Indicator

This tool assists the practitioner in determining if contact is likely to be safe and beneficial for the child. Some cases have an element of allegation against the non-resident parent. This tool helps to assess if such a risk needs to be considered. Safety of a child in contact is the main priority.

Derived from Sturge, C. & Glaser, D. (2000) Contact and Domestic Violence – The Experts' Court Report. Family Law 615 (September).

Safe Contact Indicator
Derived from Sturge and Glaser (2000)

Indicator of safe contact	**+**	**-**	**Indicator of unsafe contact**
Child's wishes & feelings			
Child freely wants contact			Child freely does not want contact
Child has positive memories			Child has negative memories

Pre-separation harm and its impact			
Child has not witnessed violence			Child has witnessed violence
Child is not imitating violent behaviour			Child is imitating violent behaviour
Child is not afraid			Child is afraid
Resident parent is not afraid			Resident parent is afraid
Prior harm to child is accepted			Prior harm to child is denied
Perpetrator accepts impact on victim			Perpetrator denies impact on victim
Regret is expressed			No expression of regret
Experiences during contact			
No abuse or neglect of child			Abuse or neglect of child
Contact not used to pursue conflict			Contact used to pursue conflict
Resident parent is not undermined			Resident parent is undermined
Contact is high-quality / reliable			Contact is low quality / unreliable
Safe arrangements are in place			Arrangements are not safe
Clear purpose of contact			
Will maintain a beneficial relationship			No realistic prospect of a beneficial relationship
Will repair a 'broken' relationship			No realistic prospect of repairing a 'broken' relationship
Will contribute to child's identity			No realistic prospect of contributing to child's identity

Your analysis of benefits and risks for this child, derived from the above:

The analysis can be incorporated into your report; the form itself should not be attached to the report.

Impact of Parental Conflict Tool

A really helpful tool in helping the practitioner to determine the level of a child's resistance. Usefully used following an interview to sort out practitioner's thoughts.

Fidler, B. J., Bala, N., Birnbaum, D., & Kavassalis, K. (2008). Understanding child alienation and its impact on families. In B. Fidler, N. Bala, D. Birnbaum, & K. Kavassalis (Eds.) Challenging issues in child custody disputes: A guide for legal and mental health professionals

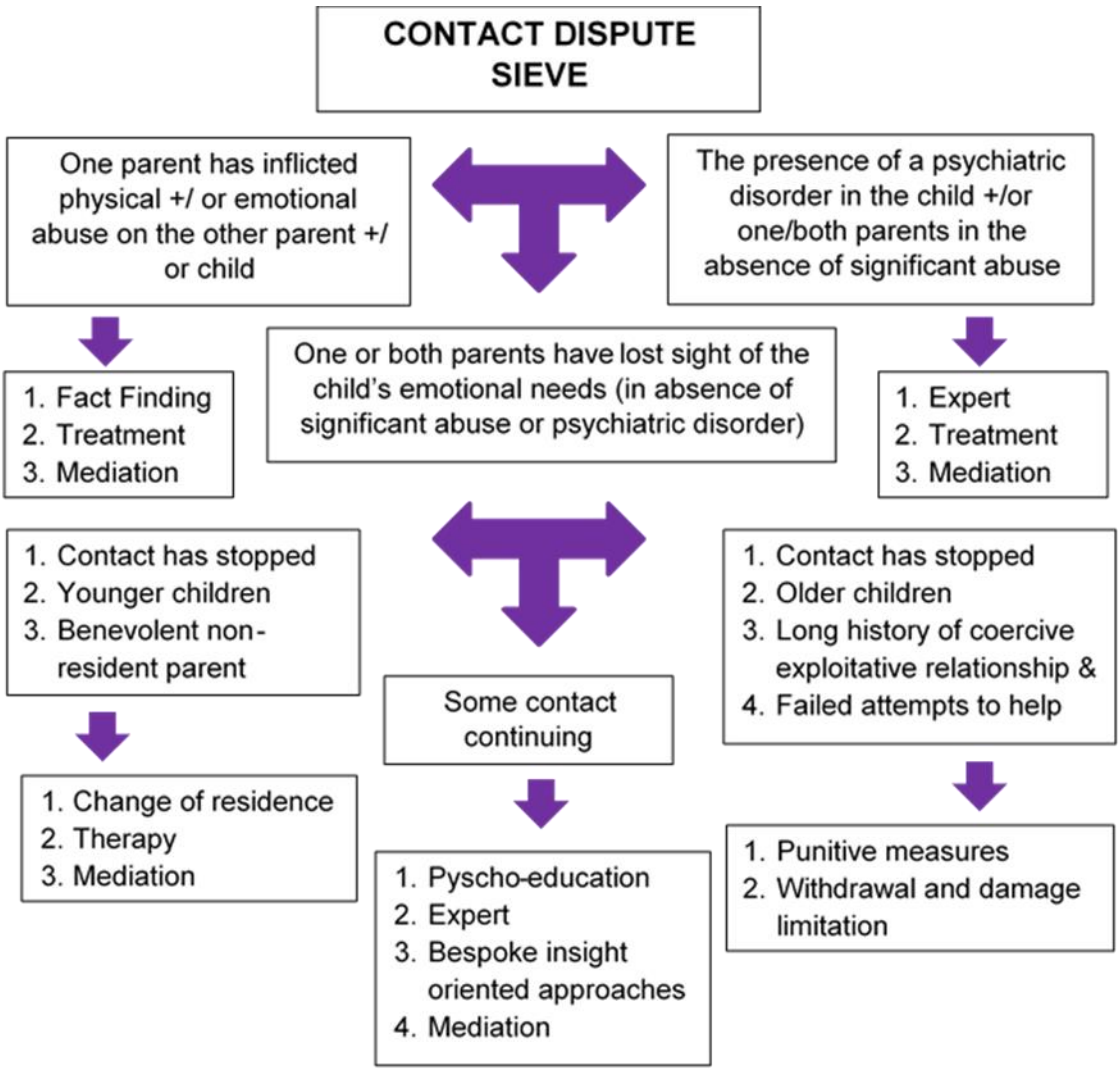
Impact of Parental Conflict Tool

The following indicators should be used in identifying and analysing emotionally harmful impact of parental conflict on the child.

Refer to these indicators in your report in the relevant section e.g. child impact analysis and recommendations

Indicators	Significantly
The child describes one parent entirely negatively, the other entirely positively	Click here to choose an item.
The reasons given for the dislike of one parent may appear to be justified, but investigation shows them to be flimsy and exaggerated	Click here to choose an item.
The child proffers the opinion of wanting less contact with one parent in a way which requires little or no prompting	Click here to choose an item.
The complaints have a quality of being rehearsed or practised	Click here to choose an item.
The child seems to show little or no concern for the feelings of the parent being complained about	Click here to choose an item.
Comments are inappropriate in view of the child's age / developmental stage	Click here to choose an item.
The child's anxiety and reactive behaviour to the contact are disproportionate to the risk identified	Click here to choose an item.
Siblings provide a highly consistent responses when it is probable that due to age, position within the family, individual characteristics their wishes and feeling could be expected to differ	Click here to choose an item.
The rejected parent had a good relationship with the child prior to separation	Click here to choose an item.
Emotional warmth from the resident parent directly correlates with the child remaining resistant to contact	Click here to choose an item.

The Contact Dispute Sieve



Effective Strategies in High Conflict Contact Disputes – Mike Shaw. Family Law October 2011
MB ChB FRCPsych, Consultant Child Psychiatrist at the Tavistock and Portman NHS

Case Analysis in High Conflict Cases

Safety first. You must explicitly identify and analyse all identified risks to ensure safe and beneficial contact can take place.

Assess the output of the tools and interviews to identify the typology of the conflict.

Use neutral language in summarising and analysing each parent's position.

Consider if the child's expressed negative beliefs are in line with their earlier life experiences

Recommendations should be in line with analysis of the case issues in the short, medium and longer term.

A Monitoring Order may be indicated in this type of case where contact is re-established but not embedded.

Use and reference tools to support your analysis and recommendations.