

## 1. Introduction

One Family welcomes the opportunity to make a submission to the Department of Justice consultation on parental alienation. We welcome the Department undertaking such a consultation as parental alienation is a divisive, under-researched and complex issue, which is often misunderstood and sometimes misrepresented. One Family provides therapeutic, educational, practical and emotional support services to one-parent families. This submission is rooted in our experience of working directly with children and adults in separated families where there is conflict. We also look forward to reviewing the literature review that the Department commissioned on this issue.

We believe that in the context of increased political activism on the issue of parental alienation, the Government must ensure an evidence-based, inclusive response is developed which ensures safety for vulnerable children and families. We believe there is an opportunity in Ireland to avoid the mistakes made in other countries and to develop frameworks and practices which are rooted in evidence and created by reaching consensus through the collaboration of all stakeholders.

## 2. About One Family

One Family is Ireland's organisation for people parenting alone, sharing parenting, and separating. We were established in 1972 as Cherish and provide specialist parenting, therapeutic and family support services around Ireland. Children are at the core of our work, and we seek to improve their lives by empowering, supporting and up-skilling their parents. We campaign against child poverty, for reform of the family justice system and for the State to recognise and cherish all families equally, regardless of their marital status. More information on One Family can be found at [www.onefamily.ie](http://www.onefamily.ie). This submission is informed by our direct work with families during and post-separation and our role representing these families at a local and national level over the last 50 years.

## 3. Background

The concept of parent-child alignment or of one parent influencing a child's relationship with their other parent has long been a topic of interest for researchers and clinicians.<sup>1</sup> The notion of a child's attitude towards a parent being negatively impacted by their other parent in the context of divorce was first characterised as a pathology by divorce researchers Wallerstein and Kelly in the mid-1970s.<sup>2</sup> Around a decade later, the term 'Parental Alienation Syndrome' (PAS) was coined by psychiatrist Richard Gardener during the mid-1980s.<sup>3</sup> His theory put forward that children can be programmed by one parent

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<sup>1</sup> O'Sullivan, B. (2018). *Parental alienation – a systemic perspective*. Context, Special Edition, Journal of Systemic and Family Practice (UK), 157:3-7. Available at: <https://changes.ie/parental-alienation-a-systemic-perspective/>.

<sup>2</sup> Meier, J. (2013). *Parental Alienation Syndrome and Parental Alienation*. Harrisburg, PA: VAWnet, a project of the National Resource Centre on Domestic Violence. Available at: [www.vawnet.org](http://www.vawnet.org).

<sup>3</sup> O'Sullivan, B. (2018).

to be alienated from the other parent. He described PAS as a preoccupation by the child with criticism and deprecation of a parent in the context of child custody disputes, where one parent deliberately or unconsciously attempts to alienate a child from the other parent.<sup>4</sup> Gardener listed eight characteristic symptoms, which he later expanded by adding four more criteria. He also identified three levels: mild, moderate and severe alienation. The relationship between the number of criteria present and the level of severity has been debated.<sup>5</sup>

Over time PAS and parental alienation as a syndrome as defined by Gardner has been robustly critiqued and discredited, with the term 'syndrome' being largely dropped in favour of the term 'parental alienation'.<sup>6 7</sup> It remains a contested issue in family law and therapeutic settings.<sup>8</sup> Critics argue that, among other issues such as gender bias, there is a lack of reliable scientific evidence to support the concept of parental alienation, its prevalence, effects and measures for intervention.<sup>9</sup> Proponents point to rapidly developing research on the subject of parental alienation.<sup>10</sup> However, it is clear the use of parental alienation as an accepted social construct, diagnostic mechanism and legal tool has developed and expanded at a pace much faster than research and regulation of good-practice has kept up with.<sup>11</sup>

#### 4. Experience from Practice

One Family has extensive expertise and experience working with families during and after high conflict separation. The statements below reflect our views based on many years of providing dedicated services to families who have complex, often high conflict relationships post-separation.

- **When parental alienation is present:** In our practice we see a small number of parents engaging in or being engaged in alienating behaviours. In our experience, alienating children is a behaviour more commonly used by perpetrators of domestic violence; however, we are seeing increasing numbers of children who are being alienated from one parent post separation where there is no history of domestic violence. We most often work with the alienated parent, who in our experience has been the father. Once children are alienated from a

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<sup>4</sup> Siracusano, A., Barone, Y., Lisi, G. and Nio, C., (2015). *Parental alienation syndrome or alienating parental relational behaviour disorder: a critical overview*. Journal of Psychopathology, 21:231-238. Available at:

[https://www.researchgate.net/publication/290455252\\_Parental\\_alienation\\_syndrome\\_or\\_alienating\\_parental\\_relational\\_behaviour\\_disorder\\_A\\_critical\\_overview](https://www.researchgate.net/publication/290455252_Parental_alienation_syndrome_or_alienating_parental_relational_behaviour_disorder_A_critical_overview)

<sup>5</sup> Baker, A. and Damall, D. (2007). *A Construct Study of the Eight Symptoms of Severe Parental Alienation Syndrome*, Journal of Divorce and Remarriage, 47:1-2, 55-77. Available at: [https://www.tandfonline.com/doi/abs/10.1300/J087v47n01\\_04](https://www.tandfonline.com/doi/abs/10.1300/J087v47n01_04)

<sup>6</sup> Meier, J. (2013).

<sup>7</sup> Doughty, J., Maxwell, N. and Slater, T. (2018) *Review of research and case law on parental alienation*. Cafcass Cymru: Cardiff.

<sup>8</sup> Ibid.

<sup>9</sup> Doughty, J., Maxwell, N. and Slater, T. (2020), *Professional responses to 'parental alienation': research-informed practice*. Journal of Social Welfare and Family Law, 41 (1): 68-79. Available at: <https://www.tandfonline.com/doi/full/10.1080/09649069.2020.1701938>

<sup>10</sup> Siracusano, A., et al. (2015).

<sup>11</sup> Summers, H. and Campbell, B. (2022). *Questions over use of 'psychological experts' in parental alienation cases*, The Guardian, 12 June 2022. Available at: <https://www.theguardian.com/global-development/2022/jun/12/questions-over-use-of-psychological-experts-in-parental-alienation-cases>

parent for a period of time, it can lead to attachment issues, which require reunification work. When such cases go to court there is often a lengthy process of court reporting and this adds to the time children are alienated from one parent, months can become a year and longer very quickly. Some children can be susceptible to being manipulated to believe the parent who left the home no longer loves or cares about them and they can become very strongly aligned to the parent who remains resident in the family home. Due to the emotional turmoil of separation, the alienating parent may not always be aware of how they are supporting their child to disengage from the other parent.

- **When parents mistakenly feel they are being alienated from their child:** We see a larger number of parents who believe they are being alienated when evidence would suggest the contrary. In One Family's experience, parents who are not supported to have a meaningful relationship with their child can feel alienated when children refuse to attend the shared access. Parents may have limited capacity to parent or limited supports and this in turn can influence how children respond at the time of separation.
- **Parental alienation and domestic abuse:** We see accusations of parental alienation being used by abusers against parents who are experiencing domestic abuse and/or coercive control. Frequently, the parent who is the perpetrator of abuse tries to alienate the child from the victim parent. This can involve manipulating the child to believe the victim parent is the cause of the family separation. In our experience, parental alienation can also be used by perpetrators as a tool to challenge accusations of abuse. Most often we see victims of abuse facilitating access between the child and the perpetrator out of fear or because they are court-ordered to make a reluctant or traumatised child attend contact with an abusive parent. This contrasts with parental alienation cases where there is no history of abuse or fear.
- **Children at the centre:** We see cases where the voice of the child is misused or misunderstood which results in the child making the final decision about what is best for them post-separation. Children are left to carry the burden when they decide they no longer want to see one of their parents, as often it is just easier to agree with one parent and be allowed to get on with life as opposed to being caught in the middle of an adult conflict. Sometimes where there is high conflict between parents, children's needs are not seen by parents or addressed by the courts. Children in high conflict separated families often have nobody to support or advocate on their behalf in family law proceedings. Representation by a GAL is not common, assessments for court must be privately paid for and assessors are unregulated, in low supply and expensive.
- **Gender:** Gender bias has been a critique of parental alienation as a concept.<sup>12</sup> While One Family more frequently encounters valid parental alienation cases where a father is alienated from their child, this is not necessarily representative of the wider issue in Ireland. There is no centralised data gathered on the prevalence or characteristics of parental alienation; however, One Family believes any statutory approach towards parental alienation should be non-gendered, and instead focus on the best interests of the child.

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<sup>12</sup> Concerned Family Law Academics, Family Violence Experts, Family Violence Research Institute, Child Development and Child Abuse Experts, Children's Rights Networks and Associations. (2019) *Collective Memo of Concern to the World Health Organisation*. Available at: <https://www.learningtoendabuse.ca/docs/WHO-September-24-2019.pdf>

- **Children in care:** Parental alienation is sometimes experienced by parents whose children have been taken into care by the State. In our experience, in some instances the State does not sufficiently support children in care to have a meaningful relationship with their parent of origin. This can alienate the parent from the child's life, allowing the child to believe the parent no longer cares. In instances such as these, the parent does care for the child but may have limited capacity to parent and require support. This further complicates an already complex issue and has possibly influenced the State's response to parental alienation to date.

## 5. Terminology and definition

There are a wide variety of different terms used to describe a parent being estranged from a child due to the influence of the child's other parent. 'Parental alienation', 'parental estrangement' and 'the alienated child' to name a few. There is also no one accepted definition of parental alienation. In 2020 the World Health Organisation (WHO) removed the terms 'parental alienation' and 'parental estrangement' from its International Classification of Diseases as it was deemed to be relevant to judicial contexts rather than health statistics. Following a review informing the basis of this decision the WHO found *'there are no evidence-based health care interventions specifically for parental alienation.'*<sup>13</sup>

The term 'parental alienation' has become 'loaded' and may be unhelpful given its contentious history and its misuse in child custody/access cases in many countries.<sup>14</sup> It may be that research can provide us with more appropriate and nuanced terms for a set of behaviours relating to the deliberate cutting-off of a child from a parent. It is vital, however, that legal professionals, social practitioners and families have a common understanding of what parental alienation and its associated behaviours entail, which is rooted in evidence.

**Recommendation:** As part of wider family law reforms, develop nuanced, evidence-based terminology and definition of behaviours relating to the deliberate or unintended manipulation of a child's beliefs and attitudes towards a parent.

## 6. Research and Evidence

Parental alienation is described and referenced in a substantial number of research papers and literature.<sup>15</sup> However, there is a lack of independent, empirical evidence on the subject of parental alienation.<sup>16</sup> A review carried out in 2018 on behalf of CAFCASS in Wales found a large amount of literature on parental alienation, but a dearth of robust empirical studies. The authors of the report found much of the available research was made up of discussion pieces dominated by a small number of authors.<sup>17</sup> The wide availability of sources, with short availability of quality research adds to the confusion, misuse and contention around

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<sup>13</sup> World Health Organisation, (2020). Frequently Asked Questions: *Parental Alienation*. Available at: <https://www.who.int/standards/classifications/frequently-asked-questions/parental-alienation>. [Accessed on 14 June 2022].

<sup>14</sup> Doughty, J., Maxwell, N. and Slater, T. (2018)

<sup>15</sup> Siracusano, A, et al. (2015).

<sup>16</sup> Meier, J. (2013).

<sup>17</sup> Doughty, J., Maxwell, N. and Slater, T. (2018)

the issue of parental alienation. Furthermore, there is little if any Irish-based research on parental alienation. Research and evidence that should be gathered should include the collection of data and relevant case law from Ireland, as well as international empirical studies. Research should be undertaken with adults who believe they were alienated or were exposed to alienating behaviours as children in order to gain better understanding of the child's perspective of parental alienation.

**Recommendation:** Conduct and publish a review of international and national evidence on parental alienation as soon as possible, identifying key learnings on best practice that can be utilised in Ireland.

**Recommendation:** Undertake comprehensive research on the experiences of family members using family law courts in order to develop services and legislation that decrease adverse childhood experiences. This should include a study of adults who believe they were alienated from a parent post-separation when they were a child and examine the impact this had on them.

**Recommendation:** Undertake a survey of professionals working with separated families within the family law system and outside of it. This should include: the judiciary, family lawyers, social workers; civil and voluntary family support providers; mediators; court assessors, counselling professionals and other social, legal and therapeutic professionals working with separated families. The research should investigate experience of allegations or issues of alienation, how these are addressed, the strength of evidence relied on, the impact on children, what training would help inform practice development and support them in their work.

## **7. Child-Centred Response**

Children suffer when parental alienation occurs and when there are false claims of parental alienation. It is accepted that children may reject a parent for valid reasons just as sometimes they reject a parent for non-valid reasons; but ensuring the child's best interests are at the centre of decision-making and inform the delivery of services is crucial.<sup>18</sup> Ireland should develop frameworks and practices which are non-gendered and centred on child safety and best interests. Legislative and policy changes aimed at preventing, identifying and remedying parental alienation must prioritise children.

While there are few services available to families experiencing parental alienation, the supports that are available are often not child-centred. Services responding to parental alienation in Ireland can be overly focused on the adults, at the expense of the child. The primary focus should be the child's best interests, with parents' interests being a secondary concern as research has shown parents are more likely to change behaviour when they fully understand and focus on the impact on the child, rather than the impact on the other parent. In our experience, many children seek psychological support post-separation. It is One Family's view that the child should be paramount in all legal, therapeutic and social care interactions relating to parental alienation.

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<sup>18</sup> O'Sullivan, B. (2018).

**Recommendation:** Ensure all legislation, policy, services and training designed to reduce incidents of parental alienation are child-focused and have the child's best interests as their primary goal.

**Recommendation:** Develop services which support parents to understand the right and need of a child to have access and a relationship with both parents. Educate parents about the impact on the child of a positive relationship with both parents, and the impact the absence these relationships can have on the child.

## **8. Prevention and Early Intervention**

There is a dearth of qualified, regulated, specialist services for families where parental alienation is a concern. We need statutory investment in services employing evidence-based practice to support all children involved in parental alienation cases; whether they are experiencing parental alienation, have experienced it in the past or there has been an unsubstantiated claim of parental alienation resulting in trauma for the child. Therapeutic and remedial responses to incidences of parental alienation are clearly important; however, as with all statutory service provision for children, the best approach is to invest in prevention and early interventions services to minimise the risk of parental alienation developing.

Essentially, the state should provide the supports necessary to keep families out of court in order to reduce severe deterioration in post-separation relationships. Family support services which are trauma-informed and have specific expertise in intervening early and preventing cases escalating should be prioritised. Investment by Tusla in counselling services for families experiencing relationship breakdown has declined by 43% over the last decade.<sup>19</sup> This is an area where investment in a prevention and early intervention would save families expensive and often traumatising court proceedings and save the State money in terms of costly remedial interventions down the road. One Family and other organisations working with children in families where there is acrimonious separation or domestic abuse have long called for the statutory provision of a network of professional Child Contact Centres to facilitate supervised access between parent and child.<sup>20</sup> Again, provision of such services could dramatically reduce the risk of issues such as parental alienation developing.

**Recommendation:** Invest in a suite of regulated and accredited, child-centred social care and therapeutic services in which practitioners are trained to identify and respond to incidences of parental alienation and domestic abuse. This should include targeted services for children during and after separation, such as peer support, education and information services and therapeutic support.

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<sup>19</sup> Minister for Children, Equality, Disability, Integration and Youth (Roderic O'Gorman), Ceisteanna- Questions- *DáilÉireann*, vol 1096, 19 January 2022.

<sup>20</sup> Children Living with Domestic and Sexual Violence Group, (2021) *Joint Submission to the Thurd National Strategy on Domestic, Sexual and gender-based violence*. Available at: <https://onefamily.ie/wp-content/uploads/2021/07/Joint-sub-to-National-Strategy-on-DSGBV-Final.pdf>

**Recommendation:** Provide a substantial increase in funding for existing and new child-centred services for families experiencing acrimonious separation and post-separation conflict to prevent incidences of parental alienation arising. These should include specialised counselling services, mediation, Child Contact Centres, family support and parenting support services.

## 9. Skills and Training

Evidence from other jurisdictions tells us that parental alienation is difficult to successfully identify and remedy.<sup>21</sup> In Ireland, the same issue exists and is compounded by a significant lack of expertise relating to issues that influence family law decision making. There is a lack of regulated assessments and reports on separated/ing families, particularly those in high conflict situations. This results in poor decisions being made in court and outside of court. Issues were raised recently in the UK relating to the lack of regulation of 'parental alienation experts' being used in family law cases.<sup>22</sup> The Association of Clinical Psychologists UK warned that this is leading to harmful, inappropriate diagnoses and ill-informed court decisions.

As previously outlined, there is a concerning lack of therapeutic, psycho-educational, family support services for families experiencing parental alienation. There is no guidance for the social care sector, much of whose services are delivered by non-governmental and voluntary organisations, on how to support children and parents when alienation or alienating behaviours are identified. This lack of guidance is compounded by low levels of information, knowledge, skills, expertise and training amongst a broad range of statutory, civil society and private sector workers who interact with separated families about parental alienation and domestic abuse.

Given the varying quality of evidence and the lack of regulation, parental alienation is a topic which is ripe for confusion and misinformation. This vacuum can be compounded by well-meaning but ill-informed voluntary groups and can also be exploited by unscrupulous professionals of varying level of qualification. It is imperative that the State fill this void in available expertise and training by developing evidence-based resources and training programmes for statutory, voluntary and private practitioners and reinforces this with appropriate regulation and funding for evidenced-based practice. Resources developed to support training and development in this area should include guidelines on identifying and responding to cases of parental alienation. It is equally important that such guidance also equips legal, social and therapeutic professionals to recognise erroneous or malicious claims of parental alienation.

**Recommendation:** Provide high quality, evidence-based training for all professionals working with families on child development, child protection and welfare, children's rights, separation, domestic violence, family law across all sectors in relation to trauma, unconscious bias, domestic abuse/coercive control and parental alienation. This should include but not be limited to training for all public social workers; private family lawyers; the judiciary; civil and voluntary family support providers; mediators; court assessors.

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<sup>21</sup> Doughty, J., Maxwell, N. and Slater, T. (2018)

<sup>22</sup> Summers, H. and Campbell, B. (2022).

## 10.Domestic Abuse and Coercive Control

Research from other jurisdictions tells us that parental alienation is systematically used by perpetrators of domestic abuse and coercive control against the victim parent. This happens in two ways; the perpetrator can alienate the child against the victim parent or the perpetrator can claim that abuse allegations are an example of parental alienation. Minimisation of domestic violence within the family court and the undermining of the views of child victims of domestic violence is an issue being seen across Europe.<sup>23</sup> Parental alienation is being used by perpetrators to negate or counter allegations of domestic or sexual abuse. Findings have shown that once parental alienation is alleged the courts focus can shift away from abuse allegations. Allegations of domestic abuse can also be used by a perpetrator as proof of parental alienation.<sup>24</sup>

In 2019, a platform of key United Nations and regional independent mechanisms on violence against women and women's rights voiced its concern over patterns across various jurisdictions of the world that ignore intimate partner violence against women in determining child custody cases. In particular it identified the abuse of parental alienation and similar concepts as tools to deny child custody to the mother and grant it to a father accused of domestic violence in a manner that 'totally disregards the possible risks for the child.'<sup>25</sup> It also identified parental alienation as a means for perpetrators to continue exerting abuse and control of their victim post-separation. One Family is aware that other European countries are considering outlawing the use of parental alienation in family law courts as a response to this problem.

In its third annual general report published in June 2022, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) warned against the use of parental alienation in family law cases due to the minimising effect it has on domestic abuse allegations. Furthermore, the European Parliament voted in favour of a resolution on the impact of partner violence and custody rights on women and children which discourages the abuse of parental alienation and similar concepts in domestic abuse cases.<sup>26</sup> In One Family's view, the State must believe victims of abuse, including child victims and any accusation of abuse must be thoroughly and swiftly investigated regardless of whether there is an accusation of parental alienation.

**Recommendation:** In accordance with Article 31 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention, the State must ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of the Convention are taken into account and the exercise of any visitation or custody rights does not jeopardize the rights and safety of the victim or the child/ren.

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<sup>23</sup> GREVIO, (2022). *Third Annual Report on GREVIO's Activities*. Available at: <https://rm.coe.int/prems-055022-gbr-2574-rapportmultiannuelgrevio-texte-web-16x24/1680a6e183>

<sup>24</sup> Ibid

<sup>25</sup> The Platform of United Nations and regional independent mechanisms on violence against women and women's rights, (2019). *Intimate partner violence against women is an essential factor in the determination of child custody, say women's rights experts*. Available at: <https://rm.coe.int/090000168094d880>

<sup>26</sup> GREVIO, (2022).

**Recommendation:** Remove the requirement on victims of abuse to supervise access with an abusive parent when a safety or other domestic violence order is in place.

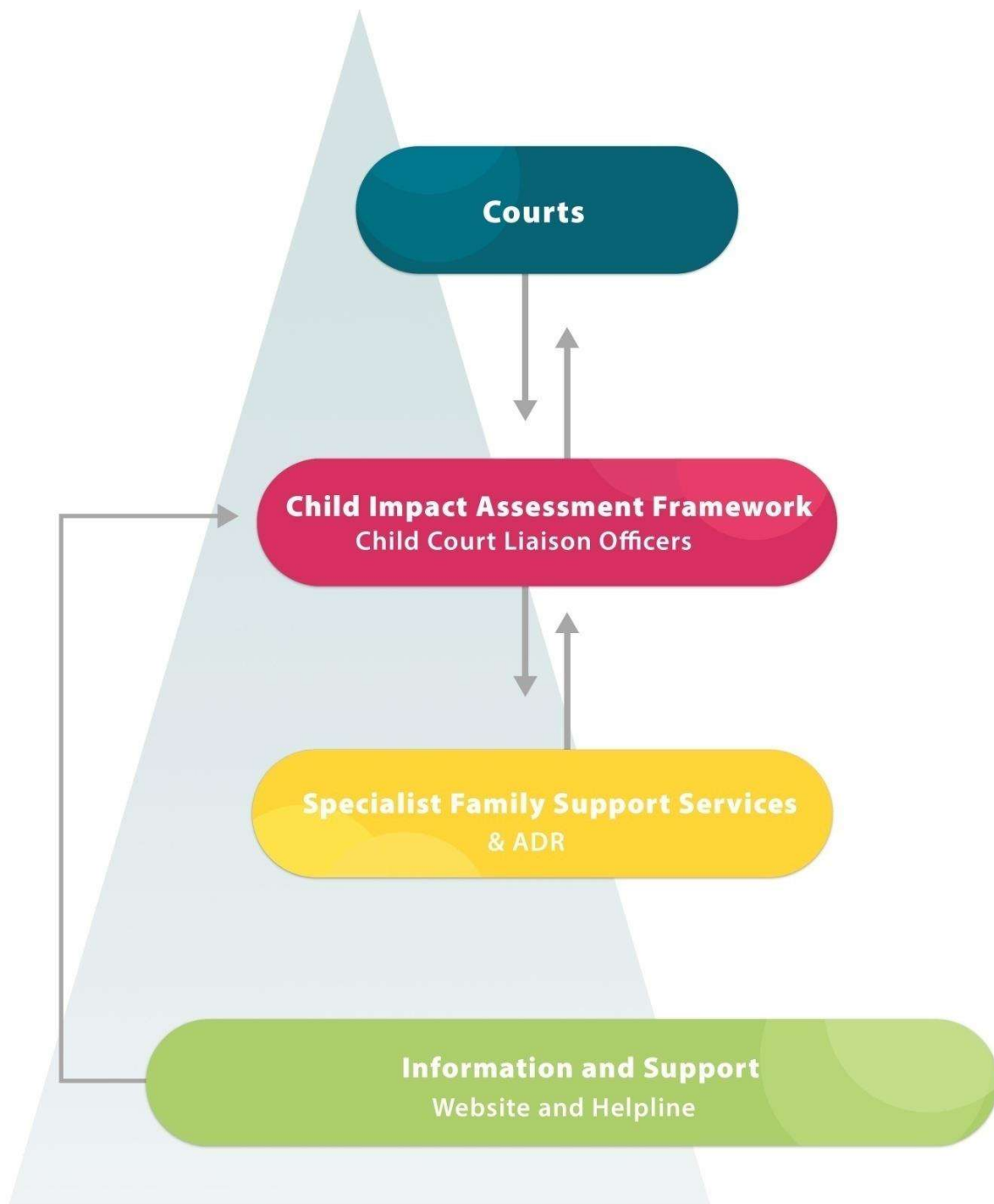
### 11. Family Law Reform

There is a strong movement to name, label and legislate against parental alienation aimed at politicians. We urge caution in relation to this as there are many difficulties and challenges faced by separated families in conflict and this is only one. All issues need to be systematically supported through reform of family law courts and the development of a Court Welfare service. One Family knows through our work with families there are many challenges facing separated parents in conflict including domestic violence; coercive control; lack of statutory child maintenance assessment and enforcement system; lack of comprehensive services to parents and children to support them in dealing with conflictual separation; lack of Child Contact Centres; lack of understanding and support by the state for shared parenting in housing, taxation and social welfare regimes; poverty and social exclusion.

In our submission to the Family Justice Oversight Group in 2021, One Family proposed a family law service model encompassing a child-centred model of family dispute resolution. Such a system would require resourcing, quality assurance and regulation with strong links to the court system. Services should be accessible to all families, regardless of their location, background, language etc. Services should include; universal information provision; two-step child impact assessments and parenting plans; establishment of Child Court Liaison Officer (CCLO) roles; specialist therapeutic services, parenting services, mediation and Alternative Dispute Resolution (ADR); peer support services for children; Child Contact Centres; domestic abuse services; and other specialist services including specific services for parental alienation.<sup>27</sup>

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<sup>27</sup> One Family, (2021). *Submission to the Family Justice Oversight Group*. Available at: <https://onefamily.ie/wp-content/uploads/2021/02/FJOG.-Family-Law-Justice-Reform-Submission.-One-Family.-Feb-2021.pdf>



**Figure 1. Family Law Service Model**

We know that the absence of out-of-court services as listed above increases the degree and length of conflict; results in poorer outcomes and adverse childhood experiences; and cost families and the State financially. Linked to this is the *ad hoc* and unfunded approach to hearing the voice of the child in family law proceedings which requires urgent attention. Children have a right to be heard in matters that affect them under Article 12 of the UNCRC.<sup>28</sup> Judges must be mindful of the emotional harm that might arise from denying a child knowledge and participation of family law proceedings which

<sup>28</sup> United Nations, (1989). *United Nations Convention on the Rights of the Child*.

affect them.<sup>29</sup> Before a court overrides a child's wishes, a thorough investigation is required to identify the source of their resistance. Absence of abuse should not be taken as proof of alienation, there are a myriad of other reasons a child may not wish to have contact with a parent and these should be listened to.

In general, family law proceedings can be onerously lengthy and expensive for families. In cases with parental alienation and other forms of abuse, swift access to justice and support services is crucial in protecting the safety and welfare of children. Furthermore, separated families are often dealt with across the domains of private family law, criminal law and child protection law. These artificially devised legal silos result in families being harmed through disjointed and sometimes contradictory decision making.

**Recommendation:** Work towards the provision of regulation, oversight and public funding for reports/assessments to court and therapeutic, psycho-educational and family support services.

**Recommendation:** Urgently develop a child centred Family Law Service Model to support families who are interacting with the family law system.

**Ends.**

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<sup>29</sup> Doughty, J., Maxwell, N. and Slater, T. (2018).