



Private Law Children Case Law Update & guidance

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Case Law Update & Guidance

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- ▶ **Re T and G (Allegations of Alienating Behaviours) [2025] EWFC 15 (B)**
- ▶ **CP v M & Ors [2025] EWFC 39**
- ▶ **Re A, B and C (Child Arrangements: Final Order at Dispute Resolution Appointment) [2025] EWCA Civ 55**

Guidance

- ▶ **Guidance on responding to a child's unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour**
- ▶ **The use of Intermediaries, Lay Advocates and Cognitive Assessments in the Family Court**
- ▶ **Writing to Children – A Judge's toolkit**

Responding to a child's unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour

Move from 'Parental Alienation' to 'Alienating Behaviours'

- RRR (reluctance, resistance or refusal)
- AJR (appropriate justified rejection)
- AAA (attachment, affinity and alignment) and
- PB (protective behaviours).

**Responding to a child's unexplained
reluctance, resistance or refusal to spend
time with a parent and allegations of
alienating behaviour**

Three Necessary Elements for Alienating Behaviours

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For a court to find that alienating behaviours have occurred, it must establish:

- The child is reluctant, resistant, or refusing to engage with a parent.
- The reluctance is not justified by the behaviour of the rejected parent (e.g., abuse, neglect).
- The favoured parent has engaged in behaviours that have directly or indirectly caused the child's rejection of the other parent.

Issues within proceedings

Alienation or Domestic Violence?

Often courts face cross allegations of domestic abuse and alienating behaviours.

If domestic abuse is proven, the alienation claim fails.

Expert Evidence

Courts must ensure early, fact-based assessments and avoid delays. **Experts should not diagnose "parental alienation"** but assess family dynamics holistically.

Courts should prevent conflicts of interest, ensuring experts recommending interventions do not personally benefit from them.

Wishes and Feelings

The child's wishes and feelings must be carefully considered without assuming they have been manipulated.

Courts should avoid dismissing a child's voice based on perceived coaching or language use.

Writing to Children Toolkit

Why write?

Writing to children helps ensure they feel heard, valued, and informed about decisions affecting their lives. A direct explanation from the judge supports their understanding and emotional well-being.

How to write?

Letters should be **clear, age-appropriate, and tailored** to each child's individual needs, background, and communication style. Using personal details (e.g., hobbies, siblings) reinforces that the judge sees them as more than just a case.

When to write

Providing a well-explained decision in a letter can help children **process and accept** the outcome, even when it's not what they wanted. A written record also allows them to revisit the decision in the future as they mature.

If a Judge can't meet with a child who requested a meeting, they should write to the child.



Writing to Children Toolkit

Writing to children toolkit

Why write

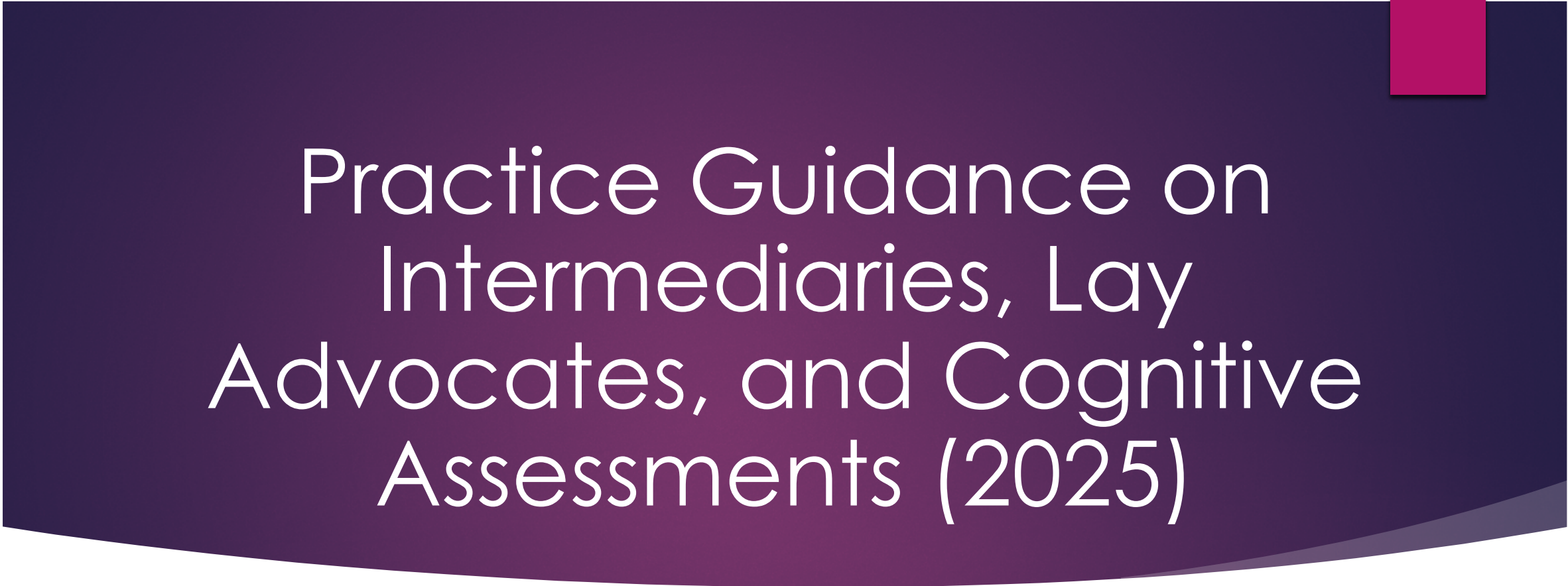
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Practice Guidance on
Intermediaries, Lay
Advocates, and Cognitive
Assessments (2025)

Key Take aways (1)

Intermediaries and Lay Advocates – Limited but Crucial Role

- Intermediaries (including lay advocates) **assist with communication during proceedings** but are **not expert witnesses** under FPR Part 25. Their role is **primarily for clarifying and conveying questions and answers** in court, and their appointment must be deemed **"necessary"** rather than simply beneficial. The need for an intermediary throughout an entire hearing is considered **exceptional**.

Cognitive Assessments – Strict Justification Required

- A cognitive assessment is **expert evidence** under **FPR Part 25** and will only be permitted if it is **"necessary"** to resolve proceedings justly.
- If used to support an application for an intermediary, it must provide specific evidence that an intermediary is the **only viable means** of ensuring fair participation.

Key Take aways (2)

Judicial Discretion and Alternative Support Measures

- The appointment of an intermediary or cognitive assessment is always at the **judge's discretion**.
- Courts should first consider **alternative support measures**, such as **reasonable adjustments and guidance from the Advocates Gateway**, before approving an intermediary or assessment.

Evidence-based Approach

This guidance reinforces a **balanced and evidence-based approach to supporting vulnerable individuals while preventing unnecessary delays or overuse of intermediaries in family court proceedings.**



**Re A, B and C (Child Arrangements:
Final Order at Dispute Resolution
Appointment) [2025] EWCA Civ 55**

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Reinforces the power of Judicial Discretion

Courts can conclude matters without a Section 7 Report at a DRA if they have sufficient evidence

The paramount consideration when doing so is the child's welfare

The M's conduct, credibility issues, and anxious parenting style were contributing factors in the Judge's decision

CP v M & Ors [2025] EWFC 39

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- ▶ CP hadn't seen C since 2021. On appeal, he was declared a parent to the 4 younger children. The matter was remitted.
- ▶ Poole J noted the boys had steadfastly expressed strong wishes not to have contact with CP and *“attempts to change their minds or to encourage them to adopt a different understanding of their life stories, will be resented by them and will be very likely to fail”* [22].

CP v M & Ors [2025] EWFC 39

Having regard to the Family Justice Council *Guidance on responding to a child's unexplained reluctance, resistance or refusal to spend time with a parent and allegations of alienating behaviour* from December 2024, the boys

give reasons for their resistance to spending time with CP which stem from their perception of CP's own conduct and

they deny that M has influenced them to adopt a negative attitude towards spending time or having any contact with CP. There was "no clear evidence that the boys' resistance is rooted in manipulation by M as opposed to their own experiences" [23].

Poole J determined there was no purpose to be served in holding a finding of fact hearing as "Whether or not the Court found that M has engaged in alienating behaviour, the boys' positions in relation to spending time with CP would be very unlikely to change" and the fact-finding process would be likely to cause emotional harm to the children [25].

Poole J concluded that the continuation of the proceedings will be [27]:

highly unlikely to achieve any useful purpose;

counter-productive to the prospects of a positive relationship between CP and the boys in the future; and

detrimental to the children's welfare.

**Re T and G
(Allegations of
Alienating Behaviours)
[2025] EWFC 15 (B)**

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- ▶ District Judge Cockaye referred to the Guidance on Alienating Behaviours and also...
- ▶ s.1(2A) of the Children Act 1989, that involvement of parents in a child's life is in the child's welfare interests. On this, the court noted at [21] that:

"...there is a positive obligation on the State and therefore on the judge to take measures to promote contact, grappling with all available alternatives and taking all necessary steps that can reasonably be demanded, before abandoning hope of achieving contact. However, the positive obligation on the State, and therefore on the court, is not absolute. Whilst authorities must do their utmost to facilitate the co-operation and understanding of all concerned, any obligation to apply coercion in their area must be limited since the interests, as well as the rights and freedoms of all concerned must be taken into account and, more particularly, so must the best interests of the child."

Re T and G (Allegations of Alienating Behaviours) [2025] EWFC 15 (B)

- ▶ The Judge found the causes of the behaviours to be realistic and age appropriate. These included:
 - ▶ Consistent arguments
 - ▶ Feeling less favourably treated
 - ▶ Being kept in the dark
 - ▶ Name calling
 - ▶ General anxieties

Re T and G (Allegations of Alienating Behaviours) [2025] EWFC 15 (B)

- ▶ Distinguished 'Alienating Behaviours' from 'unhelpful behaviours'

Judge identified at [30] the following as having a significant basis for the RRR on 'T':

“Regrettably, T also saw a social media Tik Tok post that the mother posted showing G with the third party with a caption indicating that having your children with the wrong person doesn’t prevent you raising them with the right person. In her written evidence the mother explained she did so as she was brought up by her stepfather, however in oral evidence she distanced herself from that explanation and said she had simply seen a template and modified it as she liked the sentiment. The post has a picture of G with the third party. To my mind it is clearly meant to get at the father. In oral evidence she told me that she did not understand why T does not want to see her and did not think they had any valid reason not to. Focused on causing emotional harm to the father, the mother’s behaviour has clearly not been helpful in repairing that relationship with her eldest child having been oblivious to the wider harm that causes them.”

Re T and G (Allegations of Alienating Behaviours) [2025] EWFC 15 (B)

- ▶ Acknowledged the M acted in ways detrimental to contact with the father, such as hovering during sibling get-togethers or failing to encourage G to join overnight stays, the court determined that those actions, while unhelpful, did not amount to “alienating behaviours”.
- ▶ The judge observed at [40]:

“On balance I am not satisfied that the mother has used, or is using, alienating behaviours to sabotage G’s contact with the father and T, just as I am not satisfied the father has used, or is using, alienating behaviours to sabotage T’s contact with the mother and G. I note the Children’s Guardian within her first Section 7 report through to her oral evidence concludes that the children’s own personalities affect the parent to whom they align; T a “lad” responsive to their father’s more stern parenting style and G quieter and more sensitive as their mother. I am satisfied that it is more likely than not that both children’s alignment, affinity and attachment (AAA) is at the root of both children’s RRR, and no alienating behaviours beyond the parents’ unhelpful and counter-productive actions as I have already identified have led to either child’s rejection of their mother or father for the reasons I have given.”



Any
Questions