



Home Office

Policy paper

Section 91(14) barring orders

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What are we going to do?

Clarify the use of 'barring orders' in the family courts to prevent abusive ex-partners from repeatedly dragging victims back to court – which can be used as a form of continuing domestic abuse.

“ By clarifying the law on the use of section 91(14) 'barring orders' in the family courts, we will be protecting more victims from being repeatedly dragged back to court by their abusive ex-partners.”

Lord Wolfson, Parliamentary Under Secretary of State, Ministry of Justice

How are we going to do it?

Section 91(14) of the Children Act 1989 allows courts to make orders – known as “barring orders” – to bar individuals from making further applications to a court without the court's permission, for example to prevent instances where abusive ex-partners have attempted to repeatedly bring victims back to court for no reasonable purpose.

Our changes will make it clearer that barring orders are available to parents and children to protect them where further proceedings would risk causing them harm, particularly where proceedings could be a form of continuing domestic abuse.

The Domestic Abuse Act will also make it clear that courts can make these orders of their own initiative (i.e. without an application), and that they must consider whether there has been a material change of circumstances when deciding whether to grant permission to apply to a person who has received a 'barring order'.

Background

Section 91(14) of the Children Act 1989 allows courts to bar individuals from making further applications without permission of the court. These orders are often referred to as “barring orders”.

In May 2019, the Government established a panel of experts to review how the family courts deal with the risk of harm to children and parents in private law children cases involving domestic abuse and other serious offences. This panel published their report in June 2020, and concluded that barring orders were not being used sufficiently to prevent alleged perpetrators from

continuing their abuse through court applications under the Children Act 1989, and that amendments should therefore be made.

The Government published an Implementation Plan alongside the panel's report, in which it was acknowledged that "further clarification is required to the law on barring orders, to ensure that the use of section 91(14) is available to parents and children to protect them where further proceedings would risk causing them harm, particularly where proceedings could be a form of continuing domestic abuse." The Government committed to exploring whether this aim could best be achieved via an amendment to the then Domestic Abuse Bill.

What is a Section 91(14) order?

Section 91(14) of the Children Act 1989 allows family courts to bar individuals from making further specified applications under the Children Act 1989 without permission of the court. These orders are known as section 91(14) orders or "barring orders".

How will new section 91A better protect victims of domestic abuse?

Section 91A provides that the circumstances in which the court may make such an order include where the court is satisfied that the making of a further application under that act, by any person to be named in the order, would put the child concerned, or another individual, at risk of harm.

This change in the law therefore clarifies that barring orders are available to parents and children to protect them where further proceedings would risk causing them harm, in particular where proceedings could be a form of continuing domestic abuse.

How is a barring order made?

Section 91A makes it clear that courts can make a barring order of their own initiative (for example, without the need for an application).

Will it be harder for someone to apply for a section 8 order when they have a barring order in place?

Orders made under section 8 of the Children Act 1989 include 'child arrangements orders', 'prohibited steps orders' and 'specific issue orders'.

Section 91A makes clear that in determining whether to grant leave to a person who has received a barring order, the court must consider whether there has been a material change of circumstances since the barring order was made.

The courts will be required to consider carefully whether the circumstances that gave rise to the barring order have materially changed such that permission to apply should be granted. This will offer further protection to domestic abuse victims.



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