A guide to prohibited steps and specific issue orders

Private children law is concerned with the steps a parent can take when exercising their rights and responsibilities towards their child. This is also known as exercising parental responsibility (PR). When parents separate, disputes may arise about specific issues relating to the child's welfare, such as which school they are to attend or whether the child can relocate to live elsewhere (to another part of the country or abroad). If these issues cannot be agreed on, it will be necessary to apply to the court for an order to decide these issues (that is, a specific issue order (SIO)), or to prevent a person from taking certain actions in the exercise of their PR (that is, a prohibited steps order (PSO)).

It is possible to apply for SIOs and PSOs on their own or in conjunction with other orders, such as child arrangements orders (CAO).

This guide explains what SIOs and PSOs are and when to apply for them. It also outlines the process involved when making an application for either order, and details what will happen after the application has been issued by the court.

What is a Specific Issue Order

An SIO is an order deciding a specific dispute that has arisen, or may arise, in connection with a person's exercise of PR for the child.

When to apply

An SIO allows the court to decide a specific question concerning the child's welfare where those with PR cannot agree. SIOs are usually made to resolve disputes about the following matters (this list is not exhaustive):

- **Education.** A dispute may arise over which school a child will attend.
- **Religion.** A dispute may arise over the extent to which the child can be involved in practices associated with one parent's religion, that the other parent does not consider to be in the child's best interest. For example, a parent who is a Jehovah's Witness, withholding their consent to the child receiving a blood transfusion.
- **Medical treatment.** A dispute may arise over whether the child is to receive a particular type of treatment in preference to another. One parent may want the child to receive conventional medical treatment, whereas the other may want the child to receive homeopathic treatment.
- **Relocation.** A dispute may arise where one parent wants to relocate with the child to another part of the country or abroad, permanently or temporarily, against the other parent's wishes.

What is a Prohibited Steps Order

A person with PR has the right to make decisions about a range of matters relating to the child. A PSO can curtail the right and responsibility to make these decisions. The court has the power to make a PSO to restrain a person from taking a step set out in the order during the exercise of their PR for the child, unless they have the court's permission.

A PSO is a far-reaching order that restricts the actions a person can take while exercising their PR for the child. The court's willingness to make a PSO will depend on the circumstances presented and what the court considers to be in the child's best interests.

When to apply

PSOs are usually made to prevent a person from taking the following steps when exercising their PR:

- Changing the child's school.
- Changing the child's name.
- Relocating the child to another part of the country or abroad.
- Deciding the child's religious instruction.
- Choosing a particular course of medical treatment.

Circumstances when SIOs and PSOs will not be made

The court cannot make an SIO or PSO in any of the following situations:

- To decide the identity of person(s) with whom the child will live.
- For a child aged 16 or over, unless the circumstances are exceptional.
- That continues beyond the child's 16th birthday (in relation to an order made before the child turns 16 years old), unless the circumstances are exceptional.
- For a child in the care of the local authority (however, the local authority may apply for an order with the court's permission).

Who can apply for SIOs and PSOs

The following can apply for SIOs and PSOs:

- The child's parent, guardian or special guardian.
- A person named as the person with whom the child is to live in a CAO that is in force.

- A step-parent who has PR for the child.

Application for permission

All other persons must apply to the court for permission to make applications for SIOs and PSOs.

Who is to be named as the responding party

The following persons are automatically respondents to any application for an SIO or PSO:

- Anyone who has PR for the child.
- The parties to the original application, where the application is to vary or discharge an existing SIO or PSO.

How to apply for SIOs and PSOs

Steps to take before applying to the court for an order

Where possible and safe to do so, the court expects parties to try to resolve disputes about a child without using the court system.

Mediation information and assessment meeting (MIAM)

Before issuing an application, a prospective applicant must attend a mediation information and assessment meeting (MIAM) and invite the other party to do so unless an exemption applies. At these meetings, a mediator discusses the dispute with each party and assesses whether other forms of dispute resolution (such as hybrid mediation) can assist in resolving the dispute.

If you need to obtain a court order urgently (for example, a PSO to prevent a person from removing the child from the country), the requirement to attend a MIAM can be dispensed with. If a party refuses to attend the MIAM or the mediator considers no other method of dispute resolution is suitable or appropriate or an exemption to the requirement to attend a MIAM applies, an application must be made to the court.

Application to the court

You can make an application by completing Form C100 confirming attendance at a MIAM or giving reasons for non-attendance and submitting the form online or lodging it at your local family court. Form C100 should be accompanied by the current court fee of £232.

Supplemental Form C1A must also be completed where it is alleged that the child who is the subject of the application has suffered, or is at risk of suffering, harm

from domestic abuse or violence. This includes damage to health (physical or mental) and development (physical, intellectual, emotional, social or behavioural) including damage suffered from seeing or hearing the ill treatment of another.

Making an urgent application

If there is an urgent need for an order to be made (for example, a need to prevent a step being taken or to make something happen quickly), you can ask the court to make an SIO or PSO without informing the other party. This means that the court will decide whether to make the order in the absence of the other party to the application. This is referred to as a without notice application. Without notice orders will only be made by the court in exceptional circumstances.

You should prepare a statement setting out the reasons why an SIO or PSO must be made, and why it should be made urgently, for the court to consider. If an SIO or PSO is made without notice to the other party, it must be given personally to the person against whom the order is made. The order will not be effective until it is personally delivered. Within 48 hours of receiving the order, the person against whom an order has been made without notice can apply to set aside the order. An application made without notice will be for a limited period of time until the court can have a full hearing with all parties present.

Process after the application has been issued

First Hearing Dispute Resolution Appointment (FHDRA)

When issuing the application, the court will check whether:

- The parties have attended a MIAM.
- If a MIAM exemption has been claimed, whether that has been validly claimed.

The court can direct the applicant or the parties to attend a MIAM before the application proceeds. The court will schedule the FHDRA, which is a short 30-minute hearing, at the same time that it issues the application. The court sends the application and notice of this hearing to the other party, at least 14 days before the date of the FHDRA.

The purpose of the FHDRA is to identify the issues in dispute and try to resolve them as quickly and inexpensively as possible. All parties must attend the FHDRA. A court welfare officer (also known as a Children and Family Court Advisory and Support Service (CAFCASS) officer) will attend as well. CAFCASS is an organisation responsible for safeguarding the interests of children involved in court proceedings. CAFCASS work with children and families and the CAFCASS officer advises the court on what they consider to be in the child's best interests. Depending on arrangements in your local family court, a court appointed mediator

may also attend the FHDRA to help to resolve the dispute. Mediation is a voluntary process and both parties must agree to involve the mediator.

If your application is issued at the Central Family Court in London and your child is over the age of eight, you must bring him or her to court for the FHDRA to be seen by the CAFCASS officer. No child will enter the courtroom or meet the judge.

At the FHDRA, the CAFCASS officer and the judge will try to help the parties agree a resolution of the issues. Problems will be discussed openly and solutions suggested. If an agreement can be reached about all or part of the dispute, the court may make an order recording the agreement.

If agreement cannot be reached, the court will identify the remaining disputed issues. The court will identify evidence that will be required to enable another judge on another day to reach a decision about the disputed matters.

At the end of a FHDRA where an overall agreement has not been reached, it is common for the court to order parties to prepare statements and other evidence that they propose to rely on. Depending on the issues involved, it may be appropriate for a party to give a legally binding promise (referred to as an undertaking) to the court that maintains the status quo in relation to the child's welfare. If this cannot be achieved, the court may make an interim order to preserve current arrangements for the child, until a final order is made.

To help it decide the application, the court may order CAFCASS to prepare a report on the issues and the best way to resolve them. This can involve a CAFCASS officer visiting the parties' homes, meeting and speaking to them and other significant adults (such as the child's teachers) and the child on one or more occasions.

At the end of the FHDRA, depending on the issues for resolution, the court will either schedule a dispute resolution appointment or a final hearing.

Dispute Resolution Appointment (DRA)

A DRA is usually scheduled if CAFCASS have been directed to produce a report to assist the court in deciding the issues in dispute. The court will first identify the extent to which the dispute can be narrowed or resolved at the DRA. The court will resolve or try to narrow the issues in dispute by hearing evidence from the parties. If an agreement is reached, the court should make an order reflecting the agreement.

If no final agreement is reached at the DRA the court will direct the parties to file any further evidence and schedule a final hearing. For example, if CAFCASS have filed a report both parties will have the chance to file further statements and evidence responding to the recommendations contained in the CAFCASS report, insofar as that is necessary.

Final hearing

At the final hearing, the court will hear oral evidence from the parties and sometimes from other witnesses. If a CAFCASS report has been prepared, the officer is only required to attend court to give evidence if the court considers that to be necessary. Anyone who gives evidence will be asked questions about their written evidence by their own advocate, the other party's legal representative and by the judge.

After hearing the evidence, listening to the legal argument and submissions by your barrister, the judge will make an order deciding the remaining issues in dispute.