



New Park Court

Family Briefing

Leeds

16 Park Place
Leeds
LS1 2SJ

T: +44 (0)113 243 3277
E: clerks@newparkcourt.co.uk

Newcastle

3 Broad Chare
Newcastle Upon Tyne
NE1 3DQ

T: +44 (0)191 232 1980
E: clerks@newparkcourt.co.uk



Family Briefing

by Valerie Sterling



Valerie Sterling is Head of the Family team and has a national reputation for representing her clients with skill, sensitivity, and empathy. Her family barrister practice covers the full range of family law, including finance, private law children cases, and public law care cases.

Practice Direction 12 Q - will it lead to an increase in the number of section 91 (14) orders, particularly in cases concerning perceived emotional harm to the carer or subject child?

- The purpose of section 91 (14) is to prevent further unnecessary litigation which could put an unnecessary strain on the person with care of the subject child.
- The court can, whether or not it makes any other order, make an order pursuant to section 91 (14) for a specified time and when considering this there is a balancing exercise to be undertaken. It is not a complete bar, but it does provide a safety net or filter.

Section 91 (14) Children Act 1989 provides:

"On disposing of any application for an order under this Act, the court may (whether or not it makes any other order in response to the application) order that no application for an order under this Act of a specified kind may be made with respect to the child concerned by any person named in the order without leave of the court.

Section 91A of the Children Act 1989 (brought into force by section 67 of the Domestic Abuse Act 2021)

Further provision about the making of orders under s 91 (14) is contained in s 91A of the Children Act 1989. Section 91A (2) of the Children Act 1989 contains the circumstances in which a court may make an order under s 91 (14).

They include -

'where the court is satisfied that the making of an application for an order under this Act of a specified kind by any person who is to be named in the section 91 (14) order would put -

- a) The child concerned, or
- b) Another individual ("the relevant individual"), at risk of harm.

Section 91A (3) specifically states that 'harm' in this section is to be read as a reference to ill-treatment or the impairment of physical or mental health.



Practice Direction 12 Q

In July 2022 FPR 2010 PD12Q came into force.

It sets out under para 2 the *key principles* to be applied when making s 91 (14) orders.

They are inter alia:

'2.1 Section 91 (14) orders are available to prevent a person from making future applications under the 1989 Act without leave of the court. They are a protective filter made by the court, in the interests of children.

2.2 The court has a discretion to determine the circumstances in which an order would be appropriate. These circumstances may be many and varied. They include circumstances where an application would put the child concerned, or another individual, at risk of harm (as provided in section 91A), such as psychological or emotional harm. The welfare of the child is paramount.

2.3 These circumstances can also include where one party has made repeated and unreasonable applications; where a period of respite is needed following litigation; where a period of time is needed for certain actions to be taken for the protection of the child or other person; or where a person's conduct overall is such that an order is merited to protect the welfare of the child directly, or indirectly due to damaging effects on a parent carer.'

The leading modern authority is the Court of Appeal authority of **Re A (A Child) (Supervised Contact) (Section 91 (14) Children Act 1989 Orders) (2021) EWCA Civ 1749** which updates the **Re P** guidance on the making of a section 91 (14) order - ie **Re P (Section 91 (14) Guidelines) (Residence and Religious Heritage) (1999) 2 FLR 573** CA Butler-Sloss LJ guidelines.

With the advent of the smart phone and of social media 'in all its forms' (see King LJ at paragraphs 34 to 36 of **Re A**) the 'forensic landscape has changed out of all recognition' since the **Re P** guidelines were originally set out in 1999.

An interesting recent example of there being a section 91 (14) order made is the case of **Re D and E (Children: Assessment and Management of Risk) (2025) 1 FLR 505 Henke J 4.6.2024** where the court made a section 91 (14) order for two years to protect the subject child from risk of harm, being in her welfare interests. Letter box contact would allow the relationship between the father and daughter to be maintained. It was in the best interests of both children to make an order under section 91 (14) as they needed to be protected from litigation and the pressures it placed upon them because of its impact on the adults. However, an indefinite order would not be proportionate.

Valerie Sterling (call 1981) is Head of the New Park Court Chambers Family Team and has a national reputation for representing her clients with skill, sensitivity, and empathy. Her family barrister practice covers the full range of family law, including finance, private law children cases, and public law care cases. Valerie has in-depth skills in private law Children Act proceedings involving complex and intractable residence and contact disputes, Prohibited Steps Orders, Specific Issue Orders, applications to relocate both internally and internationally, and Article 15 Brussels ii. She is recognised for her thorough approach to difficult and sensitive family situations, such as child abduction and international relocation.

To instruct Valerie, please contact her clerks on:

T: +44 (0)113 243 3277 and E: clerks@newparkcourt.co.uk