

**SPECIFIC ISSUES AND
PROHIBITED STEPS
CLIENT GUIDE**

Specific Issues and Prohibited Steps

This document provides general guidance regarding applications for specific issue and prohibited steps orders. Your family lawyer will be able to provide specific advice based on your circumstances.

Specific issue orders

A specific issue order determines a particular question in connection with a child. It can be used to resolve issues about a child's upbringing, such as where the child should go school (eg state or private), whether they should receive religious instruction or whether they should have a particular form of medical treatment.

Prohibited steps orders

A prohibited steps order imposes a restriction on a parent or other holder of parental responsibility that prevents them from doing something without consent of the court. They may be used, for example, to prevent a change of a child's name or to prevent a parent from taking a child abroad.

Who can apply?

Parents, step-parents with parental responsibility, guardians, special guardians and anyone who is named in a child arrangements order as a person with whom the child is to live (formerly known as a residence order), may apply to the court for a specific issue or prohibited steps order without requiring the court's permission to do so. Anyone else, including the child him/herself, will need the court's permission to make an application for a specific issue or prohibited steps order.

An order can be for a specified length of time or last until the child reaches 16 years of age. In limited circumstances orders can last until the child is 18 years of age.

What is the procedure?

If it is not possible to reach an agreement you can apply to the court for an order. It is now a requirement that before you make an application for a prohibited steps or specific issue order you must attend a family mediation information and assessment meeting (MIAM). A MIAM is a short meeting that provides information about mediation as a way of resolving disputes. A MIAM is conducted by a trained mediator who will assess whether mediation is appropriate in the circumstances. If both parties are agreeable then you can attend a MIAM together; if, however, that is not suitable then separate meetings will be held. The intention is to see whether your dispute could be resolved in mediation rather than by using the courts. In some circumstances one of the exemptions to attending a MIAM may apply. These include cases where an application must be made urgently, where there are child protection concerns or where there are issues of domestic violence. Your family lawyer will discuss with you whether your case is an exception to the requirement to attend a MIAM.

The court procedure is the same for applications for both specific issue and prohibited steps orders.

An application is made on a specific court form, which sets out the details of all the adults and children in the case, and requires you to say what order you are asking the court to make and why. If your application is urgent your family lawyer will be able to advise you as to what you need to do. It may mean you make the application without telling the other parent what you are doing, but in most cases your application will be sent to the child's other parent and any other relevant adults. When the court receives the application, it will set a time and place for a first court appointment.

The person starting court proceedings is the applicant. The child's other parent and any other person involved may be a respondent. The respondent(s) must file certain forms with the court to confirm they have seen the papers and should also prepare an answer setting out their case.

What happens at court?

The first court hearing is known as the first hearing dispute resolution appointment (FHDR) and it is when the court investigates what the issues are, enquires into the possibility of settlement and gives directions about how the case should proceed if it is not possible to reach an agreement. The court might order that a Cafcass (Children and Families Court Advisory and Support Service) officer prepares a report to help the judge at the final hearing or it might order that the child be legally represented in the proceedings. Sometimes the court will adjourn the case for mediation to take place.

If the issues can't be sorted out the court will hold a final hearing. Here, a judge will hear evidence from the adults involved, the Cafcass officer and any other necessary experts, and then make a binding decision.

How does the court decide what should happen?

The first concern of the court is the child's welfare. The Children Act 1989 provides a list of considerations for the judge who has to decide the case, which help guide them in making a decision:

- the wishes and feelings of the child concerned
- the child's physical, emotional and educational needs
- the likely effect on the child if circumstances changed as a result of the court's decision
- the child's age, sex, background and any other characteristics that will be relevant to the court's decision
- any harm the child has suffered or may be at risk of suffering
- the capability of the child's parents (or other relevant people) in meeting the child's needs, and
- the powers available to the court

The court must also be satisfied that making an order is better for the child than not making an order at all.