

42BR Barristers Webinar notes - “Can’t you make it stop?” - Eléonore Berthelsen and Krishma Patel discuss barring orders under s.91(14) of the Children Act 1989

28 February 2024

Accompanying list of essential resources

Statute

Children Act 1989 s.91(14) – <https://www.legislation.gov.uk/ukpga/1989/41/section/91>

Children Act 1989 s. 91A – <https://www.legislation.gov.uk/ukpga/1989/41/section/91A>

Domestic Abuse Act 2021 s.67 –

<https://www.legislation.gov.uk/ukpga/2021/17/section/67>

Procedure

Family Procedure Rules 2010

Practice Direction 12J, paragraph 37A: https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_12j#35a

Practice Direction 12Q: https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/practice-direction-12q-orders-under-section-9114-of-the-children-act-1989

Case law

Re A (A child (supervised contact) (section 91(14) Children Act 1989 orders) [2021] EWCA Civ 1749 – lead judgment of King LJ, §33-42

(note – this case was decided before the commencement of CA 1989 s.91A, but in contemplation of the same)

<https://www.bailii.org/ew/cases/EWCA/Civ/2021/1749.htm>

A Local Authority v F and others [2022] EWFC 127

(decided after introduction of CA 1989 s.91A)

Judgment of Knowles J – s.91(14) orders until the children reached the age of 18 considered proportionate in the circumstances.

<https://www.bailii.org/ew/cases/EWFC/HC/2022/127.html>

F v M (Rev1) [2023] EWFC 5

(decided after introduction of CA 1989 s.91A)

Judgment of Hayden J - s.91A is “transformative”

<https://www.bailii.org/ew/cases/EWFC/HC/2023/5.html>

Re S (CA 1989, s.91(14)) [2023] EWHC 1161

Judgment of McFarlane P setting out the test to be applied when a person applies for leave under s.91(14).

<https://www.bailii.org/ew/cases/EWHC/Fam/2023/1161.html>

Re P (Section 91(14) Guidelines (Residence and Religious Heritage)) [1999] 2 FLR 573

(note – this case is provided for context only. It was decided before the changes introduced by section 91A of the Children Act 1989 on 19th May 2022)

Other resources

A (short) View from the President’s Chambers in relation to section 91A – 28 July 2022:

<https://www.judiciary.uk/guidance-and-resources/a-short-view-from-the-presidents-chambers-july-2022/>

‘Assessing risk of harm to children and parents in private law children cases’ (‘The Harm Report’) June 2020 – <https://www.gov.uk/government/consultations/assessing-risk-of-harm-to-children-and-parents-in-private-law-children-cases>