

Barring order – How to stop your ex from going to court over children...again!



Over the years I have come across many clients who, sadly, have had to endure repeated applications being made by their ex over arrangements for their children. Recently, we acted for a parent who had to deal with seven sets of court proceedings about the children in 10 years. When that happens, it can be a real blight, not only on the life of the parent who is on the receiving end of repeated litigation, but on the children concerned who will inevitably pick up on their parents' stress and conflict. So what can be done?

What is a barring order?

One little known power the Family Court has is to make a 'barring order'. This is an order that requires one or other parent to obtain permission from the Judge before making any further applications about their children. So, rather than going straight to court, the parent will first have to explain to a judge what application they want to make and why.

In my experience, judges are reluctant to make this kind of order. However, that may well be about to change as a result of some recent developments in the law.

Changes in law

In 2021 one of the senior Judges in the Court of Appeal, Lady Justice King, signalled a change of direction when she said:



“...particularly in those cases where the Judge forms the view that the type of behaviour indulged in by one of the parents amounts to ‘lawfare’, that is to say the use of the Court proceedings as a weapon of conflict, that a Court may feel significantly less reluctant than has been the case hitherto, before stepping in to provide by the making of an Order under Section 91(14), protection to a parent from what is in effect, a form of coercive control on their former partner’s part”.

Hot on the heels of that judgment, in May 2022 further guidance was issued in a practice direction that recognises that bringing proceedings to Court over children may well in itself amount to harassment or other oppressive or distressing behaviour or part of a pattern of coercive or controlling behaviour of domestic abuse.

Until now Judges have tended to only make a barring order in cases where there has been numerous applications to the court. From now on, Judges are encouraged to take into account wider circumstances and consider specifically whether Court proceedings concerning children are actually being used as a weapon of conflict or lawfare as the Judge put it. I suspect that this will lead to more applications being made for barring orders and a greater willingness by judges to use them.

Judges want to send a message that children need to be able to live their lives without the pressure of knowing they are the subject of Court proceedings unless that is unavoidable.

How we can help

If you are about to get drawn into court proceedings about arrangements for children or if you are in the middle of court proceedings already, we can help present your case for a barring order and that could save further coercive court proceedings being started.

If you want to discuss whether your circumstances might be suitable for a barring order, please drop me a line at alex.davies@cripps.co.uk.