



## **Separated Parents and Domestic Abuse**

Research and experience show that separated parents can become particularly estranged, especially during the initial stages. We recognise this can often place schools in a very difficult situation, particularly where both parents make conflicting requests of the school or draw school staff into the conflict, whether this is intentional or not.

This guidance aims to support schools in managing situations where this may be the case including where parents may seek intervention from the courts and consideration of where domestic abuse has been a factor. Schools often find it useful to have a separated parent's policy to refer to in these circumstances. A policy can clarify what is expected from parents themselves as well as what they can expect from the school. We hope this guidance will be helpful as a basis for creating a policy.

**The main aim of a school should always be to promote the best interests of the child, working in partnership with all parents unless otherwise directed by a court order.**

If schools require additional advice and support, they can contact:

**Hannah Ives – Child Protection Lead for Education:**

**Email: [hives@hillingdon.gov.uk](mailto:hives@hillingdon.gov.uk) Phone: 07753431285**

**Stella Anaxagorou – Domestic Abuse Lead for Education:**

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### **Legal Advice:**

There may be situations where schools also need to seek independent legal advice to ensure a parent's right and responsibilities are not infringed and the actions of the school are compliant with education law.

### **Confidentiality:**

In your separated parents' policy and any conversations with parents it will be helpful to acknowledge that staff are aware of the need for discretion and confidentiality regarding information shared with school. School staff will be informed on a strict need to know basis.

### **Content:**

**Section 1**– Parental Responsibility (PR) - page 2

**Section 2** – Separated Parents: No court Orders – page 2-3

**Section 3** – Court Orders – page 4

**Section 4** – Domestic Abuse – page 5-7

**Section 5** – Online Platforms – page 7

**Section 6** – Parents Evening/meetings – page 8

## **1. Parental Responsibility (PR)**

If the parents of a child were not married to each other when the child was born, the mother automatically has PR, but the father only does (from 1 December 2003) by jointly registering the birth of the child with the mother. He can, however, subsequently acquire PR by various legal means.

It is fair for schools to presume the information provided to them when the child is enrolled detailing adults with PR is correct unless a court order or original birth certificate proving otherwise is provided to school.

## **2. Separated Parents - No court orders:**

Where there is no court order, neither parent with PR will have rights superior to the other. This includes if a parent requests restriction on the other. Parents are entitled to share in the decisions made about their child and to be treated equally by schools. Schools who actively try and engage both parents (unless there is a valid reason not to) find this is often beneficial to the child.

Parents' entitlements include:

- Attending parent meetings/school events
- Having access to school records and receiving copies of school reports, newsletters, invitations to school events
- Appealing against admissions decisions
- Ofsted and school-based questionnaires
- Participation in any exclusion procedure

Parents should be encouraged and supported to share changes in home circumstances with school to ensure key contact information is updated and so that appropriate sensitivity and, if required, follow up support can be offered to the child. It will be helpful from an early stage for schools to be clear they will remain neutral between separated parties.

### **Disputes/disagreements (no court order):**

Schools often hear the overflow of parent's emotions and thoughts about each other, and it can be difficult for staff to avoid being 'dragged' into these conversations. It may be helpful for a DLS/SLT member to be the key contact for parents where there is significant conflict. Staff should then direct parents to this key contact.

Separation is difficult for all children and feeling caught in the middle can be a particularly stressful experience. Children (especially younger children) understand that both parents are an extension of them and when a parent is made to look bad, children often feel that they are somehow defective, too. On this basis schools should gently discourage parents from criticising, blaming or generally bad-mouthing the other parent in front of their child if this occurs at school. Centralising the child can help divert parents away from the anger they may feel towards each other and help them to acknowledge that school should be a place for their child to focus on learning and time away from worrying about the adults in their life.

If parents cannot reach agreements on decisions regarding their child's educational programme such as RSE, extra-curricular activities etc where the school feel there is potential for this to be resolved with their support it would be helpful to hold a meeting with all parents, preferably together (unless

any concerns of domestic abuse – see below) to try and assist them in resolving this situation. A member of the SLT or DSL should run this meeting maintaining a focus on the child rather than parents. At this stage if parents cannot agree they should be advised to seek legal advice.

### **The release of a child from school - (no court order).**

Where there is no court order in place any parent with PR can collect their child from school and legally the school does not have grounds to stop this.

Typically, schools will release a child to parents in accordance with arrangements notified to the school. If one parent (with PR) seeks to remove their child in contravention of the notified arrangements, we would recommend the following steps;

- The Headteacher/DSL will discuss by phone or, where they have turned up at school, meet with the parent seeking to remove the child to find out the reasons for the request.
- In the parent's presence, telephone the parent to whom the child would normally be released and explain the request.
- If this parent agrees, this verbal permission can be recorded and the child released.
- If the parents does not agree they would be informed that the school cannot legally withhold the child from the other parent and therefore, the school will release the child to the parent.
- During any discussion the child will be supervised by an appropriate member of staff in a separate room (if outside of normal school day activities at this time).
- It will be helpful to seek clarity from parents about future arrangements following on from this.

### **Safeguarding:**

If the school has reason to fear for the safety of the child if they were to allow them to go with the parent (for example an allegation made by the child or the parent or due to the parents presenting behaviour) it is appropriate for the school to keep the child on the school premises and refuse the parent to take the child for the period whilst they contact the police on 999 and the police can advise if they will be taking any action. The school can follow this up by also contacting the relevant MASH team. For any general safeguarding concerns school should follow their child protection policy.

If a parent seeks to remove the child in the middle of the school day the school should follow their usual procedures alongside the guidance above. Where this is repeated and therefore, becomes disruptive to a child's education school may want to have regard to the Department of Education (DfE) Guidance on excluding parents from school property [Controlling access to school premises - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/controlling-access-to-school-premises) or the school's own acceptable behaviour policy where they have one in place.

### **Managing parents' allegations:**

There are occasions where parents will make allegations regarding the other parent. It can be difficult for schools to try to establish where the truth lies and ascertain any potential risks. Schools should always refer to their child protection policy in these cases. All staff should be reminded to record ALL allegations clearly and report them to the DSL for appropriate follow up. The DSL should weigh up the information and consider whether threshold is met for a MASH referral, a referral to stronger families or any other support is required. Schools should also encourage parents who make allegations of abuse or neglect, particularly sexual or physical, to report these themselves to the police and to Social Care also.

[THINK FAMILY \(click here for Hillingdon Safeguarding Partnership 7 minute professionals briefing\)](#)

- In the midst of parents disputes it is easy to get caught up on the experience for the adults. We must remember to consider what does this mean for the child? What is life likely to be like for them? What impact might this be having on them?

### **3.Court Orders:**

Where a court order is in place a copy should be provided to schools as soon as possible. Schools should then keep a copy on file and relevant staff members should be informed. School can seek the advice of the Local Authority if they have any queries about a court order.

Schools must then comply with any relevant part of the order unless there are any safeguarding concerns in which the above advice should be followed. If a parent tries to contravene an order the school should explain to the parent their duty to comply with a written order, encouraging the parent to seek legal advice if necessary.

#### **Types of Court Order:**

Court orders under section 8 of the Children Act 1989 settle areas of dispute in relation to the exercise of PR or a child's care or upbringing and can limit how an individual exercises their PR. There are different types of section 8 orders, which can be made to address particular issues, these are;

#### **Child Arrangements Order (CAO)**

A child arrangements order sets out the arrangements relating to whom a child is to live with and when, and arrangements relating to whom a child spends time with or otherwise has contact with. This may include who is collecting a child from school and when. It replaces the former residence and contact orders.

#### **Prohibited steps order (PSO)**

A prohibited steps order imposes a specific restriction on the exercise of responsibility. This means that no step specified by the court, which a parent could usually take in meeting his/her parental responsibility, can be taken without the consent of the court. **Example** A PSO can prevent a parent removing a child from the country or from attending a form of religious worship, against the wishes of the other parent.

#### **Specific issue order (SIO)**

A specific issue order is an order giving directions for the purpose of determining a specific question that has arisen, or may arise, in connection with any aspect of parental responsibility. **Example** An order allowing one parent to agree to a pupil changing school against the wishes of the other parent, or allowing a child to take part in an extracurricular activity against the wishes of another parent

#### **Care order**

If a care order is in place, the role that parents can play in their child's life and schooling may be limited by the local authority.

#### **CAFCASS (Children and Family Court Advisory and Support Service)**

Cafcass represent children in family court cases in England and advise the court on what they feel is in the best interest of the child in both Private and Public Law court proceedings. Their role differs in each type of proceedings. CAFCASS are independent of the courts, social services, education and health authorities.

It is important for all professionals and parents to be aware that CAFCASS are not a Child Protection agency and do not specifically investigate safeguarding concerns. Any safeguarding concerns still need to be referred to Children's Social Care as per a school's child protection policy. CAFCASS have a defined role with the child and family, which will be time limited. CAFCASS will routinely contact schools and ask for information to be shared with them about children, and the reciprocal sharing of information is defined within their Safeguarding Policy.

Further information is available on the CAFCASS website including useful resources for Children, parents and professionals [Home - Cafcass - Children and Family Court Advisory and Support Service](#)

#### **4. Domestic Abuse**

When parents have separated due to Domestic abuse, it can be difficult for schools to know how to respond to child contact disputes, balancing the safety of the child and protective parent with the legalities around parental rights.

**It is important to remember that Domestic Abuse can continue after separation. Statistics show that the most dangerous time for a victim is the point of leaving and the year following. Often when there has been physical separation, perpetrators will use children and child contact arrangements to continue their abuse. This can be done through deliberate disruptions to child contact, emotionally manipulating children or in more extreme cases, threatening to harm or kill children.**

*If you know a parent has separated due to Domestic Abuse please check for any of the following:*

##### **Checklist:**

- 1. Has a disclosure has been made by parent or child**
- 2. Is there police involvement.**
- 3. Is there Social care involvement**
- 4. Is there an IDVA (Independent Domestic Violence Advocate) or any other Domestic Abuse support worker involved**
- 5. Has the case been discussed at MARAC (high risk Domestic Abuse Conference)**

Please check these with the **protective/non abusive parent only** if there are any Domestic Abuse protective orders in place, ask for a copy to be kept on file. It is important for schools to have copies of protective order to ensure the safety of the family and to minimise the risk of schools facilitating a breach of any kind.

***All protective orders should be read through thoroughly as each order is drawn up on a case-by-case basis and some may outline arrangements related to child contact where others won't.***

Here is a list of the types of Domestic Abuse related legal protective orders you may come across and what they mean:

## **Criminal Protective Orders:**

### **Restraining Order:**

A restraining order is a protective order that is issued by the criminal courts. They can be applied for upon conviction or even beforehand. A breach of a restraining order is considered a criminal offense and carries the power of arrest.

### **Bail Conditions: Court/ police bail**

When the police make an arrest, they have 24 hours to keep the perpetrator in their custody whilst they gather evidence to charge. If a charge is made and the suspect is not deemed a risk to the wider public they will be bailed with the conditions to not contact or approach the victim until further notice.

If there isn't enough evidence to charge, they may be bailed by the police with the same conditions whilst the police continue their investigation and gather evidence.

## **Civil protection orders:**

### **DVPN:**

A Domestic Violence Protection Notice is issued by the police via civil courts and serves to remove the perpetrator from where they reside with the victim (irrespective of ownership rights or tenancy holders) for 48 hours. In that time the police will attend Magistrates Court to apply for the DVPO.

### **DVPO:**

A Domestic Violence Protection Order can be applied for and issued within 48 hours of the DVPN. If granted it can prohibit the perpetrator from residing in the property or having further contact with the victim. A DVPO is a short-term emergency protection order and usually lasts for approx. 28 days.

## **Civil injunctions:**

### **Non-Molestation Order:**

A NMO is a Domestic Abuse specific injunction issued by the civil courts. A NMO can be granted with or without notifying perpetrators in advance and prohibits a perpetrator from contacting or coming within a certain distance of a victim. NMO's are usually valid for approx. 1-2 years and there does not need to be a police involvement to have one granted. The breach of an NMO is considered a criminal offense and most NMO's should carry a power of arrest if breached. Some NMO's will be issued with parents living together and outline certain areas in the property which are segregated. Usually, NMO's are granted when parents have physically separated. Some NMO's will have child arrangements orders attached and other's won't. Some will stipulate that perpetrators can only contact a victim to arrange child contact and other won't.

### **Occupation Order:**

An OO is a Domestic Abuse specific injunction issued by the civil court. An Occupation Order decides who shall reside in a home and who is prohibited from that home (irrespective of ownership rights

and tenancy holders). An OO is usually only valid for approx. 6 months and is intended to give a victim the time and space to make alternative arrangements with regards to their housing.

#### **Civil Orders Involving children:**

Quite often there will be a CAO (Child arrangement order) attached to either NMO or RO. In cases where there is more than one protective order place, schools must ensure all orders have been read and understood and that any decisions made are done so in conjunction with all orders in place. If there is a case where a parent has an NMO with no mentioning of child contact and no CAO, schools should seek advice from agencies such as social care, police or IDVA's.

### **What schools should do regarding parental rights and protective orders**

#### **No Court orders:**

If schools have received a disclosure of domestic abuse from a parent but there are no protective orders in place, consider if there are any agencies involved with *either* parent and remain in close communication with those agencies (refer to the checklist above). Schools should have regard to guidance set out above in respect of managing allegations and should follow their Child Protection Policy. Strong partnership working and information sharing is important to help consider risks and gather more information about a family. If you have a parent who has disclosed abuse against the other and you are signposting them to support services, do not disclose any of this information to the abusive parent or try to act as a mediator.

If you have concerns about who is a genuine perpetrator or victim you can discuss these with any of the core services mentioned throughout or contact the DA Lead to discuss.

***(IDVA or any other Domestic Abuse services should remain strictly confidential and only be discussed with the protective/non abusive parent. This includes information about the role of DA Lead for Education)***

For schools that have signed up to Operation Encompass, notifications should never be discussed with children or parents. For more information on Operation Encompass please contact the DA Lead for Education.

If you know the case is a high-risk DA case (IDVA, Police, CSC involvement or family are residing in a refuge or emergency accommodation) but there are no protective orders in place, consider the following:

#### **Check List:**

- **Keep photos of abusive parent or perpetrator (abusers are not always the biological parents or parents with PR)**
- **Make a note of any regional accent or distinguishing features**
- **Note of appearance, age, ethnicity**
- **Be wary of any person who attends the school asking after a child, whom you are not familiar with.**
- **Complete safety planning with child and protective parent. This can also be discussed and agreed with other agencies involved.**

**When *there is* protective order in place:**

In circumstances where a perpetrator/alleged perpetrator who is party to a protective order attends the school without the school having been given prior notice, the school should immediately inform the protective/ non abusive parent so that they can make arrangements to ensure their safety.

At any point if the school is, for whatever reason, concerned about the safety of a parent or a child it should not delay in contacting the police for assistance.

**5.Parent Apps/ Platforms:**

For schools using school mobile apps or any online based communication platforms such as Dojo, Activation, Hello Parent etc please consider how these can be managed in cases where parents have separated due to Domestic abuse. If your school uses apps that require 'both' parents to join, please discuss the use of this application with the protective/non abusive parent first. A shared platform may be triggering and harmful for victims, especially if there is potential for visible notifications from the abusive parent. A shared platform may also facilitate the breach of a domestic violence related protection order.

Whilst both parents (those with PR) have a right to information on their child, legislation does not stipulate the specific methods of this information sharing, therefore, schools have scope to share the same information but via different methods if necessary. Schools may want to consider one parent having access to the app and one receiving information via other means such as email/text message/letter. Again, schools are expected to share information specific to the child with each parent with PR however, do not need to share every notification for example reminders to bring PE kits if not applicable to that parent at that time (i.e. if child resides with one parent in the week).

There may be an option of both parents accessing the app via a separate account but with a restriction on their ability to post comments/view the other parents' comments (you may need to contact the app creator to discuss these options).

**6.Parents Evening/Meetings:**

Unless a court order stipulates otherwise, both parents with PR have the right to attend parents evening. In cases of domestic abuse, it is important to facilitate separate meetings considering the protective parent's safety. Where there are no reports or concerns around domestic abuse, parents can be encouraged to attend together where suitable, however, where this is likely to be unproductive having a separate meeting is recommended. Encouraging engagement with both parents (where safe to do so) is often beneficial in helping help schools to have a clearer picture of a child's homelife and therefore, being able to support and safeguard them effectively.



