



Home Office

# **Guidance on Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders under Part 2 of the Modern Slavery Act 2015**

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# 1. Introduction

1.1 This document contains guidance on Part 2 of the Modern Slavery Act 2015 (“the Act”) and will be referred to as such in this guidance. This guidance applies to England and Wales.

1.2 If you have any queries regarding this guidance then you should contact:  
[modernslaveryunit\\_DL@homeoffice.gsi.gov.uk](mailto:modernslaveryunit_DL@homeoffice.gsi.gov.uk)

Or write to:  
Modern Slavery Unit  
Home Office  
2 Marsham Street  
London  
SW1P 4DF

1.3 Throughout this guidance, the individual who is subject to a Slavery and Trafficking Prevention Order (STPO) or a Slavery and Trafficking Risk Order (STRO), or against whom an STPO or STRO is being sought, will be referred to as the ‘defendant’.

1.4 The police force, National Crime Agency (NCA) officer, immigration officer or Gangmasters and Labour Abuse Authority (GLAA) labour abuse prevention officer (LAPO) applying for an STPO or STRO will be referred to as the ‘applicant’.

1.5 ‘Immigration officer’ means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971.

1.6 ‘Labour abuse prevention officer’ means an officer of the GLAA under section 114B(3) and (4) of the Police and Criminal Evidence Act 1984.

1.7 The use of ‘Court’ refers to a Magistrates’ Court where the defendant is over 18 years old at the time the application for a STPO on application or an STRO is made, and the Youth Court where the respondent is 17 years old or younger at the time the application is made. References to other Courts (e.g. the Crown Court where an STPO is made on conviction) will be made explicitly.

1.8 If there is any doubt as to the application or interpretation of the legislation and this guidance does not assist you to resolve the query, you should seek legal advice.

## 2. Overview

### 2.1. The Modern Slavery Act 2015

- 2.1.1 The Modern Slavery Act 2015 (“the Act”) brings together the legislative response to modern slavery. Modern slavery encompasses human trafficking, slavery, servitude and forced or compulsory labour. The Act includes:
- Criminal offences;
  - Law enforcement powers in relation to slavery, including worker exploitation and human trafficking;
  - The Independent Anti-Slavery Commissioner;
  - Protections for victims of slavery and human trafficking; and
  - Transparency in supply chains, which requires businesses above a certain size to report on the steps they are taking to ensure slavery and trafficking does not occur in their supply chain.

### 2.2. Purpose of this guidance

- 2.2.1 Section 33 of the Act requires the Secretary of State to issue statutory guidance to the police, immigration officers, the NCA and the GLAA about the use of their powers under Part 2 of the Act. These are the bodies able to apply for STPOs and STROs.
- 2.2.2 This statutory guidance is a practical tool intended to help those responsible for applying for STPOs and STROs, and for managing STPOs and STROs effectively and appropriately in accordance with the statutory framework. It is good practice to have read this document before contributing to the application process.
- 2.2.3 The guidance has been developed with partners from across the Criminal Justice System.

### 2.3. Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders

- 2.3.1 The Act introduces the following civil orders through Part 2 of the Act, both designed to prevent slavery and human trafficking offences: Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders.
- 2.3.2 Slavery and Trafficking Prevention Orders: the purpose of the prevention orders is to prevent slavery and human trafficking offences being committed by someone who has already committed such offences.
- 2.3.3 There are two types of STPOs – an STPO on conviction and a free-standing STPO on application.
- 2.3.4 An STPO on conviction can be made by a Court at the time of conviction in respect of an individual who has been convicted of a slavery or trafficking

offence where there is a risk that the defendant may commit another slavery or human trafficking offence and poses a risk of harm to the public in doing so. The STPO on conviction will typically be sought by the prosecutor at the sentencing stage. STPOs on conviction enhance the Court's ability to place restrictions on individuals who have been convicted of a modern slavery offence, ensuring that even after they have served their sentence any future risk of similar criminality is effectively managed.

- 2.3.5 The police, the NCA, immigration officers or LAPOs may also apply to a Magistrates' Court (including a Youth Court) for a free-standing STPO on application. This may be made by a Court in respect of an individual who has been convicted or cautioned (or subject to a similar finding – see 3.1.2) for a slavery or trafficking offence in the UK or been convicted or cautioned for an equivalent offence abroad. The Court must be satisfied that there is a risk that the defendant may commit another slavery or human trafficking offence and that the STPO is necessary to protect against the risk of harm from the defendant committing the offence. STPOs on application enable the Courts to place restrictions on individuals convicted or cautioned for modern slavery type offences whether the offence took place before or after Part 2 of the Modern Slavery Act 2015 was commenced on 31 July 2015. Convictions include spent convictions. STPOs on application also cover individuals convicted abroad; given that modern slavery is often conducted by organised crime groups who operate across borders, this flexibility is important.
- 2.3.6 An STPO may impose any restriction on the defendant that the Court deems necessary for the purpose of protecting the public from harm. The STPO may also include a requirement that the defendant provide his name and address, including updating this where the information changes; the detail of who the defendant should contact and how should be set out in the Order.
- 2.3.7 Slavery and Trafficking Risk Orders: A STRO can be made by a Court in respect of an individual who has not been convicted of a slavery or trafficking offence. The Court must be satisfied that there is a risk that the defendant may commit a slavery or human trafficking offence and that the STRO is necessary to protect against the risk of harm from the defendant committing the offence. STROs enable action to be taken where this is necessary to prevent serious harm to the public notwithstanding the absence of a conviction.
- 2.3.8 The STRO is sought through a free-standing application by the police, the NCA, an immigration officer or a LAPO to a Magistrates' Court.
- 2.3.9 An STRO may impose any restriction the Court deems necessary for the purposes of protecting the public from harm. The STRO may also include a requirement that the defendant provide his name and address, including updating this where the information changes; the detail of who the defendant should contact and how should be set out in the Order.

2.3.10 Interim orders: It is possible to apply for an interim STPO on application or STRO if the decision on the application for these Orders has not yet been determined.

2.3.11 Prosecution: The STPOs and STROs are not intended as a substitute for prosecution when sufficient evidence is available. They are intended as an additional tool available to law enforcement agencies to control the behaviour of individuals who may cause harm through committing slavery and human trafficking offences. If a defendant is found not guilty of a slavery or trafficking offence, that does not prevent an application for an STPO or STRO being made in future.

### 3. Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders

#### 3.1. What are Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders?

- 3.1.1 There are two civil orders available under Part 2 of the Act which can be applied to those who pose a risk of harm from committing modern slavery offences in future: Slavery and Trafficking Prevention Orders (STPOs) and Slavery and Trafficking Risk Orders (STROs).
- 3.1.2 STPOs are aimed at those convicted, cautioned, who received a reprimand or final warning, found not guilty by reason of insanity, or found to be under a disability and to have done the act charged (i.e. if someone can't be put on trial in the usual way because they are not fit to plead/stand trial but a court has found that they committed the act/offence), in respect of a slavery or human trafficking offence (as set out in Schedule 1 to the Act and summarised in 3.4 of this guidance) or an equivalent offence abroad. STROs are aimed at individuals who have not been convicted of a slavery or human trafficking offence. For both types of Order, the Court will only make the Order where it is satisfied that the behaviour giving rise to the application took place and it considers that it is necessary to make the Order applied for to protect persons or a person from harm caused by the commission of slavery or human trafficking offences.
- 3.1.3 In both cases, the Court may impose a wide range of restrictions on individuals depending on the nature of the case, as long as these are necessary to prevent harm associated with slavery or trafficking offences. The Orders are designed so that law enforcement bodies and the Courts can respond flexibly to the risks posed by an individual of committing future modern slavery offences. This flexibility enables law enforcement and the Courts to respond and take action in relation to changing modern slavery practices, and to tailor prohibitions to the specific risk posed by an individual.
- 3.1.4 The aim of both types of Order is to protect potential victims from the physical or psychological harm which would result if the defendant committed a slavery or trafficking offence. The Orders are intended as a preventative measure to deter unlawful and harmful activity. Breach of an Order, without reasonable excuse, is a criminal offence which may be tried either summarily or on indictment with a maximum penalty on indictment of five years' imprisonment.
- 3.1.5 The Act provides for an interim STPO or STRO where an application for a full Order has been made or is being made at the same time, but has not yet been determined.

### STPO on conviction

- 3.1.6 A STPO can be made by a Court to impose restrictions on the offender from the point of conviction, in cases where this is necessary to protect the public from harm from that offender.
- 3.1.7 The conviction (or similar finding - see paragraph of 3.1.2 above) must be in relation to an offence listed in Schedule 1 to the Act (and summarised in 3.4 of this guidance).
- 3.1.8 No application is necessary for the Court to make an STPO on conviction although the prosecutor may wish to invite the Court to consider making an Order in appropriate cases. The Court may also ask that the pre-sentence report considers the suitability of an STPO on a non-prejudicial basis.
- 3.1.9 In order to make an STPO in this way, the Court must be satisfied that the offender presents a risk of harm to the public (or particular members of the public) which would result if the defendant committed a slavery or trafficking offence and that an Order is necessary to protect against this risk. The evidence presented at the trial is likely to be a key factor in the Court's decision, together with the offender's previous convictions and the assessment of risk contained within the pre-sentence report.
- 3.1.10 In coming to that decision, the Court may take into consideration the range of other options available to it in respect of protecting the public.

### STPO on application

- 3.1.11 Where an offender is behaving in a way that suggests they might commit a slavery or human trafficking offence, the police, NCA, immigration officers or LAPOs should actively consider whether to apply for an Order. The applicant must be able demonstrate the following to the Court in order to make a successful application:
- that the defendant is a "relevant offender". That is to say that they have been convicted, cautioned, received a reprimand or final warning, found not guilty by reason of insanity, or found to be under a disability and to have done the act charged, in respect of an offence listed in Schedule 1 to the Act (and summarised in 3.4 of this guidance), or an equivalent offence abroad; and
  - that, since the defendant became a relevant offender (i.e. date of conviction, etc. for Schedule 1 offence or equivalent offence abroad) the person has acted in such a way which means that there is a risk that the defendant may commit a slavery or human trafficking offence and the Order is necessary to protect the public, or any member of the public in the UK, from the harm likely to occur from the commission of that offence.
- 3.1.12 The STPO may be made against defendants with convictions, cautions etc. received in respect of equivalent offences overseas. The terminology used in



the legislation of the other country does not have to match precisely the terminology used in the legislation of England and Wales.

- 3.1.13 Section 16(3) to (6) relate to the procedures to be adopted in satisfying the Court that the criteria for an application for an STPO are met where the offence was committed abroad: the act in question must have 'constituted an offence under the law in force of the country concerned'. The application for the STPO must include details of the conviction or caution which is equivalent to a conviction or caution for a slavery or trafficking offence in the UK, and this will be included in the summons to the defendant. It will be assumed that this criterion is then met unless the defendant serves a notice on the applicant within 21 days of receiving the summons that this condition has not been met, together with his reasons for claiming this, and a requirement that the applicant proves the condition is met. In addition, the Court may permit the defendant to require the applicant to prove this without any such notice.
- 3.1.14 The Act provides that where an STPO on application is sought, the behaviour demonstrating the risk of future harm must have occurred since the first conviction for a relevant offence. As section 127 of the Magistrates' Court Act 1980<sup>1</sup> does not apply to applications for these orders, the evidence relied on in making the application may relate to any time after the date of that conviction.
- 3.1.15 The Order entitles the Court to prohibit the defendant from doing anything described in it. The minimum duration of an STPO is five years, and the duration can simply be until further order. However, where the STPO includes a prohibition of travel, that aspect of the Order must be for a fixed period of not more than five years, although there is provision to apply to Court to extend this period.

## STRO

- 3.1.16 An STRO is a civil order which can be sought against an individual who has not been convicted, cautioned etc. (see paragraph 3.1.2 above) of a slavery or human trafficking offence but who is nevertheless thought to pose a risk of harm.
- 3.1.17 An STRO may be applied for on free standing application to a Magistrates' Court by the police, NCA, an immigration officer or a LAPO.
- 3.1.18 The Court may only make an Order if it is satisfied that the defendant has acted in a way which means there is a risk that the defendant will commit a slavery or human trafficking offence and that it is necessary for the purpose of protecting the public from the harm likely to occur from the commission of the offence.

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<sup>1</sup> Section 127 of the Magistrates' Court Act 1980 sets a six month time limit between the time when the offence was committed, or the matter of complaint arose, and the information being tried or evidence being heard, as otherwise expressly provided by any enactment.

3.1.19 The Order entitles the Court to prohibit the defendant from doing anything described in it. The minimum duration of an Order is two years, and the duration can simply be until further order. However, where the STPO includes a prohibition of travel, that aspect of the Order must be for a fixed period of not more than five years, although there is provision to apply to Court to extend this period.

### 3.2. What standard of proof is required for STPOs and STROs?

3.2.1 This standard of proof is the same as is used for similar types of civil order, such as Sexual Harm Prevention Orders, Sexual Risk Orders, and Serious Crime Prevention Orders.

3.2.2 The Court must be satisfied so that it is sure that behaviour or actions giving rise to the application took place. This is an enhanced civil standard of proof, which is akin to the criminal standard of proof of being sure beyond reasonable doubt. For an STPO the defendant will have been previously convicted of one or more offences and the Court will normally accept proof of these convictions as evidence of the behaviour which formed the basis of those convictions. Additional evidence of subsequent activity is also likely to be before the Court. For an STRO evidence of all of the alleged behaviour will need to be put before the Court. The evidence must be of a sufficient standard to prove that the particular behaviour or actions took place. The behaviour or actions may not necessarily amount to a criminal offence (e.g. numerous trips to places with a strong link with slavery/trafficking) but, when combined with other evidence (e.g. of previous convictions for non-slavery and trafficking offences), will point to the risk of future criminality.

3.2.3 Once the Court has decided that the relevant behaviour has taken place, the Court must be satisfied that it is necessary to make the STPO or STRO to protect persons or a person from harm. For the second part of this process the Court exercises its judgment and is not applying a particular standard of proof (see *R v Manchester Crown Court ex parte McCann* [2002] UKHL 39, as per Lord Steyn at paragraph 37).

### 3.3. When might an STPO or STRO be appropriate?

3.3.1 The fundamental purpose of an STPO or STRO is to protect the public, or particular individuals, from harm, and therefore a key factor to be considered is the risk presented by the defendant. Risk in this context should include reference to:

- the likelihood of the defendant committing a slavery or human trafficking offence;
- the imminence of that offending; and
- the potential harm which may result from it.

3.3.2 Care needs to be taken that the prohibitions proposed as part of an STPO or STRO can be justified by the assessment of risk. The questions that need to be asked when considering the terms of Order are:

- will the proposed restrictions operate to reduce the risk of harm to the public or to any particular members of the public?
- are the restrictions proportionate and reasonable?
- can they be policed effectively?

3.3.3 Some specific examples of the types of circumstances where STPOs and STROs could be worth consideration are:

- A defendant is coming to the end of a licence period and their behaviour suggests they may still pose a risk. In these circumstances, consideration may be given to whether certain restrictions will be likely to prevent the offender from committing further slavery offences. Imposition of an STPO may be a useful tool to enable the authorities to continue to manage the defendant's behaviour.
- There is evidence that slavery and human trafficking offences have taken place and may continue to take place in the future. Despite there being evidence of this type of wrongdoing, there may be obstacles to prosecution, for example witnesses returning to their country of origin. In such cases it may be appropriate to apply for an STPO or STRO. The civil rules of evidence allow for the evidence of witnesses who have returned to their home country to be relied upon.
- A person may have been convicted of non-slavery and trafficking offences in the past, which can be associated with slavery and trafficking activity. Examples of the sorts of previous convictions which might be relevant include keeping a brothel (sections 33 and 33A of the Sexual Offences Act 1956), allowing a child to be in a brothel (section 3 of the Children and Young Persons Act 1933 (CYPA)) or allowing a child to be used for begging (section 4 CYPA). An application may be appropriate if that person is engaged in further activity which does not in itself amount to an offence but which, when looked at in conjunction with the previous convictions, creates a picture which indicates a risk of future involvement in slavery and trafficking.
- There may be cases where civil action has been taken in the past, the evidence of which may, when considered with other activity taking place, point to a risk of future slavery or trafficking offences. For example a closure notice issued in respect of premises used for child sex offences (section 136BA of the Sexual Offences Act 2003) or a possession order in respect of a property where other offences of exploitation have taken place (see Schedule 2A of the Housing Act 1985) could be relevant.
- There is evidence of preparatory steps being taken, or a series of activities has taken place, but no slavery or trafficking offence has yet been committed. Where there has been no conviction (or similar – see

para 3.1.2) for a slavery or trafficking offence, it may be possible to apply for a STRO.

- There is evidence of previous exploitation of a person or persons (whether undertaken by the defendant or by others) and the defendant is now behaving in a way which suggests a future intention to exploit that person in a similar way. Again there does not need to be proof of an offence but the combination of factors may indicate a future risk of offending.
- There may be larger modern slavery investigations where law enforcement will seek to restrict the behaviour of individuals who are at the periphery of the investigation through STROs. This may be because law enforcement wants to restrict their behaviour immediately whilst they are focusing first on prosecuting the main offenders.
- STPOs and STROs may be useful to control the behaviour of those who pose a risk but where it may be difficult to prosecute, such as brothel keepers who advertise internationally for women, and move victims backwards and forwards.
- The application of STROs to those under the age of 18 may be necessary to prevent serious harm to other (possibly younger) children. Depending on the circumstances, it may be worth considering whether it might be more appropriate to apply for an STRO for a young person rather than prosecuting them.

3.3.4 There are many types of offences which might be relevant evidence. When considering whether to apply for a STPO or STRO the previous convictions of a defendant should be taken into account and consideration should be given as to whether those convictions should be adduced in evidence when making the application. Only those convictions which are relevant to proving the risk of future offending should be used. Spent convictions may be used in evidence where relevant.

3.3.5 It is important to bear in mind that the Court requires evidence of future risk. The Court will need to be sure that the alleged acts which demonstrate the future risk took place. The Court does not need to apply a standard of proof when deciding whether or not to impose an Order.

### 3.4. What are slavery and human trafficking offences?

3.4.1 Slavery and human trafficking offences essentially cover slavery, servitude, forced or compulsory labour and human trafficking. Slavery and human trafficking offences are listed in Schedule 1 of the Act. They can be amended by regulations at any time. The current list of slavery and human trafficking offences is:

- The main England & Wales offences under the Modern Slavery Act 2015:
  - Section 1 – slavery, servitude or forced or compulsory labour
  - Section 2 – human trafficking

- Section 4 - committing an offence with the intent to commit a human trafficking offence
- England and Wales offences relating to slavery and human trafficking which were used before these were consolidated in the Modern Slavery Act 2015:
  - Section 145 Nationality, Immigration and Asylum Act 2002 - trafficking for prostitution
  - Section 57, 58, 58A, 59, or 59A of the Sexual Offences Act 2003 – trafficking for sexual exploitation
  - Section 62 of the Sexual Offences Act 2003 where the offence was committed with the intent to commit an offence of trafficking for sexual exploitation
  - Section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 – trafficking for exploitation
  - Section 71 Coroners and Justice Act 2009 – slavery, servitude and forced or compulsory labour
- Northern Ireland equivalent offences under section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 – slavery, servitude, forced or compulsory labour; human trafficking.
- Scotland equivalent offences:
  - Section 22 Criminal Justice (Scotland) Act 2003 - trafficking for prostitution etc
  - Section 47 Criminal Justice and Licensing (Scotland) Act 2010 - – slavery, servitude and forced or compulsory labour
  - Section 4 Asylum and Immigration (Treatment of Claimants, etc) Act 2004
- An offence of attempting or conspiring to commit one of the above offences.
- An offence committed by aiding, abetting counselling, procuring or inciting on of the above offences.
- An offence under Part 2 of the Serious Crime Act 2007 where the person intends or believes that one of the above offences would be committed.

### 3.5. Who can apply for an STPO or STRO?

- 3.5.1 An STPO on conviction can be imposed by a Court of its own volition but the Crown Prosecution Service prosecutor (or lawyer representing the CPS) may wish to invite the Court to consider making an Order as part of the sentencing process.
- 3.5.2 The STPO on application, the STRO, the interim STPO or the interim STRO, may be applied for by:

- The Chief Officer of Police where the defendant is, lives, or intends to move to (or an officer to whom this power is delegated).
- The Director-General of the National Crime Agency (or an officer to whom this power is delegated).
- An immigration officer, authorised by the Director of Criminal Investigations, Immigration Enforcement.
- A LAPO, authorised by the Director of Operations, GLAA

3.5.3 Immigration officers are able to apply for the Orders without having to call upon the police or the NCA. Any decision to apply for an STPO or STRO must be approved by the Director of Criminal Investigations (Immigration Enforcement).

3.5.4 LAPOs are able to apply for the Orders without having to call upon the police or the NCA. Any decision to apply for an STPO or STRO must be approved by the Director of Operations, GLAA.

3.5.5 The NCA, immigration officer or LAPO may only apply for an STPO or STRO to be varied, renewed, or discharged if they were the applicant for the original Order. However, a Chief Officer of Police (or an officer delegated by him) may apply for an Order to be varied even if they did not apply for the original Order, so long as the defendant lives in their police area or intends to move there.

3.5.6 The geographical limitation placed on the Chief Officer of police (i.e. to his police area) does not apply to the NCA, immigration officer or LAPO. However, where the NCA, immigration officer or LAPO applies for an STPO or STRO, or interim STPO or interim STRO, the Act requires them to notify the Chief Officer of the relevant force area(s) as soon as practicable.

### 3.6. What prohibitions and requirements can STPOs and STROs impose?

3.6.1 It is for the Court to decide what prohibitions are necessary in the light of the evidence it hears. However, the applicant for an STPO on application or an STRO should specify in the application what prohibitions are being sought to manage the risks, which should also be stated.

3.6.2 The only prohibitions which can be imposed by an STPO or STRO are those which are necessary for the purpose of protecting the public from harm from the defendant. The restrictions imposed can be wide ranging. An STPO or STRO may, for example, prohibit someone from undertaking certain forms of employment. The behaviour prohibited by the Order might well be considered unproblematic if exhibited by another member of the public (e.g. travelling to a particular destination regularly). It is the defendant's history of offending (for STPOs) and demonstration of subsequent behaviour suggesting that they may pose a continued risk, which will make them eligible for an Order.

3.6.3 The applicant should consider carefully whether restrictions which would have a very substantial impact on the life of the defendant, for example removing his or her livelihood or his ability to visit his family, are necessary, given that

the Court is likely to consider this closely. Any interference with the offender's right to a private and family life (protected by Article 8 of the European Convention on Human Rights) must be necessary to pursue the legitimate aims set out in Article 8 and be proportionate. Those aims are national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- 3.6.4 The Court may require the defendant to notify the person specified in the Order of their name(s) and address, within three days of the date of service of the STPO or STRO, and of any change in these details, whilst the STPO or STRO has effect. It is generally good practice to include in the application a requirement that the defendant provides and keeps up to date their name and address to ensure that the risk posed by the defendant can be managed effectively if an STPO or STRO is made by the Court. The applicant should ask the Court to include details in the Order about who the defendant should contact and how to provide this information. When the Order requires the defendant to notify the NCA, an immigration officer or a LAPO, the NCA, immigration officer or LAPO must give details of any notification to the local police. When the applicant is made aware that the defendant has moved or is due to move to a new police force area, they must inform the police in that area.
- 3.6.5 The STPO or STRO may prohibit the defendant from activity anywhere in the United Kingdom and outside the United Kingdom.
- 3.6.6 Both the STPO and the STRO may contain foreign travel prohibitions, where this is necessary for the purpose of protecting the public or specific individuals. Restrictions may include:
- A prohibition on travelling outside the UK to any country named or described in the Order;
  - A prohibition on travelling outside the UK to any country, other than a country named or described in the Order; or
  - A prohibition on travelling to any country outside the UK
- 3.6.7 Where the application asks for a prohibition on the defendant travelling to all countries outside the UK, the application should highlight that under the Act an STPO or STRO containing this requirement must also include a requirement that the defendant surrender all of his or her passport(s) at a police station specified in the Order either on or before the day the STPO or STRO takes effect, or within a set period. Failure to surrender their passport(s) as required by the Order will be an offence.
- 3.6.8 It is important to note that activity abroad which would constitute causing harm to the public does not have to be illegal in the foreign country where it is intended to take place. For example, a STPO or STRO can prevent travel to a particular region where the defendant has been known to 'recruit' people who have later been exploited.

3.6.9 Foreign travel restrictions contained within either an STPO or an STRO have a maximum duration of five years. If an individual continues to pose a risk, the applicant may apply to the Court for the prohibition to be extended for a period of not more than five years.

3.6.10 The prohibitions in the Order will be tailored to the particular case and to the specific harm the defendant poses. An Order may, for example, prohibit the offender from having further contact with a particular individual, either in person or over the Internet, or to not go to a particular place.

3.6.11 An STPO or STRO, or an interim STPO or interim STRO, is a serious measure and breach of any prohibition contained in it, without reasonable excuse, is a criminal offence. Every effort must be made to ensure the defendant understands this position, and that the defendant attends the hearing of the application and is given the opportunity to state their case.

### 3.7. Examples of prohibitions

3.7.1 It is for the Court to decide what prohibitions are necessary in the light of the evidence it hears. However, the application should suggest the prohibitions the applicant believes are necessary to manage the risk. The following are examples of prohibitions that may be imposed; it is not an exhaustive list:

- Advertising for/ recruiting/ employing staff;
- Being a gangmaster;
- Working with children;
- Working with vulnerable people;
- Residing with (specified) children/vulnerable people;
- Organising transport/accommodation for other people;
- Travelling to specified countries;
- Contacting/ recruiting specific individuals, directly or indirectly, either personally or by any electronic means;
- Holding a licence to act as a sponsor for visa applications; or
- Going to a specific place (e.g. where a victim resides).

3.7.2 It is important to remember that the CPS will be involved if an Order is breached and the breach prosecuted. It may also be sensible to seek CPS advice on the wording of unusual or complex prohibitions to ensure that any breaches will be capable of being prosecuted effectively.

### 3.8. Length of prohibitions

3.8.1 A prohibition has effect for the period specified in the STPO or STRO, unless no period is specified, in which case the prohibition has effect until further Order. The minimum duration which may be specified in an Order is five years for an STPO and two years for an STRO.

3.8.2 Where an STPO or STRO contains a foreign travel restriction, that aspect must be for a fixed period and may last a maximum of five years (although this can be extended through an application to the Court).



- 3.8.2 The police should monitor each STPO or STRO actively (see para 6.8.1) including to ensure that it continues to remain necessary to protect the community.
- 3.8.3 An Order can only be discharged in less than the minimum period with the agreement of both the defendant and the Chief Officer of Police where the defendant lives. The calculation of the period during which no Order shall be discharged except with the consent of both parties starts from the date the Order is made.
- 3.9. Specific considerations in relation to protection of defendants under 18
- 3.9.1 STPOs or STROs may apply to those under the age of 18. Children and young people aged up to their 18th birthday will be dealt with by the Youth Court.
- 3.9.2 The Act and Rules of Court provide for defendants who reach their 18th birthday during the proceedings for an STPO or STRO to continue to be dealt with in the Youth Court where that is most appropriate. They also provide that defendants over 18 may be heard in a Youth Court alongside a defendant under 18 if it is in the interests of justice to hear the applications together.
- 3.9.3 A parent or guardian (which may include the local authority children's services department) may be required to attend the proceedings.
- 3.9.4 Under section 49 of the Children and Young Persons Act 1933 (CYPA), details which may reveal the identity of any child concerned in Youth Court proceedings must not be published. In other Courts, similar restrictions are likely to be imposed by the Court (see section 39 of the CYPA) as there is a presumption against publication.
- 3.10. Interim Orders
- 3.10.1 It is possible to apply for an interim Order when the decision on an application for an STPO on application or STRO has not yet been determined. The purpose of an interim Order is to protect the public, or any particular individuals, during any period between the application for a full Order and its determination. Breach of any of the prohibitions of an interim Order is a criminal offence carrying the same maximum penalty as breach of a full Order.
- 3.10.2 Interim Orders are only available in respect of applications made by complaint. If the intention is to seek an Order on conviction at the end of criminal proceedings and an interim Order is required, then an application by complaint will be needed as well. The trial Court is not permitted to make an interim Order of its own volition before the conclusion of the trial. The interim Order should contain the same restrictions as the full Order being applied for. It will cease to exist when the Court has made a decision on the application for the full Order.

3.10.3 STPOs and STROs are public protection tools. Any interference with the offender's right to a private and family life (protected by Article 8 of the European Convention on Human Rights) must be necessary to pursue the legitimate aims set out in Article 8 and be proportionate. Those aims are national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. The risk factor may be of such a degree as to justify an interim Order application at the same time as an application for a full Order, but given that such an Order will be made before the Court has heard and tested all the evidence, great care must be taken to ensure that such a course of action is justified.

3.10.4 It is a matter for the Courts to interpret whether or not it is just to make an interim Order. If an application is properly made and supported, an interim Order may be granted. The Court may make an interim Order if it considers it just to do so.

3.10.5 Whilst recognising that the defendant must be allowed adequate time to prepare, interim hearings will not normally be adjourned, since the purpose of an interim Order is to provide a degree of public protection pending the determination of the main application.

### 3.11 National Referral Mechanism (NRM)

3.11.1 Where the applicant is aware that the defendant has been referred to the NRM or one of their victims has been referred to the NRM, the existence of the STPO or STRO may be relevant to the decision-making process in the NRM. The applicant should consider notifying the competent authority that an Order has been applied for or granted in cases of interest to the NRM (See section on disclosure at paragraph 6.3).

## 4. Evidence gathering

### 4.1. Obtaining and reviewing evidence – general principles

- 4.1.1 Where the police or others have concerns about an individual in the community, either arising from their own observations or from concerns expressed by another agency, or from reports by individuals, they will need to conduct an assessment of the risk posed by the defendant in order to decide whether to apply for an Order.
- 4.1.2 Such an assessment will need to be done as quickly as possible, and in consultation as appropriate with other agencies, such as the probation service and social services, or perhaps in the context of Multi-Agency Public Protection Arrangements (MAPPA).
- 4.1.3 If the material which has allowed the risk to be identified is sensitive (e.g. from intelligence sources) and not disclosable it cannot be relied on in evidence, just as in ordinary criminal proceedings. In that type of case, consideration should be given to what further investigative steps need to be taken in order to be able gather evidence which can be disclosed and therefore used in evidence to gain an Order (or indeed to prosecute where an offence has been committed).
- 4.1.4 It is good practice for the applicant, if practicable, to explain to the defendant at the earliest possible opportunity:
- that a decision has been made to apply for an STPO or STRO in respect of them;
  - the reasons for that decision; and
  - the defendant should seek legal advice at the earliest possible opportunity in order that the applicant can contact the defendant's legal representative.
- 4.1.5 Before applying for an STPO or STRO in relation to a child or young person aged under 18, the applicant should consult the children's services department and the relevant youth offending team, who may have assessed or supervised the child or young person following their earlier offending, or have other relevant contact with such individuals or their families.
- 4.1.6 In making an assessment of the present risk posed by a defendant, a number of factors should be taken into account:
- the risk that a slavery or human trafficking offence will be committed – the purpose of an STPO or STRO is to protect the public and this concern should be given primary consideration in any assessment;
  - the potential harm resulting from such an offence;
  - the date, nature and circumstances of the previous conviction or convictions and any pattern which emerges;

- the current circumstances of a defendant and how these might change e.g. work placements or environments, housing, family and other relationships, stress, drink or drugs, proximity to schools/ playgrounds etc.;
- the disclosure implications if an Order is sought;
- how the Court process might affect the ability to manage the defendant in the community;
- an assessment of the accuracy and relevance of the information about the individual (including an assessment of the status of those expressing concern and their reasons for doing so);
- the nature and pattern of the behaviour giving rise to concern, including any predatory behaviour which may indicate a likelihood of re-offending;
- evidence of bad character; and
- the extent of compliance, or otherwise, with previous sentences, Court orders or supervision arrangements.

4.1.7 The CPS will not normally be consulted on individual cases, since the Orders are civil. However, there may be circumstances where the applicant will wish to seek its advice. For example, it may be necessary to establish whether any of the conduct or behaviour is subject to ongoing criminal proceedings or should be prosecuted as a criminal matter.

#### 4.2. Admissible forms of evidence

4.2.1 An application for an STPO on application or an STRO, or interim STPO, or interim STRO, is made by way of complaint to a Magistrates' Court. The Court exercises its civil jurisdiction in hearing these applications. Under section 98 of the Magistrates' Courts Act 1980, evidence will ordinarily be given on oath. The evidence of a child under 14 will be given unsworn.

4.2.2 Rule 14 of the Magistrates' Courts Rules 1981 makes provision for the order of evidence and speeches. In relation to evidence from children and vulnerable witnesses, it is recommended that, due to the strain such a case will place upon them, they should only be called to give evidence in exceptional circumstances. If such evidence is necessary, the Court should, as far as possible, ensure that appropriate measures used in criminal proceedings, such as separate waiting facilities, are provided.

4.2.3 The normal rules of civil evidence apply in these types of proceedings, which means that hearsay evidence is admissible. Applicants should collate any witness statements they intend to rely on in evidence, along with any other material they intend to rely on in evidence, as soon as practicable and serve them on the defendant at the earliest opportunity in order to give the defendant the opportunity to respond to the case against them.

4.2.4 The Civil Evidence Act 1995 applies and, in the case of STPO made on conviction only, Part 50 of the Criminal Procedure Rules 2014 applies as well.

## 5. Applying for Orders

### 5.1. Courts to which an application may be made

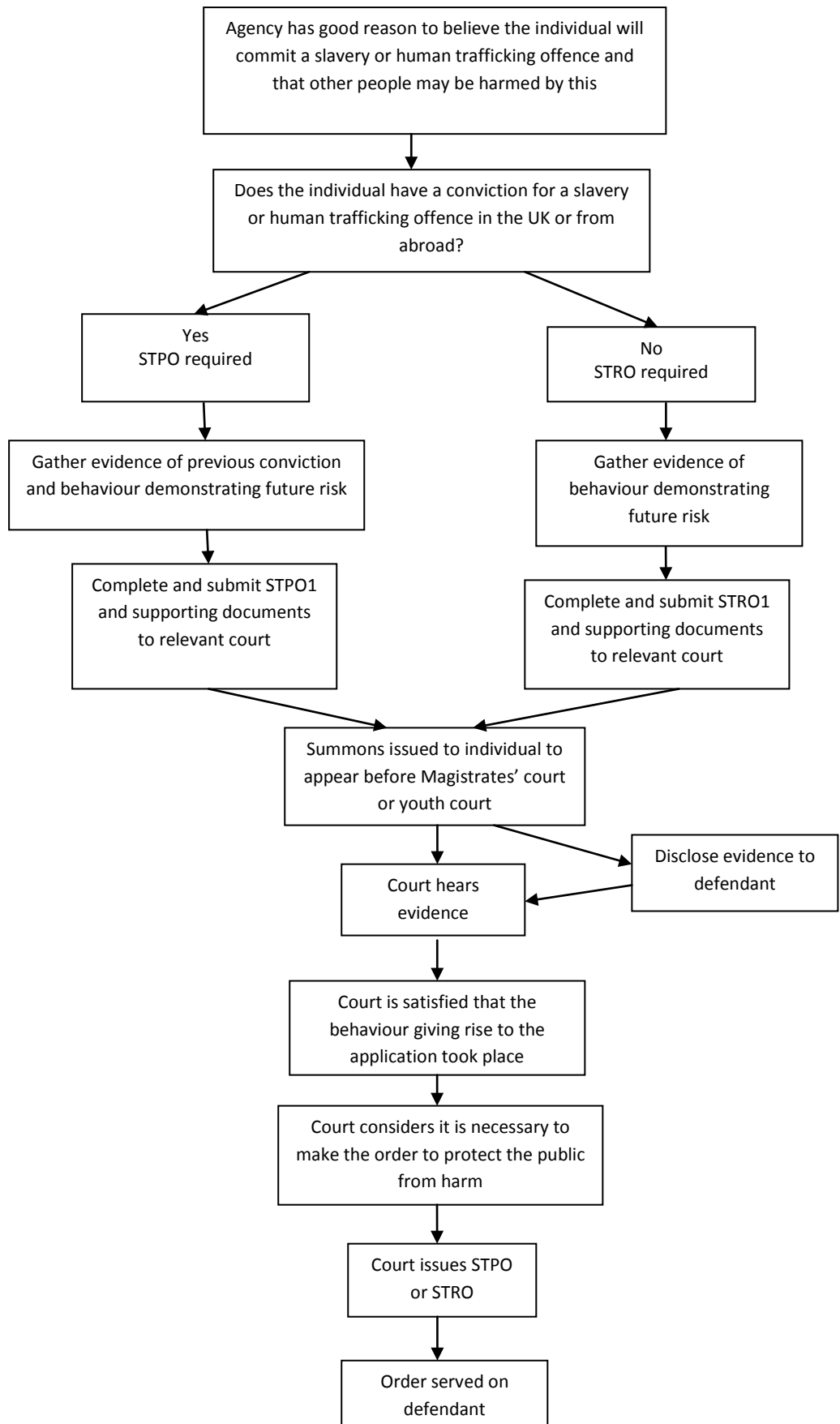
- 5.1.1 You will make applications for an STPO on application or STRO, or interim STPO, or interim STRO, to a Magistrates' Court except for applications in respect of individuals under 18, which will be made to a Youth Court. Appeals against an STPO or STRO, or interim Orders, will be made at the Crown Court.
- 5.1.2 The Crown Prosecution Service (CPS) would usually invite the Court to consider making an STPO on conviction (in either the Crown Court or a Magistrates' Court), based on information or a draft order from the police.

### 5.2. The process of applying for an Order

- 5.2.1 When you apply for an STPO or STRO, or interim Order, you should have good reason to believe that the person being named in the application may commit a slavery or human trafficking offence and that the public, or particular individuals, may be at risk of harm if such an offence is committed.
- 5.2.2 When applying for an STPO, or interim STPO, you must ensure that the person being named has been convicted for a slavery or human trafficking offence, or equivalent offence from abroad.
- 5.2.3 Many aspects of the application process for the two types of Order (including interim Orders) are similar. The general provisions governing applications for civil orders in a Magistrates' Courts are set out in the Magistrates' Courts Act 1980 (see in particular Part II).
- 5.2.4 An application for an STPO on application or an STRO, or interim Order, is made by way of complaint to a Magistrates' Court, using the appropriate form, STPO1 or STRO1, available on Gov.uk alongside this guidance.
- 5.2.5 Consideration of the application is a two stage process (although both can take place at the same hearing). Firstly, the Court must be satisfied so that it is sure that behaviour giving rise to the application took place. This means that the enhanced civil standard of proof, which is *akin* to the criminal standard of being sure beyond reasonable doubt, applies. If a person has previously been convicted of one or more offences, the Court will normally accept proof of these convictions as evidence of the behaviour which formed the basis of those convictions. If not, then evidence of the alleged behaviour will need to be put before the Court. Once the Court has decided that the relevant behaviour has taken place, the Court must be satisfied that it is necessary to make the Order applied for to protect persons or a person from harm. For the second part of this process exercises its judgment and is not applying a particular standard of proof (see *R v Manchester Crown Court ex parte McCann* [2002] UKHL 39, as per Lord Steyn at paragraph 37).

- 5.2.6 This standard of proof is the same as is used for similar types of civil order, such as Sexual Harm Prevention Orders, Sexual Risk Orders, and Serious Crime Prevention Orders.
- 5.2.7 An application may only be made in relation to a single individual, even if that person may be a member of a larger group. In order to expedite the process, it is recommended that the applicant consider alerting the Court prior to making an application to help in its scheduling. It is also recommended that the applicant first consult their legal advisers who may assist or may suggest obtaining legal advice from private solicitors to complete the forms. It is worth bearing in mind that, should any case come up for review, it will be helpful to have access to as much information as possible relating to the reasons and justifications for the original application. It would therefore be a matter of good practice to record all relevant information in relation to applications at the time that they are made.
- 5.3. Documents to be provided to the Court
- 5.3.1 The Court will need to see all relevant supporting documentation along with the complaint form, STPO1 or STRO1. This should include any witness statements. In the case of the STPO1, there will need to be documentation supporting the details of previous convictions provided on the forms. If the previous offences are from abroad, any relevant documents detailing this should be provided. It is helpful to provide all documents at the earliest stage.
- 5.3.2 The form and the supporting documents should be sent to the Court office by post.
- 5.3.3 Applicants should serve evidence on the defendant at the earliest opportunity in order to give the defendant the opportunity to respond to the case against them.
- 5.4. Fees to be paid
- 5.4.1 There is a financial cost associated with applying to the Court for an Order.
- 5.4.2 STPOs on application, STROs, and interim Orders are all subject to an application by way of complaint to a Magistrates' Court. All Court costs for these applications will be recovered by Court fees paid by the organisation bringing the application. The fee should be paid at the same time as the application is made. The applicant's organisation may have arrangements in place locally for the payment of Court fees.
- 5.4.3 There is an additional fee if the application leads to a hearing. The fees can be found [here](#).

## Application process



## 6. The Court Hearing and After

### 6.1. Attendance at Court

- 6.1.1 The justice will issue a summons directed to the defendant requiring them to appear before a Magistrates' Court acting for that area to answer to the complaint. Where a child or young person is the subject of the application, the parent or guardian will receive a copy of the summons unless no such person is readily available.
- 6.1.2 It is suggested that, prior to the hearing, the applicant consider visiting the defendant to ensure that they understand the seriousness of the summons and the need to attend Court.
- 6.1.3 The procedure for hearing an application for an Order is set out in section 53 of the Magistrates' Courts Act 1980. On hearing the complaint, the Court, if the defendant appears, states to him the substance of the complaint, and, if the complaint is contested, after hearing the evidence and the parties' representations, the Court proceeds to make an Order or to dismiss the complaint.
- 6.1.4 It is not necessary for such applications to be heard by a district judge.

### 6.2. Nature of proceedings

- 6.2.3 Applications for either a STPO or a STRO are civil in nature and the normal rules of civil evidence apply. Even though when deciding whether the alleged behaviour has taken place the Court must apply the enhanced civil standard of proof, which is the equivalent to the criminal standard of proof of being sure beyond reasonable doubt, the proceedings remain civil proceedings at all times.

### 6.3. Disclosure of unused material and use of public interest immunity applications

- 6.3.1 Part 31 of the Civil Court Proceedings Rules covers the disclosure and inspection of documents in civil proceedings.
- 6.3.2 The provisions of the Criminal Procedure and Investigations Act 1996 (CPIA) do not apply (although material which forms part of these types of civil proceedings may become disclosable under the CPIA in linked criminal proceedings). Where the applicant holds material which he or she is aware ought to be disclosed to the defendant in the interests of ensuring a fair process they should disclose it. If this material is sensitive in nature and cannot be released into the public domain then consideration needs to be given to whether a public interest immunity application needs to be made. Such an application can only be made in respect of material upon which the applicant does not intend to rely in support of their application. Any material which is to be relied on in evidence must be served on the defendant. If this is not possible due to its sensitive nature then consideration will need to be



given to whether or not the application can still go ahead without it, or whether further investigative steps should be taken to identify disclosable evidence.

- 6.3.3 Before evidence is disclosed, the applicant should consult other partners to ensure that all reasonable steps have been taken to support witnesses and minimise any potential for witness intimidation. Evidence should generally not be disclosed without the express permission of the witness. There will be some circumstances where this is not possible, for instance where the witness has returned to their country of origin and cannot be contacted. In such cases careful consideration should be given as to whether to use the evidence. Applicants should always consider whether there is reason to believe that using the evidence could put the witness at risk before using evidence. The applicant should also consider the value of using the evidence in securing an Order. However, evidence that is not disclosed cannot be relied upon. Where appropriate, the applicant should seek to maintain witness anonymity and ensure that witnesses are not identified by default (for example, through details of location, ethnicity, age or other personal characteristics).
- 6.3.4 Consideration should be given to whether existence of the Order is relevant to any referral to the NRM, and the decision being made on the referral.

#### 6.4. Reporting restrictions

- 6.4.1 It is a basic principle of the justice system in this country that justice is dispensed in public and restrictions should only be imposed where it is in the interests of justice to do so.
- 6.4.2 There may, however, be concerns about the likelihood of an application for an Order under Part 2 of the Act drawing attention to the presence of offenders in the community, for example where the defendant has trafficked women for sexual exploitation. Whilst the police and the Courts are acting together to secure improved protection of the public (including protecting the offender from the criminal activity of others), any increase in public disorder not only diverts police resources but could encourage and allow the defendant to abscond from the arrangements the public protection agencies have put in place to manage the risks he or she poses.
- 6.4.3 Therefore, it is possible, when applying for an Order of this type, for an application to be made to the Court at the outset of proceedings (in general with the support of the defendant) for an order under section 11 of the Contempt of Court Act 1981 prohibiting the publication of the defendant's name and address. It is for the Court to decide whether such a prohibition is necessary.
- 6.4.4 Reporting restrictions may also be imposed by the Court where the proceedings involve a child, under section 39 of the CYPA. All proceedings in the Youth Court are closed and reporting restrictions are automatically in place under the provisions of section 49 of the CYPA.

## 6.5. Legal aid for respondents

6.5.1 Individuals subject to an STPO or STRO will have access to criminal legal aid.

6.5.2 Proceedings under Part 2 of the Act relating to the application for full Orders and interim Orders, applications to vary or discharge an Order, appeals against an Order, and breaches of an Order are in scope of criminal legal aid. Where any of these proceedings are taking place at a Magistrates' Court or the Crown Court, the application for criminal legal aid should be submitted to the relevant Magistrates' Court and will be subject to the 'Interests of Justice' test and means tested.

6.5.3 Further details on the provision of legal aid can be obtained [here](#).

## 6.6. Serving the Order on the defendant

6.6.1 The main provisions for serving an Order are set out under the Magistrates' Courts Act 1980.

6.6.2 It is recommended that, whenever possible, an STPO or STRO should be served on the defendant in person. Where a child or young person is concerned, a copy should also be given to his parent or guardian. The defendant should be expected to wait at Court until the Order is drawn up and served on him. If this is not possible, first class special delivery post must be used.

6.6.3 Any process for appeal must be made clear to the individual. He or she must also be clear that a breach of any of the prohibitions or conditions contained in the Order and/or any notification requirements is a criminal offence.

6.6.4 It is recommended that the applicant consider giving a copy of the Order to relevant agencies, such as the head teacher of a school or any relevant local authority interest.

6.6.5 The judgement on which other agencies need to be informed needs to be based on the assessment of risk made by the applicant. Any disclosure to the wider community should be treated with great sensitivity, on a case by case basis, especially if a child or young person is concerned and reporting restrictions on the proceedings have been imposed.

6.6.6 The police are covered by the Common Law Police Disclosure Scheme (previously the Notifiable Occupations Scheme). Under this scheme, if the defendant was the employee of a school or other relevant occupation that falls within the relevant occupations, it may be in the public interest for a copy of the Order to be disclosed to the defendant's employer or regulatory body. This will be decided on a case-by-case basis.

6.6.7 Authorisation at an appropriate level will be required. The defendant's Article 8 European Convention on Human Rights rights must be respected and a delicate balancing act is involved in determining whether to make a

disclosure. This is especially so in the case of an STRO, where the defendant is unconvicted.

6.6.8 Disclosure must also only be made where it is in accordance with the Data Protection Act 1998, the defendant's Article 8 European Convention on Human Rights rights and the terms of any reporting restrictions.

6.7. Inputting information into the Police National Computer (PNC)

6.7.1 These Orders are not a criminal conviction and should not be recorded as such. The Orders will not comprise a criminal record. This does not, however, mean there will be no record of police activity in relation to the defendant, some of which may be disclosable in a criminal record check.

6.7.2 The National PNC manual Volume 2 contains the full guidance on the PNC arrangements. Local arrangements should be made to ensure the necessary information is updated on PNC and available to all.

6.7.3 The Orders may also be recorded on the applicants' internal data recording systems. However, unless these databases are linked to the PNC, care should be taken to ensure that the PNC is also checked and updated.

6.8. Managing the defendant

6.8.1 The police will have local arrangements for managing defendants subject to an STPO or STRO. Many will already have teams and systems in place for managing individuals subject to other types of civil orders. It is important that the police are notified of defendants subject to an STPO or STRO resulting from an application by the NCA, an immigration officer or a LAPO (see 3.5.6).

## 7. Variation, renewal and discharge of an STPO or STRO

- 7.1 Variation of an STPO or STRO might be necessary for:
- deletion of unnecessary conditions, for example, if a defendant moves to another area, or
  - addition of supplementary conditions, for example, if an additional group needing protection from risk was identified, although there may be instances when a new Order should be sought.
- 7.2 A renewal may be needed where the original Order is close to expiry and the police have cause to believe that the defendant continues to pose a risk and the Order continues to be necessary. An Order may only be renewed or varied so as to impose additional prohibitions if it is necessary to do so for the purpose of protecting the public or any particular members of the public from harm from the defendant.
- 7.3 The NCA, immigration officers or LAPOs may only apply for an STPO or STRO to be varied, renewed or discharged if they made the application for the original Order.
- 7.4 An STPO cannot be discharged within five years of it being made without the agreement of both parties. Similarly, an STRO cannot be discharged within two years of it being made without the agreement of both parties.

## 8. Appealing an STPO or STRO

- 8.1 The Act provides a right of appeal to the Crown Court against the making of a full or interim STPO or STRO. The defendant may appeal against either the making of an Order, or interim Order; or against the making of (or refusal to make) an Order varying, renewing or discharging an STPO or STRO.
- 8.2 At the hearing of an appeal, the Crown Court may make such further orders as give effect to its determination of the appeal, including incidental or consequential orders. Any order made by the Crown Court on appeal shall be treated for the purpose of any later application for variation or discharge as if it were the original Magistrates' Court order, unless it is an order directing that the application be reheard by the Magistrates' Court.
- 8.3 There is no provision for automatic stay of an Order pending appeal. At the hearing of an appeal, however, it is open for the Crown Court to make any incidental order, for example to suspend the operation of a prohibition pending the outcome of the appeal, where this appears to the Crown Court to be just.
- 8.4 In determining an appeal, the Crown Court should have before it a copy of the original application by complaint for an Order, the full Order, and the notice of appeal.

## 9. Breach and enforcement of an STPO or STRO

- 9.1 A breach of any aspect of an STPO or STRO or interim Order, including the requirement to notify the police of name and address, and the requirement to surrender passports to the police, is a criminal offence.
- 9.2 Prosecutions for breaches will be conducted by the CPS. Cases will be reviewed in the normal way in accordance with the Code for Crown Prosecutors, and sufficient evidence will need to be gathered before breach proceedings are commenced.
- 9.3 Cases are triable either summarily in a Magistrates' Court or on indictment in the Crown Court. Any cases against children and young people will normally be heard in the Youth Court. The standard of proof will be the criminal standard i.e. 'beyond reasonable doubt'.
- 9.4 Under the Act, the maximum penalty on summary conviction (for either breach of an Order or for a breach of the notification requirements) is a term not exceeding six months' imprisonment or a fine not exceeding the statutory maximum, or both. On indictment, the maximum penalty is imprisonment for five years. Cases dealt with in the Youth Court have a maximum custodial sentence for a young person aged 12–17 (inclusive) of two years.
- 9.5 For breach of all Orders, provision is made for a defence of reasonable excuse.

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