

Exclusion Order

Only a local authority can apply for an Exclusion Order under S76 (1) Children (Scotland) Act 1995.

Contained within the application there must be a person identified who is capable of taking responsibility for the child and who will be living, or is, living in the family home.

Where a Sheriff is satisfied that the conditions for making an Exclusion Order exist, he/she can order that a named person be ejected or excluded from your child's family home to ensure your child's protection.

An Exclusion Order can last up to 6 months and the Sheriff can attach conditions to the Order to ensure your child's protection. For example, the police can be issued with powers of arrest without warrant, which allows them to arrest the named person if they believe them to be in danger of breaching the Exclusion Order or one of the conditions attached. The Sheriff can also attach a condition that the 'named person' must not go within the vicinity of the child's home or school or have any contact with the child etc.

The 'named person' has the right to appear in front of the Sheriff prior to an Exclusion Order being granted to state their case. The Sheriff will take their views into account before any decision to grant an Order is made.

Where a Sheriff believes grounds exist for making a Child Protection Order the Sheriff may grant a Child Protection Order instead of an Exclusion Order, and the child may be removed from their home to a place of safety, rather than the ejection or exclusion of a 'named person' from the child's home.