

PART 31
BEHAVIOUR ORDERS**Contents of this Part**

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[Note. See Part 3 for the court's general powers to consider an application and to give directions.]

When this Part applies

31.1.—(1) This Part applies where—

- (a) a magistrates' court or the Crown Court can make, vary or revoke a civil order—
 - (i) as well as, or instead of, passing a sentence, or in any other circumstances in which other legislation allows the court to make such an order, and
 - (ii) that requires someone to do, or not do, something;
- (b) a magistrates' court or the Crown Court can make a European protection order;
- (c) a magistrates' court can give effect to a European protection order made in another European Union member State.

(2) A reference to a 'behaviour order' in this Part is a reference to any such order.

(3) A reference to 'hearsay evidence' in this Part is a reference to evidence consisting of hearsay within the meaning of section 1(2) of the Civil Evidence Act 1995(a).

[Note. In the circumstances set out in the Acts listed, the court can make a behaviour order—

- (a) *on conviction, under—*
 - (i) *section 14A of the Football Spectators Act 1989(b) (football banning orders),*
 - (ii) *section 5 of the Protection from Harassment Act 1997(c) (restraining orders),*
 - (iii) *sections 1C and 1D of the Crime and Disorder Act 1998(d) (anti-social behaviour orders and interim anti-social behaviour orders),*

(a) 1995 c. 38.

(b) 1989 c. 37; section 14A was amended by section 1 of, and paragraphs 1 and 2 of Schedule 1 to, the Football (Disorder) Act 2000 (c. 25), section 86(5) of the Anti-Social Behaviour Act 2003 (c. 38), section 139(10) of the Serious Organised Crime and Police Act 2005 (c. 15) and sections 52(2) and 65 of, and paragraphs 1 and 2 of Schedule 3 and Schedule 5 to, the Violent Crime Reduction Act 2006 (c. 38).

(c) 1997 c. 40; section 5 was amended by sections 12 and 58 of, and paragraph 43 of Schedule 10 and 11 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28) and by section 125 of the Serious Organised Crime and Police Act 2005 (c. 15).

(d) 1998 c. 37; section 1C was inserted by section 64 of the Police Reform Act 2002 (c. 30) and amended by sections 83 and 86 of the Anti-social Behaviour Act 2003 (c. 38), sections 139, 140, 141 and 174 of, and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15) and sections 123 and 124 of the Criminal Justice and Immigration Act 2008

- (iv) *sections 8 and 9 of the Crime and Disorder Act 1998(a) (parenting orders),*
- (v) *section 103A of the Sexual Offences Act 2003(b) (sexual harm prevention orders),*
- (vi) *section 19 or 21 of the Serious Crime Act 2007(c) (serious crime prevention orders),*
- (vii) *section 22 of the Anti-social Behaviour, Crime and Policing Act 2014(d) (criminal behaviour orders),*
- (viii) *section 14 of the Modern Slavery Act 2015(e) (slavery and trafficking prevention orders),*
- (ix) *section 19 of the Psychoactive Substances Act 2016(f) (prohibition orders),*
- (x) *section 20 of the Immigration Act 2016(g) (labour market enforcement orders);*
- (b) *on acquittal, under section 5A of the Protection from Harassment Act 1997(h) (restraining orders on acquittal);*
- (c) *on the making of a finding of not guilty by reason of insanity, or a finding of disability, under section 14 of the Modern Slavery Act 2015 (slavery and trafficking prevention orders); and*
- (d) *in proceedings for a genital mutilation offence, under paragraph 3 of Schedule 2 to the Female Genital Mutilation Act 2003(i) (female genital mutilation protection orders).*

In the circumstances set out in the Criminal Justice (European Protection Order) Regulations 2014(j), which give effect to Directive 2011/99/EU of the European Parliament and of the Council of 13th December, 2011, on the European protection order—

- (a) *a magistrates' court, and in some cases the Crown Court, may make a European protection order to supplement a protection measure ordered by a court in England and Wales, where the protected person has decided to reside or stay in another European Union member State or is already residing or staying there (see also rule 31.9); and*
- (b) *a magistrates' court may make a restraining order to give effect in England and Wales to a European protection order made by a competent authority in another European Union member State (see also rule 31.10).*

Section 1(2) of the Civil Evidence Act 1995 defines hearsay as meaning “a statement made otherwise than by a person while giving oral evidence in the proceedings which is tendered as

(c. 4). Section 1D was inserted by section 65 of the Police Reform Act 2002 (c. 30) and amended by section 139 of the Serious Organised Crime and Police Act 2005 (c. 15). Each section was repealed on 20th October, 2014, by section 181 of, and paragraph 24 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), subject to the saving provisions of section 33 of that Act.

- (a) 1998 c. 37; section 8 was amended by section 165 of, and paragraph 194 of Schedule 9 to, the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), sections 73 and 74 of, and paragraph 4 of Schedule 7 to, the Criminal Justice and Court Services Act 2000 (c. 43), section 18 of the Anti-social Behaviour Act 2003 (c. 38), section 324 of, and paragraph 1 of Schedule 34 to, the Criminal Justice Act 2003 (c. 44), sections 18, 60 and 64 of, and paragraph 5 of Schedule 2 to, and Schedule 5 to, the Children Act 2004 (c. 31), section 144 of, and paragraph 3 of Schedule 10 to, the Serious Organised Crime and Police Act 2005 (c. 15) (in force in relation to certain areas, with the date for remaining purposes to be appointed), section 60 of the Violent Crime Reduction Act 2006 (c. 38), article 3 of, and paragraph 13 of Schedule 1 to, S.I. 2008/912 and section 181 of, and paragraphs 25 and 55 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). It is further amended by section 41 of the Crime and Security Act 2010 (c. 17), with effect from a date to be appointed. Section 9 was amended by section 85 of the Anti-social Behaviour Act 2003 (c. 38), paragraph 2 of Schedule 34 to the Criminal Justice Act 2003 (c. 44), section 64 of, and paragraph 4 of Schedule 5 to, the Children Act 2004 (c. 31), article 3 of, and paragraph 13 of Schedule 1 to, S.I. 2008/912 and section 181 of, and paragraph 26 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). It is further amended by sections 40 and 41 of the Crime and Security Act 2010 (c. 17), with effect from a date to be appointed.
- (b) 2003 c. 42; section 103A was inserted by paragraphs 1 and 2 of Schedule 5 to the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).
- (c) 2007 c. 27; section 21 was amended by section 48 of the Serious Crime Act 2015 (c. 9).
- (d) 2014 c. 12.
- (e) 2015 c. 30; section 14 comes into force on a date to be appointed.
- (f) 2016 c. 2; section 19 comes into force on a date to be appointed.
- (g) 2016 c. 19.
- (h) 1997 c. 40; section 5A was inserted by section 12(5) of the Domestic Violence, Crime and Victims Act 2004 (c. 28).
- (i) 2003 c. 31; Schedule 2 was inserted by section 73 of the Serious Crime Act 2015 (c. 9).
- (j) S.I. 2014/3300.

evidence of the matters stated”. Section 13 of that Act defines a statement as meaning “any representation of fact or opinion, however made”.]

Behaviour orders: general rules

31.2.—(1) The court must not make a behaviour order unless the person to whom it is directed has had an opportunity—

- (a) to consider—
 - (i) what order is proposed and why, and
 - (ii) the evidence in support; and
- (b) to make representations at a hearing (whether or not that person in fact attends).

(2) That restriction does not apply to making—

- (a) an interim behaviour order, but unless other legislation otherwise provides such an order has no effect unless the person to whom it is directed—
 - (i) is present when it is made, or
 - (ii) is handed a document recording the order not more than 7 days after it is made;
- (b) a restraining order that gives effect to a European protection order, where rule 31.10 applies (Giving effect to a European protection order made in another EU member State).

(3) Where the court decides not to make, where it could—

- (a) a football banning order; or
- (b) a parenting order, after a person under 16 is convicted of an offence,

the court must announce, at a hearing in public, the reasons for its decision.

(4) Where the court makes an order which imposes one or more of the prohibitions or restrictions listed in rule 31.9(1), the court must arrange for someone to explain to the person who benefits from that protection—

- (a) that that person may apply for a European protection order, if he or she decides to reside or stay in another European Union member State;
- (b) the basic conditions for making such an application; and
- (c) that it is advisable to make any such application before leaving the United Kingdom.

[Note. The Acts listed in the note to rule 31.1 impose requirements specific to each different type of behaviour order. Not all allow the court to make an interim behaviour order.

See section 14A(3) of the Football Spectators Act 1989(a), section 9(1) of the Crime and Disorder Act 1998 and regulation 7 of the Criminal Justice (European Protection Order) Regulations 2014.]

Application for behaviour order and notice of terms of proposed order: special rules

31.3.—(1) This rule applies where—

- (a) a prosecutor wants the court to make one of the following orders if the defendant is convicted—
 - (i) an anti-social behaviour order (but this rule does not apply to an application for an interim anti-social behaviour order),
 - (ii) a serious crime prevention order,
 - (iii) a criminal behaviour order, or
 - (iv) a prohibition order;

(a) 1989 c. 37; section 14A was substituted, together with sections 14 and 14B–14J, for the existing sections 14–17, by section 1 of, and paragraphs 1 and 2 of Schedule 1 to, the Football (Disorder) Act 2000 (c. 25).

- (b) a prosecutor proposes, on the prosecutor's initiative or at the court's request, a sexual harm prevention order if the defendant is convicted;
 - (c) a prosecutor proposes a restraining order whether the defendant is convicted or acquitted.
- (2) Where paragraph (1)(a) applies (order on application), the prosecutor must serve a notice of intention to apply for such an order on—
- (a) the court officer;
 - (b) the defendant against whom the prosecutor wants the court to make the order; and
 - (c) any person on whom the order would be likely to have a significant adverse effect,
- as soon as practicable (without waiting for the verdict).
- (3) A notice under paragraph (2) must—
- (a) summarise the relevant facts;
 - (b) identify the evidence on which the prosecutor relies in support;
 - (c) attach any written statement that the prosecutor has not already served; and
 - (d) specify the order that the prosecutor wants the court to make.
- (4) A defendant served with a notice under paragraph (2) must—
- (a) serve notice of any evidence on which the defendant relies on—
 - (i) the court officer, and
 - (ii) the prosecutor,as soon as practicable (without waiting for the verdict); and
 - (b) in the notice, identify that evidence and attach any written statement that has not already been served.
- (5) Where paragraph (1)(b) applies (sexual harm prevention order proposed), the prosecutor must—
- (a) serve a draft order on the court officer and on the defendant not less than 2 business days before the hearing at which the order may be made;
 - (b) in the draft order specify those prohibitions which the prosecutor proposes as necessary for the purpose of—
 - (i) protecting the public or any particular members of the public from sexual harm from the defendant, or
 - (ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.
- (6) Where paragraph (1)(c) applies (restraining order proposed), the prosecutor must—
- (a) serve a draft order on the court officer and on the defendant as soon as practicable (without waiting for the verdict);
 - (b) in the draft order specify—
 - (i) those prohibitions which, if the defendant is convicted, the prosecutor proposes for the purpose of protecting a person from conduct which amounts to harassment or will cause fear of violence, or
 - (ii) those prohibitions which, if the defendant is acquitted, the prosecutor proposes as necessary to protect a person from harassment by the defendant.
- (7) Where the prosecutor wants the court to make an anti-social behaviour order, a criminal behaviour order or a prohibition order, the rules about special measures directions in Part 18 (Measures to assist a witness or defendant to give evidence) apply, but—
- (a) the prosecutor must apply when serving a notice under paragraph (2); and
 - (b) the time limits in rule 18.3(a) do not apply.

[Note. The Practice Direction sets out a form of notice for use in connection with this rule.]

The orders listed in rule 31.3(1)(a) may be made on application by the prosecutor. The orders to which rule 31.3(1)(b) and (c) apply require no application and may be made on the court's own initiative. Under section 8 of the Serious Crime Act 2007 a serious crime prevention order may be made only on an application by the Director of Public Prosecutions or the Director of the Serious Fraud Office. See also paragraphs 2, 7 and 13 of Schedule 2 to the 2007 Act.

Under section 11 of the Crime and Disorder Act 1998(a), on an application for an anti-social behaviour order the court may give a special measures direction under the Youth Justice and Criminal Evidence Act 1999. Under section 31 of the Anti-social Behaviour, Crime and Policing Act 2014(b) the court may give such a direction on an application for a criminal behaviour order, and under section 33 of the Psychoactive Substances Act 2016(c) the court may do so in proceedings for a prohibition order.

If a party relies on hearsay evidence, see also rules 31.6, 31.7, and 31.8.]

Evidence to assist the court: special rules

31.4.—(1) This rule applies where the court can make on its own initiative—

- (a) a football banning order;
- (b) a restraining order; or
- (c) an anti-social behaviour order.

(2) A party who wants the court to take account of evidence not already introduced must—

- (a) serve notice on—
 - (i) the court officer, and
 - (ii) every other party,
 as soon as practicable (without waiting for the verdict); and
- (b) in the notice, identify that evidence; and
- (c) attach any written statement containing such evidence.

[Note. If a party relies on hearsay evidence, see also rules 31.6, 31.7, and 31.8.]

Application to vary or revoke behaviour order

31.5.—(1) The court may vary or revoke a behaviour order if—

- (a) the legislation under which it is made allows the court to do so; and
- (b) one of the following applies—
 - (i) the prosecutor,
 - (ii) the person to whom the order is directed,
 - (iii) any other person protected or affected by the order,
 - (iv) the relevant authority or responsible officer,
 - (v) the relevant Chief Officer of Police,
 - (vi) the Director of Public Prosecutions, or
 - (vii) the Director of the Serious Fraud Office.

(2) A person applying under this rule must—

- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so, explaining—

(a) 1998 c. 37; section 11 was inserted by section 143 of the Serious Organised Crime and Police Act 2005 (c. 15) and amended by paragraph 72 of Schedule 21 and Part 3 of Schedule 23 to the Coroners and Justice Act 2009 (c. 25).
 (b) 2014 c. 12.
 (c) 2016 c. 2; section 33 comes into force on a date to be appointed.

- (i) what material circumstances have changed since the order was made, and
 - (ii) why the order should be varied or revoked as a result; and
- (b) serve the application on—
- (i) the court officer,
 - (ii) as appropriate, the prosecutor or defendant, and
 - (iii) any other person listed in paragraph (1)(b), if the court so directs.
- (3) A party who wants the court to take account of any particular evidence before making its decision must, as soon as practicable—
- (a) serve notice on—
- (i) the court officer,
 - (ii) as appropriate, the prosecutor or defendant, and
 - (iii) any other person listed in paragraph (1)(b) on whom the court directed the application to be served; and
- (b) in that notice identify the evidence and attach any written statement that has not already been served.
- (4) The court may decide an application under this rule with or without a hearing.
- (5) But the court must not—
- (a) dismiss an application under this rule unless the applicant has had an opportunity to make representations at a hearing (whether or not the applicant in fact attends); or
 - (b) allow an application under this rule unless everyone required to be served, by this rule or by the court, has had at least 14 days in which to make representations, including representations about whether there should be a hearing.
- (6) The court officer must—
- (a) serve the application on any person, if the court so directs; and
 - (b) give notice of any hearing to—
 - (i) the applicant, and
 - (ii) any person required to be served, by this rule or by the court.

[Note. The legislation that gives the court power to make a behaviour order may limit the circumstances in which it may be varied or revoked and may require a hearing. Under section 22E of the Serious Crime Act 2007(a), where a person already subject to a serious crime prevention order is charged with a serious offence or with an offence of failing to comply with the order, the court may vary the order so that it continues in effect until that prosecution concludes.

If a party relies on hearsay evidence, see also rules 31.6, 31.7 and 31.8.]

Notice of hearsay evidence

- 31.6.**—(1) A party who wants to introduce hearsay evidence must—
- (a) serve notice on—
 - (i) the court officer, and
 - (ii) every other party directly affected; and
 - (b) in that notice—
 - (i) explain that it is a notice of hearsay evidence,
 - (ii) identify that evidence,

(a) 2007 c. 27; section 22E was inserted by section 49 of the Serious Crime Act 2015 (c. 9).

- (iii) identify the person who made the statement which is hearsay, or explain why if that person is not identified, and
- (iv) explain why that person will not be called to give oral evidence.

(2) A party may serve one notice under this rule in respect of more than one notice and more than one witness.

[Note. For the time within which to serve a notice of hearsay evidence, see rule 31.3(2) to (4), rule 31.4(2) and rule 31.5(3). See also the requirement in section 2 of the Civil Evidence Act 1995 for reasonable and practicable notice of a proposal to introduce hearsay evidence.]

Rules 31.6, 31.7 and 31.8 broadly correspond with rules 3, 4 and 5 of the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999(a), which apply in civil proceedings in magistrates' courts. Rule 3 of the 1999 Rules however includes a time limit, which may be varied by the court, or a justices' clerk, of 21 days before the date fixed for the hearing, for service of a hearsay notice.]

Cross-examination of maker of hearsay statement

31.7.—(1) This rule applies where a party wants the court's permission to cross-examine a person who made a statement which another party wants to introduce as hearsay.

- (2) The party who wants to cross-examine that person must—
 - (a) apply in writing, with reasons, not more than 7 days after service of the notice of hearsay evidence; and
 - (b) serve the application on—
 - (i) the court officer,
 - (ii) the party who served the hearsay evidence notice, and
 - (iii) every party on whom the hearsay evidence notice was served.
- (3) The court may decide an application under this rule with or without a hearing.
- (4) But the court must not—
 - (a) dismiss an application under this rule unless the applicant has had an opportunity to make representations at a hearing (whether or not the applicant in fact attends); or
 - (b) allow an application under this rule unless everyone served with the application has had at least 7 days in which to make representations, including representations about whether there should be a hearing.

[Note. See also section 3 of the Civil Evidence Act 1995.]

Credibility and consistency of maker of hearsay statement

31.8.—(1) This rule applies where a party wants to challenge the credibility or consistency of a person who made a statement which another party wants to introduce as hearsay.

- (2) The party who wants to challenge the credibility or consistency of that person must—
 - (a) serve notice of intention to do so on—
 - (i) the court officer, and
 - (ii) the party who served the notice of hearsay evidence
not more than 7 days after service of that hearsay evidence notice; and
 - (b) in the notice, identify any statement or other material on which that party relies.
- (3) The party who served the hearsay notice—
 - (a) may call that person to give oral evidence instead; and

(a) S.I. 1999/681, amended by S.I. 2005/617.

- (b) if so, must serve notice of intention to do so on—
 - (i) the court officer, and
 - (ii) every party on whom the hearsay notice was served
 not more than 7 days after service of the notice under paragraph (2).

[Note. Section 5(2) of the Civil Evidence Act 1995 describes the procedure for challenging the credibility of the maker of a statement of which hearsay evidence is introduced. See also section 6 of that Act. The 1995 Act does not allow the introduction of evidence of a previous inconsistent statement otherwise than in accordance with sections 5, 6 and 7 of the Criminal Procedure Act 1865(a).]

European protection order to be given effect in another EU member State

31.9.—(1) This rule applies where—

- (a) a person benefits from the protection of one or more of the following prohibitions or restrictions imposed on another person by an order of a court in England and Wales when dealing with a criminal cause or matter—
 - (i) a prohibition from entering certain localities, places or defined areas where the protected person resides or visits,
 - (ii) a prohibition or restriction of contact with the protected person by any means (including by telephone, post, facsimile transmission or electronic mail),
 - (iii) a prohibition or restriction preventing the other person from approaching the protected person whether at all or to within a particular distance; and either
- (b) that protected person wants the Crown Court or a magistrates’ court to make a European protection order to supplement such an order; or
- (c) the court varies or revokes such a prohibition or restriction in such an order and correspondingly amends or revokes a European protection order already made.

(2) Such a protected person—

- (a) may apply orally or in writing to the Crown Court at the hearing at which the order imposing the prohibition or restriction is made by that court; or
- (b) in any other case, must apply in writing to a magistrates’ court and serve the application on the court officer.

(3) The application must—

- (a) identify the prohibition or restriction that the European protection order would supplement;
- (b) identify the date, if any, on which that prohibition or restriction will expire;
- (c) specify the European Union member State in which the applicant has decided to reside or stay, or in which he or she already is residing or staying;
- (d) indicate the length of the period for which the applicant intends to reside or stay in that member State;
- (e) explain why the applicant needs the protection of that measure while residing or staying in that member State; and
- (f) include any other information of which the applicant wants the court to take account.

(4) Where the court makes or amends a European protection order, the court officer must—

- (a) issue an order in the form required by Directive 2011/99/EU;

(a) 1865 c. 18; section 6 was amended by section 10 of the Decimal Currency Act 1969 (c. 19), section 90 of, and paragraph 3 of Schedule 13 to, the Access to Justice Act 1999 (c. 22), section 109 of, and paragraph 47 of Schedule 8 to, the Courts Act 2003 (c. 39) and paragraph 79 of Schedule 36 and Schedule 37 to the Criminal Justice Act 2003 (c. 44). It is further amended by section 119 of, and Schedule 7 to, the Police and Criminal Evidence Act 1984 (c. 60), with effect from a date to be appointed.

- (b) serve on the competent authority of the European Union member State in which the protected person has decided to reside or stay—
 - (i) a copy of that form, and
 - (ii) a copy of the form translated into an official language of that member State, or into an official language of the European Union if that member State has declared that it will accept a translation in that language.

(5) Where the court revokes a European protection order, the court officer must without delay so inform that authority.

(6) Where the court refuses to make a European protection order, the court officer must arrange for the protected person to be informed of any available avenue of appeal or review against the court's decision.

[Note. See regulations 3 to 10 of the Criminal Justice (European Protection Order) Regulations 2014(a). Under regulation 5, an application by a protected person to which this rule applies may be made to an authority in another European Union member State and transferred to the Lord Chancellor for submission to a magistrates' court.]

The Practice Direction sets out a form of application for use in connection with this rule.]

Giving effect to a European protection order made in another EU member State

31.10.—(1) This rule applies where the Lord Chancellor serves on the court officer—

- (a) a request by an authority in another European Union member State to give effect to a European protection order;
- (b) a request by such an authority to give effect to a variation of such an order; or
- (c) notice by such an authority of the revocation or withdrawal of such an order.

(2) In the case of a request to which paragraph (1) refers, the court officer must, without undue delay—

- (a) arrange for the court to consider the request;
- (b) serve on the requesting authority—
 - (i) notice of any further information required by the court, and
 - (ii) subject to any such requirement and any response, notice of the court's decision;
- (c) where the court gives effect to the European protection order—
 - (i) include in the notice served on the requesting authority the terms of the restraining order made by the court,
 - (ii) serve notice of those terms, and of the potential legal consequences of breaching them, on the person restrained by the order made by the court and on the person protected by that order, and
 - (iii) serve notice on the Lord Chancellor of any breach of the restraining order which is reported to the court;
- (d) where the court refuses to give effect to the European protection order—
 - (i) include in the notice served on the requesting authority the grounds for the refusal,
 - (ii) where appropriate, inform the protected person, or any representative or guardian of that person, of the possibility of applying for a comparable order under the law of England and Wales, and
 - (iii) arrange for that person, representative or guardian to be informed of any available avenue of appeal or review against the court's decision.

(a) S.I. 2014/3300.

(3) In the case of a notice to which paragraph (1) refers, the court officer must, as soon as possible, arrange for the court to act on that notice.

(4) Unless the court otherwise directs, the court officer must omit from any notice served on a person against whom a restraining order may be, or has been, made the address or contact details of the person who is the object of the European protection order.

[Note. See regulations 11 to 19 of the Criminal Justice (European Protection Order) Regulations 2014.

Where the Lord Chancellor receives a request to give effect in England and Wales to a European protection order, a magistrates' court to which the request is given must give effect to that order by making a restraining order under section 5 of the Protection from Harassment Act 1997(a), as adapted by regulation 13 of the 2014 Regulations, unless one of the specified grounds for refusal applies. The grounds for refusal are—

- (a) the European protection order—*
 - (i) is incomplete, and*
 - (ii) is not completed within a period specified by the court;*
- (b) the requirements set out in Article 5 of Directive 2011/99/EU of the European Parliament and of the Council of 13th December, 2011, on the European protection order have not been met;*
- (c) the protection measure on the basis of which the European protection order was issued was based on conduct that would not constitute an offence under the law of England and Wales if it occurred there;*
- (d) the person causing danger (within the meaning of the 2014 Regulations and the Directive) benefits from an immunity under the law of England and Wales which makes it impossible to give effect to the European protection order under the Regulations;*
- (e) the protection measure on the basis of which the European protection order was issued was based on conduct where, under the law of England and Wales—*
 - (i) the criminal prosecution of the conduct would be statute-barred, and*
 - (ii) the conduct falls within the jurisdiction of England and Wales;*
- (f) giving effect to the European protection order would contravene the principle of ne bis in idem;*
- (g) the protection measure on the basis of which the European protection order was issued was based on conduct by a defendant who was under the age of 10 when the conduct took place;*
- (h) the protection measure on the basis of which the European protection order was issued relates to a criminal offence which, under the law of England and Wales, is regarded as having been committed wholly, or for a major or essential part, within its territory.*

Under regulation 17 of the 2014 Regulations, the magistrates' court may vary a restraining order which gives effect to a European protection order if that protection order is modified. Under regulation 18 of those Regulations, the magistrates' court must discharge such a restraining order on notice that the European protection order to which it gives effect has been revoked or withdrawn.]

Court's power to vary requirements under this Part

31.11. Unless other legislation otherwise provides, the court may—

- (a) shorten a time limit or extend it (even after it has expired);

(a) 1997 c. 40; section 5 was amended by sections 12 and 58 of, and paragraph 43 of Schedule 10 and 11 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28) and by section 125 of the Serious Organised Crime and Police Act 2005 (c. 15).

- (b) allow a notice or application to be given in a different form, or presented orally.