

INJUNCTIONS INFORMATION SHEET

Please note for the purposes of this leaflet Respondent/other party has been referred to in the male gender but domestic abuse/violence affects both men and women.

NON-MOLESTATION ORDER

This is an order made by the Court which will prevent the Respondent acting in an inappropriate manner in the future. The Court may make an order that the Respondent will be prevented directly or indirectly (by getting someone else to molest you) from using violence against you, molesting you, harassing you or pestering you. The terms molesting, harassing and pestering cover a wide variety of actions which include for example repeated telephone calls or left messages especially during the night. It is also possible in some circumstances to apply to the Court for orders preventing the Respondent from coming within a certain distance of your home. Again, this may be directed at the Respondent personally or to any of his friends who act on his behalf. A Respondent who without reasonable excuse does anything that he is prohibited from doing by a Non Molestation Order is guilty of committing a criminal offence.

After the order has been granted by the Court, the order has to be served personally on the Respondent. A copy of the order is sent to the police. They will respond to a 999 call and can if need be arrest the Respondent immediately.

Injunction Orders remain in force for a specific period of time. They are not indefinite. They can be made for periods of three to six months. This will give you protection for that period of time.

UNDERTAKINGS

The Court may accept the Respondent's promise that the Respondent will not behave in the way alleged in the future. This is known as an undertaking to the Court. Under these circumstances the Court takes the view that nothing has been proven against the Respondent, but that if the Respondent acts in a threatening or harassing way in the future again, you can apply back to the Court by what is known as committal proceedings. The promise that the Respondent makes is not to you but is made to the Court.

Cross undertakings are where both of you would give promises to the Court not to behave in the future in the way stated.

Please note that if an Undertaking is given, the Court has not made any findings of fact. An Undertaking is not an admission of the allegations. There will not be a hearing and you will not have to give evidence. However, enforcing an Undertaking is different than if an order was made. A separate application to enforce an Undertaking has to be made to the Court to commit the other party. There then has to be a Court hearing for the Court to consider if and how the other party has broken his promise to the Court.

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If an undertaking is given a costs order will not be made against the other party. If an order is made then in the Court's discretion the other party may be ordered to pay some or all of your costs.

OCCUPATION ORDERS

It is possible to apply to the Court for the Respondent to be evicted from the home. This is a very serious course of action and it is unusual for the Court to make such an order without hearing from the other party. Under complicated rules of the Court various people have rights of occupation. You will be advised whether the Respondent has rights of occupation. The Court would want to know whether the Respondent has any alternative suitable accommodation available to him.

The Court under the Family Law Act can also make an order dealing with financial matters such as mortgage/rent payments/utility bill payments or indeed repair payments. However, you must be warned that the Court could order that you pay the excluded party's rent if they have a right to occupy the home.

If a Power of Arrest is attached to the Occupation Order, then if the Respondent disobeys the Occupation Order you should immediately telephone the police.

EX-PARTE ORDERS

Where there has been extreme violence or danger of extreme violence it is possible to apply to the Court for what is known as an ex-parte order. In these cases it is not necessary for the Respondent to be served with papers initially. In most other cases these papers must first be served on your opponent prior to the Court making any orders. It is for this reason you would need to supply us with a photograph or written description as to what the Respondent looks like. You will also need an address of where he can be served with the papers and if possible a time when he might be there.

If the Court makes an ex-parte order it does not become effective until it has been served upon the other party. Please note that for an order to be effective on the other party then it has to be personally served. It is therefore important that potential problems with regard to service upon the other party are identified as soon as possible because of its importance.

PUBLIC FUNDING

If you need public funding to take proceedings then the Legal Services Commission normally require than an explanation is given is why the police will not become involved. This is because the police under the Protection from Harassment Act can take criminal

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proceedings if there is a “general course of conduct”. This means that you will have to show that there have been two incidents of harassment and the police should then investigate. If the police do take criminal proceedings then the person causing the harassment will be subject to conditional bail. The conditions of bail will include a requirement that you are not further harassed or indeed contacted.

APPLICATIONS UNDER THE FAMILY LAW ACT AND PROTECTION FROM HARASSMENT ACT

To apply for a Non Molestation and Occupation Order you must show that you fall within a defined class of persons known as “associated persons”. A person is associated with another person if they have or have had an intimate personal relationship with each other which is or was of significant duration. In broad terms you will be able to make an application to the Court if you and the other party lived together either as a married couple or as cohabiters. You may also apply if you are or were in the same sex relationship provided it was of significant duration and intimate. Platonic relationships and brief sexual encounters are not covered under the Family Law Act, but some family relationships are included.

To make an application under the Protection from Harassment Act where an application can either be made in the Civil Courts or by the police in the Criminal Courts a general course of conduct has to be shown. This means that there has to be at least two incidents of harassment

Generally to make an application to Court you have to show that you need the protection of the Court and usually there has to be several incidents close in time. However, if there has been a serious incident then this in itself may be sufficient to justify proceedings.

WHAT SHOULD YOU DO IF YOU THINK YOU ARE AT RISK OF DOMESTIC ABUSE

If you are considering leaving your home because of domestic abuse then you may be able to be re-housed in the Women’s Refuge. This may be out of the area in which you live. If you are considering leaving your home because of domestic abuse then you should think about taking the following for both you and your children. This is on the basis that you are able to make plans for your escape:-

- Passports, birth certificates, benefit books and all details
- National Insurance number
- Cash/Cheque books
- Your children’s red health books
- Other personal identification such as a utility bill addressed to you at your home

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- A photograph, if you have one, of your partner to assist in serving Court papers
- Toiletries and spare clothes

If you have been injured then you should make immediate arrangements to either see your doctor or attend at the Accident and Emergency department of your local hospital. Your injuries will then be noted on your medical records and will help if you have to go to Court. Your solicitor can obtain a medical report confirming your injuries.

WHAT SHOULD YOU DO ABOUT MONEY

If you are able to make a planned escape then you may be able to make arrangements to put some money together before you leave. If you have money in a joint account with your partner then you could put a stop on this account but this will mean that neither you nor your partner will be able to withdraw money without the other's permission. You may also consider setting up a separate account using a care of address. If you do not have any money at all then you should contact your local benefits office to obtain a crisis loan and/or other benefit. Your Citizens Advice Bureau will be able to give you further advice on obtaining benefits and/or tax credits to help you financially.

USEFUL TELEPHONE NUMBERS

- Emergency services 999
- Women's Aid 24 hour National Domestic Helpline & Refuge 24 hour National Helpline 0808 2000 247
www.refuge.org.uk

General support

- Samaritans www.samaritans.co.uk 0845 790 9090
- Inland Revenue www.inlandrevenue.gov.uk 0845 302 0203
- Rape Crisis www.rapecrisis.org.uk
- Shelter www.shelter.org.uk 0808 800 4444
- Victim Support www.victimsupport.org.uk 0845 3030 900
- Crimestoppers www.crimestoppers-uk.org 0800 555 111

Support for lesbian, gay, bisexual and transsexual people experiencing domestic violence

- Broken Rainbow www.broken-rainbow.org.uk 0300 9995428
/08452 60 44 60

Support for children and young people

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- Childline www.childline.org.uk 0800 1111
- NSPCC www.nspcc.org.uk 0808 800 5000
- Get Connected www.getconnected.org.uk 0808 808 4994

Support for men

- Men's Advice Line www.mensadvice.org.uk 0808 801 0327
- Respect www.respect.uk.net

Support for women and children from minority ethnic communities

- Foreign and Commonwealth Office Forced Marriage Unit
www.gov.uk/forced-marriage 020 7008 0151
- Refugee Council www.refugeecouncil.org.uk 020 7346 6777
- Immigration Advice Service www.iasuk.org 020 7357 6917
- Asylum Aid 020 7247 8741
- Southall Black Sisters 020 8571 9595
- Muslim Community Helpline 020 8904 8193
www.muslimcommunityhelpline.org.uk /020 8908 6715
- Jewish Women's Aid Helpline www.jwa.org.uk 0800 59 12 03
- Somalian Women's Centre 020 8752 1787
- Newham Asian Women's Project www.nawp.org 020 8552 5524
- Kiran: Asian Women's Aid www.rdlogo.com/cwp/kawa 020 8558 1986
- Chinese Information & Advice Centre www.ciac.co.uk 020 7692 3697
- BAWSO www.bawso.org.uk 02920 644633
24 hour helpline 0800 731 8147
- JAN Trust www.jantrust.org 0208 889 9433

Local support

- Women's Aid Federation of England www.womensaid.org.uk 0117 944 4411

This firm does not have an emergency out of hours telephone number and, therefore, as domestic abuse/violence often occurs in the evening or at weekends and you are concerned about your safety then you should immediately telephone the police on 999.