

FAQ's about Domestic Violence

1. What is domestic violence?

Domestic violence is a pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between people aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.

2. What are the types of domestic abuse?

Domestic abuse is not just limited to physical abuse it can also be psychological, sexual, financial and emotional abuse.

3. How can I be protected from an abusive partner, ex-partner or family member?

By criminal or civil law. If you report the abusive behaviour to the police they may charge the perpetrator and take steps to protect you, for example impose bail conditions. In the event you are not protected sufficiently by the police you can apply to Court for a Non Molestation Order and/or an Occupation Order to protect you.

4. What is a Non Molestation Order?

A Non Molestation Order prohibits a partner, ex-partner, spouse or family member from using or threatening violence against you or your children, or intimidating, harassing or pestering you. It can also include specific provision depending on the particular type of abuse, for example it can prevent someone attempting to enter your home.

5. What is an Occupation Order?

An Occupation Order sets out who can live in the family home (or certain parts of it) and can also restrict someone from entering the surrounding area of a home. An Occupation Order does not affect each person's financial interest in the home, simply who can live in it.

6. Who can apply for a Non Molestation or Occupation Order?

You must be an associated person which includes, former and current spouses, civil partners and cohabitants, fiancé(e), relatives, people living in the same household, parents of children in the house and those who have been in intimate personal relationships of significant duration.

7. Can children be included in a Non Molestation Order

Yes, if the perpetrator has been abusive towards the children they can be included in the Non Molestation Order as requiring protection.

8. How do I obtain a Non Molestation Order or Occupation Order?

An application is made to the Family Court either on notice or without notice with an accompanying witness statement setting out why you require a Non Molestation Order and/or Occupation Order. If yours or the safety of any children is at risk you would not provide the perpetrator with notice of the application.

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9. How does the Court decide whether to grant a Non Molestation Order?

The court considers your or any relevant child's health (mental and physical), safety. It must be satisfied you or any child needs protection from the Court.

10. How does the Court decide whether to grant an Occupation Order?

The court apply a balance of harm test, in which it balances whether any person or child is likely to suffer significant harm in an order is or is not made. The Court may also consider various factors including, financial resources of the parties, housing needs and resources of the parties and any children, the behaviour of the parties and the likely effect of any order.

11. What happens if a Non Molestation Order is breached?

Breach of a Non Molestation Order is a criminal offence and the police can arrest someone who is disobeying a Non Molestation Order. Therefore if there are any breaches you should notify the police immediately.

12. What happens if an Occupation Order is breached?

It is not a criminal offence, but a power of arrest can be attached to the order, allowing the police to arrest the person in breach.

13. How long does a Non Molestation Order last?

They normally last for 1 year, however depending on the circumstances they may be made for longer duration. An application to extend the order can be made should it be necessary.

14. How long does an Occupation Order last?

It depends on the particular circumstances and is usually 6 or 12 months, but can be extended if necessary.

15. Will I get Legal Aid for an application for a Non Molestation Order and/or Occupation Order?

Yes, everyone gets legal aid for these applications. However it is means assessed and the Legal Aid Agency may request you make a contribution towards your legal costs. A solicitor will be able to provide you with specific advice in respect of Legal Aid.

16. I am in an abusive relationship but don't feel I can leave, what can I do?

There are a number of support organisations where specialist support workers can speak with you and offer you support. There are also a number of refuges which accommodate victims of domestic abuse and offer a safe place to live for an interim period.

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17. I feel I need to speak to someone, who can I contact

The National Domestic Abuse Helpline's number is 0808 2000 247. Family Solicitors can also provide you with advice surrounding ways to protect you.

If you would like more information, call our family team on 0191 388 1778.