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DOMESTIC ABUSE

There is no strict definition of domestic abuse but it may include controlling behaviour which results in the victim changing their own behaviour to try and avoid mental, emotional, physical and sexual abuse and threats of violence. The behaviour can be directed towards an adult or a child.

A relevant child in these cases is one:

- who lives with you
- who may reasonably be expected to live with you
- any other child the court considers relevant to take into account

In each case, it may be possible to apply for an injunction and/or to report the matter to the police for your immediate protection and the protection of any children.

What is an injunction?

This is a civil court order which forbids the offending party from doing something, such as harassing you, or which compels them to do something, such as leave the home. Its purpose is to help keep you safe and to restrict the offending party, in this case your spouse or partner, from committing or threatening further abuse or harassment.

There are two types of domestic abuse injunction. These are a non-molestation order and an occupation order (see below). Orders do not generally last longer than six months but can be extended if necessary. These types of order can only be made in cases between associated persons. To qualify under this definition, you need to be in one of the following categories:

- married, in a civil partnership or living together (cohabiting)
- having agreed to marry or enter into a civil partnership
- living together, or having previously lived together (including as friends), in the same home but not as a tenant, lodger or employee
- related to the other party
- the parent of a child you have had with the other party
- involved in other family proceedings such as those relating to property or children

Non-molestation order

This order may be made for the benefit of an associated person or a child who fits the definition above. The aim of this order is to protect you or a child from abuse or harassment. It can also be used to prevent the other party from coming within a certain area and, in some cases, from getting someone else to commit acts of abuse or harassment.

Orders of this nature usually last for six months and are tailored to meet the circumstances of the case.

They generally forbid the other party from:

- using or threatening abuse against you or a relevant child
- coming within a specified area of you, the home, your place of work or a child's school

- contacting you directly or indirectly by any method including letter, email or text and/ or sometimes only allowing contact through a nominated person such as a solicitor

Occupation order

The aim of this order is to regulate who lives in the home. There are various types of order including:

- excluding a party from the home and within a certain area from the home
- preventing a party who has moved out from returning to the home
- restricting a party to certain parts of the home only
- allowing you back into the home if you have been thrown out

When making an occupation order, the court address things such as who will be responsible for certain outgoings and who may be entitled to use certain items in the home.

Will the court make an order?

An order will be made if, after hearing any evidence, the court believes you and any children in your care may suffer significant harm from the other party.

Making an occupation order may have a greater impact on you and the other party than a non-molestation order. For this reason, the courts have to give very careful consideration to the terms of the order and must have considered all of the circumstances, including:

- your financial needs and resources and those of the other party
- your housing needs and resources and those of any children in your care
- the impact the order will make on both parties and any children
- the conduct of all parties

Applying for an injunction

If you use a solicitor to assist with an injunction application you may be entitled to financial help with your legal costs. Should you wish to check your eligibility for Legal Aid, you can do so on the .GOV website here.

If you do not qualify for legal aid, and are unable to use a solicitor to help with your application, you may wish to proceed in person. You will need to lodge the relevant application and can find the necessary form here on the court services website, together with an explanatory leaflet. The court will fix a date for the hearing in about two or three weeks' time and the other party will be notified of the time, the date and the place of the hearing. The proceedings are held in a closed court which is not open to the public. It is possible in some cases to request that your address be kept a secret.

Can I get an injunction quickly?

If there is an emergency and you need an injunction urgently the court can hear your case immediately without giving notice to the other party that there is to be a court hearing. This is known as an 'ex parte' application. The court will make a temporary order and there will be a full hearing at a later date. In this case, the order comes into force once a copy has been given to the other party personally.

What happens if the order is broken?

A court order does not always stop abuse or harassment. If the terms of the order are broken, you should keep a record of the breaches and report them to your solicitor or to the court as quickly as possible. It will be for the court to decide what action, if any, will be taken. In some cases, the court will attach to the order a right for the police to arrest the person breaching the order. Where an order is repeatedly broken the court may consider a period of imprisonment.

What is a Domestic Violence Protection Order (DVPO)?

A Domestic Violence Protection Order (DVPO) is granted by the magistrates' court after an application by the police. These are generally used where the police believe there has been abuse, or threat of abuse and it is necessary to protect

a person from that abuse. If an order is made by the court, it will last for a minimum of 14 days to a maximum of 28 days.

The purpose of these types of orders is to allow time for the police to manage a situation. It is not something you can apply for or insist the police apply for.

My partner is abusive. Where can I get help?

For more advice and support, contact Refuge, the National Domestic Abuse Helpline on 0808 2000 247 or click here.

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