

# LEGAL FACT SHEET

## INJUNCTIONS

Domestic violence can begin at any stage in a relationship and may continue after the relationship has ended. It can take many forms not just physical attacks but also bullying, threats and mental and verbal abuse and humiliation. Domestic violence can arise in other family relationships as well. It cuts across all boundaries of social group, class, age, race, disability, sexuality and life style. The Family Law Act 1996 allows people affected by domestic abuse to apply to the Court for an Order to protect them.

### WHO CAN APPLY TO THE COURT FOR AN ORDER

A number of different people can apply for an order against another person with whom they are linked by domestic or family relationships.

These include:

People who are married to each other, or are in a civil partnership, or have been married to each other or in a civil partnership.

People who, although not married to each other, are living together or have lived together as husband and wife.

Close relatives, including parents, grandparents, children, grandchildren, step parents, step children, brothers, sisters, uncles, aunts, nieces and nephews.

People who live or have lived in the same household (other than employer and employee, or landlord and tenant or lodger).

People who have agreed to marry each other (provided that the agreement has not ended more than three years ago).

The parents of a child, or people with parental responsibility for that child.

Where a child is adopted, the natural parents and grandparents of the child, the adoptive parents, and the child.

People who have been involved in a significant relationship together such as boyfriends and girlfriends.

### WHAT COURT ORDERS CAN BE MADE?

#### A Non-Molestation Order

This order is about behaviour. It can order a person to stop pestering, threatening or being violent towards another person, or to any child involved. It can also order a person not to enter a specified area, such as the other person's local area.

Breaching a Non-Molestation Order is a criminal offence and can be punishable by up to five years imprisonment.

#### An Occupation Order

This order is about the home and can do a number of things. For example, it can:

- a) Order the abusive person to leave the home, or part of it
- b) Order the abusive person not to come near the home
- c) Order the abusive person to allow the victim of abuse to enter and stay in the home or part of it.
- e) Decide what rights the abusive person and the victim of abuse have to occupy the home and can decide what payments each party should make towards the mortgage or rent, and upkeep of the property.

### HOW DO I APPLY FOR AN INJUNCTION

If the situation is very urgent and there has been actual violence, it would be possible to apply for what is known as an ex-parte injunction, this means that the applicant can obtain an immediate order from the Court without the other person having to be present or even knowing that an application to the Court has been made. If such an order has been obtained, the Respondent will immediately be served with a copy of the order, which will state

that they must not breach the terms of the Order, and if they do they will be in contempt of Court, the penalty of which is a fine or imprisonment. In the case of a Non-Molestation Order, this is a criminal offence.

To make an application a standard form is completed and a statement detailing the violence is also filed in Court and served on the other party.

#### **HOW LONG WILL THE INJUNCTION LAST**

The injunction will normally last for a period of 12 months. The abuser can apply to the Court to have it set aside and if this happens you may have to give evidence at the Court at a future hearing.

#### **HOW LONG DOES IT TAKE TO GET AN INJUNCTION?**

If an ex-parte order is not applied for an Injunction Order should normally be able to be obtained within a 7 day period.

#### **HOW SOON SHOULD I APPLY FOR AN INJUNCTION?**

If there is any delay between the violence or harassment occurring within the application for an injunction then the Court may be unwilling to grant the order depending on the period of delay and the reason for the delay.

#### **WHAT HAPPENS IF SOMEONE DISOBEYS THE COURT ORDER?**

As explained above, disobeying a Non-Molestation Order is criminal offence and is punishable by up to five years imprisonment.

Disobeying an Occupation Order means that the person is in contempt of Court and may be subject to a fine and/or imprisonment.

#### **CAN I GET LEGAL AID TO APPLY?**

Yes, if you can show that your savings and your income are within the current financial limit.

**KHF Solicitors Ltd provide this fact sheet  
free of charge**

**For further information contact**

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