

Injunctions



“Domestic violence can take many forms. Contrary to popular belief it is not just physical violence. Domestic violence is defined as ‘any incident or pattern of incidents, controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associated with each other’.”

Anyone can experience domestic violence and abuse regardless of sex, race, ethnic or religious group, disability or lifestyle.

If your partner has been violent towards you this is a criminal offence and you are able to report the violence to the police and press charges. You can also pursue a civil remedy through the family courts by applying for an injunction order otherwise known as a non-molestation order or occupation order. It is a criminal offence to breach a non-molestation order, and anybody ignoring an order made against them will be committing a criminal offence. Anyone who is found guilty of this offence potentially faces a prison sentence of up to 5 years and/or a large fine.

You can also use the courts to stop that person intimidating and harassing you and, under some circumstances, the courts can order that person to move out of your home. Any children who live with you can also be protected.

There are two difference types of injunction orders:-

- non-molestation order - this stops a person from using violence, threatening, harassing or pestering another person.
- occupation order - this decides who is entitled to live in the home, and can be used to exclude a violent person.

Our family team at Tozers appreciates that seeking advice when you have been subjected to domestic abuse can be a very difficult step to take. We can offer advice about a range of options available to you, whether legal protection by way of an injunction, advice about support from other agencies or just information to assist you to make decisions for yourself or others in your family.

- We will listen to your experience and provide support in total confidence
- We will advise you of the legal remedies available to you so that you can make an informed choice about what to do
- We can obtain court orders to protect you from abuse and exclude the abuser from your home
- We can work closely with other organisations who can offer additional support and advice

A member of our family team can be available at short notice to discuss your difficulties and if necessary assist you to apply to the court for an order for your protection.

FAQ:-

Who may apply for a non-molestation order?

Spouses and former spouses; people who live together or have lived together in the same household - such as tenants, lodgers, boarders; same sex-couples; relatives - such as grandparents, grandchildren, aunts, uncles, nieces, nephews, stepparents and stepchildren; engaged couples; parties that are or have been in an intimate relationship, parents of the same child and parties to family proceedings. Children can also apply for this order, although if they are aged under 16 the court’s permission is needed and this will only be given if the court is satisfied that the child has sufficient understanding to make the application.

Who can apply for an occupation order?

This is a complicated area, and depends on what rights you have in relation to your home. Anyone who is entitled to apply for a non-molestation order and who also has a legal right to occupy the home can usually apply for an occupation order.

Also all spouses and former spouses, cohabitants and former cohabitants have the right to apply no matter what rights they have in relation to their home.

How quickly can I get an injunction order?

If you need urgent protection you can ask for an immediate hearing at which only you and your solicitor attend and the court can make an order based on what you say, which will be recorded in a written statement prepared by your solicitor on your behalf. This hearing can often occur on the same day that you instruct your solicitor. If this happens, there will be a further hearing soon afterwards at which the violent person can put their side of the case. From first seeing a solicitor to a final order being made can take less than one month.

How long will the order last?

An injunction order is intended as a time limited form of protection, usually lasting between 6 to 12 months, although orders can be extended if the court feels that on-going protection is required beyond this.

How much will it cost?

Depending on your financial circumstances you may be eligible for Legal Aid. Your solicitor will be able to tell you whether you are eligible or provide you with an estimate of fees if you are not.

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