

Briefing Note: Domestic Abuse

Introduction

This guide provides a general overview of domestic abuse, highlighting examples of types of domestic abuse that may be experienced and what steps can be taken. It serves as a general introduction. For specific advice tailored to your own circumstances you should consult a specialist family solicitor.

Please note that this Briefing Note is not maintained and reflects the law as at the date of publication or update.

What is Domestic Abuse?

The Domestic Abuse Act 2021 introduces a legal definition of domestic abuse and refers to behaviour being “abusive” if it consists of any of the following:

(a) physical or sexual abuse;

(b) violent or threatening behaviour;

(c) controlling or coercive behaviour;

(d) economic abuse;

(e) psychological, emotional or other abuse;

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

“Economic abuse” means any behaviour that has a substantial adverse effect on a person’s ability to –

(a) acquire, use or maintain money or other property, or

(b) obtain goods or services.

Who can suffer Domestic Abuse?

Anyone can experience domestic abuse, regardless of their race, religion or sex. It can be suffered by heterosexual or homosexual people, transgender people and those who are gender fluid.

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Summary:

A general overview of Domestic Abuse including frequently asked questions.

For detailed advice on family matters please contact:

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In addition, vulnerable people such as the elderly or infirm can also experience domestic abuse.

What can be done if you experience Domestic Abuse?

- Report matter to the Police.
- Apply for a Non-Molestation Injunction Order under Part IV of the Family Law Act 1996.
- Apply for an Occupation Order under Part IV of the Family Law Act 1996.
- Seek advice and assistance from a domestic abuse charity.

Non-Molestation Injunction Order

An application can be made to the Family Court for a Non-Molestation Injunction Order under Part IV of the Family Law Act 1996 to protect the victim and their children from experiencing any further domestic abuse.

Once the Order has been granted by the Court, breaching the Order becomes a criminal offence meaning that the abuser can be arrested for having broken the terms of the Order.

In emergency situations an application can be made to the Court without notice being given to the abuser in the first instance in order to protect the victim.

Occupation Order

Occupation Orders can be granted by the Family Court under Part IV of the Family Law Act 1996 in relation to properties which the victim (and their children) has lived in, whether they are owned or rented. They have the effect of enabling a party to re-enter and re-occupy a property, if they have left that property. Alternatively, this type of Order can force the abuser to leave a property.

In addition, Orders can be made with regard to the payment of rent or mortgage and bills.

Who can apply for a Non-Molestation Order or Occupation Order?

In order to apply for either a Non-Molestation or Occupation Order, the victim must have a formal association with the abuser and be known as an “associated person”. This means that they must fit into one of the following categories:

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- they are or have been married to each other;
- they are or have been in a civil partnership with each other;
- they are cohabitants or former cohabitants (this includes same sex couples);
- they live or have lived in the same household;
- they are relatives;
- they have agreed to marry one another (whether or not that is no longer the case);
- they have or have had an intimate personal relationship with each other which is or was of significant duration;
- they have a child together or have Parental Responsibility for the same child; or
- they are parties to the same family proceedings.

How long does a Non-Molestation Order/Occupation Order last?

Generally, these types of Orders can be granted for six/twelve months, or longer. However in some circumstances they can be extended for a further period of time, depending on the specific circumstances of a case.

If you would like to know more about this topic or our other legal services, please contact:

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