



## **INFORMATION LEAFLET**

### **NON-MOLESTATION ORDERS**

*"Please note there is also an anti harassment injunction. This is a court order which prevents someone from harassing you. Harassment can include nuisance phone calls/texts, threats, and stalking, excessive noise. Basically anything which causes you alarm or distress?"*

Non-molestation orders are civil court orders which aim to protect people experiencing domestic violence/abuse.

They can forbid the abuser from molesting the person applying (asking) for the order and sometimes the applicant's children as well (only if they are under 18 years old).

Non-molestation orders also forbid abusers from instructing anyone else to harass or intimidate or use violence against the applicant. They can also forbid the perpetrator (abuser) from damaging or disposing of the applicant's possessions. You may therefore wish to consider applying for one even if you have left home and your (ex) partner doesn't know where you are if you are worried they may damage your possessions.

You don't have to have actually experienced violence in order to apply for a non-molestation order. You can also apply if your (ex) partner has been harassing or intimidating you. However non-molestation orders can sometimes be harder to get without actual violence as the courts will often





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want some kind of evidence that your abuser has been abusive towards you.

Some clients apply for non-molestation orders against current as well as former partners. If you are still in a relationship with your abuser you need to decide whether or not this is likely to help the situation and improve their behaviour towards you. You know them best and if you think that this is likely to inflame the abusive behaviour, then this may not be your best option.

You can only apply for a non-molestation order against someone the law recognizes as being legally 'associated' to you. This means you must fall into at least one of the following categories/groups:

- You are or were married to the perpetrator
- You are or were in a civil partnership with the perpetrator
- You are or were engaged to marry or enter into a civil partnership with the perpetrator.
- You are or were living with the perpetrator as husband and wife (or the equivalent within a same-sex relationship.)
- You live together or have lived together but not because one of you is the other's tenant, employee, border or lodger
- You are related to the perpetrator (s/he is a member of your family)
- You are parents of the same child
- You have or have had parental responsibility for the same child
- You are parties to the same family proceedings (in court)
- You and the perpetrator have or have had an intimate personal relationship with each other which is or was of significant duration (i.e. you have had a sexual relationship for at least six months).





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NB This new category was added by the Domestic Violence, Crime and Victims Act 2004.

All non molestation orders issued *after* 1st July 2007 will carry what is called a 'power of arrest' which means that if your (ex) partner breaks the terms of the order the police can arrest him. Even though non-molestation orders are civil court orders, breaching a non-molestation order issued after 1st July 2007 is a *criminal* offence for which perpetrators may be fined or sent to prison for up to five years.

NB Non-molestation orders issued *before* July 2007 would need to have had a specific 'power of arrest' attached to them to give the police the power to arrest the respondent for any breaches.

Your (ex) partner will usually be told about the court hearing beforehand so that s/he can represent themselves in court. If you are afraid that s/he may hurt you before you get to court or try to bully you into dropping your application you may be able to make a direct application to the court without them knowing about it first.

Be aware that an injunction cannot guarantee your safety. You need to decide whether your (ex) partner is likely to obey a civil court order and whether their behaviour is likely to change due to the increased risk they would face of being arrested, fined and/or sent to prison.

It is up to the police to arrest your abuser if they have breached an order which gives them powers of arrest. The police do not always arrive at the scene (after being called out) in time to catch perpetrators who have breached injunctions. Judges and magistrates do not always impose





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custodial sentences even when they have the power to do so. This can be frustrating (and sometimes unsafe) for people who have gone to the trouble of going to court to get an injunction.

Speak to a solicitor or legal advisor if you wish to consider a non-molestation order.

Non-molestation orders are not free. You can make an application yourself but you will need advice from a legal advisor or citizen's advice bureau.

