

What is an injunction?

If someone has behaved towards you in the manner described below, it may be possible to apply to the court for an injunction. An injunction is an order of the court which places restrictions on someone. There are two types of injunctions which can cover the following:-

1. It can forbid someone from being violent towards you, or from threatening, pestering or harassing you. This is known as a Non-Molestation Order;
2. It can require someone to leave the home they share with you and be forbidden to return, and;
3. It can forbid someone to come within a certain distance of the home. This is known as an Occupation Order.

Who can I obtain an injunction against?

It may be possible to obtain an injunction against the following people:-

1. Your husband/wife or former husband or wife;
2. Someone you have lived with as husband or wife (to include same sex relationships);
3. Anyone who lives with you (unless they or you are an employee, tenant, lodger or boarder);
4. Anyone who has lived with you (unless they or you are an employee, tenant, lodger or boarder);
5. Your relative or that person's husband or wife;
6. Your current or former boyfriend or girlfriend (if you have been engaged or in a lengthy relationship);
7. Someone you have had a child with.

It is also possible to obtain an injunction protecting a child in certain circumstances.

How do I get an injunction and how long does it take?

There are two types of injunction applications. They are "on notice" applications and "without notice" applications.

A without notice application is made where the circumstances justify an emergency application, for example where there has been a recent violent incident. We will advise you whether your case is appropriate for an emergency application at your initial appointment. If an emergency application needs to be made, we will make the application on your behalf and represent you at the initial court hearing. The person against whom you are seeking the injunction is known as the Respondent. They will not be given notice of the hearing. The court will consider at the initial hearing whether it is appropriate to make an injunction order. The Respondent will then need to be served with your application and the emergency order, if such an order has been made. The Respondent will have the opportunity to apply to the court for the court to consider whether the injunction order should remain in force.

An on notice application involves a similar process, however, once your application has been issued, the court will fix a hearing date and the papers will then be served on the Respondent, thereby giving them

notice of your application. The court will then consider whether it is appropriate to make an injunction order after hearing evidence from both of you.

What happens if an injunction is breached?

When considering whether to make an injunction order, the court will also consider whether it should attach a "power of arrest" to the order. This is generally the case where there has been evidence of violence in the past. If a power of arrest is in force, this gives the police the power to arrest the person who has breached the injunction without first obtaining a warrant. A power of arrest can be attached to an Occupation Order but, due to a recent change in the law, it can no longer be attached to a Non Molestation Order, as breaching a Non Molestation Order is now a criminal offence.

If an Occupation Order is breached, in certain circumstances it may be necessary to make a further application to the court so that the court can consider the breach. This is known as an application for "commitment." The court has the power to send the person to prison if necessary.

If a person has breached a Non Molestation Order and they are aware of the existence of the order, the breach is a criminal offence. The Respondent would be arrested and produced before the criminal courts. The Respondent could be arrested and detained for questioning by the police. If you are arrested and detained for breach of a Non Molestation Order, you will need to contact one of our criminal solicitors. A member of our Criminal Department can be contacted 24 hours a day on 07824 640 222.

What is an Occupation Order?

Where you and the Respondent are living under the same roof, it may be possible to apply to the court for an Occupation Order. An Occupation Order can cover all, or some of the following:-

1. It can enforce your right to remain living in the house;
2. It can require the other person to move out of the house;
3. It can regulate how you and the other person live in the house;
4. It can require the other person to allow you to move back into the house.

When considering whether to make an Occupation Order, the court will have to look at both your financial circumstances, behaviour and housing needs. The court will also look at the housing needs of any relevant children and any other relevant circumstances of the case.

Can I get Legal Aid?

You may be entitled to receive Legal Aid for your application for an injunction. We will be able to carry out a calculation to see if you are eligible for Legal Aid at your initial appointment.