



Information on domestic abuse

Although there is no standard legal definition of domestic abuse the Home Office has defined this as “any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality.

Domestic abuse can take many forms, including behaviour that is psychological, physical, sexual, financial and emotional. It can also include digital abuse through social networking.

Domestic abuse can also have a serious impact on the welfare of children in families where abuse is taking place even if you think you are protecting your children and shielding from it,

You can access support from a number of local organisations. You can also report domestic violence to the police as it may involve criminal offences. The police can also issue Domestic Violence Protection Notices (DVPN) to provide emergency protection where your partner has been violent or has threatened to be violent. These can prevent your partner from returning to your home or contacting you.

Where a DVPN has been issued the police then must apply to the magistrates’ court for a Domestic Violence Protection Order (DVPO) within 48 hours. If the court is satisfied that there are sufficient grounds to make the order then it can last for between 14 to 28 days.

If you have been a victim of domestic abuse then you can apply to the family courts for an injunction. Under the Family Law Act 1996 two types of injunction are available – non-molestation orders and occupation orders. To apply for one of these orders you must be within the class of “associated persons” which can include certain types of relatives, spouses and ex-partners including same sex relationships.

In urgent cases applications for non –molestation and occupation orders can be made without giving notice to the other party. If the court makes an order at a without-notice hearing the respondent will be given the opportunity to make representations to the court at a further hearing. Applications to the Court have to be supported by a statement in support.

Non-molestation orders

Where there has been violence or threats of violence (including intimidation and harassment) an application can be made for a non-molestation order which will prohibit the respondent from using or threatening violence or other distressing behaviour towards the applicant or a child.

Breaching a non-molestation order is a criminal offence and therefore any breaches of the order will result in the respondent being dealt with by the police and criminal courts and possibly sent to prison. The police also have the power to protect victims of domestic violence and harassment.

In certain circumstances it is possible for the respondent to provide an undertaking to the court not to behave in a certain way. A power of arrest cannot be attached to an undertaking

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Occupation orders

Occupation orders regulate the occupation of a property. It can mean that someone is excluded from their own home. An occupation order can regulate the occupation of the whole or part of a property and a defined area around the property. This means an order can be granted which would prevent the respondent from entering the property or requiring the respondent to leave the property.

A power of arrest can be attached to an occupation order so if the order is breached the respondent may be arrested by the police. The respondent would then be brought back before the court to explain why the order was breached.

Domestic abuse can have an impact on other family court proceedings, for example in proceedings for Child Arrangement Orders. Whilst it's considered that it is in a child's best interests to have an ongoing relationship with the parent that they don't live with this needs to be balanced against situations where a child has been exposed to the harmful effects of domestic abuse.

At Chafes Hague Lambert, we have an experienced family team that are here to discuss your situation, please contact us on:

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