

LEGAL REMEDIES AT A GLANCE

Domestic Violence and Abuse is...

'Threatening, controlling, coercive behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender or sexual orientation) by a current or former intimate partner or family member'
(Stopping Domestic and Sexual Violence Draft Strategy 2015)



Northern Ireland Court System

Civil Court

A civil court deals with a wide range of disputes including family matters such as, child arrangements, separation and protection orders where domestic violence is alleged. It is to a civil court that a victim applies for non-molestation and occupation orders.

Criminal Court

A criminal court deals with criminal offences when it is alleged that someone has broken the law such as in a breach of a non molestation order, or criminal assaults and threats of violence.

Steps to take if you experience Domestic Violence

Contact Support Services

24 HOUR

Domestic & Sexual Violence Helpline

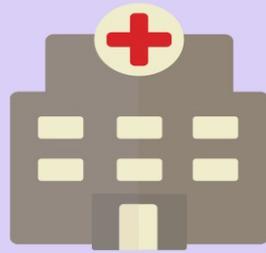
FREEPHONE
0808 802 1414

Open to all women and men affected by domestic & sexual violence

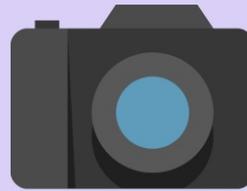
☐ text support to 07797 805 839 ✉ 24hrsupport@dvhelpline.org



Contact the Police



Seek medical assistance



Take pictures of any injuries

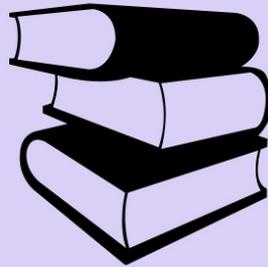


Contact the Solicitor as soon as possible

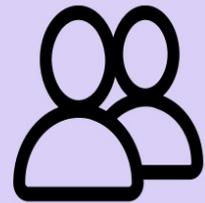
What protection does the law offer?

The Legislation

The Family Homes and Domestic Violence (N.I) Order 1998 is the legislative framework which allows victims of domestic violence/abuse to apply for protective civil orders.



Who can apply for Orders?



In general, a victim can apply for an order against someone who is a family member or has lived with them in a familial relationship.

Civil Orders

Non Molestation Order

Is an order that a judge can grant to stop or prevent a person from abusing, harassing, pestering, using or threatening to use violence against another person in any way.

Emergency Order (Ex-Parte Orders)

Both a non molestation order and an occupation order can be made by an ex parte application.

If there has been a recent (usually within seven days) incident of abuse a victim can make an emergency application to the court for either a non molestation order or an occupation order or both.

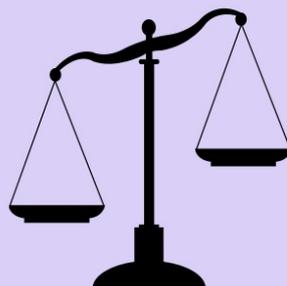


What does it cost?

Everyone applying for a non molestation order and or a non molestation order combined with an occupation order is eligible for legal aid. A financial assessment for legal aid is carried out on a Green Form by the Solicitor.

Occupation Order

Is an order that a judge can make to declare who has the right to occupy a property. An occupation order may be used as a complementary order to the non molestation order or as a stand alone order.



Stalking and Harassment

The Legislation

Stalking and Harassment is dealt with under :
The Protection from Harassment (NI) Order 1997



Restraining Order

Restraining Orders are dealt with under:

The Protection from Harassment (NI) Order 1997 (section 3)
Domestic Violence, Crime and Victims Act 2009 (section 13)

Harassment

Harassment is repeated and unwanted behaviour/conduct by the alleged perpetrator which causes the victim alarm or distress.



For example:

Frequent, unwanted contact, telephone calls, emails, driving past the victim's home or work, following or watching, sending letters or unwanted 'gifts'.

Stalking

Stalking is a broad term used to describe a particular kind of harassment. It is normally used to describe a long term pattern of persistent and repeated following of the victim, communication with them or other intrusions into their privacy.



Other Options

Apart from the remedies discussed above, there are a number of options available to victims of domestic violence and abuse including:

Civil Injunction

A civil injunction is any order requiring a person to take a certain step (a mandatory injunction) or preventing him or her from doing something (a prohibitory injunction). This option may be used when there are no familial relationships.



Undertaking

An undertaking is a solemn promise from one party to another to do something. Undertakings have no legal basis and cannot be actioned by the police.



Police Information Notice (PIN)

There are some circumstances in which it can be useful for the police to inform a suspect verbally and/or in writing that their alleged actions may constitute an offence.

Before a PIN is given to suspect, this process should be explained to the potential victim and a copy of the notice given to them. In particular, it should be explained that the PIN is not a court order and is simply information for the suspect.

How the Police can help



The PSNI treat domestic violence and abuse very seriously and due to the extent of the problem, they have dedicated Domestic Abuse Teams who are there to help and assist.

If a person has been the victim of a domestic violence crime and has reported it to the police, they can expect the police to investigate the crime. Where the police have power of arrest they will normally arrest the suspect.

Bail

Bail is the term used when a person charged with a criminal offence is released from police custody until he/she next appears in court or at the police station. Generally, in order to grant bail the police will require certain security to be given or certain conditions met.



Breach of Bail

If the defendant doesn't keep to these conditions, then they have breached their bail which means they can be arrested again and taken before a criminal court. The court has the power to amend the existing bail conditions or remand the person in custody to await the court hearing.

Bail conditions are only a short term measure and once an investigation has been concluded, they will cease to be in force. Victims should still seek other protective measures available, as previously described.

How the solicitor can help

The solicitor will need to know:

✓ Relationship with the alleged perpetrator

✓ Details of the domestic abuse which took place

✓ Any Police or Social Services involvement

✓ Contact with GP or hospital because of the alleged perpetrator

✓ If an Occupation Order is required, does the alleged perpetrator have other accommodation

✓ Details of any historical incidents of domestic abuse

What happens at Court

➔ You will be met by your Solicitor

➔ The Solicitor will take you through your statement, ask you to sign it and the Court application form (Form F1). These documents are lodged with the Court



- You will be asked to come into the Courtroom and the Solicitor will take you through your statement to the Judge
- The Judge may ask you questions directly
- The Judge will decide whether to issue the Orders

POSSIBLE OUTCOMES

WITHDRAW APPLICATION

You may no longer want or require the protection of an order.

CONSENT TO AN ORDER

The alleged perpetrator may agree to Full Order being granted for a period of time.

HEARING

Both parties will provide evidence to the Court and the Judge will make a decision on whether to grant a Full Order.



UNDERTAKINGS

The alleged perpetrator may agree to provide a formal undertaking which stipulates that they will not pester, harass or intimidate the victim.

APPEAL

If you are unhappy with the result, there is a right to appeal.



Members of the Belfast Domestic Violence Partnership Protection and Justice Working Group developed Legal Remedies guidance to assist individuals experiencing domestic violence to understand the law and the available protection options.
Full guidance available at: www.belfastdvp.co.uk

