
Fairbrother & Darlow

Solicitors

Injunctions

Emergency remedies can apply to either a person or their finances. Within relationships one party can be subjected to abuse by another, by a variety of means.

“Abuse” includes physical, psychological, emotional, sexual or financial abuse which takes place within the home or within relationships.

Non-Molestation Orders and/or Occupation Orders can be sought to protect a person from further abuse in family relationships. These orders are made under the Family Law Act 1996. Applications can be made without the abuser’s knowledge. The orders that can be sought include:-

A. Non-Molestation Order

Non-Molestation Orders or “injunctions” are intended to prevent a person from being subjected to:

- violence, or the threat of violence, against the applicant and/or any children; and
- intimidation, harassment or pestering the applicant or children;

These orders generally last up to 12 months, or until a further order is granted by the court. In particularly urgent cases, where there is a need to protect the applicant and/or the children of the family, an emergency “ex parte” order can be applied for. The Respondent is not given notice of this application before it is heard by the court. This type of application will usually result in a short order being made by the court. These proceedings are then usually listed for a further hearing at a later date when the Respondent has then been notified of the further court hearing.

In other cases, the Respondent will be given notice of the application and will have the opportunity of attending the court and making representations to the court before a decision is made about whether any injunction order should be made.

If a Respondent breaches a non-molestation order a criminal offence is committed and the Respondent is likely to be arrested and prosecuted. A breach of a non-molestation injunction is treated seriously by the court and can lead to the Respondent being sentenced to a period of imprisonment.

Occupation Order

An Occupation Order or injunction relates to the accommodation in which the parties are living or have lived. The court can order the Respondent to leave the property if the court considers that the Respondent’s behaviour warrants this. Alternatively, if the court feels that both parties should be able to continue to occupy the property the court can regulate how the property is used by them.

A Power of Arrest can be attached to this type of order which can result in the Respondent being arrested and kept in custody before being brought before the court if the Respondent breaches the order. A breach of this type of order can also lead to the Respondent being sentenced to a period of imprisonment.

Undertakings

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In some cases, a Respondent may, without admitting any of the Applicant's allegations, make a promise to the court not to do certain acts in the future. A breach of an Undertaking will mean that the Respondent is in contempt of court and can be committed to prison.

Procedure –a guide to applying for an injunction order under The Family Law Act 1996 is available at our website.

Protection from Harassment Act 1997

Even if a person is not entitled to apply for a Non-Molestation or Occupation Order it may be possible for an applicant to apply for a injunction order for their protection under other procedures, for instance under the Protection from Harassment Act 1997.

Financial Injunctions

In some matrimonial matters, spouses occasionally try to hide or dissipate joint and individual assets so as to prevent the other spouse from claiming them. In certain cases, an application can be made to court for an order to freeze assets. These applications can be very complicated and so it is advisable to obtain legal advice before you consider making such an application to the court.

For further advice in connection with injunction matters please [contact](#) us.