



# INJUNCTIONS

## PROTECTION FROM VIOLENCE OR HARASSMENT

Often when married couples, people living together, relatives, or a child of the family are being pestered, harassed, have been exposed to violence or threatened with violence, it may be necessary for them to apply to the Court for an Order, which will provide protection from this.



### WHAT CAN THE COURT DO?

#### Physical Protection

The Court can make an Order against a person, ordering that they must not do certain things. This will order the person guilty of violence or harassment not to continue to behave in that way. This is called a "Non-Molestation Order". A Non-Molestation Order can forbid the person from:-

- (a) Using or threatening violence against you.
- (b) Using or threatening violence against a child.
- (c) Harassing or pestering or otherwise interfering with you.
- (d) Harassing or pestering or otherwise interfering with a child.
- (e) Instructing or encouraging anyone else to do any of the above things.

#### Occupation of the home

The Court can also make an "Occupation Order" in certain circumstances. This Order will require one person to move out of the home in which you live, and/or forbid them from returning to the property, entering it or trying to enter it. In certain circumstances, for example where the person has been harassing you from just outside the property, the Order can prevent that person from being within a certain number of metres of the property. An Occupation Order may include the following terms:-

- (a) To require the person to leave a property and not to return.
- (b) To require the person not to enter the property.
- (c) To require the person not to enter into a defined area.
- (d) To require that person to allow you to enter the property and not to further restrict your occupation.



# INJUNCTIONS

Non-Molestation and Occupation Orders are the main Orders that the Court may make in situations of violence or harassment. The purpose of these Orders is to protect you in the best way possible. These Orders are only made for a certain period of time – usually for six months or one year.

In certain circumstances, the Court also has other powers. This includes the power to transfer the tenancy of a home from one person to another, or to order who should be responsible for payment of the household bills, rent or mortgage when one person is ordered to leave.

People who are married or living together, most relatives, and persons living in the same household will be able to apply for a Non-Molestation or an Occupation Order. However, we are able to advise you in more depth about the rules regarding who can obtain which Order, as these are very detailed.

## HOW CAN I APPLY FOR AN ORDER?

You will probably need the help of a Solicitor to make the necessary application to the Court. You will have to make a written Statement setting out what has been happening and telling the Court why you want the Order. Your Solicitor will help you prepare this.

The person against whom you are applying for the Order will have to be “served” personally with your application and statement and several days may pass between the date that you make your application and the date that you actually attend Court.

The person against whom you want the Court to make an Order will have a chance to appear at Court to have their say. Your Solicitor will represent you at the Court hearing and the Court will read your Statement and will listen both to you and to the other person before making a decision.

## WHAT HAPPENS IF I NEED AN ORDER URGENTLY?

If you have suffered violence, intimidation or threats and you need protection as a matter of urgency, then the Court may hear your case more quickly than usual. If your Solicitor thinks that this is an emergency situation, then he/she may be able to get you to Court that same day. The Court would then decide whether to make an Order to give you protection as a matter of urgency, without the person against whom the Order is made being at Court to begin with. If an Order is made as a matter of urgency, it will usually only last for a short period, such as a week, and the matter will then have to be considered by the Court around one week later to enable the person against whom the Order is made to have their say.



# INJUNCTIONS

## WHAT'S THE POINT OF GETTING AN ORDER?

Although it is right to say that an Order is a piece of paper telling a person what he/she must or must not do, it is an Order of the Court and must be obeyed. To ensure that this has legal effect it must be served upon the person against whom it is made as that person needs to know what it is that they are being told to do, or not to do. If that person then knows about the Order but ignores it, then they are in "breach" of the Order. Depending on what that person has done to breach the Order will influence what the Court then decides to do by way of punishment or enforcement.

In certain circumstances, if the Order has been breached it will be necessary for you to make a further application to Court for "committal proceedings". A Court then has the power to fine or imprison the person who has breached the Order.

In many cases, when making the Non-Molestation or Occupation Order, the Court will also add a "power of arrest" to the Order. This means that, if that person breaches the Order and you contact the police, they will have the power to arrest them straightaway and to take them into custody, often overnight, until they can be brought before the Court the next day. When the matter comes back before the Court in this way, the Judge will have to consider whether he/she is satisfied that a breach has occurred, and if so, decide what the appropriate penalty should be.

It is very important that you contact the police and your Solicitor immediately, or as soon as possible, if a breach of the Order is happening or has just happened. You will need to act quickly. You will be required to attend Court to give evidence to the Judge about the breach of the Order and your Solicitor will help you to prepare any further written statement about this.

You should be aware that the Government will shortly be making changes in relation to what will happen to a person if they breach an Order. These changes are not yet in place and your Solicitor will keep you updated about this.

## WHO WILL PAY FOR MY APPLICATION?

In certain circumstances you may qualify for Public Funding (Legal Aid) which will pay for the application, your Solicitors' help and any attendances at Court. You will need to speak to your Solicitor to find out if you are eligible for this.

If you are not entitled to Public Funding, then your Solicitor will discuss the costs with you before you decide whether to make the application.

**For advice on Family Matters or any other area of Watson Esam's expertise, telephone 0114 275 3350**

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