

Domestic Violence Quick Guide

What is domestic violence and abuse?

Various organisations define domestic abuse differently. However in 2012, the Government following consultation announced that its definition (not a legal definition) would be widened from the 31st March 2013 to include those aged 16-17 and the wording changed to reflect coercive control. The definition is:-

‘Any incident or pattern of incidents of controlling, coercive or 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.’ This can encompass, but is not limited to, the following types of abuse:

- psychological
- physical
- sexual
- financial
- emotional

What is controlling behaviour?

Controlling behavior is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behavior.

What is coercive behaviour?

Coercive behavior is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.’

What should you do if you are a victim of domestic violence and abuse?

It is extremely important that you report any incidents to the police and seek legal advice from a family lawyer who specializes in helping and advising victims of domestic violence and abuse. We at Levy & Co Solicitors can take emergency action in such cases and are experienced in advising our clients about what you can do to protect yourself and any children of the family. We can help you by applying to the court for a non-molestation order and occupation orders in applicable circumstances.

For anyone in an abusive relationship it is essential to have practical and emotional support. There are a number of organisations which can help:-

- Womens Aid www.womensaid.org.uk
- Refuge www.refuge.org.uk
- Womens domestic violence helpline www.wdachoices.org.uk
- Male www.mensadviceline.org.uk
- Pathway project www.pathway-project.co.uk
- Respect www.respect.uk.net

How can we help you?

Non-Molestation Order

A non-molestation order confers protection on family members, including children or people in a domestic relationship, against the use of violence or other forms of molestation by a person with whom they are associated. There are eight classes of applicants who are associated persons. A person is associated with another if:-

- they are or have been married to each other or have been civil partners of each other;
- they are cohabitants or former cohabitants;
- they live or have lived in the same household, otherwise than merely by reason of one of them being the other's employee, tenant, lodger or boarder;
- they are relatives;
- they have agreed to marry one another (whether or not that agreement has been terminated);
- they have or have had an intimate personal relationship with each other which is or was of significant duration;
- they have entered into a civil partnership agreement;
- in relation to any child, they are both persons falling within subsection (4); or
- they are parties to the same family proceedings (other than proceedings under this Part).

There is no statutory definition of molestation, but it does not have to be an act of physical violence and it has been held by the Courts to include pestering.

In deciding whether to make an order, the court will have regard to all the circumstances, including the need to secure the health, safety and well-being of the applicant and any relevant child.

Breaching any term of a non-molestation order is a criminal offence although the respondent must be aware of the existence of the order.

Occupation orders

An occupation order is an order primarily determining a right to occupy a property. The court may declare, confer or regulate occupation rights in the family home between family members or those involved in a domestic relationship. A court may make various orders including but not limited to requiring a party to leave a home, to exclude a person from a defined area around the home, and for rent or mortgage to be discharged. There are different rules regarding entitlement and eligibility.

The court must consider the statutory criteria and if it appears that the applicant or child is likely to suffer significant harm attributable to the conduct of the respondent if an order is not made, then an order must be made unless, the respondent or any relevant child is likely to suffer significant harm if the order is made and that harm is as great or greater than the harm likely to be suffered by the applicant.

If you would like further information about domestic violence and abuse or wish to make an appointment for your free initial meeting, please contact us.