

## **Can a non-molestation order prevent someone bothering me?**

Domestic abuse can impact men and women, of any age or race and is seen across all parts of society. Unfortunately, statistics from the Office for National Statistics reveal that domestic abuse is on the increase, with cases having risen by six per cent since 2020, and it now represents an astonishing 18 per cent of all reported crime in England and Wales.

These statistics will bring little comfort to those in the midst of an abusive relationship, but a non-molestation order can be a great help to someone who has bravely taken the step to leave.

'I often see clients that are frightened, perhaps having been cut off from family and friends, and having endured abuse for such a period of time that their own self-worth is diminished,' says Tony Roe, family law expert, at Dexter Montague LLP in Reading. 'Obtaining a non-molestation order can prevent your former partner contacting you again and can give you the breathing space to rebuild your life.'

### **What is a non-molestation order?**

A non-molestation order is a type of injunction. It is an order from the court that forbids a person you know from threatening or using violence against you. It bans them from pestering, molesting, or harassing you, or, from encouraging any other person to do so. It can also order that they must not come within a certain radius of your home or even your workplace.

### **Who can be stopped?**

A non-molestation order can be obtained against a partner, a former partner and other relatives too. The legislation states you must be associated with the person you are seeking the order against. The following list provides examples of who would be considered an associated person:

- your spouse or partner, a former spouse or cohabitee;
- someone you have been engaged to marry;
- people living in the same house as you (but excluding tenants, lodgers or employees);
- the parent of your child;

- a relative; or
- a person involved in the same family court proceedings as you.

If you are unsure if you would fall within one of the above categories then please contact us for advice, as alternative options may be available.

### **What are the grounds for a non-molestation order?**

When deciding whether to grant a non-molestation order, the court will consider all relevant circumstances including the need to protect you and any children. What constitutes molestation is not defined in the legislation, but it has been found in practice to cover a wide range of abusive behaviours. For example, this could be sexual abuse, financial abuse, pestering, verbal abuse or coercive behaviour.

Often abusive behaviour can be ongoing for so long that it can almost seem normalised. One of our expert family lawyers will take the time to discuss with you the nature of your relationship and look at all aspects of how you have been treated.

### **How can I obtain a non-molestation order?**

It is necessary to provide a statement to the court outlining the abuse you have suffered and why you require the protection of an order. We will draft this statement for you after taking your detailed instructions. We will also prepare the necessary supporting court forms.

Many non-molestation orders are obtained *ex-parte* or without notice, which means without notifying the other person first. Normally this would be seen as an unfair hearing, as one person is having a court order made against them without being able to have their say. However, it is permitted in these cases due to the higher level of protection it gives to you.

In many domestic violence situations, we would recommend that you apply *ex-parte* as it means you have the protection of the order without fear of your former partner contacting you to dissuade you from applying, or worse, threatening you. If an *ex-parte* order is made, then the order will be served on your former partner and a new court date will be set to allow them to attend and have their say. They may agree to the order or decide to contest it.

If a non-molestation order is contested, then a hearing will be needed. The judge will hear evidence from you both before making a decision. We will represent your interests at the hearing and cross-examine your former partner regarding their

abusive behaviour. If an order is granted it can be for a set period, or until a further order. Most orders are made for a 12-month period. This can be extended or varied if circumstances should change.

### **What happens if a non-molestation order is breached?**

Sadly, not all non-molestation orders are respected by the person they are made against. It is therefore always important to take practical steps to protect your safety. You may want to look at installing cameras around your house or a panic button. You should consider and get advice about changing the locks to your house if your former partner previously had keys. You may even want to let a few neighbours know to be on the lookout for your former partner.

If a non-molestation order is breached, then you should contact the police immediately. They will arrest your former partner if they have breached the order, as this constitutes a criminal offence. The current punishment is up to five years of imprisonment. You should also let your lawyer know, as it may also be possible to consider an alternative route of seeking their committal via a civil process if the police do not prosecute.

Our key contacts at DMP for further advice and assistance on non-molestation orders are Stephanie Alderwick and Tony Roe:

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