

Legal Action Against your Abuser:

Getting a Non-Molestation Order UK

If your abuser is inflicting violence against you, you can take legal action against them. You can apply for an Injunction Order to prohibit them from inflicting violence or harassing you. **This is called a Non-Molestation Order.**

Who can apply for a Non-Molestation?

Non-molestation orders can be applied for by associated persons. As in cases relating to occupation orders, applicants are generally spouses and cohabitants. Section 62(3) of the Family Law Act 1996 states that a person is associated with another if:

- They are or have been married to each other or have been civil partners
- They are cohabitants or former cohabitants
- They live or have lived in the same household for a reason other than one of them being the other's employee, tenant, lodger or boarder
- They are relatives – this includes grandparents, aunts, uncles, nieces, nephews, cousins, stepparents and stepchildren
- They have agreed to marry or enter into a civil partnership or they have or have had an intimate personal relationship which was of significant duration
- In relation to a child, they are both parents or have or have had parental responsibility (where a child has been adopted or freed for adoption, two people will be associated if one is the natural parent and the other is the child or adoptive parent of the child)
- They are parties to the same family proceedings (other than proceedings under Part IV of FLA 1996)
- Non-molestation applications aren't limited to heterosexual relationships, same sex couples, queer, transgender people are eligible to apply.
- This isn't just reserved for women, men can take out this order against their partners

What does a Non-Molestation Order do?

It is a court order that prohibits an abuser from using or threatening violence against you. This order also covers a range of abusive behaviour including harassment, threatening messages, telephone calls etc. If this order is breached, the police are obligated to arrest that person immediately. A non-molestation order is typically in place for a period of 6 months to a year, however this is based on the court's discretion.

How do I get one?

To get a non-molestation order, you must apply through your local Family Court. There are three main ways to apply:

1. Fill out an FL404 form and provide a detailed supporting statement with additional evidence. You will need to produce three copies of each document and send it to the court by recorded delivery. You can find your local court using Google. Click here for the link to the form:

Forms: <https://www.gov.uk/government/publications/form-fl401-application-for-a-nonmolestation-order-occupation-order>

Form guidance notes:

https://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?original_id=296

2. You can call the National Centre for Domestic Violence (NCDV) and they will sort out your paperwork for you. They can also arrange for you to be legally represented in court or offer some guidance on the court process.

You can contact them on their 24hour helpline on 0808 2000 247

Email: office@ncdv.org.uk

<http://www.nationaldomesticviolencehelpline.org.uk/>

3. You can contact a solicitor firm or any certified domestic violence charity of your choice to help organise your paperwork and offer you guidance on how to apply. You can also fill out the paperwork and apply for a McKenzie friend who can represent you in court.

Emergency Orders

'Without notice' as known as an ex-parte application are for people who are in immediate danger and do not want their abuser to know that they are attending court. At the front of the non-molestation application form you will find a tick box where you can tick whether you want it without notice to the other person. For a without notice order, you would need to attend court by booking an appointment to see a judge urgently (usually for the next working day). Check out your nearest Family Court and call their family appointments to book an emergency appointment.

Breach of a Non-Molestation Order

The breach of a non-molestation order is a criminal offence, punishable by up to five years in prison. If a respondent breaches an order, then he or she will be arrested and can be charged and brought before a criminal court. The Crown Prosecution Service is responsible for prosecuting a breach, and the solicitor that made the application on behalf of the respondent would not play a part in the prosecution.

If a power of arrest is not attached to the order, the applicant may have to apply to the court for a warrant of arrest. The applicant will have to give evidence and satisfy the court that there are reasonable grounds to believe that the respondent has breached the order.

Additional information

You can request special measures in court if you're scared to face the other party

Fees:

Generally, there is no payable fee to lodge a non-molestation application in court. If you earn a low income or on benefits then you may be eligible for legal aid, so if you decide to seek legal representation in court (solicitor/council) you won't have to any fees. However, if you aren't eligible for legal aid you would have to pay a fee to a law firm of your choice to be represented in court. If you aren't eligible for help with fees and want to represent yourself in court (Litigant in person), then there is no fee to lodge the application. However, if the judge decides to grant you an injunction against your abuser then that document would need to be served on them. You would need to do t-shirts through a process serve, a private company, as the documents won't be enforceable by the police without them receiving it. The costs for a private process server typically range from 75-100 pounds.

Further information about process servers can be found online or by your local citizens advice bureau on- <https://www.citizensadvice.org.uk/>

National Centre of Domestic Violence provide process servers. You can contact them, and they will be able to provide you with more information about costs.

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