

Guidance and information

○ Non-Molestation Orders

- There is no Definition of ‘molestation’ within the Family Law Act, but it is accepted that it means some “deliberate conduct which interferes with the victim, whether by violence, intimidation, harassment, pestering or inference that is sufficiently serious to warrant the intervention of the court”.
- Non-Molestation orders feature under the Family Law Act and as such, there needs to be a specific association between the Respondent and the Applicant (s.62(3) FLA, 1996). Most are self-explanatory, but this includes those who have lived together (but not by virtue of a commercial relationship, e.g. employee, lodger, tenant) and those that have been in an ‘Intimate Relationship of Significant Duration, of at least 3 months.
- If there has been a history of violence and this is on-going, it will be possible to apply to your local county court for protection in the form of a Non-Molestation Order. The court will look at the relationship in its entirety, including domestic abuse, such as:
 - Verbal Abuse
 - Mental Abuse
 - Emotional Abuse
 - Financial Abuse
 - Controlling behaviour
- It may also be possible to show that there has been domestic abuse in the past and this has now escalated to violence. It can therefore be shown that it requires the court’s intervention to bring this to an end.
- Generally, these orders will protect the applicant from:
 - Violence or threats of violence
 - Harassment or pestering
 - The Respondent coming within an exclusion zone of their property
 - Communication (except for the express purpose of arranging contact with a child)
 - Any instruction or encouragement for a 3rd party to do anything prohibited by the order
- These orders can be made for a ‘specific period of time’ (generally 6 – 12 months) or ‘until further order’ (essentially indefinite, until discharged by the court)
- Breach of a Non-Molestation Order is a criminal offence may be punishable:



- On conviction on indictment (Crown Court – Serious or repeated breach), to *imprisonment for a term not exceeding five years, or a fine, or both*
- On summary conviction (Magistrates Court), to *imprisonment for a term not exceeding 12 months, or a fine not exceeding the statutory maximum, or both.*

Witness Statement Guidance

In order to make an application to the court for a Non-Molestation Order, it will be necessary to submit a witness statement. The initial hearing is not an evidential hearing and as such, all the judge will consider in coming to their decision, will be your witness testimony.

This should be succinct, but include a broad overview of the relationship, focussing on a number of key incidents. The method by which you make your application to the court depends on when the last incident/threat of violence occurred. This recent incident must therefore feature in the statement and will demonstrate to the court that their intervention is necessary to prevent you coming to any further harm.

The witness statement can be structured as follows:

What was the relationship like at the beginning/in the early stages?

- Violence does not tend to be born out of nothing and there is generally a gradual progression.
- More often than not, it will start off with domestic abuse and this can include controlling behaviour (incl. financial control), verbal abuse, mental abuse and emotional abuse.
- This will give the witness statement context and provide the judge with a clearer picture of how the abusive behaviour began and with the remainder of the witness statement, show how this has since escalated

The first incident of violence

- When was the Respondent first violent towards you? (incl. Dates – be as accurate as possible, but the year alone should suffice)
- What led up to the incident? (i.e. an argument, intoxication, drug use etc.)
- The incident itself (What happened? How long did it continue for? What brought it to an end?)
- What action you took afterwards? (i.e. called the police, sought medical attention, spoke to other agencies etc.)
- If you did not seek any help, then you will need to explain why this was the case.
- What action did the police take? (incl. any crime reference numbers and be specific about the details – which police station? Which court house? Any charges filed?)



- Were you left with any injuries? (incl. the treatment you required, recovery period and if these injuries are still evident today)

**** In-between paragraphs it is useful to note if the relationship improved at all, or indeed deteriorated further. You may also like to include any smaller incidents of violence and/or continued domestic abuse. This will prevent there being any large periods of time which remain unaccounted for and will give a more complete picture of the relationship in its entirety****

The worst incident of violence

- This will again follow the same format as the paragraph detailing the first incident of violence.
- This will show the relationship at its worst and give the judge an appreciation of the extent of the abuse received at the hands of the Respondent.
- Again, it must give a full reflection of the build-up, the incident itself and the aftermath
- This may have been the first time that the police became involved, so it is crucial to include details of any criminal charges that were filed against the Respondent and the outcome of any resulting court case.
 - It will be beneficial to include details such as:
 - A crime reference number
 - The police officer(s) name and/or badge number(s)
 - The police station that dealt with the case
 - The court attended
 - The outcome of any subsequent hearings
 - Whether any resulting criminal sanctions (i.e. probation, restraining orders, licence following a custodial sentence etc.) were breached.

**** Again, it would be beneficial to consider the interim between the worst incident and the recent incident, which has prompted you to apply for an injunction. You may like to comment on why the relationship broke down and whether any abuse has continued beyond the end of the relationship. Mention if you believe that things have been escalating over recent days/months/years.****



The Most Recent Incident of Violence

- This is the incident which gives you grounds to apply for a Non-Molestation Order, without-notice. This essentially means that the other party will not be made aware of proceedings and will not be invited to attend court.
- If there has been an incident within the last 10-days then it will be possible apply for an injunction via this route. This time limit will not be so stringently enforced if you are attending court without legal representation, as a Litigant in Person.
- The same format should be used as the preceding paragraphs and again, it is necessary to include details about police involvement and the action being taken against the Respondent.
- If there are existing protective measures in place (e.g. bail conditions, a Domestic Violence Protection Order, if the Respondent is being held on remand etc.), the 10-day period can be delayed exponentially and it will be best to apply a week or so before these are due to come to an end.
- You will then be protected by the Non-Molestation Order, regardless of the outcome of criminal proceedings.

Finally...

- It is useful to draft a final paragraph, summarising why you require the intervention of the court and the protection of a court order.
- This is a good opportunity to pull at the heart strings of the judge and really illustrate your plight; as well as demonstrating the impact on you and any children that you may have, if the order is not granted.
- This can focus on any number of things and will of course be unique to your situation, but may include:
 - The fear of suffering further violence
 - The impact on your children of being subjected to violence/abuse
 - The fact that the situation has now escalated
 - Any threats made that are still hanging over you
 - The desire to move on with your life and live in peace

****Note that this is a guide only and your circumstances may differ from the format noted above. It may be necessary to adapt this to your situation and you should do so as you deem appropriate. As you are detailing your own experiences, you are best placed to convey to a judge exactly why you feel that you require court intervention and the protection of a Non-Molestation Order****

