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**Non-Molestation Orders Information Sheet**

**This information sheet sets out brief information as to Non-Molestation Orders. It does not set out the law or procedure in detail and should not be relied upon as a legal document.**

* + - A Non-Molestation Order is a civil order made by the Family Court to protect a person, not a place or property.
		- Applications for a Non-Molestation Order are made under the Family Law Act 1996.
		- In order to make an application, there needs to be a specific association between the Respondent and the Applicant (s.62(3) FLA, 1996). Most categories of association are self-explanatory such as: married or used to be married, cohabiting or used to cohabit, have a child together or are relatives. However, association also includes those who have lived together, such as flatmates (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’ i.e. former boyfriend or girlfriend.
		- There is no definition of ‘molestation’ within the Family Law Act, however, 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.
		- Domestic Abuse can include: verbal abuse, psychological abuse, physical abuse, sexual abuse, financial abuse, emotional abuse. This includes coercive and controlling behaviour.
		- When there is an application for a Non-Molestation Order, the Court requires evidence of the abuse. This is contained within your witness statement (at the start of the proceedings). The Court will only grant an order if they are satisfied that you need the protection of the Court, i.e. judicial intervention is necessary to protect you.
		- An application for a non-molestation order can be made either ‘on notice’ to the Respondent (when the Respondent is given notice of the first hearing and invited to attend) or ‘without notice’, which is an application made on an emergency basis and without the knowledge of the Respondent.
* In order for an order to be granted ‘without notice’, there generally has to be a recent incident of violence or a recent incident of abuse after previous violence. That recent incident should be within the last 7 days. However, the Court generally be more lenient regarding that time frame when someone is not legally represented.
* In deciding whether to grant an order ‘without notice’, the Court will have regard to the circumstances, including whether there is any risk of significant harm to an Applicant or child, by the conduct of the Respondent, if an order is not made immediately OR whether it is likely the Applicant will be deterred or prevented from pursuing the application if an order is not made immediately.
* If the Court takes the view, at an emergency hearing ‘without notice’, that too much time has passed between the most recent incident of violence and/or abuse and the application being made, the Court might decline to make an order ‘without notice’ and fix a date for a hearing ‘on notice’.
* Many Courts take the view that where the abuse involves coercive and controlling behaviour and/or emotional abuse rather than actual violence, then an application must be made ‘on notice’.
	+ - Generally, a Non-Molestation Order will protect the applicant from:
			* + Violence or threats of violence;
				+ Being harassed, intimidated or pestered;
				+ Communication (except for a particular express purpose such as arranging child contact or in respect of sale of a property);
				+ Any instruction or encouragement of a 3rd party to do anything prohibited by the order;
				+ An order can also, in certain circumstances, prevent a Respondent from coming within a certain distance of property such as a home or work address;
				+ Children can be covered in an order, however, a Court will normal only include a child if they have been subjected to violence or the threat of violence by the Respondent.
		- A Non-Molestation Order is generally made for a specific period of time (generally 6 – 12 months). A Court does have the power to make a non-molestation order ‘until further order’, which means until discharged by the Court. However, orders of an extended length over 12 months or for an indefinite period are only made in exceptional circumstances when there has been persistent and prolonged violence or serious abuse over a lengthy period or extremely serious violence over an extended period of time.
		- Breach of a Non-Molestation Order is a criminal offence and, is punishable as follows:
			* + 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 6 months (or 12 months in certain circumstances), or a fine* not exceeding the statutory maximum, *or both.*

***PLEASE NOTE THAT THE GRANT OF ANY ORDER IS THE DECISION OF THE COURT AND IS SUBJECT TO JUDICIAL DISCRETION. THE COURT MAY OR MAY NOT GRANT AN ORDER WITHOUT NOTICE FOR EXAMPLE OR DISMISS AN APPLICATION IF THE JUDGE IS OF THE VIEW THAT THERE IS INSUFFICIENT EVIDENCE TO JUSTIFY AN ORDER BEING MADE.***