

# Your guide to Getting an injunction

## Domestic Violence issues

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### Getting advice

If you find yourself the victim of domestic violence, you need to obtain legal advice in order to protect your position. At RLE Law we are there to guide you through the process, explain the various options open to you in order to make the best future for you and for your children.

### What we will need to know

To get a thorough understanding of your circumstances, we will ask you for a variety of information. This could include:

- Details of the history of your relationship
- Whether the Police and Social Services have been involved and whether they have taken any action
- The names and ages of the children who are part of the family and where they are now living
- Details of any ongoing problems, such as substance abuse, mental health issues or physical illnesses
- Whether you have previously spoken to a solicitor about your problems and whether any action has been taken
- If you are in refuge accommodation, why you had to leave your home
- Your income and asset details

This information will help us work out what options are best for you and what options you have for funding your case.

### Injunctions

There are two types of injunction available to you if you have experienced domestic violence.

#### Non Molestation Orders

A Non-molestation Order will prevent a person from threatening, harassing, intimidating or pestering you or instructing or encouraging another person to do so.

Various categories of people can apply for a Non-molestation Order:-

- Spouses or ex-spouses
- Civil partners or ex-civil partners
- Cohabitees or ex-cohabitees
- People living in the same household
- Relatives
- People who have agreed to marry or form of a civil partnership
- People who have had an intimate personal relationship of significant duration
- People who are parties to the same family proceedings

Sometimes these orders can be made for an indefinite period of time or sometimes for a defined period.

#### Occupation Orders

An Occupation Order is an order which excludes a person from a property or a defined area around it, even if they have the legal right to live there. In order to obtain one of these orders, you will have to show that either you or your children have suffered as the result of another person's behaviour.

You do not have to own the property that you live in or even be the tenant in order to apply for an Occupation Order. The property even could be owned or rented in your partner's name. You can even apply for an order against your ex-partner but the Court will take into account the length of time since you ended your relationship. Occupation Orders are not intended to be permanent but will be made for a defined period of time. The Court can also make orders giving you use of the contents of the home or making the other party pay for the repair and maintenance of the property or even the mortgage or rent on the property.

### **Initial letter**

In some cases it is appropriate to start off by sending a warning letter to your former partner indicating that their behaviour is unacceptable and that if there is a repetition of the behaviour, then further action will be taken. Sometimes this is enough to stop the matter from escalating, but if it is not, then a court application may be necessary.

### **Funding for injunctions**

Legal Aid is changing and becoming more difficult to obtain. In the future it may only be possible to obtain legal aid if you can show that there has been domestic violence and that you have a record of a complaint about it to the Police and Social Services. If you are eligible for funding, we can make an emergency application for funding if the circumstances dictate.

### **Your Children**

If you have separated from your Partner, they may not agree over what is to happen to the children so you can apply for orders to protect them.

### **Residence Orders**

These stipulate where a child will live and with whom.

### **Contact Orders**

These regulate the amount of contact that the child will have with the non-resident parent or another person.

### **Parental Responsibility Orders**

Ordinarily mothers and married fathers have parental responsibility. Unmarried fathers have parental responsibility if the child was born after 1 December 2003 and they are named on the Birth Certificate. If none of these criteria apply then it is necessary to apply either for a Parental Responsibility Order or sign a Parental Responsibility Agreement.

### **Specific Issue Orders**

These enable a Court to make a decision on a specific point concerning a child, for example whether to allow the child to undergo medical treatment or to approve a change of name.

### **Prohibited Steps Orders**

Prevent any person from doing something without the Court's consent. They are commonly used to prevent someone removing a child from the jurisdiction or to prevent a child's contact with a third party.

### **Social Services Involvement**

If Social Services have become involved with your family as the result of domestic violence issues, you may require specialist advice. At RLE Law we have a dedicated Childcare Department who will be able to assist you with these issues.

### **Banking**

If you and your former partner have a joint bank account, you will need to inform the bank as a matter of urgency that you want the account closed or frozen. This will prevent your former partner from increasing the overdraft or depleting the account of funds. If the rent or mortgage is being paid from this account, you should make sure that there is enough money in the account to cover this expenditure.

### **Utility Bills**

If there are any joint utility bills such as Council Tax, you must let the company or local authority know that you and your partner have separated and transfer the bills into the name of the person who is going to be staying at the property.

### **Joint loans**

If you and your former Partner have taken out any joint loans, you will both continue to be liable for the debt, even after you have separated and if you have left the matrimonial home. Therefore you are both responsible for ensuring that the debt continues to be paid.