



BOOKERS & BOLTON
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Domestic Abuse Client Guide

April 2016



What is domestic abuse?

Domestic abuse includes all kinds of physical, sexual and emotional abuse between people who are or have been in a relationship with each other. Some types of abuse are directly physical and may include:

- Assault
- Rape
- Damaging property

Some types of abuse are not physical such as:

- Threats
- Criticism
- Isolation and oppressive behaviour
- Harassment
- Checking social media, email or other electronic communication
- Other abusive behaviour

What can the law do?

Some forms of domestic abuse are criminal offences that can and probably should be reported to the police.

In addition, the law enables those subject to domestic abuse to apply for injunctions to protect themselves. These orders are called non-molestation orders and occupation orders.

Non-Molestation Orders

A non-molestation order is used to stop someone (called "the respondent") from:

- Using or threatening violence to another person (called "the applicant")
- Using or threatening violence to a child
- Molesting a person in any way

Molesting can include:

- Intimidation
- Pestering
- Persistent abusive text messages or phone calls
- Threats
- Harassment

Molesting can also include pushing, punching, slapping, hair pulling, throwing objects and spitting.

A non-molestation order can also be used to keep a person away from a particular place such as the area around a home or a workplace.

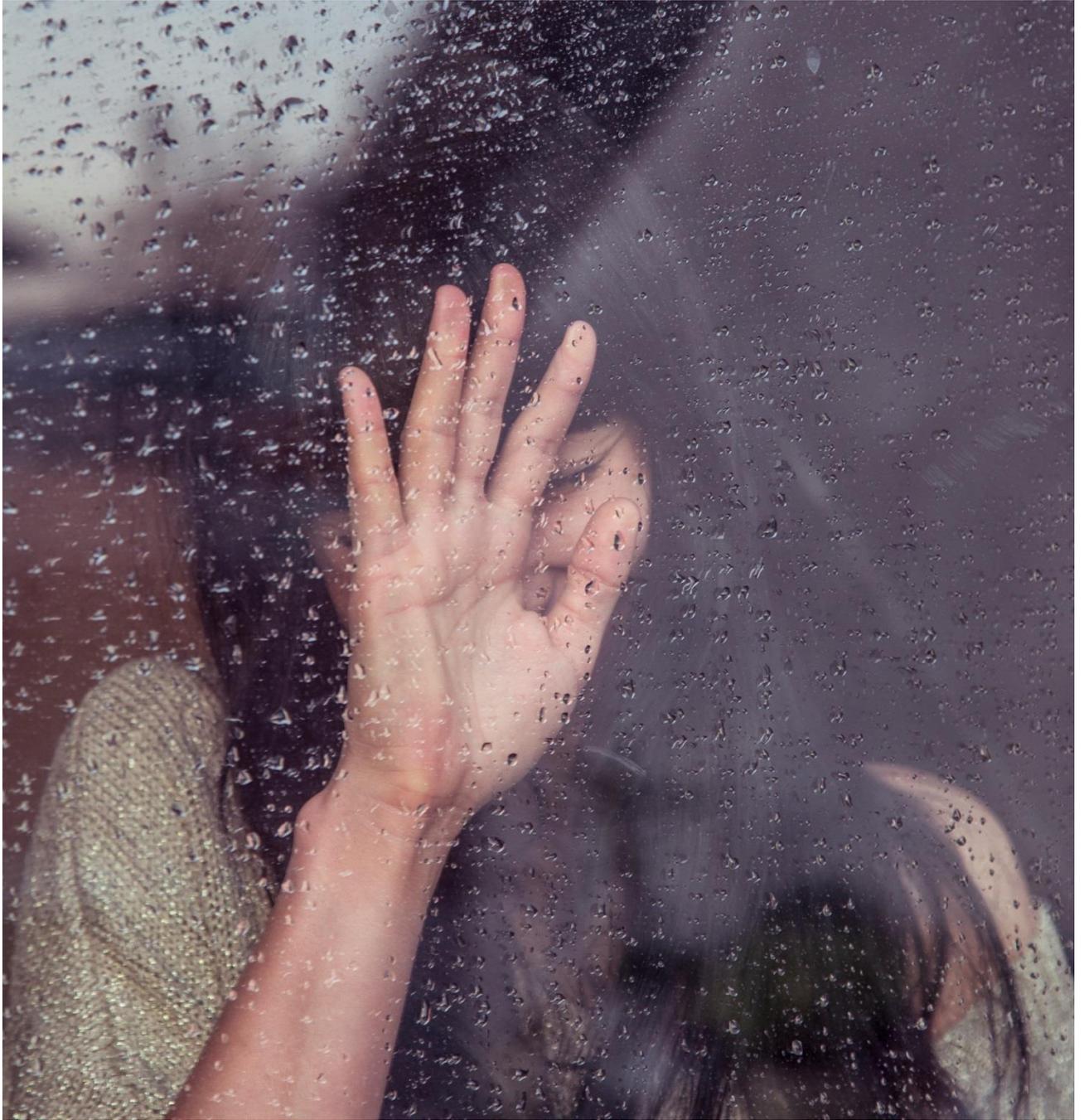
For an application to be successful there must be evidence:

- Of the behaviour complained of
- That the applicant or a child are in need of protection
- That an order is needed to control the behaviour of the respondent

An order only becomes effective when it has been served on the respondent.

Typically, a non-molestation order is made for six to twelve months but it is possible to apply for further orders.

Breaching a non-molestation order is a criminal offence punishable with up to five years imprisonment or as a contempt of court.



Photograph by Milada Vigerova

Occupation Orders

An occupation order determines who will live at the family home. An occupation order can sometimes be used to exclude someone completely from a property or can set out rules to enable a property to be shared.

Granting an order depends on the relationship of the parties and their rights to occupy the property in question.

For an application to be successful the so-called "balance of harm" test must be applied. Essentially the judge will consider whether the applicant or any child is likely to suffer significant harm due to the conduct of the respondent if the occupation order is not made. The test includes the need to consider whether making an occupation order will cause greater harm to be suffered by the respondent and any child.

If the judge does not find sufficient reason under the balance of harm test, an application might still be brought. In deciding whether or not to make an occupation order the court will consider all the circumstances of the case, including the:

- Housing needs of the parties.
- Financial resources of the parties.
- Likely effect of any decision by the court not to exercise its powers on the health, safety or wellbeing of the applicant and any child.
- Conduct of the parties to each other.

Occupation orders are intended to determine temporary living arrangements to give the applicant and respondent time to organise where they will live and how they will divide their property.

An occupation order can be made for a period of up to six months but it is possible to apply for further orders.

Emergency Orders

Sometimes it is thought safer for an order to be made swiftly and without the other person being aware of the application. These are known as "without notice" or "ex parte" orders. The court will always arrange a further hearing so that both parties can have their say once the immediate urgency is taken out of the situation and the vulnerable person or people protected.

Who can apply for these orders?

Non-molestation and occupation orders are only available to certain categories of people known as "associated persons". These are people between whom there is or has been a relationship. The relationship does not necessarily need to have been intimate and includes:

- Relatives.
- Friends.
- People living in the same household.

Our Team

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WHO ARE WE?

We have been in our current offices at **6 High Street** in Alton since 1956 and the history of Bookers & Bolton dates back to 1893 so you can rely on us to be there for you and your family in the future. There is a security in our history and we act for many clients whose grandparents were advised by us. We have built a reputation for quality and reliability in Hampshire and the South and we are committed to maintaining and building on that reputation. Whilst other firms come and go and may offer the promise of low cost legal services, we remain committed to providing you with the best. We recognise that you only come to us when faced with the most important decisions in life and we treat you, and those issues, with the respect and legal diligence that they call for.

HOW CAN WE HELP?

Our Family Team are here to help and advise you on all of your family matters. We ensure that you get the right advice, that there is always someone to talk to and that you know what is going to happen every step of the way.

CONTACT US

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Please ask about our other services. If you are selling your family home or haven't yet made a will, we are here to help.

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