# Legal options

If there has been any abuse within a relationship and the victim does not wish to take criminal proceedings then they may be able to get an injunction through the civil courts.

Any one of the following constitutes a relationship:

1. are or were married or in a civil partnership
2. are or were engaged to be married or had agreed to form a civil partnership
3. are or were living together (this includes same-sex and opposite-sex couples)
4. live or have lived in the same household (but not as a tenant, or lodger)
5. are or were in an intimate personal relationship.

An injunction is a “stay away” order, which prevents the abuser from doing certain things (e.g. contacting the victim) or compels them do things (e.g. to leave the home). It is best to apply as soon as possible after an abusive incident and can help the victim's case if they are able to get medical evidence from their doctor. It may also help in supporting the victim's case to get any other people's evidence such as school/health visitors/neighbours/family/friends.

It is possible for a court to make a number of orders where domestic abuse has occurred and the victim needs to be protected. The two most common types of injunctions used in domestic abuse cases are:

1. Non Molestation Orders - this type of order will prevent the abuser from harassing, intimidating or pestering the victim or any children who live with the victim. The abuser does not have to have been physically abusive in order to obtain this type of order. If an order is breached a criminal offence will have been committed.
2. Occupation Orders - this type of order will establish who has a right to stay in the home. An occupation order can order an abuser to move out of the home or to keep a certain distance from the home. In order to apply for this type of order, the victim will need to know if they or the abuser (or both) are legally entitled to occupy the property.
3. Domestic Violence Protection Notices/Orders (DVPNs and DVPOs)

**Urgent applications for orders**

It may be possible to make an application to the court immediately without informing the abuser if the victim is able to persuade the court they or their children are at risk of significant harm. This type of application is called an "ex parte" or "Without Notice" application and means that the court can consider the application without the abuser being in court.  The papers will hopefully be quickly and as soon as they are served on the alleged abuser, it is then "live" and can be enforced by the police if necessary.

If this type of order is granted, the court will still need to hear from both parties and a date for a full hearing will be set. The victim will have to attend this hearing and they may have to give evidence.

**Undertakings**

If the abuser denies the allegations, the court may hold a trial with both parties giving evidence and being cross examined. An alternative is an undertaking, in which the person does not admit past behaviour but promises the court not to be violent, molest, harass or intimidate in the future. An undertaking is simply a promise and cannot be enforced by police. An undertaking avoids a trial but cannot have a power of arrest attached to it.

**How can a victim of domestic abuse get an injunction?**

Injunctions are issued by civil courts (the High Court, some county courts and the Family Proceedings Court, which is part of the Magistrates Court). Solicitors deal with most applications for injunctions. If the victim is in receipt of certain benefits or on a low income they may be able to apply for Community Legal Service Funding (which has replaced "Legal Aid") to cover some or all of the cost of obtaining the injunction. If the victim is not in receipt of benefits, the cost of obtaining an injunction is likely to be in the region of £1,500 - £2,500.

If the victim is not eligible for Community Legal Service Funding there is still help available if they do not have access to any money. Some solicitors will allow the victim to pay fees at a later date or in installments or in some cases may offer their services for free.

* The victim is also able to apply for an injunction without using a solicitor.
* Rights of Women produce a "Domestic Violence Injunction Handbook" giving step-by-step advice on filling in the necessary forms and also have a free legal advice line (tel: 020 7251 6577).
* Local domestic abuse outreach workers will be happy to offer help in completing the forms and can support the victim through the application process.
* National Centre for Domestic Violence (NCDV) is a national organisation which provides a free, fast injunction service to survivors of domestic abuse. They can be accessed via their helpline 0844 8044 999 or visit their website [www.ncdv.org.uk](http://www.ncdv.org.uk/) by working closely with local solicitors.

**Will the victim have to attend court?**

In order to obtain an injunction, the victim will have to attend court and so will the abuser (unless the victim is applying for an ex parte order (see the section 'Urgent applications for orders' above). The victim's solicitor should protect the victim from unfair or unnecessary questioning and can speak on their behalf. The victim can take family members, friends or an outreach worker to support them, although these people will probably have to wait outside the courtroom whilst the application is being heard. The victim will have to attend one or possibly more court hearings before the injunction is granted.

**How long will an injunction last?**

The court will normally make orders for a specified length of time (e.g. a non molestation order will normally last for six months). The order will not provide a long-term solution to the victim's problems, but should give them time to seek more permanent solutions.

**What happens if an abuser breaches the conditions of the order?**

If the abuser ignores the terms of an injunction and continues to behave abusively, the victim can use the order to protect themselves by calling the police. The victim should tell the police that they have an injunction and have a copy to show the police officers who attend. It is a criminal offence to breach a Non Molestation Order. The criminal courts can then impose fines and in some cases, can imprison a person who is in breach of these conditions. It is also important to remember that the victim should take care not to breach the conditions (e.g. by speaking to the abuser if they have been ordered not to contact the victim).

**Where can the victim get more information?**

Legal issues are by their nature complex and advice should be sought.

* To see if you can access Civil Legal Advice [CLICK HERE](https://www.gov.uk/check-if-civil-legal-advice-can-help-you) or call 0345 345 345
* Further free information about injunctions can be obtained from the local domestic abuse outreach workers
* Citizen's Advice Bureau (CAB)
* Rights of Women Legal Advice Line (tel: 0207 251 6577)
* From local solicitors offering Civil Legal Advice.

**National Centre for Domestic Violence**

The National Centre for Domestic Violence (NCDV) specialises in helping victims of domestic abuse obtain injunctions from court to protect them from further abuse. Meeting with solicitors and proceeding through the court system can be a daunting prospect for anybody, but the NCDV aims to make the whole experience fast, friendly and worthwhile. Their free service is available to everybody regardless of age, race, religion, gender or sexual orientation. For more details follow the link in the left-hand menu bar.

**Emergency telephone:** 08009 70 20 70
**Text:** NCDV to 6077
**Non emergency telephone:** 08709 22 07 04
**Website:** [http://www.ncdv.org.uk](http://www.ncdv.org.uk/)

**Domestic Violence Protection Notices & Orders**

Where there is not enough evidence to charge an alleged perpetrator and provide protection to victims via bail conditions, but the police have reasonable grounds for believing that a perpetrator has used or threatened violence towards the victim and the victim is at risk of future violent behaviour, they can issue a Domestic Violence Protection Notice on the spot, provided they have the authorisation of an officer at Superintendent rank.

Then the magistrates’ court must then hear the case for the Protection Order itself within 48 hours of the Notice being made. If granted, the Order may last between a minimum of 14 days and a maximum of 28 days.

**Domestic Violence Protection Notices (DVPN)**

A Domestic Violence Protection Notice (DVPN) is a notice served by the police against a person who is aged over 18, where the **police reasonably believe that he or she has been violent or has threatened violence against you** and that you need to be protected from him or her. The law allows the police to serve a DVPN on this person even if you do not agree to it.

A DVPN places certain conditions on the person which may include:

• stopping him/her from entering, and being within a certain distance, of your home

• stopping him/her from making you leave or excluding you from your home

• requiring him/her to leave your home.

**Domestic Violence Protection Orders (DVPO)**

A Domestic Violence Protection Order (DVPO) is an order applied for by the police and made by the Magistrates’ Court.

If an order is made it will last for a minimum of 14 days and a maximum of 28 days. The Order may:

• stop him/her from entering, and being within a certain distance, of your home

• stop him/her from making you leave or exclude you from your home

• require him/her to leave your home.

The Magistrates’ Court will hear an application for a DVPO within 48 hours (excluding Sundays and Bank Holidays) of the person being served with a DVPN by the police.

If he or she does not attend the Magistrates’ Court, then a DVPO can be made in his or her absence.

The law allows the Magistrates to make a DVPO against the person even if you do not agree to it.

In addition, the Magistrates will take into account the welfare of anyone under 18 who the police consider will be affected by the DVPO.

**Restraining order imposed by Criminal Court**

In addition to the orders above, it is possible for a Restraining Order to be made on conviction or acquittal from any criminal offence, i.e. a restraining order may be made even if no evidence is offered or the defendant is found not guilty.  These orders are intended to be preventative and protective – not punitive.  The guiding principal is that there must be a need for the order to protect a person or persons.

Restraining orders can provide the same protection as injunctions under the civil law but may be more effective as they carry stronger penalties.

Restraining orders can only be made in respective of the Defendant (not the victim or any witness), even if in the course of a trial evidence indicates that the behaviour of both the defendant and the victim required addressing.

Orders may be made for a specified period or until further order. It is possible for the prosecutor, defendant or any other person mentioned in the order to apply to the original court for the order to be varied or discharged.  Breach of a Restraining Order is itself a criminal offence.