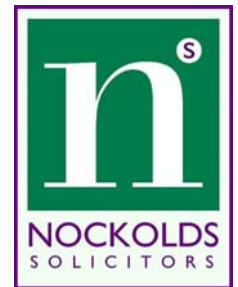


INJUNCTION

Information Sheet



Non-Molestation Order

This is the most common form of order sought to restrain violence. The precise effect of the order when granted is dependent upon the particular wording. This can vary. However, the general effect is to prevent violence, threats, harassment and pestering by the other party.

Occupation Order

This order requires the other party to leave a stated property and to stay away.

The Courts regard it as a serious matter to exclude a person from their home. Therefore, occupation orders are granted sparingly.

Proceedings

An application is made under Part IV Family Law Act 1996 or, in some cases, an order for protection from harassment can be made under the Protection from Harassment Act 1997.

Without Notice and On Notice

Where there is evidence of a real and immediate danger of serious injury to the applicant, an order can be obtained without any notice having to be given to the other party.

However, the order will only be made for a short period of time, such as a week, to give opportunity for notice of the application to be served on the other party. It is a fundamental legal principle that anyone facing allegations of any kind should have the opportunity to give their version of events. There will then be a hearing 'on notice' when the other party can attend and give evidence.

Power of Arrest

If the Court is satisfied upon evidence of the validity of the application, an order will be made.

A power of arrest shall be attached where there has been the use or threat of violence against the Applicant or a child unless the Court is satisfied that in all the circumstances of the case the Applicant or child will be adequately protected.

Undertaking

Frequently, the other party will offer to enter into an undertaking with the Court not to use violence molest, etc. This is instead of an order. Once given, the undertaking has the same force as an order so that any breach of it is a contempt of court.

Breaches

If an injunction order or undertaking is breached, an application can be made to the Court to commit the other party to prison.

If satisfied about the evidence, the Court can make a suspended sentence order or, in a serious case, an immediate committal to prison.

Where a power of arrest has been attached to the order, a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of the order.

Duration

The order will last for the period of time stated. This is usually to 6 months.

If there are continuing difficulties as the duration of the order nears expiry, application can be made for an extension.