

Domestic Abuse Civil Orders Resource Pack

This pack is aimed at those who are affected by domestic abuse, who are looking for protective order information.

LINCOLNSHIRE
**DOMESTIC
ABUSE**
PARTNERSHIP

Lincolnshire
COUNTY COUNCIL
Working for a better future

Protective Orders

There are a number of protective orders available for people seeking protection from domestic abuse. The main protective injunctions available are as follows:

[Non-Molestation Order](#)

[Occupation Order](#)

[Restraining Orders](#)

[Prohibitive Steps Order](#)

[Domestic Violence Protection Order](#)

[Emergency Protection Order](#)

[Forced Marriage Protection Order](#)

[Female Genital Mutilation Protection Order](#)

[Stalking Protection Orders](#)

This resource has been produced with the support of the Family Courts website.

Where you see  family courts click for more useful resources.

Please watch this short video produced by National Centre for Domestic Violence, it reminds us why protective orders and injunctions are important and can help protect someone being abused.



Warning: content could cause distress. Portrayed by actors

Non-Molestation Orders

A civil court order preventing someone from contacting or coming near the person being abused.

When somebody needs immediate protection from an abuser, they can make an application for a court order called a non-molestation order. A non-molestation order is an injunction that tells the abuser things they must not do. If they ignore the order and do one of the things that are prohibited (not allowed) it is a criminal offence and the police can arrest them, if a power of arrest has been attached to the order.

**A breach is a criminal offence.
If it is breached, they could face up to 5 years
imprisonment, dependent on the type of breach.**

An order will prevent the abuser from:

- Being violent or threatening violence towards the person being abused and any children
- Communicating with the person being abused or any children (except perhaps through lawyers or a specific method)
- Harassing or stalking the person being abused or any children by going to certain places (i.e – home, workplace or school).

[Information Sheet](#)

Occupation order

A civil order that will say who can live in the family home or enter the surrounding area.

They can be made if you own the property or if you are a single or joint tenant.

The order can even be made when the home is owned by an abuser, but only for a short period.

Powers of Arrest **should** be attached to the order, which means that the Police can arrest someone who does not comply with the order.

If they breach the order, the person who has breached the order can be brought back to court for the Judge to decide what happens next.

If it is breached, they could face up to 2 years imprisonment and or a fine, dependent on the type of breach.

Restraining Order

A restraining order is a type of criminal court order, granted by a judge, where there is a continuing risk to the person who is experiencing domestic abuse, harassment, stalking or sexual assault. These orders can be issued at the **end of a criminal case, at sentencing, whether convicted or acquitted.**

An order must be made against a known and named person such as:

- A specific abusive individual that the person suffering domestic abuse has had a relationship with
- A particular family member
- Somebody the person suffering domestic abuse has lived with or are living with
- A restraining order cannot be made against an anonymous person, such as an unidentified individual making harassing phone calls.

The actions that a restraining order prohibits will depend entirely on the allegations or offences caused by the abuser.

However, an order can include examples such as:

Not being allowed direct or indirect contact with the person being abused

Being prohibited access to a property or premises

Staying a certain distance away from a person or place

If it is breached, they could face up to 5 years imprisonment, a fine or both.

Prohibitive Steps Orders

Prohibitive Steps is a civil order to prevent a parent from taking any children away.

If both parents have parental responsibility, then either parent can spend time with the child and the Police can not intervene unless there are serious safeguarding concerns for the child or a court order.

If you are concerned that the abuser, who has parental responsibility, may try to remove a child from your care you can apply to court for an urgent Prohibited Steps Order. This will prevent them from removing a child from the care of the other parent and/or from England & Wales.

If you think that a child is just about to be abducted, you should contact the Police who may be able to set up a Port Alert. This should prevent a child from being taken out of the country.

These orders can help to protect children who are at risk of [Female Genital Mutilation](#); [Forced Marriage or Honour Based Abuse](#).

Domestic Violence Protection Orders (DVPO)

An order applied for by the Police to stop an abuser from contacting or coming near the person being abused.

Domestic Violence Protection Orders (DVPOs) can provide immediate protection for the person being abused if the Police have been involved because of domestic abuse.

They are a civil order and can be applied for by the Police and granted by a magistrate or judge in court.

They last for a minimum of 14 days and a maximum of 28 days, of which the length cannot be extended, however, you can apply for them more than once should there be future incidents.

The DVPO does NOT have to be physically served on the abuser to be in place, it can be made in their absence and is in place as soon as it is made.

The Police may ask the court for an order, even if the victim of domestic abuse does not want the order to be put in place. This is to try and provide the survivor with a window of opportunity to get some support to help keep them safe from violence and abuse.

If it is breached, they could face a fine of £50 per day of breaching and up to 2 months committal into custody.

Emergency Protection Orders (EPO)

An order to protect a child from immediate harm.

An emergency protection order (EPO) is an order issued with the objective of protecting a child (or children) from physical, mental or emotional harm and occurs where emergency action is needed.

An order can be applied for by anyone including a parent who believes a child to be at risk of imminent harm.

There must be either an ongoing or imminent risk of this harm.

Forced Marriage Protection Order [FMPO]

A forced marriage protection order can help if someone is:

- being forced into marriage
- already in a forced marriage

A forced marriage protection order **can either be obtained as a criminal or civil order, however, you can only pursue one route. The Order** is unique to each case and contains legally binding conditions and directions that change the behaviour of a person or persons trying to force someone into marriage. The aim of the order is to protect the person who has been, or is being, forced into marriage.

The court can make an order in an emergency so that protection is in place straightaway.

If it is breached as a criminal order, they could face up to 5 years & 6 months imprisonment, dependent on the type of breach. If breached as a civil order, they could face up to 2 years imprisonment.

For more information go to



Female Genital Mutilation Protection Order (FGMPO)

A FGM protection order can be applied for as either a civil or criminal order, if you or someone you know is at risk of female genital mutilation (FGM). This will help to keep the person safe, can include requirements to surrender passports from the person arranging the genital mutilation.

If it is breached as a civil offence it is treated as contempt and they can face up to 2 years imprisonment, if breached as a criminal offence it is prosecuted by the CPS and they could face 5 years & 6 months imprisonment and or a fine.

For more information go to




Stalking Protection Orders (SPO)

A Stalking Protection Order can **ONLY** be applied for by the police via an application to the Magistrates Court, to protect a person being stalked.

The order can prohibit the perpetrator, entering certain locations or defined areas where the person being stalked resides or frequently visits; contacting the person being stalked by any means, including via telephone, post, email, text message or social media; or contacting through a third party.

The order can also require the defendant to sign-on with the Police (name and address) within 3 days of any change from when the order is granted and throughout its lifetime. Further to this, positive requirements can be included, e.g., the defendant has to attend courses/classes such as substance rehabilitation and Stalking Awareness.

If it is breached, they could face up to 5 years & 6 months imprisonment, a fine or both.

For more information click here  suzy lamplugh trust

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Always remember:

Clare's Law (Domestic Violence Disclosure Scheme) (DVDS) can be used for anyone who wants to find out if someone they are in a relationship with has a record of abusive offences or suggests a risk of violence and abuse.

Sarah's Law (Child's Sex Offender Disclosure Scheme) can be used by anyone who is worried about someone's behaviour towards a child, not just the child's parents it can include grandparents, neighbours or friends.

In both these situations contact the police on the links above

Obtaining Civil Orders

Orders are applied for by the person being abused, either via the Police or a Court.

To obtain a civil order follow the below steps;

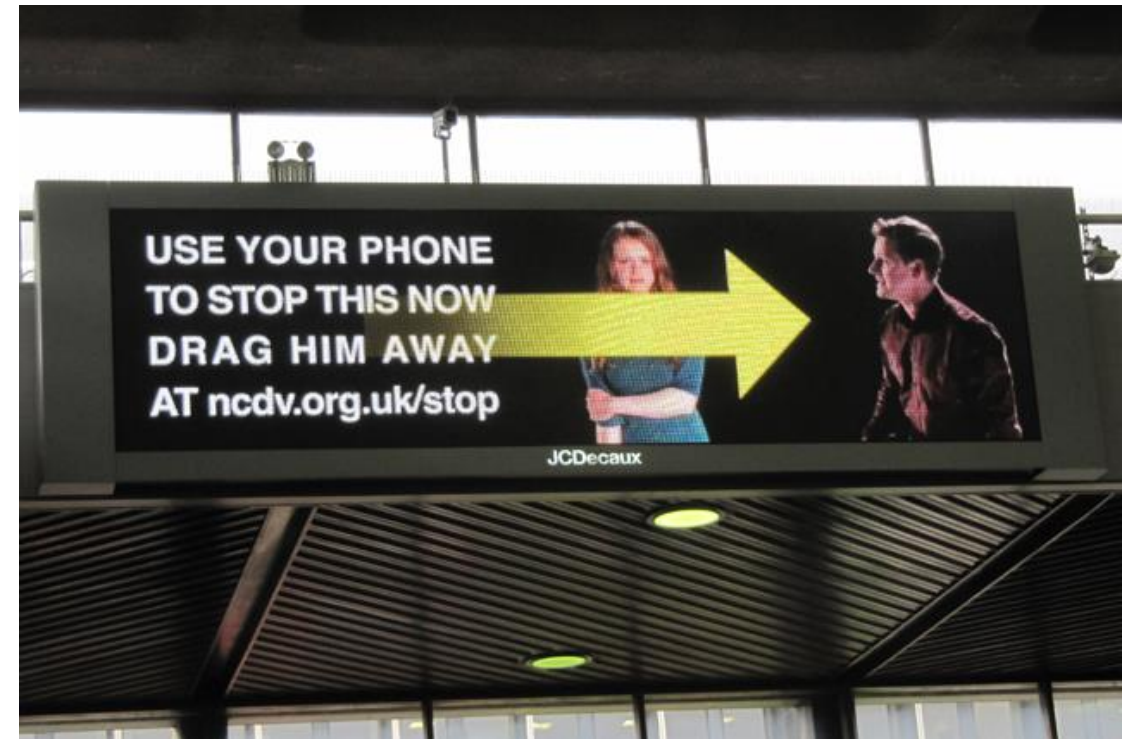
- Seek a local solicitor firm who has a family law department [Find a Solicitor](#)
- Arrange with them an appointment to discuss what orders you would like, most of which allow a free 30-minute initial meeting
- They will also help assess if [Legal Aid](#) is achievable, this is done by:
 - [The Means Test](#) – assesses if you are financially eligible for legal aid. Here you provide evidence of all of your income (such as wages and benefits) and any capital (such as savings, properties and shares)
 - The Merit Test – assesses the strengths and weaknesses of your case for example; the chances of the request of a civil order succeeding; whether the likely legal costs for requesting a civil order are proportionate compared to the cost benefit you may gain

If you or your client is not entitled to legal aid and can't afford a solicitor, there are still options to aid gaining civil orders – see next page.

National Centre for Domestic Violence [NCDV] Finding Legal Options for Women Survivors [FLOWS]

NCDV and FLOWS offer advice and guidance on civil orders, without the need for a solicitor, either free or at a minimal cost, for those who are unable to gain legal aid.

There is also the option of a DIY Non-Molestation and / or Occupational order, all the information on how you or your client can apply is on this [Government website](#).



NCDV 'Drag Him Away' Campaign

Breaches of an order

- The Police are given a copy of the order by the court, which is then placed on the Police National Computer [PNC], because they cannot make an arrest without being sure that an order is in place. The person being abused can also have a copy of the order to be able to show the Police there is an order in place.
- Once the abuser has been served the order, it then becomes an arrestable offence if they breach it. The Police need evidence that there has been a breach of the order to be able to get a criminal conviction.
- If the abuser breaches the court order against them, the Police must be informed. REMEMBER tell the Police that there is an order in place. They may need to see a copy of the order to make an arrest.

Breaches of an order continued.....

- **Always** inform the police if an order is breached
 - Even if the order has not been served yet, the incident can be reported as an offence in its own right, as well as giving evidence of a pattern of behaviour
- **Make** sure you have a copy of the order and ensure that any other relevant parties named in the order are made aware of the content and given a copy; i.e. the school, place of work
- **Keep** a record of any breaches, where safe to do so, with a clear account of the breach
- **Gather** all evidence, including phone calls, text messages, photos and videos etc, where safe to do so

As a professional - Remember if you become aware of any breaches or offending behaviour you have a safeguarding duty to report this on behalf of the person being abused if they are in fear of doing this themselves.

Make sure that your records of any incidents you have been made aware of are up to date and concise, as these can be used as evidence to support a breach

List of Resources & Support:

- [LDASS](#)
- [Find a Solicitor](#)
- [Sentencing - Ancillary Orders | The Crown Prosecution Service \(cps.gov.uk\)](#)
- [Protective orders – Family courts and domestic abuse \(idas.org.uk\)](#)
- [Lincoln Citizens Advice - Citizens Advice Lincoln](#)

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This pack was produced in partnership with:

- Ringrose Law
- Sills & Betteridge
- Family Court

