

## INJUNCTIONS

The person applying for an Injunction Order is known as the Applicant. The other party is known as the Respondent.

### WHAT IS AN INJUNCTION?

An Injunction is a Court Order which forbids a named person (known as the Respondent) from doing certain things or which requires them to do certain things. A typical injunction order can forbid the Respondent from:

- Using or threatening violence
- Intimidating, harassing or pestering
- Entering or attempting to enter a named address

An injunction can also require the Respondent to leave the family home.

### WHO CAN GET AN INJUNCTION?

An injunction can be obtained against an "associated person". This category of people includes:

- Spouses or ex-spouses
- Cohabitants or ex-cohabitants
- People who have lived in the same household
- Relative
- People who have been engaged
- People who have a child together or share PR for a child
- People involved in the same family proceedings
- People who have had a lengthy, intimate, personal relationship

## TYPES OF INJUNCTION

### Non-Molestation Order

This can forbid the Respondent from using violence or threatening violence against the Applicant or a child or from pestering or harassing the Applicant or a child. The Court will consider all of the circumstances of the case including the need to secure the health safety and well being of the Applicant and any child. If the Applicant can show a genuine need for a protection a non-molestation order will be granted by the Court.

### Occupation Order

This can exclude the Respondent from the family home or the area in which the home is situated. This is more complex than a non-molestation order and we can advise you about this.

### HOW CAN I GET AN INJUNCTION?

It is necessary to make an application to the Court to get an Injunction. This can be done on an emergency basis where necessary.

### Emergencies

It is appropriate to make an application to Court on an emergency basis if:

1. There is a risk of significant harm to the Applicant if the Order is not made immediately.
2. The Applicant could be deterred from going to Court if she had to tell the Respondent first
3. The Respondent may avoid being served with the Court papers.

There will be a second Court hearing usually a week or so later. At the second hearing the Respondent will be invited to attend Court so that he/she has the opportunity of telling the Court his/her story.

### WHEN WILL THE ORDER TAKE EFFECT?

An injunction order will only take effect once the Respondent is aware of its existence.

### WHAT HAPPENS IF THERE IS A BREACH OF THE INJUNCTION ORDER?

If the Respondent was in Court when the Injunction was made or he/she has been served with a copy of the Order then it is a criminal offence to breach the Order. The Respondent may be arrested and charged with a criminal offence. The Police will deal with this and the Crown Prosecution Service will make a decision whether or not to prosecute him/her. He or she may be fined, sent to prison or given a suspended sentence or some level of community punishment. The maximum time a person can be sent to prison for an offence of breaching an Injunction Order is 5 years.

The Respondent will also be in Contempt of Court if he/she breaches the Injunction Order and he/she can be punished by imprisonment and/or a fine in the civil courts.

### HOW LONG DO INJUNCTIONS LAST?

Injunction orders usually last for between three and six months.

### AFTER I HAVE GOT AN INJUNCTION WHAT DO I HAVE TO DO?

Once the Respondent is aware of the Order we will let you know. You will be given a copy of the injunction so you know exactly what it says. If the Respondent behaves in a way which breaches the injunction then you should contact the Police immediately. In addition you should contact us for advice. It is important that you contact us without delay so that we are able to give you the appropriate advice to protect you as well as we would like to.

### WHAT IF I CANNOT APPLY FOR AN INJUNCTION WHILST THE RESPONDENT AND I LIVE TOGETHER – IT IS TOO DANGEROUS

We have a good relationship with a number of organisations who will be able to help you. These include Women's Aid, The Avenues, Safer Families and we can refer them to you. Our Housing department may also be able to help you.

### THE RESPONDENT AND I OWN OUR HOME/SHARE A TENANCY – WHAT WILL HAPPEN AND WHAT SHOULD I DO?

If you intend to separate from the Respondent and you want them to be excluded from the house then the Judge can make an Order but only for a few months. However, this could give us time to help you make practical arrangements about the property. You will

need to think about what you would want to happen to your share of the house if you were to die suddenly. We can help you to "sever the tenancy" of your home and make arrangements to help you to prepare a Will for you so that you could leave your half of the house to someone other than the person in question.

### THE RESPONDENT OWNS OUR HOME/HAS THE TENANCY IN HIS SOLE NAME – WHERE DO I STAND?

Your position will depend on whether or not you were married and all the other circumstances about your relationship. You will not be prevented from getting an injunction just because your partner is the sole owner of your home but an exclusion order would probably only last for several months. It may be possible to register your rights against the property to stop your partner selling it without your knowledge.

### WHAT WILL ALL THIS COST?

We have a contract with the Legal Services Commission and we will assess you for legal aid at our first meeting. Even if you are eligible for legal aid you may have to make a monthly financial contribution. You will need to cooperate with the Legal Services Commission or it can discharge your Legal Aid Certificate, which means that you will no longer get legal aid. Worse still it can revoke your Legal Aid Certificate which means that you are treated as if you never had legal aid at all and you become liable for your legal fees. If you have any questions about legal aid please ask. If your injunction application is part of divorce proceedings then you may need legal aid for longer in order to sort out contact or property. If that happens then the legal aid statutory charge might apply to your case and we will tell you more about this.

### WHAT HAPPENS IF I DECIDE NOT TO GO AHEAD WITH THE INJUNCTION AFTER ALL OR MY PARTNER AND I GET BACK TOGETHER?

The Applicant can stop injunction proceedings or withdraw them at any time. Some clients feel embarrassed when this happens because they think that we will be put out at having done a lot of emergency work apparently for nothing. We promise you that we do not take that attitude and we understand that sometimes people need breathing space in order to get their thoughts together before going back into a relationship. The best thing that you can do is to keep in touch and let us know how you are feeling. The most important thing is that you are safe.

## GETTING URGENT ADVICE

**At David Gray Solicitors we understand that you may find yourself in a situation where you urgently need to speak to a solicitor. This could be because you have suffered or are afraid of violence from a partner or former partner or because your relationship is breaking down and you are worried about any immediate steps that you should take. To deal with these urgent situations, we operate an emergency rota which means that you will always be able to speak to a family solicitor in an emergency situation. We can then help you decide what further steps need to be taken.**

The family department are:

Mary Shaw	Partner
Clare Routledge	Partner
Lesley Monkhouse	Partner
Elsbeth Thomson	Partner
Lucy McGivern	Solicitor
Jane Wilkinson	Solicitor
Helen Holmes	Solicitor
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# David Gray Solicitors



## Injunctions

Justice is not **black**  
or

**white** It's Gray