

Respect

Men's advice line

Non-Molestation Order

This factsheet explains what a non-molestation order is, how it can protect victims of domestic abuse, and how to apply for one.

What is a Non-Molestation Order?

The order is used to prevent threats, harassment, and violence.

The victim applying is the applicant and the accused is the respondent. This order protects the victim and relevant children from being molested by the respondent.

What are examples of molestation?

There is no definition for the word molestation in the Family Law Act 1996.

Examples of behaviours that have been accepted as forms of molestation in previous cases:

- acts/threats of violence.
- searching through a handbag without permission.
- sending nude photographs of an individual to a third party

Who can apply for Non-Molestation Orders?

To apply for a Non-Molestation Order, you must be an Associated Person. Examples of Associated Persons:

- Individuals who are or were cohabiting.
- Those who intend to get married, or were or are married, or civil partners.
- Those who live or have lived in the same house in a familial relationship.
- Those who are related to you (i.e. parents, stepparents, grandparents, former spouse, etc).
- Those who have or have had an intimate relationship for a significant period.

Note: if you are under 16, you will need the court's permission to make the application. This is to confirm to the court that you have sufficient understanding.

What does the Court consider for a Non-Molestation Order?

There is no guarantee that a non-molestation application will be successful. To avoid rejection, the application should be prepared carefully.

The court will consider all the circumstances. This includes securing the health, well-being, and safety of the victim and any relevant children. It is important that you draft your witness statement carefully, and the focus should be on the details and effects of the accused's behavior. For your application to be successful, you must need protection and there must be supporting evidence.

The court will decide on the balance of probabilities as to whether injunctive action is necessary to control the accused's conduct.

What can the Court order for Non-Molestation Orders?

The court can put restrictions on the accused, prohibiting them from certain conduct. This includes forbidding them from using or threatening violence, communicating with the victim or from attending a specific property or area. Normally, they also prohibit the accused from instructing or encouraging third parties from this conduct.

What is the form to apply for a Non-Molestation Order?

The application is made on the [form FL401](#) and if the applicant wants to keep their details confidential they can also fill the [form C8](#).

What are Non-Molestation Order undertakings?

In most cases, this order can be a good deterrent for the accused. However, the court can accept an undertaking (legally binding promise) that the conduct will not occur. This would not normally be accepted in cases where there is high risk of domestic abuse or there have been breaches of previous orders.

How long does the Order last?

These orders last between three months and one year, but they can last for a longer period.

What happens if the Respondent ('Accused') breaches the Non-Molestation order?

The respondent must be aware of the order and be personally served. If the respondent (without a valid defence) breaches the non-molestation order, they are committing a criminal offence.

The applicant can contact the police to ask for help, as the breach is an arrestable offence. The accused can be arrested, charged and punished by the court and the defences for breaches are limited.

The breach is an either-way offence, this means that it can be heard in either the Magistrates' or Crown Court.

If the Respondent is found guilty of breaching a Non-Molestation Order, punishment ranges from a fine to 4 years' custody, with a maximum sentence of 5 years' custody.

Non-Molestation Order – 'Breach' by the Applicant ('Victim')

This may seem peculiar as the order is against the respondent. There can be situations where the applicant contacts the respondent.

It is important that the respondent does not breach the order or coerce the applicant in any way, even when the Applicant makes contact.

The breach of a non-molestation order is a criminal offence so the respondent should seek independent legal advice. They should act in a way that protects them from a criminal record.

This resource has been brought to you by Azhar Hussain (Solicitor-Advocate & Experienced Head of Family Dept) and you can find further information at <http://www.azharhussain.co.uk/legal-blog/>