



BATH FAMILY LAW
LLP

What is a Protective Order?



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If you find yourself in an abusive relationship and are worried about your safety, or the safety of your children, you can apply for an injunction through the family court. You can seek protection from harm with a **Non-Molestation Order**, or to ensure your home is safe from your abuser with an **Occupation Order**, or both.

At Bath Family Law, we will do our utmost to ensure the safety of you and your family, including fast-tracking applications to the court if you require urgent protection. However, if you feel you're in immediate danger your first point of contact should always be the police.

What is a Non-Molestation Order?

A Non-Molestation Order prevents a partner, former partner, or other 'associated person' from causing you or your children harm. This doesn't just mean physical harm (or threats to inflict it) – it can also include harassment, psychological abuse, coercive and controlling behaviour and financial abuse.

These orders have criminal consequences if they are broken. Depending on the seriousness of any reported breach, the person could be fined, have their assets seized or be imprisoned.



How long does it last?

A Non-Molestation Order is usually granted for a period of six to twelve months, although it can last longer depending on your circumstances and the decision of the courts. If you still feel at risk as the end date approaches, you can apply for an extension as long as the original order has not yet expired and there is still a current threat of harm.

What is an Occupation Order?

An Occupation Order grants the person making the application the right to occupy a home free from harm or interruption. It defines who can reside in all (or part of) the home and can also exclude people from coming within a certain distance of it.

You can obtain an Occupation Order to have your abuser removed from your property, even if you still live together. But if you are fearful of the repercussions of placing such an application, our team of legal experts can advise on the additional protective measures available to you.

When determining the need for an Occupation Order, the courts rely on two measures – the Balance of Harm and Core Criteria Tests.



What is the Balance of Harm Test?

This sets out the court's duty to balance the harm caused by placing an Occupation Order against the respondent (accused party), with the current harm of no order being in place for the protection of the applicant (applying party) and any relevant children.

What is the Core Criteria Test?

If the Balance of Harm test fails, the court has a discretionary power to grant an injunction via the Core Criteria Test. This can include, but is not limited to the following considerations:

- The housing needs of each party and any relevant child(ren)
- The financial resources of each party
- The likely effect of any order (or of any decision by the court not to exercise its powers) on the health, safety or well-being of the parties and any relevant child(ren)
- The conduct of the parties in relation to each other and otherwise.



How do I get a Protective Order?

To apply for a Non-Molestation or Occupation Order you need to submit an FL401 application form to the courts, together with supporting evidence and a witness statement. You also need to consider if your application is **urgent** and requires immediate action because of serious risk – in which case it can be made on an **ex parte** basis, or **without notice** to the other party. This helps reassure the applicant that protection is in place against any potentially dangerous reaction from the respondent. Alternatively, a **non-urgent** application can be placed where the other party is notified (**on notice**) to present their side.

If you need support navigating this process, contact one of our legal experts on **01225 941222** or request an urgent self-referral through our website.



The smarter way to separate



Scan the QR code for
more information or
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consultation with one of
our family law experts

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