LEGAL REMEDIES AT A GLANCE



STEPS TO TAKE IF YOU ARE EXPERIENCING DOMESTIC ABUSE IN NORTHERN IRELAND

Belfast Area
Domestic & Sexual Violence
and Abuse Partnership

DOMESTIC VIOLENCE AND ABUSE IS...

'Threatening, controlling, coercive behaviour, violence or abuse (psychological, virtual, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender, gender identity, sexual orientation or any form of disability) by a current or former intimate partner or family member.'

Stopping Domestic and Sexual Violence and Abuse in Northern Ireland Strategy 2016

THE NORTHERN IRELAND COURT SYSTEM



CIVIL COURT

A civil court deals with a wide range of disputes including family matters such as, child arrangements, separation and protection orders where domestic violence is alleged. It is to a civil court that a victim applies for non-molestation and occupation orders.

CRIMINAL COURT

A criminal court deals with criminal offences when it is alleged that someone has broken the law such as in a breach of a non-molestation order, or criminal assaults, coercive control and threats of violence.



STEPS TO TAKE IF YOU ARE EXPERIENCING DOMESTIC ABUSE



CALLING THE POLICE



SEEKING MEDICIAL ASSISTANCE



CONTACTING A SOLICITOR AS SOON AS POSSIBLE



TAKE PHOTOS OF ANY INJURIES

SUPPORT SERVICES

domestic and sexual abuse helpline
0808 802 1414

Women's Aid BELFAST & LISBURN
028 9066 6049

mens advisory project
028 9024 1929

The Rainbow Project
028 9031 9030

WHAT PROTECTION DOES CIVIL LAW OFFER?

THE LEGISLATION

The Family Homes and Domestic Violence (NI) Order 1998 is the legislative framework which allows victims of domestic violence/abuse to apply for protective civil orders.

CIVIL ORDERS

Non-Molestation Order

Is an order that a Judge can grant to stop or prevent a person from abusing, harassing, pestering, using or threatening to use violence against another person in any way.

Occupation Order

Is an order that a Judge can make to declare who has the right to occupy a property. An occupation order may be used as a complementary order to the non-molestation order or as a stand alone order.



EMERGENCY ORDER (EX-PARTE ORDERS)

Both a non-molestation order and an occupation order can be made by an ex-parte application without notice to the alleged perpetrator.

If there has been a recent incident (usually within seven days) of abuse a victim can make an emergency application to the court for either a non- molestation order or an occupation order or both.

WHO CAN APPLY FOR ORDERS?

In general, a victim can apply for an order against someone who is a family member or has lived with them in a familial or intimate partner relationship.

WHAT DOES IT COST?

Everyone applying for a non molestation order and or a non molestation order combined with an occupation order is eligible for legal aid. A financial assessment for legal aid is carried out by the Solicitor.

WHAT PROTECTION DOES CRIMINAL LAW OFFER?

THE LEGISLATION

The Domestic Abuse & Civil Proceedings Act (Northern Ireland) 2021 includes the Domestic Abuse Offence.

DOMESTIC ABUSE OFFENCE

An offence has been committed if someone engages in a course of behaviour (at least 2 occasions) that is abusive to another person, who they have a personal connection with.

The course of behaviour is likely to cause physical or psychological harm and was committed either intentionally or with a recklessness as to whether harm is caused or not. Psychological harm includes fear, alarm & distress.

PERSONAL CONNECTION

Is defined as two people who have been or currently are:

- Married or in a civil partnership.
- Currently live or have lived together as If they were spouses.
- In an intimate personal relationship.
- Members of the same family.

BEHAVIOUR THAT IS CONSIDERED ABUSIVE

Abusive behaviour includes violent (both physical and sexual) or threatening behaviour.

Abusive behaviour includes actions that intend to make someone or their child -

- Dependent or subordinate.
- Feel isolated from family/friends.
- Feel that their day to day life is controlled.
- Deprived of their freedom.
- Feel frightened, degraded or humiliated.

CHILD AGGRAVATOR

This applies if the victim was under 18 at the time of the offence. It also applies if a child saw, heard or was present during the offence.

NON - FATAL STRANGULATION

Non-fatal strangulation has been made a specific offence in Northern Ireland as part of the Justice (Sexual Offences & Trafficking Victims) Act (NI) 2022.

STALKING & HARASSMENT

THE FOUR MNEMONIC STALKING BEHAVIOURS ARE:

FIXATED
OBSESSIVE
UNWANTED
REPEATED

THE LEGISLATION

Stalking is dealt with under the Protection from Stalking Act (Northern Ireland) 2022 and is now a criminal offence.

STALKING

Stalking covers a range of behaviours. It is a pattern of unwanted, fixated and obsessive behaviour which is repeated, persistent, intrusive and causes fear of violence and distress in victims.

It can be perpetrated by men or women and can happen with or without fear of violence.

STALKING PROTECTION ORDERS

Stalking Protection Orders are provided for within the Protection from Stalking Act (NI) 2022 and work is ongoing to bring them into operation.

These orders will be a key tool for police, enabling them to intervene prior to any conviction and disrupt stalking behaviours before they become entrenched or escalate in severity. They will assist with protecting victims when there is an immediate risk of harm.

RESTRAINING ORDER

An order made by the criminal court that the perpetrator shall not harass, molest or threaten the victim. The court can make this order against the perpetrator after conviction or acquittal of a criminal offence. Breach of a restraining order is a criminal offence.

HARASSMENT

Harassment is unwanted behaviour that has happened more than once and is intended to cause alarm or distress.
Harassment may include:

- Unwanted phone calls letters, emails or visits.
- Malicious or abusive comments and threats.
- Standing outside someone's property or place of work.

THREATENING AND ABUSIVE BEHAVIOUR (TAB)

The Protection from Stalking Act creates a new offence of threatening and abusive behaviour or 'TAB.' The offence of threatening or abusive behaviour is designed to be used in circumstances where there is either a one off incident or a course of behaviour where it cannot be shown that there is substantial distress as an impact for the victim.



OTHER OPTIONS

Apart from the remedies discussed above, there are a number of other options available to victims of domestic violence and abuse including:

CIVIL INJUCTION

A civil injunction is any order requiring a person to take a certain step (a mandatory injunction) or preventing him or her from doing something (a prohibitory injunction).

This option may be used when there are no familial relationships.

UNDERTAKING

An undertaking is a solemn promise from one party to another to do or to stop doing something.

Undertakings given in the magistrates court have no legal basis and cannot be actioned by the police.

How the police can help?

The PSNI treat domestic abuse very seriously and is dealt with by specially trained Officers in the Public Protection Branch.

If a person has been the victim of a domestic abuse crime and has reported it to the police, they can expect the police to investigate the crime. Where the police have power of arrest they will normally arrest the suspect.

BAIL

Bail is the term used when a person charged with a criminal offence is released from police custody until he/she next appears in court or at the police station.

In practice, in order to grant bail the police will require certain security to be given or certain conditions to be met.

BREACH OF BAIL

If the defendant doesn't keep to these conditions, then they have breached their bail which means they can be arrested again and taken before a criminal court. In practice, the defendant is likely to be simply re-bailed.
The court has the power to amend the existing bail conditions or remand the person in custody to await the court hearing.

Bail conditions are only a short term measure and once an investigation has been concluded, they will cease to be in force. Victims should still seek other protective measures available, as previously described.

YOUR RIGHT TO ASK: THE DOMESTIC VIOLENCE & ABUSE DISCLOSURE SCHEME

The scheme aims to keep people safe and alert potential victims of domestic abuse to make an informed choice about whether or not to remain in their relationship.

There are two parts to the scheme:
1) 'Right to Ask' – if someone or a third party (such as a friend or family member) has concerns about their relationship, they can make a request to the PSNI for information on a partner's history of abusive behaviour.

2) 'Power to Tell' – the PSNI can decide to disclose information to a person they believe to be at risk of domestic abuse. Further information can be found at nidirect.gov.uk/see-the-signs.

SUPPORT FOR VICTIMS & WITNESSES

VICTIM INFORMATION SCHEME

There are three Information Schemes in place to assist victims of crime. These are managed by Probation's Victim Information Unit. The purpose of the Unit is to give victims, information about the Criminal Justice System and key stages of the sentence of the person who has offended in a manner which is accessible, understandable and supportive.

PBNI.ORG.UK/VICTIMINFORMATION-SCHEME

ASSIST NI

The advocacy service provides support, information and a single point of contact for victims of domestic and sexual abuse who are engaging in the criminal justice process. Referral to the service can be made by the police, by the Rowan Sexual Assault Referral Centre or as an action from a Multi-Agency Risk Assessment Conference meeting.

ASSISTNI.ORG.UK

VICTIM & WITNESS CARE UNIT

The Victim and Witness Care Unit (VWCU) provides victims with a single point of contact (case officer) from when an investigation or charge file is submitted to the Public Prosecution Service (PPS), through to and including the outcome of any court proceedings.

PPSNI.GOV.UK/VICTIMAND-WITNESS-CARE-UNIT

WOMEN'S AID

Women's Aid groups across Northern Ireland provide confidential support, information and emergency refuge accommodation for women, children and young people affected by domestic abuse.

WOMENSAIDNI.ORG

VICTIM SUPPORT WITNESS SERVICE

Victim Support operates a Witness Service in every Crown, Magistrates and Youth court across NI. Staff and volunteers are trained to provide emotional support and practical information to witnesses, victims and their families. Where children are witnesses, the NSPCC are the lead agency for service provision, in partnership with Victim Support.

VICTIMSUPPORTNI.COM/HELP-FOR-WITNESSES

MEN'S ADVISORY PROJECT

Men's Advisory Project provides specialist counselling services and support to men experiencing abuse In Northern Ireland.

MAPNI.CO.UK

DOMESTIC & SEXUAL ABUSE HELPLINE

The Domestic & Sexual Abuse Helpline, hosted by Nexus on behalf of the Departments of Health, Justice and Communities, is available 24/7 for any individual impacted by domestic or sexual abuse, either directly or indirectly. The helpline provides a range of services including: listening ear/support, emergency accommodation referral, signposting to further support and safety planning.

DSAHELPLINE.ORG

HOW THE SOLICITOR CAN HELP

THE SOLICITOR WILL NEED TO KNOW:

- RELATIONSHIP WITH THE ALLEGED PERPETRATOR
- ANY POLICE OR SOCIAL SERVICES INVOLVEMENT
- IF AN OCCUPATION ORDER IS REQUIRED
- DETAILS ABOUT THE ABUSE THAT TOOK PLACE
- CONTACT WITH GP/HOSPITAL BECAUSE OF ABUSE
- DETAILS OF ANY HISTORICAL INCIDENTS OF ABUSE

What happens at Family Court when applying for a Protective Order?

- You will be met by your solicitor.
- The Solicitor will take you through your statement, ask you to sign it and the Court application (Form F1). These documents are then lodged with the Court.
- You will be asked to come into the Courtroom and the Solicitor will take you through your statement to the Judge.
- The Judge may ask you questions directly.
- The Judge will decide whether or not to issue the Orders.

POSSBILE OUTCOMES IN PROCEEDINGS FOR A PROTECTIVE ORDER

WITHDRAW APPLICATION

You may no longer want or require the protection of an order.

CONSENT TO AN ORDER

The alleged perpetrator may agree to a Full Order being granted for a period of time.

HEARING

Both parties will provide evidence to the Court and the Judge will make a decision on whether to grant a Full Order.

UNDERTAKINGS

The alleged perpetrator may agree to provide a formal undertaking which states that they will not pester, harass or intimidate the victim.

APPEAL

If you are unhappy with the result, there is a right to appeal.

ADDITIONAL SUPPORT OPTIONS

PROHIBITION OF CROSS-EXAMINATION IN PERSON

In family or civil proceedings, the court now has the power to give direction prohibiting a party to the proceedings from cross-examining a witness in person. This can be directed by the judge when particular conditions have been satisfied and when it is deemed to be in the interests of justice.

LEGAL AID WAIVER

There is now a discretionary waiver of the legal aid financial eligibility test for a victim of domestic abuse who needs to respond to Article 8 Children Order proceedings brought by their abuser. More information can be found by visiting justiceni.gov.uk

SPECIAL MEASURES

Special Measures are a series of provisions that help vulnerable and intimidated witnesses give their best evidence in court and aim to relieve some of the stresses associated with giving evidence.

Special measures can include:

- screens
- live links
- giving evidence in private
- the removal of wigs and gowns
- video recorded evidence and aids to communication.

ppsni.gov.uk/special-measures

REMOTE EVIDENCE CENTRES (RECS)

REC's enable vulnerable witnesses to give evidence away from the courthouse, so removing the possibility of encountering the defendant or their supporters.
At present, there are two sites that are operational in NI: one in Craigavon to deal with business from Craigavon Crown Court and one in Belfast to service Laganside courts.



FUTURE LEGISLATIVE CHANGES

DOMESTIC ABUSE PROTECTION NOTICES & ORDERS

Work is ongoing to introduce Domestic Abuse Protection Notices and Orders (DAPNs and DAPOs) to Northern Ireland.

DAPNs would provide immediate short term protection from abusive behaviour, while DAPOs would provide longer term protection to those subjected to abusive behaviour or at risk of this (whether physical or non-physical).

Notices could be brought forward by the police while Orders could be applied for by the police, victims or anyone else with the leave of the court. They could also be made by the Courts as part of proceedings.

Policing & Community Safety Partnership
making Belfast safer

INFORMATION LEAFLET PRINTED WITH FUNDING FROM THE BELFAST PSCP

Belfast Area Domestic & Sexual Violence and Abuse Partnership

Members of the Belfast Domestic & Sexual Violence Partnership Protection and Justice Working Group developed Legal Remedies guidance to assist individuals experiencing domestic violence to understand the law and the available protection options. Full guidance available at: www.belfastdvp.co.uk

UPDATED JULY 2024