

Belfast
Domestic
Violence
Partnership
Guidance

Domestic Violence and Abuse: Legal Remedies

Information about the
criminal and civil law
surrounding domestic
violence and abuse in
N.Ireland

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Introduction

In response to issues raised by victims and staff, members of the Belfast Domestic Violence Partnership Protection and Justice Working Group have developed the following guidance which aims to assist staff and victims understand the law and the protection options available to individuals experiencing domestic violence. The guidance does **not** consider the legal options available to children under the Children Order N.I.1995.

It is intended to provide general information on possible legal options available for consideration. It should not replace legal advice and consideration should be given to consultation with a legal expert.

Domestic Violence and Abuse is ...

“threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on one person by another where they are or have been intimate partners or family members, irrespective of gender or sexual orientation” (Tackling Violence at Home Strategy 2005)

*‘threatening, controlling, coercive behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) inflicted on anyone (irrespective of age, ethnicity, religion, gender or sexual orientation) by a current or former intimate partner or family member’
(Stopping Domestic and Sexual Violence Draft Strategy 2015)*

1.0 N. Ireland Court System

Victims of domestic violence/ abuse usually come in contact with the court system in one of two ways;

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 and threats of violence.(A breach means failing to comply with a court order)

Victims come in contact with the criminal court by way of being a witness.

3.0 The Legislation

3.1 The Family Homes and Domestic Violence (N.I.) Order 1998

This is the legislative framework which allows victims of domestic violence/ abuse to apply for protective civil orders. These are usually granted in the Domestic Proceedings Court (Magistrates Court) but can also be made by the County Court and High Court.

There are two types of orders which the victim can apply for;

Non-Molestation Orders (Article 20)

Occupation Orders (Article 11-19)

People who apply for these orders are known as the '**Applicant**'

People who have an order served on them are known as the '**Respondent**'

What is a Non-Molestation Order?

A 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. It can be general in nature for example that "x shall not molest". It can be more specific for example the court can set out certain acts which are forbidden and deemed to be an act of molestation.

A non-molestation order can specifically include children or in some cases may be made for children alone.

The court also has the power to attach an "**exclusion zone**" to the order which means that an alleged perpetrator can be excluded from certain places such as the street or area in which the victim lives, works, or on occasions, the school which their children attend.

What is an Occupation Order?

An occupation order is an order that a judge can make to declare who has the right to occupy a property. The judge who makes the decision will look at many things when deciding whether to make an occupation order, like whether or not the person has other accommodation available.

An occupation order may be used as a complementary order to the non-molestation order or as a **stand-alone** order. When it is granted alongside a non-molestation order it offers added protection to victims by preventing the alleged perpetrator from living in the family home and a breach of any such orders is deemed to be a criminal offence. **(See sample Occupation Order at Appendix 3)**

Who can apply for Non-Molestation and Occupation Orders?

The legislation sets out the categories of people who can apply for these orders. In general terms a victim can apply for an order against someone who is a family member or has lived with them in a familial relationship.

The following are the specific categories of people who can apply (known as **associated** persons).

A person is associated with another person if—

- they are or have been married to each other
- they are or have been civil partners of each other
- they are co-habitees or former co-habitees
- they live or have lived in the same household, otherwise than merely by reason of one of them being the other's employee, tenant, lodger or boarder
- they are relatives

"Relative", in relation to a person means;

“a) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson, or granddaughter of that person or of that person's spouse or former spouse or

b) the brother, sister, uncle, aunt, niece or nephew (whether of the full blood or of the half blood or by affinity) of that person or of that person's spouse or former spouse.

And includes, in relation to a person who is living or has lived with another person, as husband and wife, any person who would fall within paragraph (a) or (b) if the parties were married to each other”

- they have agreed to marry one another
- they have entered into a civil partnership agreement
- in relation to any child, they are a parent of the child; or has or has had parental responsibility for the child
- they are parties to the same family proceedings (other than proceedings under this order)

If an alleged perpetrator does not fall under one of these categories a victim may instead be able to apply for protection by way of a civil injunction. (See section 5.1)

What is an Ex-Parte Order? (Emergency Order)

BOTH A NON-MOLESTATION ORDER AND AN OCCUPATION ORDER CAN BE MADE BY AN EX-PARTE APPLICATION

If there has been a **recent** (usually within seven days) incident of abuse a victim can make an **emergency** application to the court for either a non-molestation order or an occupation order or both. These are often referred to as **ex-parte orders**. This means that the Respondent (alleged perpetrator) is not notified of the application being made to the court. Ex - Parte orders will only be granted on a short term (interim) basis but are useful in providing urgent protection from further abuse, until such times as the Respondent (alleged perpetrator) can be given notice of the application for a full order being sought. The order usually lasts until the next court date.

If the order has been made by way of ex-parte or in an emergency then the alleged perpetrator will not have been in court and will not know that the order is in place. In these cases the information on the order is sent by the court to the Police Service N. Ireland (PSNI) who will **serve** it (inform the person).

THE ORDER TAKES EFFECT ONCE SERVED

The Applicant (victim) will also receive a copy of the order by first class post from the Northern Ireland Court and Tribunals Service (NICTS)

(See sample Ex-Parte Non-Molestation Order at Appendix 1)

If an emergency order is granted by the court, the court will then summons both parties to attend court for a full hearing.

The Respondent (alleged perpetrator) can either confirm that they are content for a full non-molestation and/ or occupation order to be made against them, or, they can say that they are not happy with the order being made and can defend themselves against such an order being made.

What is an Inter-Partes Order?

An inter-partes order is the term used when both the Applicant (victim) and the Respondent (alleged perpetrator) have been given the opportunity to be present or represented in court.

If the order is made when the Respondent is in court, or is represented in court by a solicitor then they are aware from that date that the order is in place.

The order will also be served by special delivery (currently DX*) or first class post by Northern Ireland Court and Tribunals Service (NICTS) to the Respondent's solicitor's address. Copies of the order are also sent to the police.

If the Respondent was present at the hearing but **not** represented by a solicitor and it is not known if a solicitor is engaged the order is also served by first class post by NICTS to the Respondent's residence or last known residence.

If the Respondent is not present in court or not represented by a solicitor the order will be sent to the police to be served on the respondent.

(See sample Inter-Partes Order at Appendix 2)

*DX is an independent mail delivery service

THE ORDER IS EFFECTIVE FROM THE TIME THAT IT IS GRANTED IN COURT.

The orders granted can last for whatever period the court orders - the usual period is 18 months. During this period the order can be varied to meet any changing circumstances.

If domestic violence/ abuse persists after the order has expired further orders can be applied for.

The following are relevant forms.

Form F1 Application for a Non Molestation Order/ Occupation Order

https://www.courtsni.gov.uk/SiteCollectionDocuments/Northern%20Ireland%20Courts%20Gallery/DownloadForms/p_uf_F1_FCC.pdf

Form F2 Summons to respondent on an application under the Family Homes & Domestic Violence (Northern Ireland) Order 1998

https://www.courtsni.gov.uk/SiteCollectionDocuments/Northern%20Ireland%20Courts%20Gallery/DownloadForms/p_uf_F2_FCC.pdf

Breaching an Order (failing to comply with a Court Order)

Anyone who has been granted a non-molestation and/ or an occupation order should expect protection from the alleged perpetrator. It is important to remember that the person on whom the order is served may not keep to the conditions of the order and may continue to try to harass/molest their victim. In this case it is **extremely important** that all incidents that occur are recorded and reported to the police, so that they can take steps to enforce the order.

Once a person has been served with the order they can be arrested by the police for any breaches.

Whilst these orders are made in the civil court and are civil orders any breaches (further abusive behaviours or not abiding to what the court has directed) of these orders are deemed to be a criminal offence. The person who is alleged to have 'breached' the order can be arrested and taken to a **criminal court**.

It should be noted that when a stand-alone occupation order is breached the police do not have a power of arrest. However victims should be encouraged to report breaches to the police as other criminal offences may have occurred. They should also seek advice as to what other legal remedies are available.

3.2 What does it cost? - Legal Aid and Financial Eligibility

1. Everyone applying for a non - molestation order and or a non - molestation order combined with an occupation order is eligible for legal aid.
2. A financial assessment for legal aid is carried out on a **Green Form** by the solicitor [Form A].
3. If a client's income or capital is above a certain amount they will have to make a "one off" contribution to legal aid. The rest of the legal costs are met by legal aid no matter how long the application goes on for.
4. A client need only be eligible at the time of signing the Green Form. They will continue to benefit from the legal aid even if their income subsequently increases.
5. Some solicitors firms may agree to the client paying the contribution by instalments where a client is not in a position to pay the full amount at one time.
6. Three examples of financial assessments:
 - a. Client receives passport benefit
A person in receipt of Income Support, Income Based Jobseekers Allowance, Guaranteed State Pension Credit or Income Related Employment Support Allowance is automatically eligible and will pay no contribution.

- b. Client with disposable income up to £234 per week
Example: (@ 2014)

<i>Income</i>	
Gross wages	£155 per week
Tax credits	£250 per week
Child benefit	<u>£ 41 per week</u>
Total income	£ 446 per week

<i>Deductions</i>	
Income Tax	£ 31 per week
National insurance Contributions	£ 2 per week
Dependant deduction for three children (£65.62x3) (see 6.1)	£196.86
Total deductions	<u>£ 229.86</u>

Total weekly disposable income (<i>income less deductions</i>)	£216.14
Total contribution (see 6.1)	£119

- c. Client with disposable income over £234 per week
A client's one off contribution will be £134 plus the amount of weekly income over £234
(eg someone with disposable income of £300 would pay a contribution of £200 ie £134+ £66) (see 6.1)
7. Where a client has capital savings of any amount over £3000 they will be required to make an additional one off contribution of £100.(see 6.1)

A Stand-Alone Occupation Order

An applicant for an occupation order is not automatically eligible for legal aid and will need to be assessed to see if they are financially eligible. Advice can be obtained from a solicitor.

Legal Aid and Financial Eligibility Forms

- ❖ **FORM A** (Green Form)
- ❖ **FORM B** (Green Form Key Card (No 36))
- ❖ **FORM C** (Financial Assessment DV Scheme)
- ❖ **A Guide to Legal Aid**

The above forms are available to download at:

http://www.dojni.gov.uk/index/legalservices/guide_to_legal_aid_v2_jan_2014.

Victims with no Recourse to Public Funds

A person with no recourse to public funds **is** eligible to Green Form advice and therefore legal aid is available for non – molestation proceedings. The Legal Services Commission will expect their solicitor to check how they are supporting themselves eg if they are getting financial support from a charity or a Trust or if they are an asylum seeker, for example, whether they are getting support from the National Asylum Support Service (NASS)

3.3 Stalking and Harassment

The Legislation

The Protection from Harassment (NI) Order 1997

<http://www.legislation.gov.uk/nisi/1997/1180/contents>

Article 3(1) prohibits the act of harassment, stating that a person shall not pursue a course of conduct which amounts to harassment of another and which the perpetrator knows or ought to know will cause the victim harassment (which includes alarming the person or causing them distress).

Article 4 provides for the offence of harassment and states that a person who pursues a course of conduct in breach of Article 4 shall be guilty of an offence and liable on summary conviction to imprisonment of not more than 6 months or a fine not exceeding level 5 on the standard scale, or both.

Article 6 of the order provides for the offence of 'putting people in fear of violence'. This occurs when a person whose course of conduct causes another to fear, that violence will be used against them

The alleged perpetrator shall be guilty of an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions.

A course of conduct is conduct that occurs on at least two occasions.

Victims should be encouraged to record any incidents of stalking and harassment.

(See sample Harassment Diary at Appendix 3)

http://www.psni.police.uk/index/adistrict/domestic_abuse_2014_a_district/a_district_harassment_and_stalking.htm

What is Harassment?

Harassment is repeated and unwanted behaviour/ conduct by the alleged perpetrator and causes the victim to have a negative reaction in terms of alarm or distress. Behaviour as part of a campaign of harassment can include:

- ❖ Frequent, unwanted contact, for example appearing at the home or workplace of the victim, telephone calls, text messages, emails or other contact such as via the internet/ social networking sites
- ❖ Driving past the victim's home or work
- ❖ Following or watching the victim
- ❖ Sending letters or unwanted 'gifts' to the victim
- ❖ Damaging the victim's property
- ❖ Burglary or robbery of the victim's home, workplace, vehicle or other
- ❖ Threats of harm to the victim and/ or others associated with them (including sexual violence and threats to kill)
- ❖ Harassment of people associated with the victim (eg. family members, partner, work colleagues)
- ❖ Physical and/ or sexual assault of the victim and even murder

What is Stalking?

Stalking is not a legal term used in the context of the criminal justice system. It is a colloquial term used to describe a particular kind of harassment. It is normally used to describe a long-term pattern of persistent and repeated following of the victim, communication with them or other intrusions into the privacy of the victim.

Unwanted communications may include;

- ❖ Telephone calls
- ❖ Text messages
- ❖ Letters
- ❖ E mails
- ❖ Faxes
- ❖ Sending or leaving unsolicited materials/gifts, graffiti
- ❖ Messages on social media.

Unwanted intrusions include the following:

- ❖ Waiting for
- ❖ Spying on
- ❖ Approaching
- ❖ Accosting
- ❖ Going to a person's home

In addition to unwanted communication and intrusion, the stalker may engage in a number of associated behaviours including ordering or cancelling goods/ services, making vexatious complaints (to legitimate bodies), threats, property damage and violence.

In some cases the conduct might appear innocent if it is taken in isolation, but when it is linked as a course of conduct it may then be sufficient to cause harassment, alarm or distress to the victim and amount to harassment.

The term stalking is often used by the media to describe cases where the suspect is a stranger or an acquaintance of the victim, or has had only a brief, intimate relationship with the victim. The term harassment can include stalking where offences under the Protection from Harassment (Northern Ireland) Order 1997 are involved.

3.4 What is a Restraining Order?

Restraining Orders are provided for under;

The Protection from Harassment (NI) Order 1997 (section 3)

<http://www.legislation.gov.uk/nisi/1997/1180/contents>

Domestic Violence, Crime and Victims Act 2009 (section 13)

<http://www.legislation.gov.uk/ukpga/2012/4>

A restraining order may specify any conduct or act which is prohibited and which amounts to harassment or will cause a fear of violence.

Restraining orders can be applied for, once criminal proceedings have concluded in court.

Restraining orders may even be made where the defendant is acquitted, to cover the cases where despite the acquittal the court feels the victim of harassment still needs protection. The court can make the order of its own volition or if they are asked to by the prosecution. The onus is on the prosecution to remind the court of its powers particularly on acquittal.

The police, in making a referral to the prosecution, can include a recommendation to the prosecution that such an order needs to be considered. It is of course still open to any victim to seek a non-molestation order as previously outlined but the use of this power by the courts would perhaps suggest a more proactive approach by the courts and may offer more seamless protection to victims.

4.0 Policing

The PSNI treat domestic violence and abuse very seriously and due to the extent of the problem, they have dedicated Domestic Abuse Teams available to deal primarily with these matters, who are there to help and assist where appropriate. Police will assess all victims' risk of harm by using the Domestic Abuse Stalking and Harassment and Honour Based Violence (DASH) risk assessment form.

To download a copy go to

<http://caada.org.uk/marac/CAADA-RIC-Northern-Ireland-Version-Nov2012-FINAL.pdf>

If a person has been the victim of a domestic violence 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.

For further information on the role of the police go to

http://www.psni.police.uk/index/advice-and-legislation/domestic_abuse.htm

4.1 Bail

If a person has been the victim of a domestic violence crime and has reported it to the police, they will investigate the crime.

While an investigation is ongoing there is the possibility that the alleged perpetrator will have police or court bail conditions that they must adhere to.

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.

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

Essentially, bail is to try to ensure the defendant returns for the court hearing or to the police station while the police carry out their investigations.

Types of Bail

There are two common types of bail:

❖ Bailed without charge (Pre-Charge Bail)

The police will allow the defendant to leave the police station, usually under certain restrictions or conditions, (see bail conditions page 12) and the defendant will be given a bail return date to return to the police station.

During the period in which the defendant is on bail, the police will carry out their investigations and then decide if the defendant will be charged when they return for the bail return date. At this point, the defendant will either be charged or be told that no further action is to be taken.

It has, however, become more common for police officers to bail the defendant again, once he/ she returns for the bail return date, and to continue investigations. Increasingly, therefore, a defendant can be on pre-charge bail for a number of months before discovering if they are to be charged.

❖ **Bailed once they have been charged (Post-Charge Bail)** with an offence.

(Also known as a 28 day charge)

If the police are confident the defendant will show up at court and not be a threat to the public in the meantime, they will generally grant bail, subject to certain conditions (see bail conditions below), and the defendant will be bailed until the court hearing date.

When the defendant has been charged, the police have far greater powers to refuse bail. However, the defendant has not at this stage been found guilty of anything and so cannot simply be imprisoned until a court hearing unless they pose a danger to a member of the public or there is a real concern the defendant will not show up for the court hearing.

Justification for Bail

In terms of **pre-charge bail**, it is important that the police are given time to investigate the criminal allegations and then have the opportunity to try to ensure the defendant returns to the police station so they can question them after the investigations.

In regard to **post-charge bail** it is clearly important that a defendant is not allowed to 'go on the run' and miss the court hearing or try to intimidate certain witnesses, and yet if there is little danger of this and the defendant has not yet been proven guilty, he should be released at least temporarily.

Bail Conditions

The PSNI may decide which bail conditions to attach to the bail and the conditions can be changed / altered at any stage if agreed by the investigating officer.

The following conditions can include:

- ❖ living at a particular address
- ❖ not contacting certain people, by any means whatsoever
- ❖ giving your passport to the police so you can't leave the UK
- ❖ reporting to a police station at agreed times, for example once a week
- ❖ stay outside a certain distance from an address
- ❖ access to children must be through a third party and not the victim or injured party

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**. The court has the power to amend the existing bail conditions or remand the person in custody to await the court hearing.

Bail – note of concern

It should be noted that bail conditions are only a short term measure and once an investigation has been concluded, they will cease to be in force. So although they are partially put in place for the protection and safety of the victim and witnesses, they can be withdrawn at any stage of the investigation or court process. Victims should still seek other protective measures available, as outlined in this guidance.

5.0 Other Options

Apart from the remedies discussed in previous pages there are a number of options available to victims of domestic violence and abuse including;

- ❖ Civil Injunctions
- ❖ Undertakings
- ❖ Police Information Notices

5.1 What is a Civil Injunction?

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).

Under **The Protection from Harassment (NI) Order 1997** a civil injunction may be used when there are no familial relationships ie. Where the parties are not associated persons as listed on page 4 paragraph “Who can apply for Non Molestation and Occupation Orders?”

There must be evidence of two separate incidents of harassment and physical violence or harm to seek this remedy.

5.2 What is an Undertaking?

An undertaking is a **solemn promise** from one party to another to do something or not to do something. In cases where one party applies for a non-molestation order, the alleged perpetrator (Respondent) sometimes offers to give an undertaking as a promise not to do certain things without having to agree that they have in the past been harassing the applicant. Undertakings have no legal basis and cannot be actioned by the police.

5.3 What is a Police Information Notice? (PIN)

There are some circumstances in which it can be useful for the police to inform a suspect verbally and/or in writing that their alleged actions may constitute an offence under **The Protection from Harassment (NI) Order 1997** (described here as a Police Information Notice).

Content of a Police Information Notice (PIN)

The notice itself should be sufficient to advise the suspect that the PIN is;

- ❖ not a court order or any form of conviction or caution
- ❖ the requirements and scope of The Protection from Harassment (NI) Order 1997 is that all allegations of harassment are taken seriously and investigated by the police
- ❖ that harassment, alarm or distress has been caused, or may have been caused, to the victim by specified actions of the suspect (or that this may be caused should the conduct continue to be repeated)
- ❖ that any future, similar conduct could amount to a criminal offence under The Protection from Harassment (NI) Order 1997
- ❖ the fact that the PIN has been received could be used as evidence in any future criminal investigation or prosecution, or civil proceedings taken by the victim
- ❖ that acknowledging receipt of the notice does not mean that the suspect is admitting any wrongdoing – simply accepting information about The Protection from

Harassment (NI) Order 1997 and the police position on investigating allegations of harassment

Issuing a Police Information Notice (PIN)

Before a PIN is given to a suspect, this process should be explained to the potential victim and a copy of the notice given to them. In particular, it should be explained that the PIN is not a court order and is simply information for the suspect. The victim should be informed that the only way it would be possible for a court order to be granted at this stage would be by a private civil case brought by the victim, and the victim could seek independent legal advice from a solicitor

As the receipt of a PIN may be used as evidence in subsequent proceedings, it should be given personally so that there is clarity about the suspect's identity and that they received the notice. Whenever a notice is given, officers should not suggest that this implies any guilt on the part of the suspect. They should not suggest that the police information notice marks an end of the matter as this could render evidence of conduct prior to the notice inadmissible in any subsequent prosecution.

(See sample PIN Appendix 5)

6.0 Support for Victims and Witnesses

6.1 The Victim Information Scheme

The Probation Board N.I.'s Victim Information Scheme became operational in October 2005. It is a statutory scheme as provided by The Criminal Justice (NI) Order 2005.

The scheme seeks to ensure that victims receive information about what it means when their case results in a sentence which requires supervision in the community by the Probation Board.

See more at

<http://www.pbni.org.uk/site/Content.aspx?x=U/6/W3TJDxk=&y=o/e2w3LLg4c=#sthash.ssp8YJVE.dpuf>

6.2 The Victim and Witness Care Unit (VWCU)

Victim & Witness Care Unit engagement with victims of domestic violence

One of the main aims of VWCU is to empower victims of crime to attend the criminal court to give evidence through increased communication and the provision of information, support and guidance. Each case is allocated to a VWCU case officer who acts as a named single point of contact throughout the prosecution process, from when an investigation file is submitted or a suspect is charged to the outcome of any court hearing.

A Victim Support NI representative is based in each VWCU office and can provide practical advice and emotional support straight away by telephone. They can also refer a victim for counselling or assistance with a criminal injury compensation claim, or to another organisation such as Women's Aid for more specific help.

VWCU operates from two offices, in Belfast and in Foyle, which together provide services to victims of domestic violence across Northern Ireland.

For contact details see:

<http://www.nidirect.gov.uk/victim-and-witness-care-unit>

6.3 Victim Support NI Witness Service

Victim Support operates a Witness Service in every Crown, Magistrates and Youth court across Northern Ireland. 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, and do this in partnership with Victim Support.

The Witness Service is free, confidential and available to prosecution witnesses over the age of 18.

See more at:

<http://www.victimsupportni.co.uk/what-we-do/witness-service>

Appendix 1 Sample Ex - Parte Non Molestation Order

FAMILY HOMES AND DOMESTIC VIOLENCE (NORTHERN IRELAND) ORDER 1998
ARTICLE 23

NON-MOLESTATION (EX-PARTE)

Applicant Petty Sessions District of

Respondent County Court Division of

By the Court of Summary Jurisdiction sitting at on

Upon the hearing of an application for an Order under Article 23 of the above mentioned Order.

IT IS ORDERED that:

The respondent is forbidden to use or threaten violence against the applicant, and must not instruct, encourage or in any way suggest that any other person should do so.

The respondent is forbidden to intimidate, harass or pester the applicant and must not instruct, encourage or in any way suggest that any other person should do so.

The respondent is forbidden to use or threaten violence against the relevant child (ren) and must not instruct, encourage or in any way suggest that any other person should do so,

AND/OR

The respondent is forbidden to intimidate, harass or pester the relevant child (ren) and must not instruct, encourage or in any way suggest that any other person should do so.

The respondent shall be excluded from prohibited from entering / entering within (measurement) of

This order shall take effect forthwith/upon service of this order/and shall remain in force until /for the period of /until further order.

Service to be effected by Ordinary First class post/ DX/ Respondent's Solicitors/ Police Service of Northern Ireland.

ORDERED BY

District Judge (Magistrates' Court)

on

NOTICE: This Order gives you instructions, which you must follow. You should read it all carefully. If you do not understand anything in this Order you should go to a Solicitor, or an Advice Centre or Citizen's Advice Bureau. You have a right to ask the Court to change or cancel the Order, but you must obey it unless the Court does change or cancel it. You must obey the instructions contained in this Order. If you do not, you may be guilty of an offence, and you may be sent to prison and/or fined.

Appendix 2 Sample Inter - Partes Non-Molestation Order

FAMILY HOMES AND DOMESTIC VIOLENCE (NORTHERN IRELAND) ORDER 1998

NON-MOLESTATION (INTER PARTES)

Applicant

Petty Sessions District of

Respondent

County Court Division of

By the Court of Summary Jurisdiction sitting at

on

Upon the hearing of an application for an Order under Article 23 of the above mentioned Order.

IT IS ORDERED that:

The respondent is forbidden to use or threaten violence against the applicant, and must not instruct, encourage or in any way suggest that any other person should do so.

The respondent is forbidden to intimidate, harass or pester the applicant and must not instruct, encourage or in any way suggest that any other person should do so.

The respondent is forbidden to use or threaten violence against the relevant child (ren) and must not instruct, encourage or in any way suggest that any other person should do so,

AND/OR

The respondent is forbidden to intimidate, harass or pester the relevant child (ren) and must not instruct, encourage or in any way suggest that any other person should do so.

The respondent shall be excluded from prohibited from entering / entering within (measurement) of

This order shall take effect forthwith/upon service of this order/and shall remain in force until /for the period of /until further order.

Service to be effected by Ordinary First class post/ DX/ Respondent's Solicitors/ Police Service of Northern Ireland.

ORDERED BY
District Judge (Magistrates' Court)

on

NOTICE: This Order gives you instructions, which you must follow. You should read it all carefully. If you do not understand anything in this Order you should go to a Solicitor, or an Advice Centre or Citizen's Advice Bureau. You have a right to ask the Court to change or cancel the Order, but you must obey it unless the Court does change or cancel it. You must obey the instructions contained in this Order. If you do not, you may be guilty of an offence, and you may be sent to prison and/or fined.

Appendix 3 Sample Occupation Order

FAMILY HOMES AND DOMESTIC VIOLENCE (NORTHERN IRELAND) ORDER 1998
ARTICLE 11

EX PARTE OCCUPATION ORDER

Petty Sessions District of

Applicant

County Court Division of

Respondent

By the Court of Summary Jurisdiction sitting at _____ on _____

Upon the hearing of an application for an Order under Article 13 / Article 14 of the above mentioned Order.

IT IS ORDERED THAT:

The applicant _____ has the right to occupy _____
and the respondent _____ shall allow the applicant _____ to do so,

OR

the respondent _____ shall not evict or exclude the applicant from _____
or any part of it namely (specify part).

IT IS ORDERED THAT:

The respondent shall not occupy _____

OR

The respondent shall not occupy _____

The respondent shall leave forthwith within hours/days of
service on him/her of this Order

AND/OR

Having left, _____ the respondent _____ shall not return to, enter
or attempt to enter or go within _____ distance of it.

The respondent _____ shall not dispose of any estate he has in _____

The respondent _____ may remove _____ from _____

The respondent _____ shall not obstruct, harass or interfere with the
applicant _____ peaceful occupation of _____

This order shall take effect forthwith/upon service of this order/and shall remain in force until/ for the period of until further order.

Service to be affected by Ordinary First class post, DX, Respondent's Solicitors, Police Service of Northern Ireland.

ORDERED by

District Judge (Magistrates' Court)

on _____

NOTICE: This Order gives you instructions, which you must follow. You should read it all carefully. If you do not understand anything in this Order you should go to a Solicitor, or an Advice Centre or Citizen's Advice Bureau. You have a right to ask the Court to change or cancel the Order, but you must obey it unless the Court does change or cancel it. You must obey the instructions contained in this Order. If you do not, you may be guilty of an offence, and you may be sent to prison and/or fined.

Appendix 4 Harassment Diary



NOT PROTECTIVELY MARKED



HARASSMENT DIARY

Issued To:

Time/Date Issued:

Time/Date Concluded:

Exhibit No.:

C&C Ref. No.:

Book No. of



NOTES OF GUIDANCE

The Police Service of Northern Ireland acknowledges that being the victim of harassment or anti-social behaviour is very distressing. We need your support to help us capture incidents/experiences which could be used as evidence to help support a prosecution.

This booklet is designed to record all such incidents/experiences and should be completed by the victim of the harassment. It is important that you capture as much information and evidence as possible and below we have listed some typical examples of how you can help us by completing the log as fully and accurately as possible.

How to complete the log

1. Start a new page for each incident.
2. State the date and time of each incident.
3. Describe in detail exactly what happened and how it happened:
 - (a) Who did it and how do you know who they are?
 - (b) What exactly did you see and hear?
 - (c) What was said to you and by whom?
 - (d) Was damage caused? If so, what and how?
 - (e) How did it make you feel (were you emotional, angry, upset, frightened etc)?
 - (f) Did anyone else witness the incident/behaviour? If they did then note their name, address and telephone number and any other details known to you e.g. place of work etc.
4. The person making the entry should sign, date and time each entry.

Please keep:

- (1) phone texts;
- (2) answer phones messages on landlines and mobile phones;
- (3) relevant letters;
- (4) videos/photos;
- (5) objects used in incidents; and
- (6) anything else which is relevant to the harassment or anti-social behaviour.

If you are not sure how to do this then ask the officer dealing with your situation. The officer dealing with your situation will keep in contact with you and collect this booklet(s) at an agreed date in the near future.

Remember, always call 999 in an emergency or you can reach us on the non-emergency number on 0845 600 8000 at any time.

NOT PROTECTIVELY MARKED

Date/Time/Location	Incident details in full	Page <input type="text"/> of <input type="text"/>

Appendix 5 Police Information Notice

NOT PROTECTIVELY MARKED



Name: _____ Date of Birth: _____
Address: _____ Postcode: _____

POLICE INFORMATION NOTICE

Details of alleged conduct (specific actions that are cause for complaint):

--

The police have received an allegation of harassment against you. Harassment is any behaviour, on at least two occasions, which causes alarm or distress to someone else. At this stage, the police are not commenting on the truth of this allegation. Instead, this letter is being sent to you in the spirit of crime prevention and to make you aware that *if* the kind of behaviour described were to continue, then you would be liable to arrest and prosecution. You should also be aware that if further such behaviour resulted in prosecution then the behaviour complained of above could be referred to, or relied upon, in any subsequent proceedings.

This letter is neither a court order nor a criminal record, but will be kept by the police for the purposes of any future investigations and retained in accordance with national guidelines on the Management of Police Information.

Signature of recipient: _____ <i>(This is not an admission or acceptance of the allegation. You are signing to acknowledge that you are aware of the allegation and that you now understand what harassment is.)</i>

Officer Issuing: _____ _____ (Name), Rank, No, Station, Contact Tel.)
Witnessing Officer(s) _____ _____ (Name, Rank, No, Station, Contact Tel.)

Description of Recipient
Ethnicity: _____
Sex: _____ Age: _____
Height: _____ Build: _____
Hair: _____
Complexion: _____
Distinguishing Features: _____
Clothing: _____
Carrying Anything: _____

C&C Ref: _____
Time and Date of Issue: _____
Exhibit No.: _____
Description: One (1) Allegation of Harassment Letter
I identify this exhibit as that referred to in my statement.
Signature: _____ _____ (Name, Rank, No, Station):

Appendix 6 Other Useful Links

❖ **Multi - Agency Risk Assessment Conference (MARAC)**

A MARAC is a meeting where information is shared on the highest risk domestic abuse cases between representatives of local police, probation, health, child protection, Women's Aid as well as housing practitioners and other specialists from the statutory and voluntary sectors.

After sharing all relevant information about a victim, the representatives discuss options for increasing the safety of the victim and turn these into a co-ordinated action/safety plan.

The primary focus of the MARAC is to safeguard the adult victim. The MARAC will also make links with other agencies in order to safeguard children and manage the behaviour of the perpetrator.

At the heart of a MARAC is the working assumption that no single agency or individual can see the complete picture of the life of a victim, but all may have insights that are crucial to their safety. The victim does not attend the meeting.

For further information see:

http://www.caada.org.uk/marac/MARACresources_NI.html

❖ **Public Protection Arrangements N.I. (PPANI)**

Statutory arrangements were established in 2008 to assist in the management of risk posed by certain offenders in the community who present evidence of likelihood to cause serious harm.

These arrangements are known as the Public Protection Arrangements in Northern Ireland (PPANI).

For further information see Guidance:

<http://www.publicprotectionni.com/uploads/pdf/guidance.pdf>

❖ **Adult Safeguarding**

For the purposes of Adult Safeguarding, the definition of a vulnerable adult is: A person aged 18 years or over who is, or may be, in need of community care services, OR is resident in a continuing care facility by reason of mental or other disability, age or illness, OR who is, or may be, unable to take care of him or herself, OR unable to protect him or herself against significant harm or exploitation”.

NB. A Draft Adult Safeguarding policy is out for consultation closing February 2015. A new updated definition will be available following the publication of the Policy. See Draft Policy at

<http://www.dhsspsni.gov.uk/consultation-draft-adult-safeguarding-policy-annex-a.pdf>

Guidelines on Potential Legal Issues Surrounding Vulnerable People

May 2012 NIASP to download the guidance go to;

<http://www.hscboard.hscni.net/publications/2012/20120514%20May%202012%20%20Guidelines%20on%20Potential%20Legal%20Issues%20Surrounding%20Vulnerable%20Adults%20-%20PDF%202214KB.pdf#search>

Adult Safeguarding in Northern Ireland Regional and Local Partnership Arrangements 2010

<http://www.dhsspsni.gov.uk/asva- march 2010.pdf>

Details of the Adult Safeguarding Strategic Plan 2013 – 2018 are available to download here;

<http://www.hscbusiness.hscni.net/pdf/N I A S P Strat 2013-18.pdf>

❖ Safeguarding Children

Safeguarding Board for N.I

“The Safeguarding Board for Northern Ireland (SBNI) was established by the Department of Health, Social Services and Public Safety (DHSSPS) in 2012 in recognition of the fact that children are more likely to be protected when agencies work in an all-inclusive, coordinated and consistent way.

The SBNI is the key process for agreeing how children’s agencies will cooperate to safeguard and promote the welfare of children in Northern Ireland and for ensuring the effectiveness of those agencies. In carrying out our responsibilities, the SBNI will ensure that organisational boundaries between professionals, agencies and sectors do not act as barriers to protecting children and young people up to the age of 18”

For further information see:

<http://www.safeguardingni.org>

Area Child Protection Committee’s “Regional Policy and Procedures” 2005

For a copy go to:

<http://www.dhsspsni.gov.uk/acpcregionalstrategy.pdf>

Cooperating to Safeguard Children 2003

For a copy go to:

http://www.dhsspsni.gov.uk/co-operating_to_safeguard_children_may_2003.pdf

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Shauneen Lenzi, Probation Board N.I.
Taryn Trainor, UNITE the Union



www.belfastdvp.co.uk

24 HOUR

Domestic & Sexual Violence Helpline

FREEPHONE

0808 802 1414

Open to *all women and men* affected by domestic & sexual violence

☐ text support to 07797 805 839 ✉ 24hrsupport@dvhelpline.org