

Your Legal Rights

If you are frightened of your current or former partner, then you have a right to be protected under the law.

Domestic violence is dealt with both under the criminal law and the civil law. The two systems are separate and are administered by separate courts:

Criminal Law

You have rights under the criminal law. Being assaulted by someone you know or live with is just as much a crime as violence from a stranger, and often more dangerous.

When the police have been called, their first priority should be the safety and well-being of you and your children, and to protect everyone present from injury or further harm.

If you call the police because you are experiencing domestic abuse, they should always give you the opportunity of being listened to and spoken to separately, away from your abuser.

If there are reasonable grounds to justify an arrest, the police should do this without asking your 'permission' or insisting on a statement from you first. The abuser can then be held for up to

24 hours before they need to charge him.

If the police arrest and charge the abuser, they will then make a decision whether to keep him in custody or to release him on bail. If they release him on bail, they may attach conditions to this that are aimed at protecting you, your children and any witnesses from further intimidation and violence.

The police will inform you of any conditions they have placed on the abuser, what these conditions mean and what action you should take if these conditions are broken.

Civil Law

The civil law is primarily aimed at protection. A survivor of domestic violence can make an application for an injunction (a court order).

You could try to gain some protection from your abuser by applying for a civil injunction or protection order. An injunction is a court order that requires someone to do or not to do something.

There are two main types of injunctions available, both can have a power of arrest attached by the courts if they believe that you are in any danger.

A non-molestation order is aimed at preventing your partner or ex-partner from using or threatening violence against you or your child, or intimidating, harassing or pestering you, in order to ensure the health, safety and well-being of yourself and your children.

An occupation order regulates who can live in the family home, and can also restrict your abuser from entering the surrounding area. If you do not feel safe continuing to live with your partner, or if you have left home because of violence, but want to return and exclude your abuser, you may want to apply for an occupation order.

Who is eligible to apply for an injunction?

In order for you to apply for one of these orders you must be an 'associated person'. This means you and your partner or ex-partner must be related or associated with each other in one of the following ways:

- You are or have been married to each other.
- You are or have been in a civil partnership with each other.

- You are cohabitants or former cohabitants (including same sex couples).
- You live or have lived in the same household.
- You are relatives.
- You have formally agreed to marry each other (even if that agreement has now ended).
- You have a child together (this can include those who are parents of the same child, and those who have parental responsibility for the same child).
- Although not living together, you are in an "intimate relationship of significant duration".
- You are both involved in the same family proceedings (e.g. divorce or child contact).

If you are not eligible to apply for an order under the Family Law Act, or if you are being continually harassed, threatened, pestered or stalked after a relationship has ended, you can also get civil injunctions under the Protection from Harassment Act 1997.

Getting legal advice

Although you can apply for an injunction yourself, you might find it helpful to have legal advice. It is best to get a solicitor who has a lot of experience with domestic violence cases, and who is likely to understand all the issues.

You may be eligible for public funding (Community Legal Services funding, or legal aid) to pay your legal costs if you are claiming welfare benefits, or are on a low income and have little or no savings. (Your partner's or husband's income is not taken into account if you are taking legal action against him.)

You can contact Community Legal Advice on 0845 345 4345 for free impartial legal advice and information on Legal aid.
www.communitylegaladvice.org.uk

The law can also help to protect children. You can apply to the Family Courts for an order specifying where and with whom the children should live, and regulating contact with the other parent.

Some local solicitors

Permission of the firms on this list have been sort and received but should not be taken as a recommendation by the Council.

Please note that not all solicitors carry out Legal Aid work.

Giles Wilson Solicitors
(No Legal Aid work)
5 Roche Close, Rochford,
Essex SS4 1PU
01702 477 106

Paul Robinson Solicitors
Annette Lowen
The Old Bank
470-474 London Road
Westcliff-on-sea, Essex
01702 338338

Alan Simpson & Co Solicitors
(No Legal Aid work)
Mill Court
19 London Hill
Rayleigh, Essex SS6 7HW
01268 745406

Other solicitors that deal with Family Law will also be able to assist you.

If you would like this information in large print, Braille or another language please contact 01702 546366 Ext 3517



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Facsimile: 01702 545737
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Domestic Abuse Reduction Officer,
Community Safety Team
01702 546366 Ext 3517
07920 264610