

The image features a warm, golden sunset background with a bright sun on the right. In the center, the silhouettes of a family—a man, a woman, and two children—are shown holding hands. On the left side, there are decorative green grass-like lines. A pink arrow-shaped box on the left contains the text 'A quick guide to:'. At the bottom, a dark green banner contains the title 'Protective Measures' in white serif font. A solid pink rectangle is located in the bottom right corner.

A quick guide to:

Protective Measures

Protective Measures

Both men and women can be victims of domestic abuse. If you are a victim of domestic abuse; if you are at risk of being made homeless after separating from your partner; or being harassed or pestered by a partner or 'associated' person then there are protective measures available under the Family Law Act to prevent you being a victim of such behaviour. The Orders available are:

- 1. Non-molestation Order**
- 2. Occupation Order**
- 3. Order for Transfer of a Tenancy**

Urgency

How applications for a Non-Molestation Order/Occupation Order are approached will depend on the severity of your current circumstances.

If you are at immediate risk of significant harm then an application may be able to be made on a without-notice basis. The Court considers it an extreme step to make an Order without hearing the other party so there must be an immediate risk. There will then be a return date when the other party will attend Court.

Some cases cannot justify applications being “without notice” but are nonetheless very serious. If the Court feels that a ‘without notice’ Order is too extreme they may simply list a hearing to address the issue to take place within a short time period to avoid delay.

If not then the application will simply be submitted to Court and listed at the next available opportunity.

Non-Molestation Order

A Non-Molestation Order may prevent an individual from using or threatening domestic abuse and/or harassing, pestering or intimidating an associated person or child. The Order may also be applied for if you are the victim of controlling behaviour.

Where such behaviour has taken place the Court can make an Order preventing that individual from contacting the person directly or indirectly; from intimidating or harassing them or instructing a third party to do so; from coming within the vicinity of that person or their property. There are a wide range of powers available to the Court in imposing restrictions

Occupation Order

An Occupation Order prevents an individual from residing in a property/restricts them to a certain area of the property.

The Order is available where one person owns a property in their sole name and you reside there. The Court must consider whether there is a risk of significant harm to the Applicant or child. The factors that will be considered depend on your circumstances but may include:

1. Housing needs
2. Financial resources
3. Parties' conduct
4. Impact of any decision on a party's health and safety
5. Length of time since separation and length of cohabitation
6. Children and the nature of the parties' relationship.

The Order can only be made for a maximum period of 1 year. If you are looking to resolve long-term housing needs then please read our section on Financial Matters.

Transfer of Tenancy

If you have been cohabiting with a partner and the tenancy is in your joint names or in your partner's sole name, an application can be made to transfer the tenancy into your sole name. This often applies when one party's financial circumstances make it far more difficult to find alternative accommodation or if the children are going to remain with one partner who wishes to remain in the property.

Landlords have to be given notice of any application and are entitled to raise objections. There are various factors to be taken into account for each case.

If you are looking to move into property owned by the Local Authority then you must be wary about a tenancy being transferred out of your name voluntarily. This is because 'voluntary homelessness' is one of the criteria the Local Authority use when assessing an individual's housing needs. If you have been made voluntarily homeless then it may take longer for you to get housed and your case may be lower priority.

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