

# Domestic abuse and legal support

*Domestic Abuse can be physical, sexual, emotional or financial and committed by an intimate partner or family member.*

*If someone is forced to alter their behaviour because they are frightened of their partner or family member's reaction, they are being abused.*

## **If I am being subjected to domestic abuse, or know someone else who is, how can a Family Solicitor help me?**

A solicitor can signpost you to appropriate support agencies in your area and will encourage you to report incidents to the Police.

The Family Law Act 1996 allows domestic abuse victims to apply for a non molestation order and/or an occupation order. An application can be made if the other party is 'associated' to the applicant e.g. current or former spouse/civil partner/cohabitee, an intimate partner, a relative or someone else who shares parental responsibility for a child.

A non molestation order can prohibit a wide range of behaviour, from violence and threats of violence to pestering and harassing. When considering the application, a court will consider all relevant circumstances including the need to secure the health, safety and well being of the applicant and/or any relevant child.

An occupation order regulates the occupation of the family home. The court will have regard for the housing needs and resources of each party and any relevant children, the financial resources of the parties and the likely effect of any order, or the effect of not making an order, on the health, safety and well being of the parties and any relevant children.

## **Is Legal Aid available?**

Legal Aid is still available for victims of domestic violence. In order to be eligible for public funding, your monthly income needs to be below the level set by the Legal Aid Agency. You will therefore need to provide your solicitor with evidence of your monthly income for an assessment to be undertaken.

The Legal Aid Sentencing and Punishment of Offenders Act 2012 ("LASPO") governs the provision of legal aid from 1st April 2013. Legal Aid will only be available where specific evidence in relation to domestic violence or child protection can be provided.

The LASPO definition of domestic violence is any incident, or pattern or incidents, of controlling, coercive or threatening behaviour, violence or abuse (whether psychological, physical, sexual, financial or emotional) between individuals who are associates with each other.

The evidence required by the Legal Aid Agency is very prescriptive in relation to what information it should contain, timescales and it must show that you were or are at risk of being a victim of domestic violence from the other party in the case arising from a family relationship between you and the other party. >>

**LASPO lists the types of documents that will be accepted as evidence by the Legal Aid Agency includes the following (although this is not an exhaustive list):**

- A police caution.
- Confirmation of ongoing criminal proceedings.
- Evidence that the other party is on police bail for a domestic violence or child abuse offence (with the child being a relevant party), however if they are not subsequently charged for the offence, alternative evidence will have to be obtained. A copy of the charge sheet, or a letter from the police would be acceptable.
- A letter from any person who is a member of a MARAC.
- A letter from a social services department confirming you have been assessed as being at risk of, or having suffered domestic violence at the hands of their ex partner within sixty months of your application for funding.
- A letter or report from any healthcare professional who has access to your medical records and who can confirm that they have assessed you as having a condition or injury consistent with domestic violence having examined you within sixty months of your application for funding.
- A letter or report from a domestic violence support organisation and/or refuge.

The Legal Aid Agency has provided template letters for professionals to use if they are unsure as to what would be acceptable. Template letters can be found at <https://www.gov.uk/government/collections/sample-letters-to-get-evidence-of-domestic-violence>.

The Legal Aid Agency will only allow funding to commence once evidence has been obtained by a solicitor. The Legal Aid Agency will not pay for a solicitor or a client to obtain that evidence.

The Family Team at Morecrofts can assess Legal Aid eligibility over the phone and advise in relation to the strict evidential requirements of the Legal Aid Agency.

**The family department at Morecrofts can advise on all matters associated with domestic abuse including:**

- Injunctions and warning letters. We can advise whether you meet the criteria for making an application to court for a non molestation order and/or occupation order. If the criteria is not met, a letter to the other party warning them of their behaviour may be more appropriate.
- All matters relating to children including when there is Local Authority involvement.
- Divorce and finances.