



Domestic Abuse Understanding Your Legal Options

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Welcome to the Kirwans guide, 'Domestic Abuse - Understanding Your Legal Options'.

This guide has been produced by leading Family Law experts to provide information and advice on the various legal options available to those whose lives have been affected by the damaging impact of abuse.

With vast experience of cases involving domestic abuse, whether the abuse is physical, emotional, sexual or psychological, we understand the sensitivities and complexities surrounding the subject and the potential impact decisions may have on you and your loved ones.

Our Family law experts invest time to understand your individual needs and will advise you on the most appropriate course of action which is tailored specifically to you and your situation and completely confidentially.

With Kirwans, our advice doesn't stop with legal support; with links to trusted agencies, all of which will encompass each aspect of your life to regain control, we consider the bigger picture for a long term resolution to help get you back on track.

Our Client Commitment

- 24/7 access to Family Law and Domestic Abuse legal specialists
- Day to day confidential support and advice
- Concise and honest advice tailored to your needs
- Regular updates ensuring you are fully informed
- Transparent pricing with no hidden costs
- Prompt and thorough response to enquiries

Important Information - Disclaimer

This publication contains general information only. Nothing in this publication constitutes legal advice. You should consult a suitably qualified lawyer on any specific legal problem or matter.

Q. What is domestic abuse?

Domestic abuse is the abuse of one partner within an intimate or family relationship. It is the use of intimidation to control a person and it can occur on a continual basis or at random.

The abuse can be physical, emotional, psychological, financial or sexual. Domestic abuse can happen in all types of domestic situations. It doesn't necessarily occur between man and wife; the term 'domestic' can apply to any set-up including (but not limited to) spouses/partners, siblings, grandparents and within same-sex relationships.

In 2013, 1.2 million women and 700,000 men reported incidents of domestic abuse in the UK. If you have been a victim, or currently suffering from abuse, it is important to remember that support is available via the police, solicitors, charities and various support agencies.

For survivors of domestic abuse, identifying the abuse is often the first hurdle. With the right support networks you can move forward to an abusive free future.

Q. What types of behaviour are deemed as 'abuse'?

Domestic abuse is not just about physical violence, the term covers a wide range of behaviours. By definition, it is "any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality".

The types of behavior that are considered as domestic abuse can range from psychological, physical, and sexual through to emotional and financial control. This spans all types of scenarios such as being physically hit, prevented from having access to money, emotionally bullied, psychologically abused and feeling unsafe or at threat in your home.

Q. Why do I need to involve a Solicitor?

There are laws in place to help protect those who have suffered domestic violence. Seeking legal advice and guidance is a positive step in preventing further abuse.

Domestic violence is dealt with under both criminal and civil law. The two systems are separate and administered by different courts. The civil law is primarily aimed at protection (or in some cases compensation), whilst the criminal law is primarily aimed at punishing the offender.

It can feel daunting involving a Solicitor in what can be a highly emotional and distressing time. But it is important to take the best steps to ensure the welfare and safety of you and your loved ones.

A Solicitor can provide you with the support and expertise you need. There are many legal procedures available to you. For example, the application for an Injunction, this is a court order that would prevent the abuser from harassing or hurting you.

The law also helps to protect children. With the help of a Solicitor you can apply to the Family Courts for an order that specifies where and with whom the children should live as well as regulating contact with the other parent. Solicitors can often provide you with invaluable contacts to arrange emergency or temporary accommodation.

Q. How much will it cost to take legal action?

Understanding the potential cost of legal action is important. In cases of Domestic Abuse, funding can be obtained with an application for Legal Aid.

Anyone can apply for Legal Aid in a situation of Domestic Abuse. Whilst the income of the abusive partner will not be taken into consideration, Legal Aid applications are means tested and therefore funding will differ depending upon factors including, but not limited to, income and assets, such as property.

Where Legal Aid funding is insufficient to cover 100% of your legal fees, payment options are available to assist you. Our team will discuss costs with you from the outset so you have full transparency of the financial impact of any legal action.

Q. What is the legal process?

If you're in a situation of domestic abuse, the first vital step is to inform the police, who will assess whether there is threat of criminal violence and take the necessary steps in arresting the alleged offender.

In addition to any action taken by the police, a non-molestation order may be needed which is where our domestic abuse team step in. Our experts will assess each individual offence and its severity i.e. is there immediate threat to the victim that a second incident will occur again?

Once the severity is measured, in urgent cases an emergency non-molestation order will be granted immediately by the court without the offender present and can often take as little as a day after the assessment to be granted. In the non-molestation order (the term of which is six or 12 months but can be extended), there will be restrictions listed which can include not using or threatening violence, not approaching their home/school/place of work or sending abusive letters, texts or email. Once the offender is given the order, they must abide by it and breach of the terms is a criminal and arrestable offence.

For victims who reside with the offender, an occupation order may also be needed from the court to legally order them to leave the property if they don't have a justified case to stay. In the case of an occupation order, the offender is legally allowed to be present in court and defend their right to remain in the property.

Q. What happens next?

We know that taking the legal steps to removing yourself from a situation of domestic abuse is just the start of your journey to regaining control and starting a new life. In some cases following on from situations of domestic abuse, there can be contact issues with an ex-partner regarding children. If this is the case and a non-molestation order has been granted, you are automatically eligible for Legal Aid funding, giving you peace of mind.

Our team of experts will also advise you on the practical steps you can take to get your life back on the right track. We have trusted and recommended agencies such as refuges, health specialists and housing associations who will assist you from start to finish to give you the confidence to start afresh.

Kirwans Recommended Actions

Speak Out

Report the incident to police and where extreme force is threatened, remove yourself from the situation.

Plan Ahead

Plan for your safety. If staying with family or friends is not possible, contact a local refuge who will be able to ensure a temporary safe place to stay.

Seek Medical Help

Seek advice from health/medical specialists. Records of such checks from a GP or hospital may help in your case.

Seek Legal Advice

Obtain legal advice from trusted domestic abuse and Family law specialists and start proceedings to have a non-molestation order granted.

Get Support

Contact dedicated support agencies. A support network can help you with the more practical elements to help get you back on your feet and regain confidence and control.

Useful Contacts

Refuge/Womens Aid 24/7 National Domestic Abuse Freephone **0808 2000 247**

Men's Domestic Abuse Advice Line **0808 801 0327**

Broken Rainbow UK (Lesbian, Gay, Bisexual & Transgender) **0300 999 5428**

The Survivors Trust **01788 550 554**