

Important changes to domestic violence injunctions.

The law that applies to domestic violence injunctions is changing. The **Domestic Violence Crime and Victims Act 2004** (DVCVA) was passed in November 2004 and will make significant changes to applications for non-molestation orders and occupation orders. **Rights of Women's Domestic Violence DIY Injunction Handbook needs updating and you should read this information carefully in conjunction with the handbook.**

Please see our website at www.rightsofwomen.org.uk for further details of when these changes will come into force.

A. Associated persons

Part One Page 3: Who can apply for a non-molestation order?

1. Couples who live together.

From 5th December 2005 the definition of "cohabiting" has now changed to **"two persons who, although not married to each other, are living together as husband and wife or (if of the same sex) in an equivalent relationship"**.

This means that lesbian and gay couples who live together will be **associated persons** for the purposes of applying to the court for a non-molestation order.

Also the **Civil Partnership Act 2004** came into force on 5th December 2005, meaning that lesbian and gay couples who register their civil partnership will be treated in the same way as married couples and will therefore be associated persons.

2. Couples who do not live together.

There will also be a **new category of associated persons**. Those who are or have been in **"an intimate relationship of significant duration"** will also be associated persons for the purpose of applying for a non-molestation orders. This means that both heterosexual or lesbian or gay couples who do not live together and do not have children together but have been involved in a relationship for some time will be able to apply for a non-molestation order. There is no legal definition of what is meant by "intimate relationship" or "significant duration". This is something which the courts will have to decide in each individual case.

This change has not yet come into effect. Please see our website for further updates.

3. Cousins.

From 5th December 2005 the definition of “relatives” has been extended to include first cousins. You can therefore now apply for a non-molestation order or occupation order against your first cousin.

B. Powers of arrest and non-molestation orders

Part Two Page 12: Application for a non-molestation order.

A power of arrest will no longer be attached to a non-molestation order. This is because **breaching a non-molestation order will be a criminal offence** and therefore the police will be able to arrest a respondent who disobeys the orders.

A power of arrest can still be attached to an occupation order.

This change has not yet come into effect. Please see our website for further updates.

Part Two Page 27: Serving your order(s)

You should still ask your process server or the court bailiff to **serve a copy of the non-molestation order on your local police station** so that they are aware of its existence if in case of a breach you need to call them. You should always keep a copy of the order with you at all times.

Part Two Page 29: Enforcing your injunction

As the breach of a non-molestation order will be a criminal offence if the respondent breaches your non-molestation order you can call the police who can arrest and charge him with a criminal offence. You cannot ask the civil court to punish him.

If charged your respondent will then be either bailed (subject to certain conditions such as not to contact you) or remanded (held in prison until a later court date). He will have to appear in the **criminal court not the civil court.**

This means that you will be the witness in the Crown Prosecution Service's (CPS) case against your respondent. It will not be your decision whether to drop the charges against your respondent. You can withdraw your statement by speaking to the Police officer dealing with the case but you can still be ordered to attend court to give evidence.

The breach of an occupation order will still be dealt with in the civil court as set out on page 29.

C. Common assault

One other important change brought in by the DVCVA is that **common assault will become an arrestable offence**. This means that if your abuser commits a common assault the police can arrest him and take him away from the situation. Common assault covers a range of different behaviours including minor physical assaults but also causing you to fear that he will be violent to you by threats or actions.

This change has not yet come into effect. Please see our website for further updates.