

It is a criminal offence in England and Wales for someone to harass you or put you in fear of violence. This legal guide is designed to give information about the ways in which the law can protect you.

What is harassment?

The law states that harassment is when a person behaves in a way which is intended to cause you distress or alarm. The behaviour must happen on more than one occasion. It can be the same type of behaviour or different types of behaviour on each occasion. For example, one text message intended to distress you is not harassment. Two text messages may be harassment. One text message and one phone call may also be harassment.

Harassment can include things your abuser has said or done. The incidents could have happened recently or they could have happened months apart.

When deciding whether your abuser's behaviour is harassment, the court will consider whether a reasonable person, who had the same information your abuser had, would think that it is harassment. An incident of harassment could be a range of things, for example:

- a text, answer-phone message, letter or email
- a comment or threat
- standing outside someone's house or driving past it
- an act of violence
- damage to someone else's property
- maliciously and falsely reporting you to the police when you have done nothing wrong

What is putting someone in fear of violence?

Putting someone in fear of violence is when someone says or does two or more things that make you fear that violence will be used against you. The law states that a person is guilty of putting you in fear of violence if a reasonable person, who had the same information your abuser had, would think his behaviour would cause you to fear violence.

In an emergency

In an emergency you can contact the police for assistance by dialling 999 or text phoning 0800 112 999. The police may be able to attend the scene of the incident to protect you from further abuse and/or to arrest your abuser (see our legal guide **Reporting an offence to the police: a guide to criminal investigations**). For other support and protection see **Useful contacts** at the end of this guide.

If it is not an emergency then you can contact the police by going to your local police station, or calling your local police station by dialling 101.

The criminal offences of harassment and putting someone in fear of violence

It is a criminal offence for someone to harass you or to put you in fear of violence. If you experience any of these forms of abuse you can report it to the police. For information on what happens if you report an offence to the

police and the criminal justice process see our legal guides **Reporting an offence to the police: A guide to criminal investigations** and **From charge to trial: A guide to criminal proceedings**.

If he is found guilty of an offence he can be sentenced to a term in prison or made to pay a fine or both.

Harassment warnings

Sometimes if the police decide that they are not going to take any further legal action against your abuser, they may give him an informal harassment warning. Harassment warnings are also known as harassment warning notices and police information notices (PINs).

This is a warning which tells your abuser about the law in relation to harassment, and that if there are similar reports in the future the police might take action against him. Your abuser may be asked to sign the warning. This does not mean that he admits to harassing you, it just confirms that he has received the warning. However, if you do report his harassing behaviour to the police again in the future, then the notice can be used to show that he knew that his behaviour is harassment.

Restraining orders

If the police charge your abuser and the case goes to the criminal courts then the court may make a restraining order to protect you. The criminal court can make the restraining order whether or not your abuser is convicted (found guilty).

A restraining order is a court order which prohibits your abuser from doing certain things such as contacting you or attending your place of work or home address. Breaching (breaking) a restraining order is a criminal offence.

The court will make the order if the judge thinks it is justified. Sometimes the Crown

Prosecution Service (CPS) will ask the judge to make a restraining order but it will be up to the judge to decide. You cannot apply to the criminal courts for a restraining order yourself. If you want to make your own application to stop your abuser from doing something then you can apply for an injunction. See **Harassment injunctions** below.

Coercive control

If your abuser is someone who you are in an intimate relationship with or is a family member or ex-partner who you live with, they may be guilty of the criminal offence of coercive control. Someone is guilty of coercive control if they repeatedly or continuously engage in behaviour towards you that is coercive or controlling and they know or ought to know that the behaviour will have a serious effect on you.

If you are experiencing coercive control you can report this to the police. For more information please see our legal guide **Coercive control and the law**.

Injunctions

An injunction is a court order which can forbid your abuser from doing certain things such as being physically violent, contacting you directly or indirectly (by making someone else contact you), or going to your home address, place of work or children's school.

Depending on your relationship with your abuser you can apply for an injunction under the Protection from Harassment Act 1997 or the Family Law Act 1996.

Non-molestation orders

If you are **associated** to your abuser you may prefer to apply to the Family Court for a domestic violence injunction called a non-molestation order. These injunctions are easier to apply for, and there is no court fee for the application. Legal aid is also available for this application.

You are associated to your abuser if you and your abuser:

- are or were ever married, engaged or in a civil partnership
- are or were living together (including as flatmates, partners, relations)
- are relatives, including: parents, children, grandparents, grandchildren, siblings, uncles, aunts, nieces, nephews or first cousins (whether by blood, marriage, civil partnership or cohabitation)
- have a child together or have or had parental responsibility for the same child
- are or were in an intimate personal relationship of significant duration

For more information see our legal guide **Domestic violence injunctions**.

Harassment injunctions

If you are not associated to your abuser, or if you do not want to apply for a non-molestation order, then you can apply for a harassment injunction under the Protection from Harassment Act 1997. You can apply for an injunction against any person who has harassed or stalked you or put you in fear of violence by deliberately causing you distress on two or more occasions. This is different from restraining orders which can be made in the criminal courts. This is an injunction that you apply for yourself in the civil courts, such as a county court.

Examples of injunctions

Injunctions can prohibit someone from behaving in a certain way. The orders must be reasonable and relevant to the harassment you have experienced.

If you apply for an injunction you will be the claimant and your abuser will be the defendant.

An injunction might include orders like:

- The defendant is forbidden from coming within 200 meters of the home of the claimant
- The defendant is forbidden from communicating with the claimant directly or indirectly
- The defendant is forbidden from harassing, intimidating or pestering the claimant

The application process

You can make an application for an injunction in the county court or in the High Court, but the county court is usually more appropriate. To apply for an injunction you will need to complete an application form N16A. This form is available from any court or to download from the **Ministry of Justice website**.

You or your solicitor will also need to prepare an affidavit to support your application. An affidavit is a statement which you swear (sign in a specific way) in the presence of a qualified lawyer or at court. The affidavit should give details of your relationship to your abuser, your circumstances, the history of the harassment and the events which led you to make the application. You should attach to your affidavit any evidence you have of the harassment and the impact it has had on you, for example:

- emails, texts, phone records
- medical records/reports
- photographs of criminal damage
- police reports

You should also explain in your affidavit what you want the injunction to stop your abuser from doing. You will need to give the Form N16A, your affidavit and supporting documents to the court and you will need to pay a fee.

If you are applying for financial compensation (also called damages) from your abuser you should also give the court a completed Form N1 (see Claiming compensation for harassment, below).

These documents will also go to your abuser. If you want to keep your address confidential, do not include them on the application forms or the affidavit. You can ask the court for permission to give your address to the court without showing it to your abuser, in a separate document from the rest of the court papers.

You will have to attend at least one and possibly more court hearings. If you are considering making an application for an injunction, you can call Rights of Women's legal advice lines.

Urgent applications for an injunction

If you need an injunction urgently and you fear your abuser will cause you harm if he knows you are going to court, you can make your application **without notice** to him.

This means that the court can consider your application without your abuser knowing or being present. The court will have to be persuaded that there are good reasons to make the order without him being there. You will need to explain your reasons in your affidavit.

If you apply for and are granted an injunction without notice to your abuser then the court is likely to organise another hearing to give him an opportunity to explain his side of the story. You will have to attend this hearing and you may have to give evidence (answer questions in court). The court will consider all the evidence and decide whether the order should be continued or extended.

Serving the injunction

You or your solicitor will be responsible for serving the documents on your abuser. This means giving your abuser a copy of the injunction, your affidavit and all of the documents that you submitted to the court. You can use a process server or the court bailiff to serve the documents on your abuser. A process server is a person whose job it is to serve documents on people and they will charge a fee.

If you cannot afford a process server, then you can ask someone else to serve the documents and that person will need to complete a certificate of service (Form N215) and send it to the court. You should not serve the documents yourself.

Your abuser must know there is an injunction in place to be responsible for breaching any part of it. You are only protected once he is aware of the injunction. You should also send a copy of the injunction to your local police station.

Costs

Legal aid is available for this application but you may experience difficulties finding a solicitor to take on your case. Contact our advice line or the Legal Aid Agency for help finding a solicitor.

You will need to pay a fee to make an application in the county court. If you cannot afford the application fee and you do not have legal aid then you can ask the court to waive the fee by completing a form EX160.

If your application for an injunction or financial compensation is successful, the judge may order the defendant (your abuser) to pay your legal fees. However, if your application is unsuccessful, the judge may order that you pay your own fees and also the legal costs of the defendant.

You can use a solicitor or lawyer to assist you with your application for an injunction.

If you cannot afford to pay for a lawyer you may be eligible for legal aid. See **Useful contacts** for information on finding a solicitor and finding a legal aid lawyer.

What if my injunction is ignored or not followed by my abuser?

If your abuser breaches (breaks) the injunction you have two options. You can report the breach to the police and the police may arrest your abuser and pass the matter to the Crown Prosecution Service to be dealt with in the criminal court.

Alternatively, you can make an application to return to the county court where the injunction was made to enforce it. Enforcing the injunction means asking the court to take further action. If you want further information on this option the contact a lawyer or Rights of Women's legal advice lines.

If your abuser is found guilty of breaching the injunction then he may be sent to prison for up to 5 years or fined, or both.

Claiming compensation for harassment

If you have been harassed or put in fear of violence, you may be able to claim financial compensation (also called damages) from your abuser, by making an application to the county court. You can do this at the same time as applying for an injunction, or separately.

Your application for compensation should be made on a Form N1. You can get a Form N1 from your local county court or from the Ministry of Justice website. The Form N1 will ask you to set out your particulars of claim. This means explaining what is your relationship to your abuser, the history of harassment and the events leading up to you making the application.

You will also need to set out how much money you are seeking. This can include money you lost as a result of your abuser's behaviour, for example damage to your property, loss of earnings, medical costs and legal costs as well as compensation for the anxiety and distress you have experienced. The court cannot make your abuser pay money that he does not have, so it is worth considering your abuser's financial position.

You should attach to your application any evidence you have of the harassment and its impact on you, for example medical reports and invoices.

The law is complex and may have changed since this guide was produced. This guide is designed to provide general information only for the law in England and Wales. You should seek up-to-date, independent legal advice.

Rights of Women does not accept responsibility for any reliance placed on the legal information contained in this guide.

For free, confidential, legal advice on family law including domestic violence, divorce and relationship breakdown and issues relating to children:

Women living and working in London: call **020 7490 2562** the advice line is open Mon 11am–1pm, and Tues – Thurs 2–4pm.

For all women: call **020 7251 6577** the advice line is open Tues – Thurs 7–9pm and Fri 12–2pm.

For free, confidential, legal advice on immigration and asylum law or criminal and sexual violence visit **www.rightsofwomen.org.uk** for our advice line details.

Useful contacts

Finding a solicitor

The Law Society

0207 320 5650

www.lawsociety.org.uk/find-a-solicitor/

Court forms and locations

<http://www.justice.gov.uk/about/hmcts>

Emergency contacts

Police

999 (emergency)

101 (non-emergency)

24 hour domestic violence helpline

0808 200 0247

www.nationaldomesticviolencehelpline.org.uk

National LGBT Domestic Violence Helpline

0300 999 5428

<http://www.brokenrainbow.org.uk/help/helpline>

National Stalking Helpline

0808 802 0300

<http://www.stalkinghelpline.org/faq/about-the-law/>

Revenge Porn Helpline

0845 6000 459

www.revengepornhelpline.org.uk/

Stop Online Abuse

www.stoponlineabuse.org.uk

RIGHTS of
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helping women through the law

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