

(1) What is a non-molestation-order?

A Non-Molestation Order is an order obtained through the County Court. For those who wish to view the relevant legislation it is contained within section 42 of Family Law Act 1996.

An applicant will apply for the order and the person to whom it refers is known as the respondent. The order, if granted, prohibits the respondent from “molesting” the applicant.

The order would usually specify that the respondent cannot use or threaten violence but may also prohibit other, more general behaviours, which amount to harassment or causing distress. An example might be unwanted frequent contact.

(2) Who Can apply

The applicant and respondent must be what is defined as “associated persons.” This is a wide term and incorporates any individuals in an intimate relationship, or who have been in an intimate relationship, close family members, those who have a child together, current or ex-partners.

The legal definition can be found in s.62(3) of the [Family Law Act 1996](#) but has also been widened in its definition with amendments under s.4 [Domestic Violence , Crime and Victims Act 2004](#).

The Court can also make an order under its own discretion, under s.2(b) of the above act, “*if in any family proceedings to which the respondent is a party the court considers that the order should be made for the benefit of any other party to the proceedings or any relevant child even though no such application has been made.*”

(3) How can you apply?

The applicant can apply via the Civil Court through solicitors, usually Family Law solicitors, or by completing a [FL401 form](#) themselves. An application can also be made during the course of family proceedings.

There is no statutory definition of “molestation” and so, the courts will tend to refer to case law in assisting with whether a certain behaviour amounts to molestation. Any act of violence or threats of violence would qualify as grounds to grant an order. Sending threatening letters and sending semi-nude photographs of an ex-partner to the local newspaper has also been shown to qualify.

In general, a court would expect to see some form of harassment before granting an order. Acts which are viewed as being an invasion of privacy which merely damages ones reputation would not usually be sufficient. An act would need to be viewed as committed with the intention of causing distress to the applicant to be sufficient.

When considering whether to make an order, *“the court shall have regard to all the circumstances, including the need to secure the health, safety and well being of the applicant and any relevant child.”* (s.42(5) Family Law Act 1996.

(4) Breach of a Non - Molestation Order

Any breach of the order is a criminal offence and can be dealt with by a fine or up to 5 years imprisonment. An initial and or minor breach may well not attract a custodial sentence. Any persistent or serious breaches may well do.

(5) Restraining Orders

Any victim of domestic abuse, be it violence or harassment, can report the matter to the police. If the allegation is pursued to court then the complainant can request that the Crown Prosecution Service request a [restraining order](#) against the defendant. This can be given by the court regardless of whether the defendant is convicted or not.

Again any breach of a restraining order is a criminal offence.

Produced October 2015 by a solicitor specialising in civil and crown cases