

Dublin
Safer Families

SERVICE

Legal and Court
Information for
Clients[©]



Daughters of Charity
Child and Family Service



Daughters of Charity Child and Family Service

This booklet has been written as a clear, practical and useful source of information for clients of Dublin Safer Families Service, who may have to attend court and are finding it daunting or confusing, and want to understand more easily, the court processes in domestic violence cases.

This booklet was put together using information and material sourced from the following places, and was accurate at the time of writing (Jan 2019):

- Children First Act 2015
- Domestic Violence Act 2018
- www.womensaid.ie (Guide on new Domestic Violence Act 2018)
- www.courts.ie → family law → domestic violence
- www.citizensinformation.ie
- www.safeireland.ie
- www.legalaidboard.ie



What is Domestic Violence?

It is “the use of physical or emotional force or the threat of physical force including sexual violence in close adult relationships. It can also involve emotional abuse, the destruction of property, isolation from friends, family and other potential sources of support; threats to others including children; stalking; control over access to money, personal items, food, transportation, and the telephone”. (Children First Act, 2015)

Where do I go to start?

You can call to any local Citizens Information Service to get information on courts. You can also go into the Family Law Office in Dolphin House, Temple Bar, Dublin city centre (building pictured).

When you enter the building, walk past the seating on your left and through another doorway to a window hatch. Approach the clerk behind the hatch and explain that you want to make an application for an order against your partner / spouse. You will then be given a number and asked to wait in the seating area until your number is called.



You will then be interviewed by a clerk for the application you want to apply for. It is important that you have and provide as much information as possible at this point, including details of the incidents of abuse / violence, and incidents relating to your children.

What are we called? What are the legal words being used in the court system?

Applicant – You are the applicant, the person applying for an order.

Respondent – This is the person you are applying for an order against. Your partner / ex-partner / violent person.

Order – A legal document that says how you will be kept safe / how access is to be / how much maintenance is to be paid. Breaking an order is breaking the law. An Order can only be made by a Judge, and no one else.

Summons – A letter sent to both parties (applicant and respondent) to say what date they must attend court.

Legal Representative – Solicitor / Barrister





What can I apply for through the courts to protect myself?

Under the Domestic Violence Acts 1996 & 2018 you can apply for different orders which will help to keep you and your children safe.

- 1) **Safety Order** – this means that the violent person is not allowed to use or threaten to use violence against you or the children in your family. It does not mean they have to leave the home, if you live together. You can still apply for a safety order if you do not live together and it means the violent person cannot be around your home. A Safety Order can last up to 5 years.

NB Please know that the court may place further conditions on a Safety Order as it sees fit, such as that the respondent is not allowed to contact / come to your workplace; not allowed to approach you in public places e.g. the children's school etc. Speak to your legal representative about requesting these where appropriate.

These extra conditions can help Gardaí when there are breaches to these orders.

- 2) **Protection Order** – Short-term. This has the same rules as the Safety Order and is granted by the court while you are waiting for your court date for the Safety / Barring Order if the court thinks that your safety is at risk.
- 3) **Barring Order** – this means that the violent person has to leave the family home and they are not allowed to enter it as long as the barring order is in place. It also means that the violent person cannot use, or threaten to use violence against you or any of the children in your family. The court can tell the violent person that they are not allowed to be around the area where you live. You don't have to be living together for any specific length of time. A Barring Order can last up to 3 years
(If you let the violent person back in to the home this does not mean that the barring order is void. It is still valid and you can still call the Gardaí for help to remove the person if they are violent again.)

- 4) **Interim Barring Order** – If the court is worried that you will not be safe enough with a Protection order while you wait for your court date, they can grant you an Interim Barring Order which means the violent person has to leave the home until the court date. An Interim Barring Order can only last until the full hearing and no more than 8 working days.





What do I do once I have the order?

When you get any of these Orders, you should show it to the Gardaí in your local Garda Station and allow them take a copy of it. Do not give them your order. You should keep your Order in a safe place with you so that you can show it at any time that you need to.

Note, the court can also order that the violent person is not allowed to follow you, or contact you via any form of communication including email and social media.

The Circuit Court and High Court can make orders for unlimited periods of time.

Other Orders:

- 5) **Emergency Barring Order** – This is a new order that gives immediate protection to victims where there is immediate risk of significant harm who do not own or co-own the home where they live, or have their name on the lease. For example, a victim who is living in their partner’s house. This order will allow the Gardaí to remove the violent person, even though it is their own home, but can only be given for a maximum of 8 working days.
- 6) **Access Order** – This is where the court will help make decisions about how the children see both parents. It is a child’s right to have a good relationship with both parents if it is safe for them. If there is a worry that the child is not safe with a parent, the court might order that supervised access take place. This is where another adult will be present when the violent parent has access with the children. The other parent, or victim, does not have to be the Supervisor of this access, and can recommend another safe adult to carry out this supervised access.
- 7) **Maintenance Order** – This is where the court will make decisions about how much money either parent has to pay to the other to help support them to care for their children. You do not have to be separated or living apart to apply for this order. You can still apply for maintenance if your partner is unemployed.

Who can apply?

ALL partners or former partners who have been in an intimate relationship regardless of length of relationship / current status / children or not / or if they lived together or not.

Applications for safety and barring orders may also be made on behalf of children. The court may ask for the children's views to be heard if this is appropriate.

Parents of children over the age of 18 can also apply for Safety Orders if their adult child is violent. The Court cannot give a Barring Order against a child if they own the home or have more ownership than the parent who is applying for the order.

How do I apply for these Orders?

You can apply for any of these orders by going in to the Dublin District Family Law Office and speaking to a District Court Clerk, who will help you fill out an application form (as described previously).

The District Court Office is in Dolphin House on Essex Street in Temple Bar. This office covers all areas of Dublin, other than Swords.

If you live in the Swords area, you can go to the District Court Offices in Swords (Address: 4 Bridge Street, Swords, Co. Dublin).

After you make an application for an order, you will get a date for a court hearing. This is called a Summons. The person you want the order against will also get a Summons in the post to come to court on the same date as you. Please be aware that this person will know that it was you who made the application, as this will be stated in the summons. You may wish to prepare a Safety Plan around this.



What do I need to apply for an Order?

You need to bring proof of identity such as your passport or driving licence.

You will need to let the Court know what evidence you have, such as a Garda Report / GP Report / Hospital Report.

Where possible / safe, try to keep a record or diary of any incidents of domestic violence (whether physical, emotional, verbal, financial or Coercive Control). Some useful headings to use in a diary / record may be as follows:

Date	Time	Details of incident	Location	Witnesses	Garda name & badge no.
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This will help you to give a clear description to the court of the abuse suffered, particularly with Coercive Control, which is harder to explain and show evidence of.

You do not need to have legal representation to make an application but it is recommended that you have legal representation at any hearings.

How do I get Legal representation?

There are lots of private Solicitors who you can employ. It is important to check if they specialise in Family Law, as they will have more experience in it. Private Solicitors charge a fee for their service and some will cost more than others.

You might qualify for Legal Aid, which is LOW COST. Your income must be below a certain level to get this. If you are given Legal Aid, it is only for the order you applied for (e.g. Safety Order). You cannot add on other applications later (e.g. going to court and deciding you also want to apply for access / maintenance orders. These have to be done separately).

You contact the Legal Aid office in the area where you live to apply for it. If the other person also applies to the same office for Legal Aid they cannot represent you both. You may have to apply to a Legal Aid office in another area. You will not qualify for legal aid if you have disposable income (money left after mortgage / rent / taxes etc) over €18,000 per year.

You can get FREE legal information from FLAC (Free Legal Advice Centres) – 1890 350 250

There are also FREE Legal advice clinics around the country in your local Citizen Information Office



Legal Aid Board
An Bord Um Chúnamh Dílíthiúil



What happens in Court?

You can apply for a Protection Order or Interim Barring Order without the other person having to be there. This is called an “ex parte” application. This will be heard by a Family Court Judge on the same day that you go to the family court to apply for the order. After meeting with the clerk (as described previously) you will be asked to wait, and will be called to stand before the Judge (usually in Courts 41, 47 or 49 in Dolphin House) and the Judge may ask you questions about your application.

If an Order is granted a copy will be sent to the person you are seeking protection from, via post, or, if it is an interim barring order, it is delivered by the Gardaí, and they are given a date for a full hearing which they will need to attend.

FULL HEARING DATE:

You and the respondent will both be in court on your hearing date. You will have your legal representative with you if you have one.

The Judge will be sitting at a bench facing you.

You will be asked to give evidence about the violence / issues and will have to answer questions by the respondent’s legal representative. You will have to swear an oath that what you say in court is the truth.

The respondent will be allowed to respond and be questioned by your legal representative.

An Order will be granted if the court believes the evidence warrants it.

A copy of the full order will be sent to the Superintendent in your local Garda Station.

When does an Order start?

It starts from when the Respondent is told about it. This will be in court, if they have attended.

Or if they did not attend, the court can ask the Gardaí to hand it to the Respondent and the Order will start from the date they do this.

Who can I take with me?

You can take any supportive person with you.

You should also have legal representation (e.g. Solicitor) with you.

Women's Aid also provide a free Court Accompaniment Service. It is provided through Women's Aid One-to-One Support Service, who have extensive knowledge and experience in the family court systems and of the legal options open to women who have experienced domestic violence.

AMEN is a similar service that provides the same support to men who have experienced domestic violence.

Both of these supports can be accessed via the numbers at the back of this booklet.

What if I need to apply for an Order in an emergency?

The District Court can now see you in an emergency. This is a new provision which has been brought in with the new Domestic Violence Act 2018. This is available to people seeking orders "out of hours" such as late at night, or at weekends when the courts would normally be closed. It is called a Special Sitting of the District Court. The orders that can be applied for are Protection Orders, Interim Barring Order, or Emergency Barring Order.

Only a Sergeant or higher rank in the Gardaí can request this. This can happen if the Gardaí are called to an incident OR if a victim of domestic violence walks into a Garda Station looking for help and the Gardaí feel an emergency order is needed for their safety.

The Gardaí will contact the District Court, who will then contact a Judge to arrange a Special Sitting.



How do I report a breach of Order?

Breaching or breaking an order is against the law. Contact your Garda Station to report it, or call 999 / 112 if it is an emergency and you think your safety is at immediate risk.

Breaching any Court Order may result in a fine (up to €4000), or 12 months prison sentence, or both.

What is Family Mediation?

The Family Mediation Service is FREE and provided by the Legal Aid Board. Mediation helps couples and parents whose relationship has broken down, to work out their own agreement around custody, access, and maintenance.

A trained Mediator, who will not take sides, will help you make decisions that suit you both. If you decide to go to court, it is the Judge who will make these decisions for you.

You do not have to be married to be able to receive Mediation.

Mediation is NOT relationship counselling and will not help you make decisions about your relationship status.

There are 17 Family Mediation Services around the country, you can find details of these services here:

www.legalaidboard.ie/en/contact-us/find-a-mediation-office/

There are offices in some District Court venues. There are Mediation Offices in Dolphin House.

What about information for the children?

There is a service available that provides child friendly, basic legal information to children and young people over the phone. This service is called the Children's Rights Alliance (contact information at back of booklet), and is a free service.

Would my child have to attend court?

The court will be able to seek the views of children if you are applying for a safety or barring order on behalf of your child. The court will have the option of appointing an expert to assist the court to ascertain the views of your child.

Depending on the age of the child, they may be able to meet with the Judge in person to give their view.

The courts are extremely sensitive to how children may experience this process, but it may also be worthwhile to consider accessing support for your child while you are all going through this process (such as a school counsellor / one of the family centres within Daughters of Charity Child & Family Service).





Important Contact Information

AMEN (Abuse Against Men): Tel 046 902 3718 (provide support and court accompaniment service for men)

Children's Right Alliance: Tel 01 902 0494 (Tuesday 10am-2pm / Wednesday 3pm-7pm) (legal information for children, young people and their family)

Citizen's Information: www.citizensinformation.ie

Dolphin House District Court: Tel 01 888 6349 / 6344 / 6347 / 6348 / 6353 / 6368

FLAC (Free Legal Advice Centres): www.flac.ie.

Legal Information Lines: LoCall 1890 350 250

Legal Aid Board: www.legalaidboard.ie. Dublin Office: 01-646 9600

Mediation Service – Blanchardstown: Tel 01 811 8650

Dolphin House: Tel 01 672 5886

RESOLVE (Safe Ireland Legal, Information and Advocacy Service):

Tel 0906 479078

Swords & Balbriggan District Court Office: Tel 01 840 3187 / 2606

Women's Aid: Tel 1800 341 900 (provide support and court accompaniment service for women)





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Created by
Dublin Safer Families Service, Claidhe Mór,
Swords Road, Santry, Dublin 9, D09 NY65.