



## **Family Justice Council Best Practice Guidance for Practitioners on Making an Application for a Protective Injunction Under the Family Law Act 1996**

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## Section 1 – Introduction and scope

### Introduction

Applications for protective injunctions under the Family Law Act 1996 (FLA) have risen over the last few years. This increase is due in part to the widened statutory definition of abuse under the Domestic Abuse Act 2021 (DAA) coupled with a growing awareness within society of more nuanced forms of abuse such as coercive and controlling behaviour. It is important that legal remedies are accessible and that effective orders are made quickly for the protection of survivor victims and their children.

The increase in number of applications has placed additional burden on an already strained family justice system. The following initiatives will reduce the burden on an over strained system and improve the application experience for victim survivors:

- Processes will be simplified to reduce the number and length of hearings.
- Processes will be standardised to ensure clarity and national consistency.
- Applications and standardised orders will be modernised to ensure they are easier to understand for all parties.
- Best practice guidance for legal practitioners will be issued to improve the quality of applications, safeguard victims and promote effective use of resources.

### Aim and scope of this document

This guidance provides a best practice guide for practitioners to improve the quality and consistency of applications for protective injunctions. It seeks to support a framework within which meritorious applications are appropriately pleaded and granted swiftly and efficiently in the correct forum.

This guidance relates to applications for protective injunctions under the FLA. It does not aim to cover Domestic Abuse Protection Orders, which are being piloted in some parts of the country, although some of the general principles may overlap.

As part of a package of improved practice it should be read alongside:

- President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996.<sup>1</sup> [*Referred to in this document as the President's Guidance 2026*]
- New standardised Non-Molestation Order under s42 of the Family Law Act 1996.
- New Response to a Non-Molestation Order Form.

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<sup>1</sup> [President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996](#)

## Litigants in Person / Unrepresented Applicants

This guidance is designed to improve the quality of applications made by legal representatives on behalf of applicants.

Unrepresented applicants seeking support for an application for a protective injunction under the FLA should view the resources provided in [Section 3](#) of this guidance.

## Section 2 – Best Practice Guidance for Legal Practitioners

### The legal test for a protective injunction

#### S 42 FLA 1996:<sup>2</sup>

(2) The court may make a non-molestation order—

(a) If an application for the order has been made (whether in other family proceedings or without any other family proceedings being instituted) by a person who is associated with the respondent; or

(b) 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.

...

(5) In deciding whether to exercise its powers under this section and, if so, in what manner, the court shall have regard to all the circumstances including the need to secure the health, safety and well-being of:

(a) the applicant and,

(b) any relevant child.

#### Definition and ‘associated persons’

Applications for protective injunctions can only be brought where parties are “associated persons”, a term defined under Section 62 (3) of the FLA 1996.<sup>3</sup>

Domestic abuse is defined under section 1 of the DAA 2021<sup>4</sup> as:

(2) Behaviour of a person (“A”) towards another person (“B”) is “domestic abuse” if—

(a) A and B are each aged 16 or over and are personally connected to each other, and

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<sup>2</sup> [Family Law Act 1996, s42](#)

<sup>3</sup> [Family Law Act 1996, s62 \(3\)](#)

<sup>4</sup> [Domestic Abuse Act 2021, s1](#)

(b) the behaviour is abusive.

(3) Behaviour is “abusive” if it consists of any of the following—

- (a) physical or sexual abuse.
- (b) violent or threatening behaviour.
- (c) controlling or coercive behaviour.
- (d) economic abuse
- (e) psychological, emotional or other abuse.

and it does not matter whether the behaviour consists of a single incident or a course of conduct.

(4) “Economic abuse” means any behaviour that has a substantial adverse effect on B's ability to—

- (a) acquire, use or maintain money or other property, or
- (b) obtain goods or services.

### **Screening for domestic abuse**

Applications should not be limited to cases where physical abuse has taken place. They should detail all forms of abuse experienced by the applicant. Too great a focus on physical abuse can serve to obscure or minimise extremely serious risks associated with other types of abuse. Academic studies show a significant link between coercive and controlling behaviour and homicide.<sup>5</sup>

It is strongly advisable that practitioners undertaking work in this area carry out specialist training to ensure they are aware of the risks and are able to appropriately screen for different types of domestic abuse.

Although no universal screening tool is in use, **SafeLives**<sup>6</sup> offer training in identifying and screening for all types of abuse.

### **Which remedies to apply for**

Once domestic abuse has been identified the safest and most effective remedy needs to be carefully considered. This will be discussed with the applicant and any necessary referral/liaison with support services.

Alongside considering whether a protective injunction under the FLA should be applied for, legal practitioners must consider other appropriate protections and advise clients in respect of relative merit.

Other remedies could include:

- Criminal processes such as arrest for an offence
- Protection afforded by any bail conditions (mindful of their limitations)
- A warning letter (if appropriate)

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<sup>5</sup> [Key findings from analysis of domestic homicide reviews: October 2019 to September 2020](#)

<sup>6</sup> [SafeLives: Training and Services](#)

- Restraining orders
- Practical steps

A protective injunction may not be granted where alternative protection is considered effective, such as a restraining order or bail conditions with the same terms/duration. If legal aid is required, alternative protection might also be a bar to funding.

Particular care should be taken with cases where the applicant has been referred through an organisation who have initiated preparation of the case. It is the duty of the legal practitioner submitting the application to assess merit and advise fully on potential remedies and process.

### **Where to make an application for a Protective Injunction**

The Family Court is a court of national jurisdiction and there is no statutory or procedural requirement for protective injunctions to be started in a specific location. Applications can therefore be made outside the applicant's local court.

However, applying outside of the local area requires proper justification, for instance, where the applicant has moved temporarily or permanently to a different location and need their whereabouts to be kept confidential for reasons of safety.

Given the national standardisation of process, there should be little need to apply outside the local area. Forum shopping is discouraged as it places additional burden on the national system. Furthermore, a local court will understand local geography and be better placed to facilitate links to local support services.

Once received by the court, urgent applications will be dealt with by 'the first available judge of the family court' pursuant to paragraph 16 of the Family Court (Composition and Distribution of Business) Rules 2014.

### **How to make an application for a Protective Injunction**

Differences in local courts' practices have fuelled confusion over differing requirements.

President of the Family Division's Guidance 2026 clearly sets out a national standardised procedure for applications.

It states:<sup>7</sup>

(8) The court should have in place procedures to ensure that all applications for non-molestation orders are referred to a judge on the day of issue if before 4pm, or on the next working day if issued after 4pm.

(9) When listing any hearing the court should consider requests for participation directions for remote attendance where there are identified

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<sup>7</sup> [President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996](#)

concerns as to vulnerabilities<sup>8</sup> including concerns as to the applicant's safety if they were required to attend court. There may be advantages to listing an in person hearing where the applicant is self-representing as experience shows evidence is often brought to court.

(10) Statements in support of applications for a without notice order should be prepared in accordance with this guidance ([Annex 1](#) provides a model example statement)

All applications are to be made by emailing the court the following documents:

- Application FL40.<sup>9</sup>
- Statement in support. [see model in [Annex 1](#)]
- Standardised Order. [Annex 1 of President's Guidance 2026<sup>10</sup>]
- Notice of Acting.
- Notice of Issue of Legal Aid (if appropriate).

### **Supporting Statement**

Protective injunctions under the FLA should be:

- A. protective
- B. capable of being understood by both the applicant and respondent;
- C. proportionate; and
- D. readily capable of enforcement.

Applications should be supported by a clear, concise supporting statement. Poorly drafted generic statements which fail to effectively evidence the applicant's specific circumstances are not acceptable.

### **Statements must**

- Set out the relationship (associated persons) justifying the application.
- Provide sufficient background for context.
- Clearly and concisely cover:
  - Incidents/patterns of abuse.
  - Impact.
  - Corroborative evidence/witnesses.
- Justify the need for any orders sought including any specific terms.
- Justify any without notice application by addressing the s.45 FLA criteria and caselaw.
- Address any vulnerabilities in support of any request for participation directions.

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<sup>8</sup> Part 3AA Family Procedure Rules, and [Equal Treatment Bench Book July 2024 \(May 2025 update\)](#) para 71, page 41

<sup>9</sup> [Apply for a non-molestation or occupation order: Form FL401 - GOV.UK](#)

<sup>10</sup> [President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996](#), Annex 1

- Confirm whether there is any objection to the court considering the application on the papers.

Whilst the use of standard wording can be helpful when drafting under time pressure, it is critical to ensure that the individual applicant's circumstances are properly pleaded and cover the spectrum of abusive behaviours experienced.

An example model statement can be found at [Annex 1](#). This is an example only. It is designed to provide a benchmark of quality.

## **Draft Orders**

The revised President's Guidance 2026 provides an example of a substantially simplified standardised order.<sup>11</sup>

### **Vague/Unnecessary Prohibitions**

Terms such as forbidding harassment, pestering or molestation are not well understood and are not easily enforceable. Subject to the facts of the case, it is unlikely to be necessary to make orders prohibiting the use of or threats of violence as these are already criminal offences.

### **Proportionate**

Non-molestation orders should be proportionate to the parties' circumstances. For example, it is unlikely to be appropriate to bar all communication, where the parties have children or are engaged in other family proceedings.

### **Geographical Exclusions**

If the court decides to exclude the respondent from a geographical area, the order should specify a named road or roads and avoid the use of expressions such as '100 metres from the applicant's home' Applicants should use box 6.4 of FL401 to specify the details of the exclusion sought including details of any other exclusions sought such as for schools, nursery and workplaces.

### **Details of the respondent and applicant to be included on the face of the Order**

Enforcement will be enhanced if the applicant's and respondent's date of birth is recorded on the face of any protective order under the FLA, whether made without notice or on notice. In addition, the respondent's email, telephone number and postal address should be added if known. If the respondent's information is not known when a without notice order is made, it should be obtained from the respondent if they attend the on-notice hearing.

Legal representatives for the applicant should use their best endeavours to obtain this information.

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<sup>11</sup> [President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996, Annex 1](#)

## Length of Orders

A protective injunction under the FLA must have a fixed end date, which may be for a substantial period such as 6 or even 12 months but which shall be clearly set out on its face. It is not sufficient merely to specify a return date with no end date for the order itself. The period of the order is a matter for the discretion of the judge having regard to all the circumstances of the case.

## Without notice applications

If an application for a protective injunction is necessary, a decision must be taken as to whether such an application should be made with or without notice. A decision to apply without notice must be justified within the application and supporting statement (r10.2(4) Family Procedure Rules (FPR)).

Where the applicant seeks an on notice hearing the court should list an on notice hearing in no more than 21 days.<sup>12</sup>

When considering whether to make an application on a without notice basis, it is necessary to consider the following matters:

- The criteria set out in the s.45 of the FLA.
- The practice guidance set out in part 10 FPR.
- President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996.
- The 5 principles explained in the case of **R v R [2015] 2 FLR 1005**, and the additional guidance from **DS v AC [2023] EWFC 46**.

## **S.45 of the FLA 1996:**<sup>13</sup>

The power to make a protective injunction without notice is set out at s.45 of the FLA which states:

- (1) The court may, in any case where it considers that it is just and convenient to do so, make an occupation order or a non-molestation order even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court.*
- (2) In determining whether to exercise its powers under subsection (1), the court shall have regard to all the circumstances including—*
  - (a) any risk of significant harm to the applicant or a relevant child, attributable to conduct of the respondent, if the order is not made immediately;*
  - (b) whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately; and*

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<sup>12</sup> [President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996](#), para 11 on page 3.

<sup>13</sup> [Family Law Act 1996, s45](#)

*(c) whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay involved in effecting substituted service.*

*(3) If the court makes an order by virtue of subsection (1) it must afford the respondent an opportunity to make representations relating to the order as soon as just and convenient at a full hearing.*

*(Subsections (4) and (5) not quoted here).*

### **The Practice Guidance set out in FPR part 10:<sup>14</sup>**

The FPR part 10 uses the term ‘without notice’ stating as follows:

- Rule 10.2(2): An application for an occupation order or a non-molestation order may be made without notice.
- Rule 10.2(4): Where an application is made without notice, the witness statement in support of the application must state the reasons why notice has not been given.

### **President of the Family Division’s Guidance 2026: Non-molestation Orders under the Family Law Act 1996**

The guidance reminds us that when deciding whether it is “*just and convenient*” to make an order without notice, the court’s approach must be informed by a modern understanding of domestic abuse, including the definition set out at s1 of the DAA 2021 with its specific reference to controlling or coercive behaviour and psychological, emotional or economic abuse. It might, for example, be appropriate to make an order where the initial evidence suggests a pattern of coercive or controlling behaviour, and the court considers it is likely that the applicant could be further coerced or controlled into withdrawing the application; or where the court considers that the abuse (if proven) is likely to have had such an impact on the applicant that they are likely to be deterred from proceeding if the respondent is given notice of an application. These examples are not intended to be exhaustive as, in each case, the court should carefully consider the provisions of s 45(2) before deciding how to proceed.

### **The principles from the caselaw for making a without notice application**

Caselaw reminds us that the court must always balance the applicant’s need for protection with the need to limit interference with the respondent’s rights to that which is proportionate.

Although FLA 1996 s45 does not establish a test of exceptionality, authority at High Court level has held that a FLA order should only be made without notice to the respondent in exceptional circumstances.<sup>15</sup> Applicants will be expected to consider carefully whether proceeding on a without notice basis is merited on the facts of their

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<sup>14</sup> [PART 10 – APPLICATIONS UNDER PART 4 OF THE FAMILY LAW ACT 1996](#)

<sup>15</sup> [DS v AC \[2023\] EWFC 46](#)

case given the test the court must apply. Without notice orders are to be regarded as the exception not the rule. (However, the President's Guidance 2026 reminds us that 'exceptional' does not mean the same as 'rare').

Orders made without notice should not have the effect of barring a respondent from their home or place of work or other necessary location without very careful consideration, specific evidence to justify such an extensive infringement of the respondent's rights and any order having that effect should be regarded as exceptional.

**R v R [2015]**,<sup>16</sup> sets out 5 key principles which should be applied when considering without notice applications. **DS v AC [2023] EWFC 46**,<sup>17</sup> provides additional guidance from statute and caselaw. Both cases should be read by practitioners.

### **Duty of candour when applying without notice**

When applying without notice the duty of candour obliges the applicant to provide the court with all material facts, including those adverse to their case, to enable the judge to make a lawful and proper decision.

### **Respondent's right to apply to set aside a without notice order**

An order made without notice must contain a statement of the right to make an application to set aside or vary the order under rule 18.11 in accordance with FPR 18.10(3). The phrase 'liberty to apply' is not sufficient for this purpose. If the respondent does apply to set aside or vary the order the court must list the application as a matter of urgency, within a matter of days.

The without notice order must make it clear that (a) it was made in the absence of the respondent and that the court has considered only the evidence of the applicant and (b) the court has made no finding of fact. Where the evidence is written, it must be identified in the order. Where, exceptionally, the court has received oral or other evidence (e.g., a photograph) that evidence should be recorded on the face of the order or reduced to writing and served with the order.

### **Potential outcomes**

Where a without notice order is sought the President's Guidance 2026 sets out the options available to the court together with best practice timescales.<sup>18</sup>

The court may:

- A. If it is satisfied that sufficient evidence has been provided to meet the merits test for a without notice order, and if it is otherwise just and convenient to do so, make a without notice order on the papers in the terms sought or as

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<sup>16</sup> [R v R \(Family Court: Procedural Fairness\) \[2014\] EWFC 48](#)

<sup>17</sup> [DS v AC \[2023\] EWFC 46](#)

<sup>18</sup> [President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996](#), Para 12

deemed necessary and proportionate by the judge, listing a 'return date' hearing in no more than 28 days, or

- B. Refuse the application for a without notice order on the papers with reasons and list the application on notice in no more than 21 days. The applicant may seek a without notice hearing for reconsideration of the application within 2 working days, which should be listed within 5 working days. Where the bailiff is to serve the order and application, the order should specify the date from which the bailiff can attempt service allowing time for the applicant to seek reconsideration, or
- C. List a without notice hearing to be attended by the applicant within 1 working day to enable them to give such evidence as may be required to enable the court to determine the application. Consideration should also be given when listing, particularly in cases with an applicant representing themselves, to any further directions necessary for the without notice hearing. Court lists should not include the details of the parties.

Applications for a without notice order must be supported by evidence justifying the making of such an order and will be carefully scrutinised by the court. If the court considers it is necessary to list a hearing so that it can properly determine the merits of a without notice application, it will do so. Where the court applies B above, applicants will be informed that even though the court has determined it is not just and convenient to make a without notice order, the court will always consider whether it is necessary to make an order under s 42 FLA at the on-notice hearing. Only in exceptional circumstances, such as it being clear that an applicant does not meet the test of association under s.62(3) FLA, would it be appropriate to dismiss an application entirely on paper and any order so doing must always include a right to review at an oral hearing.

The court should ensure that any without notice order is sealed on the day that it is made, and sent to the applicants representative by email, for service.

If representatives are asked to assist with drafting, orders must be drafted and submitted to court at the hearing or immediately after to ensure the court has sufficient time to check and seal the order.

### **Return Dates**

A return date must be fixed and must be specified in the without notice order or the hearing notice sent alongside it. Giving the respondent permission to apply for a hearing date is not an adequate substitute.

A substantial proportion of respondents do not attend return date hearings or do not oppose the continuation of the protective order. The President's Guidance 2026 suggests the court should provide the respondent with a form, to be served with the without notice order, which invites the respondent to indicate in 5 working days whether they agree to the order continuing, whether they do not oppose it based on no findings of fact being made, or whether they oppose it. If the order is not opposed,

the respondent will have the option of electing not to attend court, thereby allowing the return hearing to be vacated. The form appears at Annex 2 of the President's Guidance 2026<sup>19</sup>.

At a return date hearing it is acceptable and consistent with the overriding objective for the court to explore with a respondent whether they are willing to submit to an injunction continuing in force with no findings of fact being made. If so, the order shall record that the court has made no findings of fact. The court may also explore whether the respondent is willing to give an undertaking, however the court should not accept an undertaking "where it appears to the court that the respondent has used or threatened violence against the applicant or a relevant child; and for the protection of the applicant or child it is necessary to make a protective order so that any breach may be punishable under section 42A".<sup>20</sup>

## **Vulnerable witnesses and parties**

### **Special Measures**

The intention behind special measures is to achieve a fair hearing, in particular in relation to participation and giving evidence. There is a duty on the court to ensure that participation, and giving evidence, are not negatively impacted by an individual's vulnerability. It is fundamentally important to identify whether someone is a vulnerable person at the earliest stage.

Practice Direction 3AA<sup>21</sup> makes provision for participation in proceedings (including giving evidence) and the provisions generally create duties upon the court to consider the vulnerability of parties (and witnesses) and to consider making directions to promote the participation of victim survivors of domestic abuse within the proceedings.

Where an individual is, or is at risk of being, a victim of domestic abuse there is an assumption that they are vulnerable.<sup>22</sup> The court must then consider whether it is necessary to make participation directions.<sup>23</sup> Before making such directions, the court has to consider any views expressed by the party about participating in the proceedings<sup>24</sup> and about giving evidence.<sup>25</sup>

Particular special measures are set out in FPR 3A.8 and are also referenced in PD3AA. These can be used as a 'toolkit'.

Practitioners must be familiar with these provisions.

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<sup>19</sup> [President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996, Annex 2](#)

<sup>20</sup> [Family Law Act 1996, s 46\(3A\)](#)

<sup>21</sup> [PD 3AA – VULNERABLE PERSONS: PARTICIPATION IN PROCEEDINGS AND GIVING EVIDENCE](#)

<sup>22</sup> [Domestic Abuse Act 2021, s63\(2\)](#)

<sup>23</sup> [PART 3A – VULNERABLE PERSONS: PARTICIPATION IN PROCEEDINGS AND GIVING EVIDENCE](#)

<sup>24</sup> FPR 3A.4(2) (link in footnote 23)

<sup>25</sup> FPR 3A.5(2) (link in footnote 23)

They include preventing a vulnerable individual from seeing another party or witness at court or allowing them to participate by a live link. The court may also decide to make directions about the structure and the timing of the hearing and whether, if court facilities allow it, parties can enter the court building through different entrances and for the use of different waiting areas.

If a court building cannot accommodate measures such as a different entrance or waiting area, active consideration should be given to whether remote participation by live link can be accommodated.

As to giving evidence, screens within the court room can be put in place, in addition to the potential for evidence being given by a live link. There is in effect a duty upon the court to consider the best way in which the person should give evidence.

It is essential that practitioners are aware of the range of potential special measures and identify and seek, wherever appropriate, measures which will maximise an individual's ability to participate and give evidence.

It is also essential that such matters are included within the application form or application notice.

### **Prohibition of cross examination**

The Domestic Abuse Act 2021 introduced new provisions to protect parties and witnesses by prohibiting direct cross examination in person. These prohibitions are designed to protect a vulnerable party or witness.

The general purpose of these provisions is to prohibit cross examination by a party acting in person of another party or witness, in specific circumstances. These include cross-examination of someone who is the victim of a specified criminal offence where there has been a conviction, or who is protected by an injunction, or where there is evidence that the party (or witness) has been the victim of domestic abuse carried out by the potential questioner.<sup>26</sup>

There are defined automatic prohibitions, and the court also has a discretionary power to prohibit direct in-person cross examination. Practitioners need to be familiar with all of the statutory provisions which the DAA 2021 (S65)<sup>27</sup> introduced into the Matrimonial and Family Proceedings Act 1984, Part 4B, Sections 31Q-Z.

The prohibition works both ways, preventing direct questioning between victim or alleged victim and perpetrator or alleged perpetrator. The duty on the court to consider the issue is ongoing.

### **Qualified Legal Representative [QLR]**

The court can appoint a Qualified Legal Representative [QLR] to ask questions on behalf of a party where the prohibition is in place. The role of the QLR is limited and

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<sup>26</sup> [Domestic Abuse Act 2021, Part 5, s65](#)

<sup>27</sup> DAA 2021, S65 (see footnote 22)

the QLR does not have responsibility for the party they are assisting in court. They are there to ask questions, and their role stops once the cross examination is completed.

PD 3AB<sup>28</sup> sets out detailed provision for the QLR scheme, including the specifics for the court's powers to appoint a QLR and further detail as to the scope of their role, and the nature and range of available orders.

Practitioners need also to be familiar with Form EX740 (for victims)<sup>29</sup> and Form EX741 (for perpetrators)<sup>30</sup> in order to ensure that any necessary prohibition is in place and that any necessary orders and directions, including in relation to the appointment of a QLR, are put in place by the court.

If a respondent is a litigant in person, the practitioner acting for the applicant must consider potential QLR appointment at the earliest stage.

### **Ground rules hearing**

In any case where a vulnerable party or witness is to give evidence, there must be a ground rules hearing. This can take place at a separate preliminary hearing but does not need to. At such a hearing the court must consider the best way in which a person should give evidence and make necessary participation directions.<sup>31</sup> This part of the court process is essential to promote a vulnerable individual's ability to give the best evidence to ensure a just outcome. Ground rules for a vulnerable individual's evidence need to take account of the full range of potential special measures and participation directions.

### **Service of orders**

Personal service of non-molestation orders is preferable. Court bailiffs and process servers must provide a fully complete statement of service (on form FL415) with sufficient detail to explain how service has been made, and their name as well as their signature should appear clearly on the certificate. Statements of service must be filed with the court, or an update provided no later than 24 hours prior to the hearing date subject to any other direction(s) in the court order. An applicant seeking for the court bailiff to serve the order should submit a D89 form with the application to prevent any future delay.

Practitioners should consider whether a Department for Work and Pensions order is necessary to ensure that personal service is effective. It is important to ensure that service has been thought through before the application is made to the court.

If personal service is not possible or appropriate, permission for any other type of service must be ordered by the court. Applications for permission to serve by other

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<sup>28</sup> [Practice Direction 3AB – Prohibition of cross-examination in person in family proceedings under Part 4B of the Matrimonial and Family Proceedings Act 1984 – Justice UK](#)

<sup>29</sup> [EX740 - Application and information needed by the court to consider whether to prevent \(prohibit\) questioning \(cross-examination\) in person](#)

<sup>30</sup> [EX741 - Application and information needed by the court to consider whether to prevent \(prohibit\) questioning \(cross-examination\) in person](#)

<sup>31</sup> PD 3AA para 3.75 (link footnote 21)

means should be made formally setting out justification for why personal service cannot be achieved.

If the court is continuing the terms of a without notice order unaltered at a return date hearing and the respondent does not attend, this order can be served by post or email however, if the terms of the without notice order are altered at the return date hearing, the respondent should be personally served with the amended order whether or not they attended the hearing (unless ordered otherwise). If the respondent attends, it may be helpful to record on the face of the order that the court has explained the terms of the order to the respondent and the respondent has understood the order.

### **Related Family Proceedings**

The Presidents guidance reminds us that courts should put in place a system for identifying parallel proceedings under the FLA and private law proceedings under the Children Act 1989 where allegations of abuse are made between the same parties. A case management hearing should bring together the two sets of proceedings at an early stage to avoid duplication. Any factual findings and evidence should normally be disclosed from one set of proceedings into the other. Courts considering PD12J will have regard to any factual matrix that has already been the subject of determination in FLA proceedings when deciding whether further fact finding in children proceedings is necessary.

## **Section 3 - Useful Contacts and Resources**

### **Legal advice and support**

- **Court Nav:** (an online tool designed to help those completing an application for a non-molestation and/or occupation orders (injunction)): [www.courtnav.org.uk](http://www.courtnav.org.uk)
- **FLows** (for advice and support on applying for non-molestation or occupation orders): [www.flows.org.uk](http://www.flows.org.uk)
- **Rights of Women and Labyrinth Project** (legal guide about protective orders): [labyrinth-domestic-abuse-injunctions-final-1.pdf](http://labyrinth-domestic-abuse-injunctions-final-1.pdf)
- **LawWorks Clinic Network** (free advice clinics): [www.lawworks.org.uk](http://www.lawworks.org.uk)
- **Advocate** (free legal help): [www.weareadvocate.org.uk](http://www.weareadvocate.org.uk)
- **Support Through Court:** [www.supportthroughcourt.org](http://www.supportthroughcourt.org)

### **Domestic abuse**

- **Police** (emergency): **Call 999**
- **National domestic abuse helpline:** [www.nationaldahelpline.org.uk](http://www.nationaldahelpline.org.uk) [0808 2000 247]
- **Rape Crisis:** [www.rapecrisis.org.uk](http://www.rapecrisis.org.uk)
- **National Stalking Helpline:** [www.suzyamlplugh.org](http://www.suzyamlplugh.org) [0808 802 0300]
- **Mankind** (for male victims of domestic abuse): <https://mankind.org.uk>
- **Women's Aid:** [womensaid.org.uk](http://womensaid.org.uk)
- **Welsh Women's Aid:** [welshwomensaid.org.uk](http://welshwomensaid.org.uk)

- **Respect** (for male victims of domestic abuse): [mensadviceline.org.uk/](https://mensadviceline.org.uk/) [0808 8010 327]
- **SOLACE** (for women): [www.solacewomensaid.org](https://www.solacewomensaid.org)
- **Refuge** (for women and children): <https://refuge.org.uk/>
- **Galop** (for LGBT+ people): [www.galop.org.uk](https://www.galop.org.uk)
- **FORWARD** (for advice and support on FGM): [www.forwarduk.org.uk](https://www.forwarduk.org.uk)
- **Respond** (for people with learning difficulties affected by abuse or trauma): [www.respond.org.uk](https://www.respond.org.uk)
- **DeafHope** (for deaf people affected by abuse): [www.deaf-hope.org](https://www.deaf-hope.org)
- **BAWSO** (for ethnic minorities in Wales): <https://bawso.org.uk/en/>
- **The Adam Project** (for male victims of domestic abuse in Leicestershire): [www.adam-project.org.uk](https://www.adam-project.org.uk)

### Other related issues

- **Shelter** (advice on housing and homelessness): [www.shelter.org.uk](https://www.shelter.org.uk)
- **Disability Law Service** (advice for people with disabled people): [www.dls.org.uk](https://www.dls.org.uk)
- **MIND** (support for people experiencing mental health problems): [www.mind.org.uk](https://www.mind.org.uk)
- **Samaritans**: [www.samaritans.org](https://www.samaritans.org)

### **Resources for unrepresented litigants**

- **Court Nav:** [CourtNav | CourtNav | Helping you navigate your way through court](#)
  - *CourtNav is an online tool designed to help you if you are completing an application for a non-molestation and/or occupation orders (injunction) to get legal protection in England or Wales.*
- **Family Law Options for Women Survivors:** [www.flows.org.uk](https://www.flows.org.uk)
  - *Advice and support on applying for non-molestation or occupation orders.*
- **Gov.UK**
  - [How to apply for a non-molestation or occupation order - GOV.UK](#)
  - [Apply for a non-molestation or occupation order: Form FL401 - GOV.UK](#)
- **Rights of Women and Labyrinth Project:** [labyrinth-domestic-abuse-injunctions-final-1.pdf](#)
  - *This legal guide will give you information about the protective orders available to you through the criminal and family courts.*

# Annex 1: Model Witness Statement with guidance notes

## Model Witness Statement

*This model statement provides an example of the important information the court needs to determine an application under the Family Law Act. It should be used as a guide only and should be read in conjunction with the President of the Family Division's Guidance 2026: Non-molestation Orders under the Family Law Act 1996*



**Statement of:**

**Statement no:**

**Exhibits:**

**Signed:**

**IN THE FAMILY COURT AT [NAME OF COURT]**

**CASE NUMBER: [CASE NUMBER]**

**IN THE MATTER OF THE FAMILY LAW ACT 1996 PART IV**

**B E T W E E N :**

**[APPLICANT NAME]**

**- and -**

**[RESPONDENT NAME]**

-----  
**FIRST STATEMENT OF THE APPLICANT**  
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#### **A. Written Evidence**

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*PD22A on written evidence. rule 3.2<sup>1</sup>* states that at the top hand corner of the first page (and on the back sheet) there should clearly be written:

Subject to paragraph 4.2

- a) the party on whose behalf it is made;
- b) the initials and surname of the maker;
- c) the number of the affidavit/statement in relation to its maker;
- d) the identifying initials and number of each exhibit referred to; and
- e) the date made.

I, [Applicant name, applicant address or 'a confidential address known to the Court'] make this statement believing the contents to be true and knowing that it will be placed before the court as evidence. I say as follows:

\_\_\_\_\_

<sup>1</sup> [PRACTICE DIRECTION 22A – WRITTEN EVIDENCE – Justice UK](#)

- 1 I make this statement in support of my application for a (add type of order sought). I will refer to the Respondent as [Respondent name] throughout this statement. I seek an order in the following terms:

*(Set out terms of draft order sought.)*

## **B. Background Information**

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This section needs to set out all the critical contextual information, including:

- 1 Details of the relationship between Applicant and Respondent including marital status.
- 2 Detail relating to children of the family, including who has PR and existing child arrangements for lives with or visiting time.<sup>2</sup>
- 3 Housing details:<sup>3</sup>

- Who lives where?
- Is the property rented/in whose name/who is the landlord?

Please ensure that you have confirmed that the landlord/mortgagee has been served with the application and have provided a statement of service, including the date of service.

- Is the property owned/in whose name?
- Consideration needs to be given to a term in the order prohibiting service of a notice to quit, if applicable
- Consideration needs to be given to registering an MHA right, if applicable (S.31 FLA).
- Consideration needs to be given to an application for the ongoing payment of outgoings on the property (S.40 FLA).

- 4 Immigration details, if applicable.<sup>4</sup>
- 5 Detail any relevant religious or cultural background information and how the abuse should be considered in this context.<sup>5</sup>
- 6 Details of any physical or mental health conditions and resulting needs relating to the Applicant, Respondent or relevant children. This should include neurodiversity.<sup>6</sup>
- 7 Detail any alcohol or drug addictions that the applicant/respondent may have and whether they are managed.<sup>7</sup>
- 8 Detail any local authority involvement.<sup>8</sup>

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<sup>2</sup> Example: [Respondent name] and I have two children, [child's name] (DOB: XXX, aged X years) and [child's name] (DOB: XXX, aged X years). We share Parental Responsibility for the children. The children have not spent time with [Respondent name] since the incident on XX, due to my safeguarding concerns.

<sup>3</sup> Example: The children and I live in a flat in Hackney which is rented from Peabody Housing Association, and the tenancy is in my sole name. [Respondent name] lives in a flat in Hammersmith.

<sup>4</sup> Example: I am present in the UK on a spousal visa. My children are British citizens.

<sup>5</sup> Example: [Respondent name] and I are both Muslim, and [Respondent name] strictly adheres to Islamic laws and practices. I have often felt unable to separate from [Respondent name] due to a fear that I would be shunned by our community or my family, as a separation would place a significant strain on my relationships within the community.

<sup>6</sup> Example: [Child's name] was diagnosed with Autism Spectrum Disorder in 2022, and has an Education, Health and Care Plan (EHCP) in place. [Child's name] receives one-to-one support in school. [Child's name] does not adapt well to sudden changes and requires clear routine.

<sup>7</sup> Example: [Respondent name] abused cocaine throughout our relationship, and drinks alcohol to excess. He would usually drink 8 pint cans of lager a day and when intoxicated, he would often start to take cocaine, particularly over the weekend. His abusive behaviour escalated when he was under the influence of drugs and alcohol.

<sup>8</sup> Example: Bexley Children's Services have been involved with my family since 2023. The children were made subject of a Child Protection Plan under the category of emotional harm in December 2024, due to the concerns around domestic abuse.

- 9 Detail any relevant convictions/ongoing police involvement relating to the Respondent. Such as an ongoing investigation or any relevant bail conditions, including the expiry date for any conditions.<sup>9</sup>

### C. History of Abuse

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This section needs to set out brief chronological details specifying why the orders sought are necessary and including:

- 10 Brief history of the type(s) of abuse experienced.
- 11 Patterns of abuse (particularly relating to coercive and controlling behaviour and economic abuse).
- 12 Why the orders are necessary for protection.

This section will cite limited examples of abusive behaviour and may carry a caveat that not all instances of such behaviour are listed. Sufficient information needs to be given to justify the orders sought.

For each example of abusive behaviour, set out:

- 13 The date/s (or approximate date/s) of the behaviour.
- 14 The detail of what happened, including who was present.
- 15 The impact on the applicant and any children living in the home (physical/psychological).
- 16 Any injuries, damage or loss suffered.
- 17 Whether there is any corroborative evidence (police report, medical report, witnesses present).<sup>10</sup>
- 18 What happened afterwards (brief).
- 19 It is usual for the earliest and most recent instances of abusive behaviour to be detailed together with sufficient additional examples to illustrate the range of abusive behaviours and justify the necessary protections.
- 20 Applications for occupation orders must also address the balance of harm test (S.33(6) and (7) FLA<sup>11</sup>). This must include:
- (6) In deciding whether to exercise its powers under subsection (3) and (if so) in what manner, the court shall have regard to all the circumstances including—
    - a the housing needs and housing resources of each of the parties and of any relevant child;
    - b the financial resources of each of the parties;

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<sup>9</sup> Example: [Respondent name] was convicted of assault of me in 2018 and he served a 6-month custodial sentence.

<sup>10</sup> When attaching exhibits be mindful of PD22A.

4.5 The maker should, when referring to an exhibit or exhibits, state 'there is now shown to me marked'. 'the (description of exhibit)'.

Manner of Exhibiting Documents

9.1 A document used in conjunction with an affidavit/statement should be –

(a) shown to and verified by the maker, and remain separate from the affidavit/statement; and

(b) identified by a declaration of the person before whom the affidavit/statement was sworn.

9.2 The declaration should be headed with the name of the proceedings in the same way as the affidavit/statement is headed.

9.3 The first page of each exhibit should be marked –

(a) as in paragraph 3.2 above; and

(b) with the exhibit mark referred to in the affidavit/statement in accordance with paragraph 4.5 above.

9.4 Where the maker makes more than one affidavit/statement, to which there are exhibits, in the same proceedings, the numbering of the exhibits should run consecutively throughout and not start again with each affidavit/statement.

<sup>11</sup> [Family Law Act 1996](#), S33 (6)

- c the likely effect of any order, or of any decision by the court not to exercise its powers under subsection (3), on the health, safety or well-being of the parties and of any relevant child; and
  - d the conduct of the parties in relation to each other and otherwise.
- (7) If it appears to the court that the applicant or any relevant child is likely to suffer significant harm attributable to conduct of the respondent if an order under this section containing one or more of the provisions mentioned in subsection (3) is not made, the court shall make the order unless it appears to it that—
- a the respondent or any relevant child is likely to suffer significant harm if the order is made; and
  - b (b)the harm likely to be suffered by the respondent or child in that event is as great as, or greater than, the harm attributable to conduct of the respondent which is likely to be suffered by the applicant or child if the order is not made.

## D. Children

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- 21 Children can be victims of domestic abuse in their own right. Orders can be sought to protect them directly. Additionally, Children Act orders may be sought alongside a Family Law Act order. When reliant upon Legal Aid, gateway evidence is necessary. The Family Law Act order can serve as gateway but a formal application cannot be brought under Legal Aid until the order is made. The Court can be asked to use its discretionary power to make protective orders subject to a formal application being subsequently lodged.

## E. Necessity for an Order

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- 22 This section sets out why other remedies, including a warning letter/bail condition, would not offer adequate protection.

## F. Without Notice Application

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- 23 This section must justify any without notice application in accordance with the rules. Specifics must relate to the individual case and not be generalised.<sup>12</sup>

## G. Special Measures/Participation

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- 24 This section should set out any special measures needed for the initial application and throughout subsequent proceedings.<sup>13</sup>

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<sup>12</sup> The rules are set out in S.45 (2) FLA.

*Example:* I fear that if [Respondent name] were to learn of my application, this would provoke a violent reaction. He has previously told me that if I report him to the police, he would kill me. I am absolutely terrified that he is capable of doing this.

And/Or –

I fear that if [Respondent name] were to learn of my application, he would prevent me applying by persuading me that he can change his ways as he has previously done, as set out in my statement.

And/Or –

I believe that [Respondent name] would attempt to evade service of an order if he was made aware of the application, as he has repeatedly evaded arrest and is of no fixed address. This would be prejudicial to me as I would be unable to serve any order later made, and secure effective protection.

<sup>13</sup> S.63 DAA 2021 ([Domestic Abuse Act 2021](#))

The court must put in place special measures where the person is or is at risk of being a victim of domestic abuse under s.63 Domestic Abuse Act 2021.

## H. Statement of Truth

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25 All statements should include a statement of truth in accordance with *PD22A, rule 6.4*.<sup>14</sup>

**"I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth."**

I believe that the facts stated in this statement are true.

Signed: \_\_\_\_\_  
[APPLICANT'S NAME]

Dated: \_\_\_\_\_

### If the Applicant requires an interpreter

If a witness does not speak English their statement must first be prepared in their native language before being translated into English and certified by a translator. The statement should contain an explanation of the process by which it has been taken (face to face, telephone etc, or based on a document in their own language). The witness should be spoken to wherever possible, using an interpreter, and a draft statement should be prepared in the native language for them to read and sign. If the solicitor is fluent in the foreign language then it is permissible for him/her to act in the role of the interpreter. However, this must be made clear either within the body of the statement or in a separate affidavit.<sup>15</sup>

Signed: \_\_\_\_\_  
[INTERPRETER'S NAME]

Dated: \_\_\_\_\_

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<sup>14</sup> PD22A, r6.4: ([PRACTICE DIRECTION 22A – WRITTEN EVIDENCE – Justice UK](#))

6.4 A witness statement must include a statement of truth by the intended maker as follows.

<sup>15</sup> *Example:* I certify that I, \_\_\_\_\_, of \_\_\_\_\_ have read over the contents of this witness statement and the statement of truth to the witness who a) appeared to understand the witness statement and approved its content as accurate and b) appeared to understand the statement of truth and consequences of making false witness statement, and signed the statement.

*PD 22A applies. See also NN v ZZ.*

8.2 Where the affidavit/statement is in a foreign language –

(a) the party wishing to rely on it must –

(i) have it translated; and

(ii) must file the foreign language affidavit/statement with the court; and

(b) the translator must sign the translation to certify that it is accurate.