



# The Civil Path to Protection

A Step-by-Step Guide to Section 3 of the  
Protection from Harassment Act 1997

# A Clear Distinction: Criminal vs. Civil Action

## The Criminal Route (Sections 1 & 2)



- **Led by:** The Police & Crown Prosecution Service.
- **Focus:** Punishing the harasser for a crime already committed.
- **Victim's Role:** Primarily as a witness.



## The Civil Remedy (Section 3)



- **Led by:** You, the victim (as the 'Claimant').
- **Focus:** Protecting you and compensating you for harm, both past and future.
- **Victim's Role:** In direct control, initiating the legal action.

Section 3 empowers you to take **direct legal action in a civil court, without relying on police involvement.**

# A Victim's Legal Path: Understanding Section 3 Protection

## Stage 1: The Civil Process

### Start a Civil Lawsuit



### A victim a Civil Lawsuit

A victim has the right to sue to legally stop actual or feared harassment.

3(1) Right to claim

### Receive Financial Compensation



### Receive Financial Compensation

The court can award money to cover anxiety, distress, or security costs.

3(2) Damages

## Stage 2: Criminal Consequences for Breaching an Order



### Apply for an Arrest Warrant

If the offender violates the no-contact order, the victim can apply for their arrest.

3(3) & 3 (4) Arrest warrant



### Violation Becomes a Criminal Offence

Breaching a civil injunction without a reasonable excuse is a specific crime.

3(6) Criminal offence



### Face Severe Penalties

A conviction can result in a maximum penalty of 5 years in prison.

3(9) Penalties

## **(Maria's Story):**

- David's daily, unwanted text messages and calls constitute a "course of conduct."
- Under Section 3(1), Maria can initiate a civil claim against David to stop his behaviour

# The Two Gateways to Action: When Can You Sue?

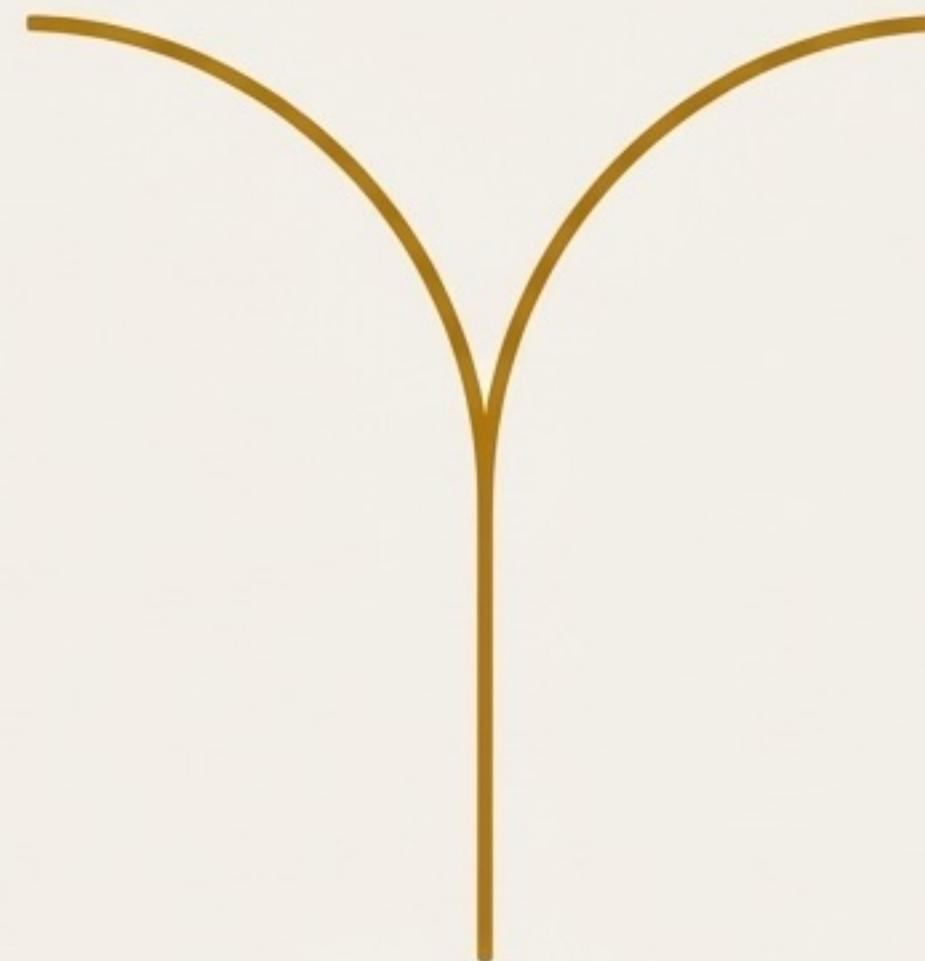
Section 3(1) creates two distinct legal pathways for you to initiate a claim. You can act based on what has happened, or based on what you legitimately fear will happen.



## Actual Breach

- **Definition:** Harassment has already occurred.
- **Legal Basis:** A 'course of conduct' (at least two incidents) has been completed.
- **Purpose:** To seek damages for past harm and an order to prevent future harm.

## Section 3(1) Right to claim



## Your Claim



## Apprehended Breach

- **Definition:** You anticipate or fear harassment is about to happen or resume.
- **Legal Basis:** You have strong grounds to believe you are at risk.
- **Purpose:** A pre-emptive strike to gain protection before harm occurs.

# The Gateways in Practice: Real-Life Scenarios

## An “Actual” Breach

-  **Scenario:** A former employee has sent 50 abusive emails to his boss and has stood outside the office on 3 separate occasions.
-  **Analysis:** The course of conduct has already happened.
-  **Action:** The boss sues for the stress already caused and to stop the behavior.

## An “Apprehended” Breach

-  **Scenario:** A violent ex-husband is released from prison tomorrow. From jail, he sent a letter stating, “I’m coming for you the moment I get out.”
-  **Analysis:** He has not yet harassed her since his impending release, but the threat is credible and imminent.
-  **Action:** The victim can go to court today to get a preventative injunction for tomorrow.

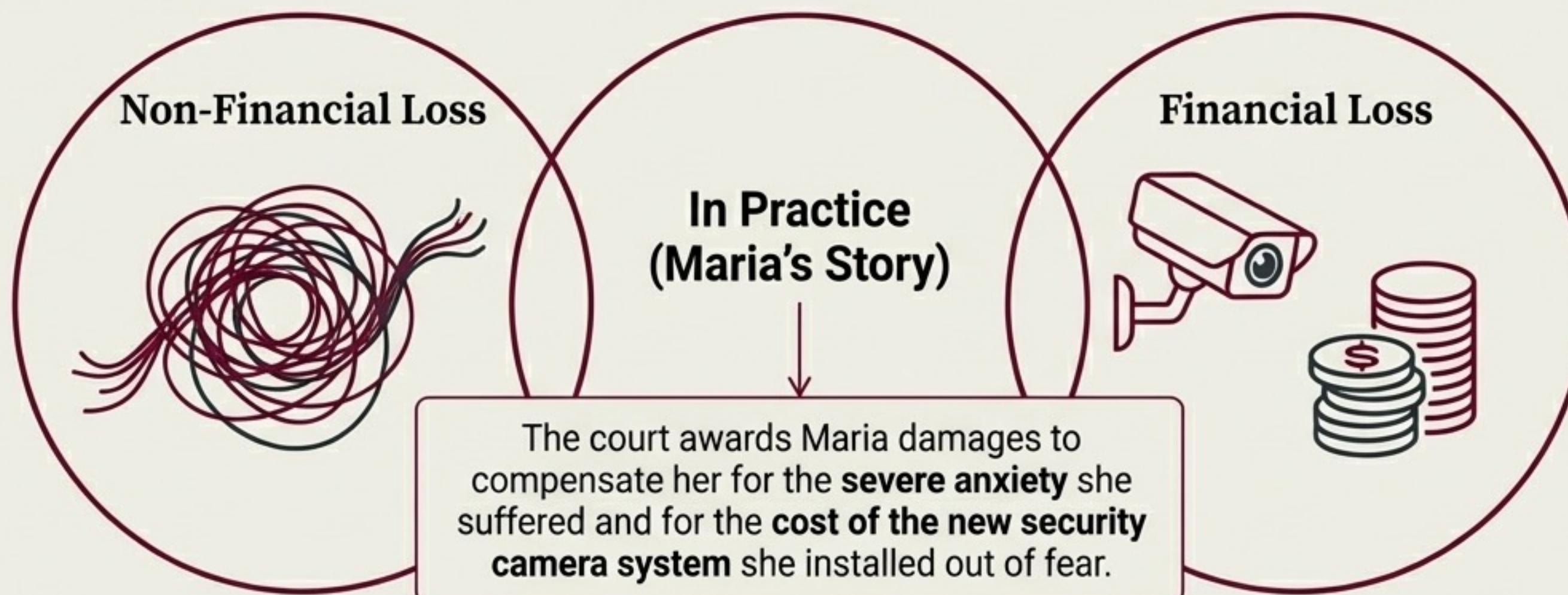
**The law allows you to act proactively. You do not have to wait to become a victim to seek protection.**

# The Court Can Award Damages for Both Harm and Financial Loss

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## Section 3(2) - Awarding Damages

If the court finds in the victim's favour, it has the power to award monetary compensation (damages). This is designed to compensate the victim for the impact of the harassment.





## Tool #2: The Shield – Forging a Civil Injunction

Subsection 3(3): A Court Order to Stop the Harassment

### What is an Injunction?

- A powerful court order legally compelling a person to do, or not do, a specific act.
- In harassment cases, it creates a clear set of rules the harasser must follow.

### Examples of Injunction Terms:

- Do not contact the victim by any means (phone, email, social media).
- Do not come within 100 meters of the victim's home or workplace.
- Do not publish any material about the victim online.

*The injunction is the legal foundation for protection. The next tools give it its power.*

# The Injunction Is in Place. But What if It's Ignored?

An injunction is a powerful legal tool. However, its effectiveness depends on compliance. The Protection from Harassment Act anticipates the possibility of a breach and provides the victim with a clear, powerful process for enforcement. The focus now shifts from seeking protection to **enforcing** it.

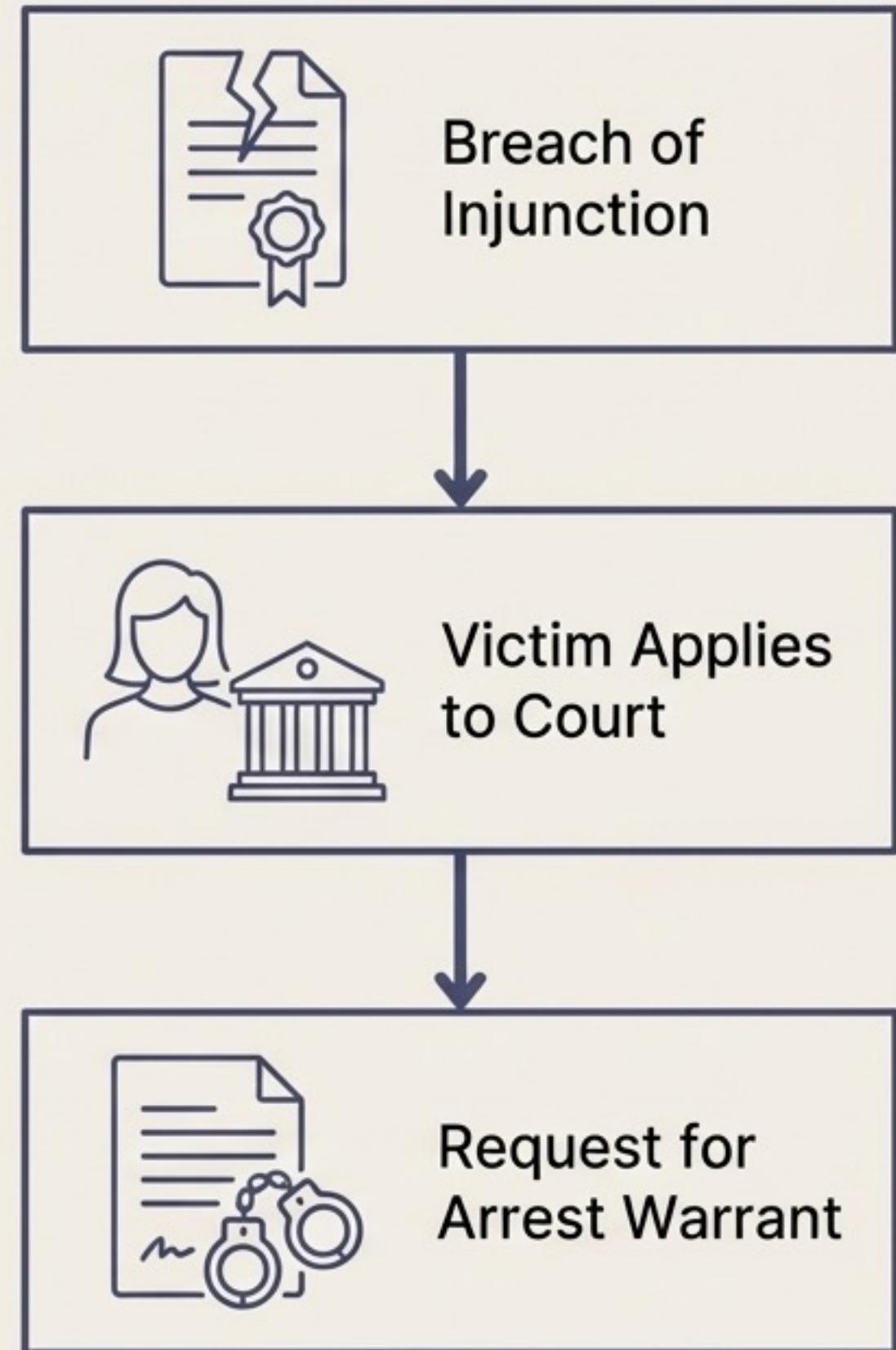


# Enforcement Step 1: The Victim Can Apply for an Arrest Warrant

**Key Provisions:** Section 3(3) & 3(4) - Applying for a Warrant of Arrest

**Explanation:** If the victim (plaintiff) believes the defendant has violated the injunction, they can apply directly to the High Court or County Court judge for a **warrant for the defendant's arrest**. This transforms a civil breach into a matter requiring immediate law enforcement action.

**In Practice (Maria's Story):** Maria sees David waiting outside her workplace. This violates the injunction. She can now apply to the judge for a warrant for David's arrest.



# The Court's Scrutiny: A Warrant Requires a High Burden of Proof

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## Key Provision: Section 3(5) - Conditions for Issuing a Warrant

A judge will **only** issue the arrest warrant if two strict conditions are met, ensuring the power is not misused:

- **(a) Substantiated on Oath:** The victim's application must be sworn or affirmed under penalty of perjury. This is typically done via a formal affidavit.
- **(b) Reasonable Grounds for Belief:** The judge must have reasonable grounds to believe the defendant has actually violated the injunction based on the evidence provided.

**In Practice (Maria's Story):** Maria must submit a sworn statement detailing the breach, perhaps including a photo or a log of the incident. The judge will issue the warrant only after reviewing this credible evidence.



# The Ultimate Consequence: A Civil Breach Becomes a Criminal Offense

Subsection 3(6): Where Civil and Criminal Law Converge

## The Hybrid Provision

“A person who, without reasonable excuse, does anything which he is prohibited from doing by an injunction... is guilty of an **offence**.”

- This is the game-changer. The injunction was granted in a CIVIL court, as part of a claim YOU brought.
- However, the act of **BREACHING** that civil order is automatically a **CRIMINAL** crime.
- This means the police can now get involved, arrest the person, and charge them with a **criminal offense**, separate from any original harassment charges.



# The Exception to the Rule: “Without Reasonable Excuse”

Understanding the Defendant’s Potential Defense in Subsection 3(6)

The law is not absolute. A defendant is not guilty of the criminal offense of breaching an injunction if they had a valid, demonstrable reason for their actions.

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## What constitutes a "Reasonable Excuse"?

This is determined by the court, but it must be a compelling and verifiable reason.

## Examples of a Potential Reasonable Excuse:

- “I had to cross the victim’s lawn to escape a fire in the adjacent building.”
- “A police officer was directing traffic and ordered me to drive down that prohibited street.”

## What is NOT a Reasonable Excuse:

- “I forgot about the order.”
- “I just wanted to talk to them.”
- “I didn’t think they would see me.”

# The Consequences: Facing a Prison Sentence for a Civil Breach

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## Key Provision: Section 3(9) - Penalties for the Criminal Offence

This specifies the criminal penalties for the offence created by Section 3(6). The severity of the sentence depends on where the case is tried.



### On Summary Conviction (Magistrates' Court)

Up to **six months' imprisonment**, or a fine, or both.

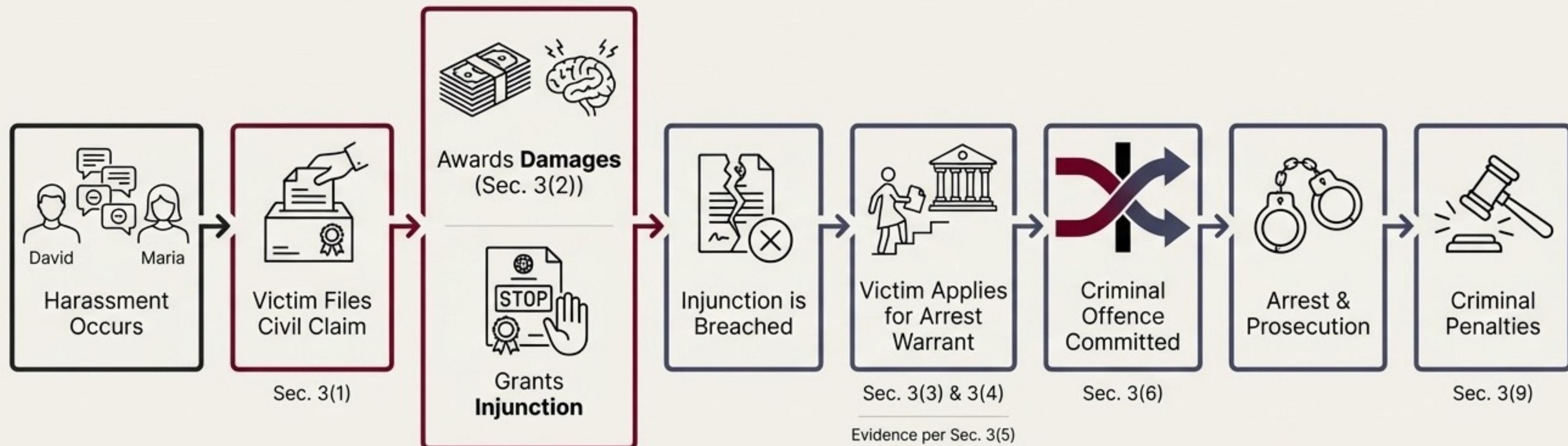


### On Conviction on Indictment (Crown Court)

Up to **five years' imprisonment**, or a fine, or both.

In Practice (Maria's Story): Due to the severity of David's breach, he is tried on indictment in the Crown Court. If convicted, he faces a potential sentence of up to five years in prison.

# The Section 3 Journey: From Civil Claim to Criminal Sanction



# Section 3: Key Provisions at a Glance

Subsection	Subject	Explanation	In Practice (Maria's Journey)
3(1)	Right to Claim	Gives the victim the right to start a civil lawsuit for actual or feared harassment.	Maria sues David to legally stop his course of conduct.
3(2)	Damages	Court can award money for anxiety, distress, or any financial loss.	Maria is awarded compensation for her distress and security costs.
3(3) & 3(4)	Arrest Warrant	If an injunction is breached, the victim can apply to the court for an arrest warrant.	David violates the no-contact order; Maria applies for his arrest.
3(5)	Warrant Req's	Warrant only issued if application is sworn under oath & judge has reasonable grounds.	Maria provides a sworn affidavit with evidence of the breach to the judge.
3(6)	Criminal Offence	Breaching an injunction without reasonable excuse is a specific criminal offence.	By texting Maria, David violates the court order and commits a crime.
3(9)	Penalties	Sets criminal penalties: max 5 years (Crown Court) or max 6 months (Magistrates').	Convicted in the Crown Court, David could face up to 5 years in prison.

# The Unique Power of Section 3: Civil Protection Backed by Criminal Force

Section 3 of the Protection from Harassment Act 1997 does more than just offer compensation. It provides victims with a powerful, proactive toolkit. It empowers them to secure a civil injunction and then leverages the full weight of criminal law to enforce it.

This unique fusion of civil and criminal remedies ensures that a court's protective order is not just a piece of paper, but a binding command with severe consequences for defiance.

