



# The effects of new legislation on domestic violence

## The current situation

The Domestic Violence, Crime and Victims Act 2004 came into force in July 2007 and introduced new powers for the police and courts to deal with offenders in domestic violence cases. It also aimed to improve the support, protection and advice that victims of such violence receive.

When the Act was introduced the Home Secretary described it as “the biggest overhaul of domestic violence legislation for thirty years”. Some of its key provisions include:

- Making common assault an arrestable offence
- Making it a criminal offence to breach a non-molestation order punishable by up to five years in prison. Previously breach of an order was treated as a civil contempt of court punishable by imprisonment or fine.
- Strengthening the civil law to extend protection from domestic violence to same-sex couples and to couples who have never lived together.
- Recognition of a new offence of causing or allowing the death of a child or vulnerable adult – for which all members of a household, aged 16 and over, may be liable and which carries a maximum penalty of 14 years.
- Giving the Criminal Injuries Compensation Authority the right to recover from offenders the money it has paid to their victims in compensation.

## The Family Justice Council’s view...

The Council has received considerable feedback from its network of 39 Local Family Justice Councils on the operation of the new legislation. Many Local FJCs have raised concerns about the criminalisation of the breach of non-molestation orders. This is because they have reported anecdotal evidence of sharp falls in the numbers of applications for injunctions in domestic violence cases such as non-molestation orders.

There is also some anecdotal evidence to suggest that the police and Crown Prosecution Service have not been sufficiently well prepared to take on their new responsibilities under the Act in some areas. This has led to a lower than expected level of arrests and charges. Breaches of non-molestation orders are now dealt with as criminal offences in the criminal courts. Inevitably, the necessary checks and safeguards built into the criminal process generates considerable delays.

The Council was disappointed with the research the Ministry of Justice commissioned into the operation of the new legislation, published in August 2008. The research failed to identify any firm trends or conclusions because it was carried out too early, and there was insufficient data to make meaningful findings. The Council stands ready to assist the Ministry of Justice in arriving at a better understanding of how the new legislation is operating on the ground.

## Family Justice Council spokespeople

Marilyn Mornington is a District Judge based in Barnsley. She is highly experienced in dealing with domestic violence cases. Marilyn lectures on the subject and is a frequent speaker at conferences at home and abroad on domestic violence and related issues.



Lesley Newton is a Circuit Judge based in Manchester and has many years of experience in dealing with domestic violence. She acts as a trainer for the Judicial Studies Board – the independent body which provides professional training for judges.



## The Family Justice Council

The Family Justice Council is an interdisciplinary body made up of leading professionals working in the family justice system. The Council includes expertise from the legal (judges, barristers, solicitors), medical (a paediatrician and a child psychiatrist) and social care (CAFCASS representation and a Director of Children's Services) worlds.



The Council aims to promote better and quicker outcomes for families and children who use the family justice system.

The Family Justice Council sits between government and the courts of the family justice system. It speaks with both the experience of its members, all eminent in their fields, and an understanding of the realities of the system on the ground as perceived by its 39 Local Family Justice Councils.

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