

Your Rights under the Law

If you or your children are being hurt or frightened by your partner/ex-partner, you can contact the police at any time. This leaflet tells you about other ways the law can protect you.

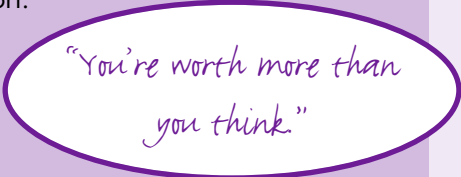
Taking legal action

To get protection under the law, you may have to apply to court. The law is quite complex so you should speak to an adviser from East Lothian Women's Aid or Citizens Advice Bureau (CAB). They can tell you more about your rights and how to find a solicitor. They may also be able to accompany you to appointments. Their contact details are in leaflet 12 on sources of help and support.

Finding a solicitor

It is best to find a solicitor who specialises in family law. East Lothian Women's Aid can tell you about local solicitors whom other women have found helpful. You can also use word of mouth and ask around for recommendations or phone the Law Society on 0131 226 7411. Usually, a first appointment is free but check first to make sure. You may be entitled to Legal Aid for help with legal costs. This is assessed on your income. The solicitor will tell you more about this.

If you need to take **urgent legal action**, the solicitor can carry emergency work out for you before there is a decision about Legal Aid. Check that the solicitor is prepared to do this.



"You're worth more than you think."

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Evidence of abuse

It is useful to have as much evidence as possible about what your partner/ex-partner has done to you. This might be:

- Friends, family or neighbours who can confirm what you say
- Medical and dental records – ask your GP, health visitor, dentist to make a note of any injuries caused by your partner
- Police records of calls you have made to them and any information they have gathered
- Items such as abusive letters or texts which your partner/ex-partner has sent you

Interdicts

An interdict is a court order that bans your partner/ex-partner from certain behaviour such as threatening you or assaulting you. You can get an interdict to stop your partner/ex-partner coming near your home, your work or your child's school. You can also get an interdict to stop your partner/ex-partner from phoning you or selling items from your home.

There are different laws through which you can apply for an interdict. These include the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and the Protection from Abuse Act (2001). An adviser or a solicitor can tell you which is best for you.

In an emergency, you can apply to the court for **an interim interdict**. This is a temporary order and your solicitor should be able to get this for you within 24 to 48 hours.

"Women's Aid suggested a few lawyers."

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Applying for an interdict

A solicitor applies to the court for an interdict on your behalf. The solicitor will gather information from you and anyone else, such as family or friends, who is willing to say what happened. The solicitor will then prepare an application and present it to the court. Your partner will be informed that you have applied for an interdict.

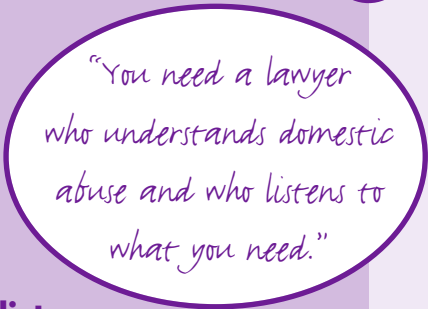
If the court grants the interdict, sheriff officers will go to your partner/ex-partner and give him the papers (serve the interdict). The interdict is only effective if he gets the papers.

You solicitor should tell the police that the interdict has been granted and when it starts.

Making the interdict more effective

Under the Protection from Abuse Act (2001), you can apply for a **power of arrest** to be attached an interdict. A power of arrest means that the police can arrest your partner/ex-partner without a warrant if he breaks the interdict. The police do not need witnesses or other evidence to arrest him.

But, being arrested is not the same as being charged. The police will need evidence if he is to be charged and face court action.



"You need a lawyer who understands domestic abuse and who listens to what you need."

If your partner breaks the interdict

If your partner breaks the interdict you should report this immediately. If the interdict **does not have** a power of arrest attached you should contact your solicitor and tell them what has happened. If the interdict **does have** a power of arrest attached you should contact the police. You should also contact your solicitor. The police can arrest your partner without a warrant.

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Non-harassment orders

A non-harassment order is a court order which states that your partner cannot commit certain actions (for example following you, repeatedly texting you).

Applying for a non-harassment order

If your partner/ex-partner has already been convicted of an offence against you, the sheriff may impose a non-harassment order along with the sentence.

You can also apply to the court for a non-harassment order. A solicitor makes the application on your behalf. You must show that on **at least two occasions** your partner/ex-partner has behaved in a way that put you in a state of alarm or distress. If you already have an interdict, it is still possible to get a non-harassment order to forbid the person from doing something that is not in the interdict.

If your partner breaks the non-harassment order

If your partner/ex-partner breaks a non-harassment order, it is a criminal offence. You should contact the police immediately. You should also contact your solicitor. The police can arrest your partner without a warrant. They will send a report to the Procurator Fiscal and your partner will need to go to court. He may face a fine or prison sentence.

If you are in immediate danger phone 999 and ask for the police.

Phone the Scottish Domestic Abuse Helpline in confidence on 0800 027 1234 any time, day or night.

Domestic abuse: there's no excuse

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