

# Non-molestation orders current practice

Current practice in forces for the consistent and effective use of non-molestation orders.

10 mins read

First published 28 July 2022

## Background

The National Police Chiefs' Council (NPCC) and College of Policing's joint [national delivery framework](#) for tackling violence against women and girls includes an action for better use of police powers to protect women and girls, and to manage and disrupt perpetrators. This includes increasing effective use of protective orders, strengthening processes to identify, perpetrator non-compliance with orders and ensuring swift action to deal with breaches effectively.

Non-molestation orders (NMOs) are one order that can be used to protect victims of abuse. Under [section 42 of the Family Law Act 1996](#), an NMO protects a named person from molestation in general or specific behaviours by an abuser and can be applied for by a victim of domestic abuse.

See [Protective measures and civil orders](#) for a full explanation of the criteria for applying for NMOs and other protective orders that can be used to reduce the harm from violence against women and girls and domestic abuse of any form.

A super-complaint brought by the [Centre for Women's Justice](#) highlighted the lack of use of protective orders by the police and raised concerns officers sometimes advise victims to apply for NMOs as an alternative to taking police action, and in some instances, when an NMO would not be appropriate.

In the response to the super-complaint, the report [A duty to protect](#) identified a number of issues contributing to inconsistent and ineffective use of NMOs across forces, including a lack of understanding of the application process and challenges in the communication of NMOs to the police.

For all issues identified, see the super-complaint report, [A duty to protect: Police use of protective measures in cases involving violence against women and girls](#).

This current practice information is to support chief officers responding to the super-complaint recommendation that:

*Chief constables should review and if necessary refresh their policy on how the force processes notifications of NMOs, so officers can easily identify if an NMO exists.*

## Effective current practice

A request for information on NMO processes was sent to forces. The issues discussed below were identified during the investigation of the super-complaint and in a review of returns from 32 forces on their current practice of NMOs.

From the review of force processes, those with the most robust processes for dealing with NMOs tended to have some common features. These processes cover:

- recording and updating information
- local monitoring
- recording, responding to and processing
- safeguarding and transferring victims
- data retention
- other protective measures

## Recording and updating information

A system is in place to record and update information on NMOs.

The system ensures that however notifications of NMOs arrive in force, they are immediately forwarded to an identified point of contact to ensure responsibility for maintaining centrally held, up-to-date records of the orders.

The identified point of contact provides regular liaison with the local family courts to ensure:

- they are notified of all NMOs issued
- any missing data is obtained
- any ambiguous wording is clarified and the wording is sufficiently specific for the police to enforce the NMO

- the outstanding orders are still current and up to date

The identified point of contact ensures that NMOs are quality assured – the people and places subject to NMOs are logged onto the Police National Computer (PNC) and other relevant force systems ensuring that all officers can always access the original order information. In particular, force control room staff are able to gain timely access to the flags and NMO details.

The central identified point of contact ensures that details of the order are disseminated to the district where the victim resides to ensure local neighbourhood teams are made aware of the order, and able to act if necessary.

The safeguarding unit or unit responsible for domestic abuse makes contact with the victim. They advise them that the order has been lodged, and remind them of the terms of the order and to call police if the perpetrator breaches the order.

## Local monitoring

NMOs are monitored locally and proactive action taken against those subjects considered a priority. For example, where the subject of the order is under an offender management process.

Examples of proactive action provided by forces included:

- proactive checks by neighbourhood teams
- contact with victims to reassure them, discuss current risks and encourage them to report breaches
- building rapport with the suspect to encourage compliance

## Breaches

Reports of a breaches of NMOs are recorded, risk-assessed and appropriate action taken.

Officers and staff are required to check the relevant database or PNC for the presence and terms of the NMO before recording the breach as an offence. If there is no confirmation of the order existing, its exact terms and it having been served, there may be no breach. Officers and staff are also expected to consider whether other crimes have occurred in addition to the breach.

Where a person is arrested for a breach of a NMO, the attending officer fully investigates and formally interviews the suspect regarding the breach – giving the suspect the opportunity to explain their actions, admit or deny the breach and/or put forward any alibi or defence. Officers also consider all crimes that might have been committed and secure and preserve all evidence.

In certain circumstances, such as where the breach has occurred in public and reported later, some forces find that a telephone or video response may be appropriate. See [Principles for telephone or video first response to domestic abuse](#).

Where the breach is alleged to have taken place at the victim or suspect's address, very careful consideration should be given to whether telephone or video response is appropriate and can adequately address the risk of the suspect continuing to control and manipulate the victim.

## Recording breaches

Breaches must be recorded as crimes in accordance with Crime Recording Standards and fully investigated in line with the crime investigation process.

The complexity of the breach and risk assessment indicates and influences allocation to specialist resources such as a domestic abuse team if required and referral to partner agencies. Although it is a civil order, a breach of the order is a criminal offence under section 42A Family Law Act 1996 and therefore suspects can be considered for arrest.

A breach of the order can still be dealt with as a civil contempt of court matter if the applicant chooses to do so, or does not support criminal proceedings. However, if an individual has been convicted of a breach of an NMO, they cannot be punished subsequently for contempt and vice versa for the same breach.

## Responding to breaches

Those forces reporting greatest confidence in their processes have systems to ensure that reports of breaches of NMOs are responded to effectively and that any risk of harm (including coercive and controlling behaviour) are mitigated or removed.

They also included breach of NMOs in their daily force risk meetings.

## Processing breaches

Most forces described processes to identify any inadequate responses to breaches and consideration of whether it was appropriate and necessary to arrest. If so, cases are sent back to response officers to consider taking positive action where appropriate and supervisors made aware.

Some forces stated they used the following processes.

- Dip-sampling of domestic abuse crimes to ensure learning and improving services.
- Monitoring and scrutiny of all domestic abuse incidents, including NMO breaches, to ensure positive action is taken where appropriate.

## **Safeguarding victims**

In the forces with the most robust processes, the use of NMOs is considered as part of safeguarding plans. For example, bail with conditions and/or Domestic Violence Protection Notices could also be utilised.

Officers can give advice regarding civil orders, though they should be considered alongside other safeguarding measures as opposed to being the default solution.

[See Women's Aid for more information about getting an injunction.](#)

## **Transferring victims**

Where it becomes known that a victim who has an NMO in place intends to move away from the area that currently manages the NMO, transfers are brought to the attention of the force area where the victim will reside.

The overriding considerations when transferring an NMO case are the protection of the victim(s) and management of the perpetrator. Force ownership should be based on where the majority of investigation is likely to happen (generally where the victim resides).

The case should not be considered transferred until someone at the receiving end accepts it. In cases of doubt, escalate.

## **Data retention**

Many of the forces record data on NMOs as this allows them to monitor and address trends and understand activity in their force area.

## Other protective measures

There is a wide range of other protective measures and civil orders that can be considered for use by police officers and staff to provide protection for women and girls in different circumstances.

See [Protective measures and civil orders](#) in the [Violence against women and girls toolkit](#) for an overview.

## Tags

Violence against women and girls