Application for:
a non-molestation order
an occupation order

Family Law Act 1996 (Part IV)

The court

To be completed by the court

Date issued

Case number

Fee charged/Remission ID

Note: If you are an individual applicant, you **MUST NOT** serve the documents yourself on the person you are seeking the order against.

Please read the notes for guidance below as you complete this form.

1 About you (the applicant)

If you do not wish your address or telephone number to be made known to the respondent, leave the details below blank and complete Confidential contact details Form C8.

You can get a copy of this form from any family court office or from our website at hmctsformfinder.justice.gov.uk

Please make sure that any documents submitted with this form or at a later date, do not include the confidential contact details you wish to withhold.

State your title (Mr, Mrs etc), full name, address, telephone number and date of birth (if under 18):

Anne Smith
123 New Street
Leeds
LS4 5MT

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

Solicitor's fee account no.	

2 About the respondent

State the respondent's name, address and date of birth (if known):

John Watson
45 Old Road
Leeds
LS6 7PN
07987654321
johnsmith@gmail.com

3 The Order(s) for which you are applying

This application is for:

☑ a non-molestation order

☐ an occupation order

☑ Tick this box if you wish the court to hear your

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application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be stated in the statement in support.

4 Your relationship to the respondent (the person to be served with this application)

Your relationship to the respondent is:

(Please tick only one of the following)

1 ☐ Married

2 ☐ Civil Partners

3 ☐ Were married

4 ☐ Former civil partners

5 ☐ Cohabiting

6 ☑ Were cohabiting

7 ☐ Both of you live or have lived in the same household

8 ☐ Relative
State how related:

9 ☐ Agreed to marry.
Give the date the agreement was made.
If the agreement has ended, state when.

10 ☐ Agreed to form a civil partnership.
Give the date the agreement was made.
If the agreement has ended, state when.

11 ☑ Both of you are parents of, or have parental responsibility for, a child

12 ☐ One of you is a parent of a child and the other has parental responsibility for that child

13 ☐ You are having, or have had an intimate personal relationship which is or was of significant duration

14 ☐ One of you is the natural parent or grandparent of a child adopted, placed or freed for adoption, and the other is:

(i) the adoptive parent
or (ii) a person who has applied for an adoption order for the child
or (iii) a person with whom the child has been placed for adoption
or (iv) the child who has been adopted, placed or freed for adoption.

State whether (i), (ii), (iii) or (iv):

15 ☐ Both of you are the parties to the same family proceedings (see also Section 11 below).

5 Application for a non-molestation order

If you wish to apply for a non-molestation order, state briefly in this section the order you want.

The Applicant requires an Order forbidding the Respondent to:

1. Use or threaten any violence towards the Applicant.

2. Use or threaten any violence towards the children: Rebecca Watson (dob 12.03.2015) and Thomas Watson (dob 24.07.2018).

3. Come within 100 meters of the Applicant's home at 123 New Street Leeds LS4 5MT.

4. Come within 100 meters of the Applicant's place of work at 2-4-1 Shop, 45 New Crescent. Leeds LS6 7NP.

5. Come within 100 meters of any property which he is aware that the Applicant is living.

6. Come within 100 meters of Leeds Academy, School Street, Leeds LS4 8DR and Leeds Day Care and Pre-school, Woodland Close, Leeds LS4 6RT between the hours of 8.30am and 4.00pm, go to, enter or attempt to enter the school premises known as Leeds Academy and Leeds Day Care and Pre-school except by prior written invitation from the school authorities.

7. Send any threatening or abusive letters, text messages or other communication to the Applicant (including by way of social media and other networking sites).

8. Communicate with the Applicant whether by letter, telephone, text or other means of communication except [through her/his solicitors] [for the purpose of making arrangements for contact between The Respondent and [children].

9. Threaten or use abusive language to the Applicant.

10. Damage or attempt to damage or threaten to damage any property belonging to the Applicant or jointly owned by the parties.

11. Damage or attempt to damage or threaten to damage any other of the contents of 123 New Street Leeds LS4 5MT.

12. The Respondent is also forbidden to instruct or encourage any other person to do anything which he is forbidden to do so by the terms of this Order.

Give full details in support of your application in your supporting evidence.

Please see the attached witness statement.

6 Application for an occupation order

If you do not wish to apply for an occupation order, please go to section 9 of this form.

(A) State the address of the dwelling-house to which your application relates:

(B) State whether it is occupied by you or the respondent now or in the past, or whether it was intended to be occupied by you or the respondent:

(C) State whether you are entitled to occupy the dwelling-house: ☐ Yes ☐ No

If yes, explain why:

(D) State whether the respondent is entitled to occupy the dwelling-house: ☐ Yes ☐ No

If yes, explain why:

On the basis of your answers to (C) and (D) above, tick one of the boxes 1 to 6 below to show the category into which you fit

1 ☐ a spouse or civil partner who has home rights in the dwelling-house, or a person who is entitled to occupy it by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation.

If you tick box 1, state whether there is a dispute or pending proceedings between you and the respondent about your right to occupy the dwelling-house.

2 ☐ a former spouse or former civil partner with no existing right to occupy, where the respondent spouse or civil partner is so entitled.

3 ☐ a cohabitant or former cohabitant with no existing right to occupy, where the respondent cohabitant or former cohabitant is so entitled.

4 ☐ a spouse or former spouse who is not entitled to occupy, where the respondent spouse or former spouse is also not entitled.

5 ☐ a civil partner or former civil partner who is not entitled to occupy, where the respondent civil partner or former civil partner is also not entitled.

6 ☐ a cohabitant or former cohabitant who is

not entitled to occupy, where the respondent cohabitant or former cohabitant is also not entitled.

Home Rights

If you do have home rights please:

State whether the title to the land is registered or unregistered (if known):

If registered, state the Land Registry title number (if known):

If you wish to apply for an occupation order, state briefly here the order you want. Give full details in support of your application in your supporting evidence:

7 Application for additional order(s) about the dwelling-house

If you want to apply for any of the orders listed in the notes to this section, state what order you would like the court to make:

8 Mortgage and rent

Is the dwelling-house subject to a mortgage?

☐ Yes ☐ No

If yes, please provide the name and address of the mortgagee:

Is the dwelling-house rented?

☐ Yes ☐ No

If yes, please provide the name and address of the landlord:

9 At the court

Will you need an interpreter at court? **No**

☐ Yes ☐ No

If yes, specify the language:

If you require an interpreter, you must notify the court immediately so that one can be arranged.

If you or the person to be protected has a disability for which you require special assistance or facilities, please state what is needed. The court staff will then get in touch with you if necessary.

Please say whether the court needs to make any special arrangements for you or the person to be protected, to attend court (e.g. providing you with a separate waiting room from the respondent or other security provision).

10 Other information

State the name and date of birth of any child living with or staying with, or likely to live with or stay with, you or the respondent:

Rebecca Watson (dob 12.03.2015) and Thomas Smith (dob 24.07.2018).

State the name of any other person living in the same household as you and the respondent, and say why they live there:

11 Other Proceedings and Orders

If there are any other current family proceedings or orders in force involving you and the respondent, state the type of proceedings or orders, the court and the case number. This includes any application for an occupation order or non-molestation order against you by the respondent.

This application is to be served upon the respondent

Signed: Date:

Note: if you are an individual applicant you **MUST NOT** serve the documents yourself on the person you are seeking the order against.

Application for non-molestation order or occupation order
Notes for guidance

Section 1

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete Confidential contact details Form C8. You can get a copy of this form from any family court office or from our website at hmctsformfinder.justice.gov.uk

If you are under 18, someone over 18 must help you make this application. That person, who might be one of your parents, is called a 'next friend'.

If you are under 16, you need permission to make this application. You must apply to the High Court for permission, using this form. If the High Court gives you permission to make this application, it will then either hear the application itself or transfer it to a county court.

Section 3

An urgent order made by the court before the notice of the application is served on the respondent is called a without notice order. In deciding whether to make a without notice order the court will consider all the circumstances of the case, including:

- 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
- whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately
- 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.

If the court makes a without notice order, it must give the respondent an opportunity to make representations about the order as soon as just and convenient at a full hearing.

'Harm' in relation to a person who has reached the age of 18 means ill-treatment or the impairment of health, and in relation to a child means ill-treatment or the impairment of health and development.

'Ill-treatment' includes forms of ill-treatment which are not physical and, in relation to a child, includes sexual abuse. The court will require evidence of any harm which you allege in support of your application.

Section 4

For you to be able to apply for an order you must be related to the respondent in one of the ways listed in this section of the form. If you are not related in one of these ways you should seek legal advice.

Cohabitants are two persons who, although not married to each other, nor civil partners of each other, are living together as husband and wife or civil partners. People who have cohabited, but have then married or formed a civil partnership will not fall within this category but will fall within the category of married people or people who are civil partners of each other.

Those who live or have lived in the same household do not include people who share the same household because one of them is the other's employee, tenant, lodger or boarder.

You will only be able to apply as a relative of the respondent if you are:
(A) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson, granddaughter of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.

(B) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or by civil partnership) of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.

This includes, in relation to a person who is living or has lived with another person as husband and wife or as civil partners, any person who would fall within (A) or (B) if the parties were married to, or civil partners of, each other (for example, your cohabitee's father or brother).

Agreements to marry: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

evidence in writing

or the gift of an engagement ring in contemplation of marriage

or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

Agreements to form a civil partnership: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

evidence in writing

or a gift from one party to the agreement to the other as a token of the agreement

or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

Parents and parental responsibility:
You will fall within this category if

both you and the respondent are either the parents of the child or have parental responsibility for that child

or if one of you is the parent and the other has parental responsibility.

Section 4 continued

Under the Children Act 1989, parental responsibility is held automatically by a child's mother, and by the child's father if he and the mother were married to each other at the time of the child's birth or have married subsequently. Where, a child's father and mother are not married to each other at the time of the child's birth, the father may also acquire parental responsibility for that child, if he registers the birth after 1st December 2003, in accordance with section 4(1)(a) of the Children Act 1989. Where neither of these circumstances apply, the father, in accordance with the provisions of the Children Act 1989, can acquire parental responsibility.

From 30 December 2005, where a person who is not the child's parent ("the step-parent") is married to, or a civil partner of, a parent who has parental responsibility for that child, he or she may also acquire parental responsibility for the child in accordance with the provisions of the Children Act 1989.

From 1st September 2009, specific provision has been made in relation to parental responsibility in certain cases involving assisted reproduction. Parental responsibility is held automatically by a woman if—

- she and the child's mother were in a civil partnership with each other at the time of treatment unless that woman did not consent to the treatment; or
- she is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and subsequently enters into a civil partnership with the mother.

A woman who is a parent of the child by virtue of section 43 of the 2008 Act but who does not subsequently enter into a civil partnership with the mother may acquire parental responsibility in accordance with the provisions of section 4ZA of the Children Act 1989

Section 5

A non-molestation order can forbid the respondent from molesting you or a relevant child. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

Section 6

If you wish to apply for an occupation order but you are uncertain about your answer to any question in this part of the application form, you should seek legal advice.

(A) A dwelling-house includes any building or part of a building which is occupied as a dwelling; any caravan, houseboat or structure which is occupied as a dwelling; and any yard, garden, garage or outhouse belonging to it and occupied with it.
(C) & (D) The following questions give examples to help you to decide if you or the respondent, or both of you, are entitled to occupy the dwelling-house:

(a) Are you the sole legal owner of the dwelling-house?

(b) Are you and the respondent joint legal owners of the dwelling-house?

(c) Is the respondent the sole legal owner of the dwelling-house?

(d) Do you rent the dwelling-house as a sole tenant?

(e) Do you and the respondent rent the dwelling-house as joint tenants?

(f) Does the respondent rent the dwelling-house as a sole tenant?

If you answer —

- **Yes** to (a), (b), (d) or (e) you are likely to be entitled to occupy the dwelling-house
- **Yes** to (c) or (f) you may not be entitled (unless, for example, you are a spouse or civil partner and have home rights – see notes under 'Home Rights' below)
- **Yes** to (b), (c), (e) or (f), the respondent is likely to be entitled to occupy the dwelling-house
- **Yes** to (a) or (d) the respondent may not be entitled (unless, for example, he or she is a spouse or civil partner and has home rights).

Box 1 For example, if you are sole owner, joint owner or if you rent the property. If you are not a spouse, former spouse, civil partner, former civil partner, cohabitant or former cohabitant of the respondent, you will only be able to apply for an occupation order if you fall within this category.

If you answer yes to this question, it will not be possible for a magistrates' court to deal with the application, unless the court decides that it is unnecessary for it to decide this question in order to deal with the application or make the order. If the court decides that it cannot deal with the application, it will transfer the application to a county court.

Box 2 For example, if the respondent is or was married to you, or if you and the respondent are or were civil partners, and he or she is sole owner or rents the property.

Box 3 For example, if the respondent is or was cohabiting with you and is sole owner or rents the property.

Home Rights

Where one spouse or civil partner "**(A)**" is entitled to occupy the dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation, and the other spouse or civil partner "**(B)**" is not so entitled, then **B** (who is not entitled) has home rights.

The rights are—

(a) if **B** is in occupation, not to be evicted or excluded from the dwelling-house except with the leave of the court; and

(b) if **B** is not in occupation, the right, with the leave of the court, to enter into and occupy the dwelling-house.

Section 6 (continued)

Note: Home Rights do not exist if the dwelling-house has never been, and was never intended to be, the matrimonial or civil partnership home of the two spouses or civil partners. If the marriage or civil partnership has come to an end, home rights will also have ceased, unless a court order has been made during the marriage or civil partnership for the rights to continue after the end of that relationship.

Occupation Orders
The possible orders are:

If you have ticked box 1 above, an order under section 33 of the Act may:

- enforce the applicant's entitlement to remain in occupation as against the respondent
- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both parties
- if the respondent is also entitled to occupy, the order may prohibit, suspend or restrict the exercise by him, of that right
- restrict or terminate any home rights of the respondent
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house
- declare that the applicant is entitled to occupy the dwelling-house or has home rights in it
- provide that the home rights of the applicant are not brought to an end by the death of the other spouse or civil partner or termination of the marriage or civil partnership.

If you have ticked box 2 or box 3 above, an order under section 35 or 36 of the Act may:

- give the applicant the right not to be evicted or excluded from the dwelling-house or any part of it by the respondent for a specified period
- prohibit the respondent from evicting or excluding the applicant during that period
- give the applicant the right to enter and occupy the dwelling-house for a specified period
- require the respondent to permit the exercise of that right
- regulate the occupation of the dwelling-house by either or both of the parties
- prohibit, suspend or restrict the exercise by the respondent of his right to occupy
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

If you have ticked box 4 or box 5 above, an order under section 37 or 38 of the Act may:

- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both of the parties
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

You should provide any evidence which you have on the following matters in your evidence in support of this application. If necessary, further statements may be submitted after the application has been issued.

If you have ticked box 1, box 4 or box 5 above, the court will need any available evidence of the following:

- the housing needs and resources of you, the respondent and any relevant child
- the financial needs of you and the respondent
- the likely effect of any order, or any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise.

If you have ticked box 2 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the length of time that has elapsed since you and the respondent ceased to live together
- where you and the respondent were married, the length of time that has elapsed since the marriage was dissolved or annulled
- where you and the respondent were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership

Section 6 (continued)

- the existence of any pending proceedings between you and the respondent:

  under section 23A of the Matrimonial Causes Act 1973 (property adjustment orders in connection with divorce proceedings etc.)

  or under Part 2 of Schedule 5 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation)

  or under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 (orders for financial relief against parents)

  or relating to the legal or beneficial ownership of the dwelling-house.

If you have ticked box 3 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the nature of your and the respondent's relationship
- the length of time during which you have lived together as husband and wife or civil partners
- whether you and the respondent have had any children, or have both had parental responsibility for any children
- the length of time that has elapsed since you and the respondent ceased to live together
- the existence of any pending proceedings between you and the respondent under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 or relating to the legal or beneficial ownership of the dwelling-house.

Section 7

Under section 40 of the Act the court may make the following additional orders when making an occupation order:

- impose on either party obligations as to the repair and maintenance of the dwelling-house
- impose on either party obligations as to the payment of rent, mortgage or other outgoings affecting it
- order a party occupying the dwelling-house to make periodical payments to the other party in respect of the accommodation, if the other party would (but for the order) be entitled to occupy it
- grant either party possession or use of furniture or other contents
- order either party to take reasonable care of any furniture or other contents
- order either party to take reasonable steps to keep the dwelling-house and any furniture or other contents secure.

Section 8

If the dwelling-house is rented or subject to a mortgage, the landlord or mortgagee must be served with notice of the proceedings in Form FL416. He or she will then be able to make representations to the court regarding the rent or mortgage.

Section 10

A person living in the same household may, for example, be a member of the family or a tenant or employee of you or the respondent.