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The Irish legal framework for women who have suffered gender violence

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DOMESTIC SEXUAL AND GENDER BASED VIOLENCE



THE BAR of
NORTHERN
IRELAND

Abuse is never a one time event.

This chart uses the wheel to show the relationship of physical abuse to other forms of abuse. Each part shows a way to control or gain power.



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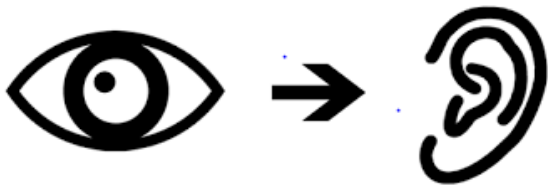


I SEE WHAT I KNOW

OR

I KNOW WHAT I SEE

Perception determines our behaviours and attitudes







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HOW IS IT FOR SOLICITORS?

-  LEARN TO LISTEN :
-  REMEMBER WE ARE NOT COUNSELLORS
-  GIVE CLEAR AND UNAMBIGUOUS ADVICE
-  DO NOT MAKE PROMISES

- BE AWARE OF THE LANGUAGE WE USE

- THE IRISH CONSTITUTION



- THE SUPREME COURT
- THE COURT OF APPEAL
- THE HIGH COURT
- THE CIRCUIT COURT
- THE DISTRICT COURT

Current statutory position

- LEGISLATION AND LEGAL REMEDIES
- MAIN STATUTE THE DOMESTIC VIOLENCE ACT 1996
- THE DOMESTIC VIOLENCE (AMENDMENT) ACT 2002
- THE CIVIL LAW (MISCELLANEOUS PROVISIONS) ACT 2011
- THE DOMESTIC VIOLENCE BILL 2017



Where are cases heard

- JURISDICTION
- CIRCUIT COURT
- DISTRICT COURT
- CASES HEARD IN CAMERA



SAFETY AND WELFARE

- O'B –V- O'B
- “FOR BETTER OR WORSE”
- GUIDING PRINCIPLES



Interim Orders

1996 ACT

- PROTECTION ORDER
- INTERIM BARRING ORDER(8 DAY RETURN DATE)
- AVAILABLE UNTIL THE HEARING OF THE FINAL ORDERS

2018

- ALLOWS FOR EMERGENCY BARRING ORDER EVEN IF APPLICANT HAS NO PROPERTY INTEREST.
- LASTS FOR 8 WORKING DAYS
- ONE A MONTH SAVE IN EXCEPTIONAL CIRCUMSTANCES

Final Orders SAFETY ORDERS

1996 ACT

- SAFETY ORDER
Prohibits Putting Applicant or Children in Fear
- INCLUDES
- MOLESTING WATCHING or BESETTING ORDERS

2018

- USING OR
- THREATENING TO USE VIOLENCE
- MOLESTING WATCHING BESETTING
- FOLLOWING OR COMMUNICATING (INCLUDING BY ELECTRONIC MEANS)



Parties Who Can Apply SAFETY ORDERS

1996 ACT

- SPOUSE
- COHABITEES – 6/12 months cohabitation
- PARENT
- PARENT OF CHILD WHOSE OTHER PARENT IS THE RESPONDENT
- LIVES WITH THE RESPONDENT IN NON CONTRACTUAL RELATIONSHIP eg brother sister

2018

- THE SAME EXCEPT THE COHABITATION REQUIREMENT GONE IN FAVOUR OF LIVING IN AN INTIMATE AND COMMITTED RELATIONSHIP



Section 5 New Provision

SETS OUT EXTENSIVE LIST OF FACTORS TO BE
TAKEN INTO CONSIDERATION IN DETERMINING
APPLICATIONS

JUDICIAL DISCRETION NOT TO BE FETTERED.



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WHO CAN APPLY

FINAL ORDERS BARRING Orders

- SPOUSES
- COHABITATION 6/9 MONTHS
- PARENT
- PROPERTY INTEREST?
- SPOUSES
- CIVIL PARTNERS
- LIVING IN AN INTIMATE AND COMMITTED RELATIONSHIP
- PARENT



FINAL ORDERS BARRING

- LEAVE THE PREMISE
- NO ENTRY
- PROHIBIT USING OR THREATENING VIOLENCE
- MOLESTING PUTTING IN FEAR WATCHING BESETTING
- 2018
- ADDITION OF
- FOLLOWING OR COMMUNICATING (INCLUDING BY ELECTRONIC MEANS)

NEW PROVISIONS

GARDAI CAN COMMUNICATE WITH ON-CALL
JUDGE TO APPLY FOR OUT OF HOURS BARRING
ORDER



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NEW PROVISIONS

- CROSS EXAMINATION THE APPLICANT /RESPONDENT MAY NOT CROSS EXAMINE A WITNESS SAVE IN THE INTERESTS OF JUSTICE SEC 17
- THE COURT TO GIVE REASONS FOR ITS DECISIONS SEC.18
- CRIMINAL PROSECUTION FOR BREACH TO BE HEARD IN CAMERA SEC 35
- FORCED MARRIAGE SEC 39
- COERCIVE CONTROL SEC 40

AGGRAVATING FACTOR

- THE RELATIONSHIP BETWEEN THE DEFENDANT AND THE VICTIM WILL BE AN AGGRAVATING FACTOR IN DETERMINING SENTENCE.

