

Injunctions

Factsheet



City of Westminster

1 What is an injunction?

An injunction is an order granted in court by a judge for a specific amount of time. An injunction contains a list of behaviours, prohibitions and orders that the defendant (person the injunction is against) must keep to. This may include behaviour that they must stop doing that has caused impact or nuisance to another person(s). It is also possible to require a defendant to do something, rather than stop them from doing something. This is called a positive requirement. An example would be to actively move belongings from a communal area.

An injunction can also contain an exclusion. This means it can be used to stop the defendant from entering a certain location, block, or estate. This is a civil power and not a criminal one. An exclusion must be reasonable and proportionate and cannot exclude a defendant from a large area.

2 Who can seek an injunction?

An injunction can be applied for by the police, a local authority and the housing service. You can also seek your own injunction against someone in certain circumstances. Please see question 8 for more details.

3 Can the housing service get an injunction against anyone?

An injunction can be granted against a person aged 10 or over if two conditions are met:

- The court is satisfied on the balance of probabilities (that it is more likely to happen or have happened than not happened) that the person has engaged or threatened to engage in anti-social behaviour; and
- The court considers it just and convenient to grant the injunction to prevent the person engaging in anti-social behaviour.

4 Do those affected (the victim / victims) have to provide witness statements for the council to get an injunction?

The victim(s) do not have to provide a witness statement, it is totally their choice – however

we will always want to put forward the strongest case possible and without direct evidence from the victim(s) this could make the case weaker. For more information, please read our [witness statement factsheet](#).

5 Will the defendant know that I have supported an injunction?

The defendant will only know that you have supported the injunction if you have provided a named witness statement or if the evidence you have provided makes it obvious you have made the report. For example, if an incident relates to a specific threat, the defendant may be able to work out who has reported them even if they have not been named. Any witness statements or other evidence must be served in a bundle to the defendant before any court hearing. If you have not provided a named witness statement, the defendant will not know you have been in contact with us.

We would not share your information without your consent. Please read our [privacy policy](#).

6 What types of things can the housing service ask for in an injunction?

An injunction can contain any specific behaviours or actions that someone must not do or stop doing as long as the request is reasonable, and the judge can see in the evidence that the defendant has done these things or committed this behaviour. This could include not making noise after a certain time, contacting only a specific person or service, not to enter a specific building, location or estate or not causing general nuisance, harassment, or annoyance to any other resident.

7 How long does an injunction last?

They usually last for anything from 12-24 months, but they can be indefinite with no end date, and they can be renewed.

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Can I seek my own injunction against someone?

If you are at risk of violence/ abuse, you can seek support from services to assist you with gaining an injunction against a person. More details on this can be found here: [Get an injunction if you've been the victim of domestic abuse: How to apply - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

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What is a power of arrest?

For some injunctions where there has been actual violence, a threat of violence or there is a significant risk of harm, a Power of Arrest may be attached. The Power of Arrest allows the police to arrest the person who has breached a term of their injunction order without the need for a warrant. It is down to a judge in court to decide whether a power of arrest should be attached to an injunction.

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What is the difference to a with or without notice injunction?

Most injunction applications made by us will require us to let the person know that we are seeking an injunction against them. This is known as "with" notice. In more serious cases where there is a higher risk present to someone or others, such as a threat of violence or a physical incident that has taken place, we can apply to the court for a "without" notice injunction. This means the defendant will not be made aware that we are going to court, and this makes it a quicker process into court. It also means that we are not putting the victim/ victims at immediate risk from the defendant by making them aware of what we are intending to do.

However, without notice applications are extremely rare and are only for the most serious incidents and cases only as the court must be fair to both parties and ensure that the Defendant can respond to the allegations before making an order.

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How long does the process take to get an injunction?

There is no set time that it takes to getting an injunction and it is down to a judge in court if the injunction is granted. Our service must wait for a hearing from the court once we have applied to them for an injunction. We must also consider gathering any necessary evidence such as witness statements which is dependent on the scale of the situation as there could be more than one victim, and this can take some time. It could take anything between a couple of weeks to a couple of months to seek an initial order but in some cases it can be longer. Cases which are contested will go to a trial, and this process can take 12 months or longer.

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Will a resident be evicted if an injunction is gained against them?

A resident will not automatically be evicted if an injunction is granted against them. An injunction is seen as a preventative and serious measure to stop someone's behaviour and legally puts conditions in place for them to follow. After an injunction is granted against an individual, we will attempt to meet with them and also write to them to advise how serious an injunction is and what could happen if they breach it. In high-risk cases, or cases where the resident breaches the injunction we will strongly consider other actions such as possession. For more information on possession please read our ASB Factsheet here [ASB_Factsheet.pdf \(westminster.gov.uk\)](https://www.westminster.gov.uk)

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How do I report if I think the person is breaking the rules of the injunction?

If there is a Power of Arrest attached to the injunction, you must call the police on 999 at the time of the incident and breach taking place. You should also make your ASB case officer aware of the incident / breach of the order as soon as possible, providing as much detail as you can and any reference numbers from your call to the police.

14 What happens after the person has breached the injunction?

If there is a Power of Arrest attached to the injunction and the police are called and witness a breach, they should arrest the person and present them to court.

If there is no Power of Arrest, the person can still be committed to court by our service, but it can be a longer process as we need to wait for a further hearing for a judge to hear the breach of the injunction and to decide what the consequences should be.

A sentence for a breach of an injunction can hold an unlimited fine and / or up to two years custodial sentence in prison. We may also consider possession action after the breach of an injunction.

15 Can housing service only get an injunction against named and known people?

No, we have also been successful at getting injunctions against "persons unknown" where we have had reports of serious anti-social behaviour across wide areas but where the identities of the defendants have been hard to prove. This type of injunction is used in cases where larger areas are being affected by multiple groups or individuals. These injunctions can also be 'with' or 'without notice'.

Generally, applications should be made against named Defendants rather than persons unknown to ensure that the court process is fair.

16 Does the injunction start from the day it is granted in court?

If the defendant is at court for the hearing, the order can be served on them there and it will be in force from that day. If the defendant is not present at court, the injunction order will need to be served on them in person unless the judge has ordered that it can be served by another method (email etc.).

Sometimes the service of an order takes longer than expected but we must make sure the defendant has received it and understands the terms. Once it is served then the terms of injunction will start and it will be active.

17 Do I have to go to court to give evidence?

This question is covered in our Witness Statement Factsheet. For more information, please see our [witness statement factsheet](#).

18 The court hearing has been adjourned and an 'interim injunction' has been granted. What does this mean?

During a court hearing, a judge may decide they need more information to be able to make a final decision on the case, and so they may adjourn/ delay the hearing to another future date. The judge may decide to grant an "interim injunction" during the time between the current hearing and the next future hearing to ensure that some or all the conditions are in place against the defendant. The rules and conditions of an "interim injunction" will have the same weight as a full injunction and can be breached in the same way as described above. Your ASB case officer will discuss the details of the court hearing with you and any conditions on the interim injunction.

