

Occupations Orders research study

**Commissioned by SEA from Northumbria University Law School
2021**

Why was the research commissioned?

Access to occupation orders emerged as an issue during work on the Whole Housing Approach – we found data that indicated a concerning decrease in occupation orders being granted by courts, and heard from women that they were hard to access. The research commissioned from the University of Bristol also found issues with the orders being expensive and very short-term.

Synopsis

The report was created by final year law students at the University of Northumbria Law School. It begins with an overview of Occupation Orders, including the overlap with legal aid and the means test, the application process and statistics on applications and orders.

Crucially, the report outlines the results of in-depth semi-structured interviews with eight survivors of domestic abuse about their experiences of applying for occupation orders, and a survey of 40 professionals who had represented survivors in occupation order applications or otherwise supported them to apply for an order.

Key findings from the survey of professionals:

- In recent years, there have been more applications for occupation orders and fewer orders being granted. There does not seem to be a problem with victims being able to apply but rather the courts' reluctance to grant orders. Based on the reported statistics from the ONS, less than 50% of applications for occupation orders are successful.
- One reason that may account for the number of unsuccessful applications is the issue of representation due to lack of access to legal aid: people may not be receiving proper legal advice and support to make a successful application.

- The research indicates that there is not an inconsistency of approach in a specific geographical area but rather there may be inconsistencies amongst individual judges working within specific courts.
- Some of the professionals surveyed considered there was due to a lack of awareness by judges of the impact of domestic abuse on the victim. This suggests there is a difference in experience depending on the judge involved and raises concerns about a potential judicial lottery.
- In the professionals' experience, occupation orders are granted for around 6 months, and this was believed not to be long enough; 66.7% stating that they do not feel the length of these occupation orders are sufficient to allow users to take action to regulate their living arrangements.
- The reasons professionals cited as most commonly given for refusing to grant occupation orders were:
 - Non-molestation orders (with a zonal order) are granted instead – 25 votes (65.8%)
 - this is really concerning as 'zonal' non-molestation orders or creating so-called 'safe zones' are not safe – Women's Aid have [spoken out](#) about this, and SEA mentioned it in a consultation [response](#).
 - The perpetrator has no alternative accommodation – 25 votes (65.8%)
 - "It seems to be a common theme throughout our survey results that there was a reluctance to interfere with property rights by the court and this could be because the perpetrator has no alternative accommodation. This is a cause for concern because it means the perpetrator's property rights are being prioritised over the survivor's safety and places the onus on the survivor to then seek their own alternative accommodation at a time when refuge places are limited."

Key findings from interviews with survivors:

There are lots of quotes in the survivors section at the end of the report which back up the above.

- One participant was forced to serve her own husband with the order
- Issues were raised about non-molestation orders not being able to support survivors regarding economic abuse and mortgage payments:

“Assuming that a non-molestation order offers sufficient protection ignores the additional provisions that can be attached to an occupation order such as directions for the respondent to continue paying towards the mortgage and bills. Provisions of this type will be imperative to ensuring continued protection to victims of economic abuse, as evidenced by the interviews with survivors who gave examples of the perpetrator attempting to sabotage their occupation of the home post order by refusing to pay towards the mortgage/rent and bills.”

- Access to special measures was an issue. One participant was not given any special protective measures at all; not even a separate waiting room. In this case the power imbalance and lack of protection at court affected the participant as she stated: *“I was not able to advocate for myself anywhere near what I could have done”*.
- Each of the participants experienced abuse which would warrant an occupation order needing to be granted. However, in some cases the judges they went in front of believed that a non-molestation order provided sufficient protection and therefore an occupation order was not necessary. This demonstrates how different judges have different opinions on what sufficient protection is.

“I didn't actually get the occupation order because the court decided that as I had gone for a non-molestation order that's all I needed I didn't need anything else it could all be dealt with in the divorce proceedings.”