

## CONTACT

### HOUSING ADVICE AND PREVENTION TEAM

Suffolk Coastal District Council · Council Offices

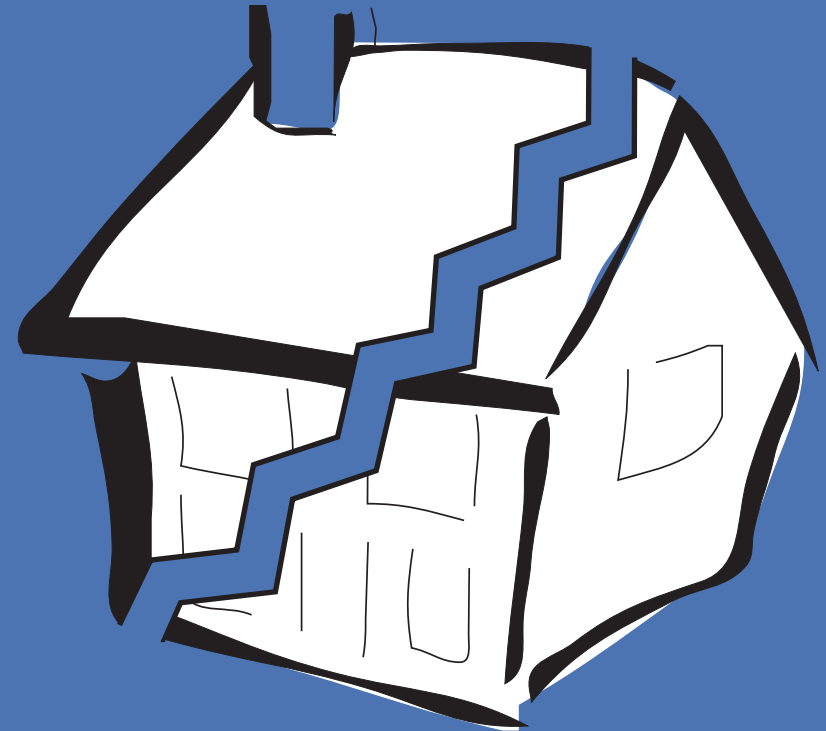
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# SPLITTING UP



## HOUSING ADVICE FOR PARTNERS IN A RELATIONSHIP BREAKDOWN



Suffolk Coastal District Council  
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## INTRODUCTION

Whether you are married or living with someone as a couple, and your relationship is breaking down, it is important that you get advice before you make the decision about whether or not to leave.

**The decisions you take at this time will have long term consequences, so it is best to get advice from the Council, a solicitor, or an Advice Centre before making a final decision.**

## YOUR RIGHTS

Your rights to remain in the home in the long term will depend on whether you are married, the type of tenancy you have and whose name it is in, or on the legal arrangements for purchase of your home. The Family Law Act 1996 brings the position of married people and those who are living together closer in law.

The law in this area is complex. It is important to get advice from a housing adviser or solicitor. In an emergency if your partner is behaving threateningly towards you and/or your children and you have rights to make him/her leave or to restrain him/her from carrying out his/her threats. A solicitor will advise you how to get a court order.

Leaving for a short time need not affect your rights to the property. You may want to go and stay with a friend for a while, for example, to give yourself time to think things over. But it is still important to get advice, ideally within a week of leaving.

## IN AN EMERGENCY

Violence towards your wife, husband, partner, or any other member of your household is a crime, just like any other assault. Do not be afraid to call the police on 999 if you need to, or ring the local station. The police should treat your situation as urgent, they will at least be able to remove your attacker from the immediate area and could transport you to a safe place. Most police stations now have specialist units with experienced officers. Some of whom can provide ongoing support and advice.

If your present or former partner, a relative or another member of your household is violent or abusive to you or the children, you can apply (with the help of a solicitor) for a **“non-molestation order”** to stop him/her doing anything to hurt or interfere with you. These orders may carry a power of arrest so that, if she/he does not keep to the conditions in the order, the police can arrest and detain the violent person. **“Exclusion orders”** to keep the violent partner out of the home may be applied for where Social Services are involved on behalf of children. There are other ways to exclude the abuser without involving Social Services.

**“Non-molestation orders”** usually only provide a temporary solution, and may last for a specific period or until you return to court. Many women/men feel that court orders do not offer much protection and that to be safe they need to go somewhere their former partner cannot find them. You will need to decide what is best for you. Abuse can take many forms and need not be physical violence. Do not wait until the last minute to do something about it.

## WHERE TO GO IN AN EMERGENCY

If you cannot stay in your home because you are at risk of violence, you can contact **Women’s Aid** (see addresses at end of leaflet). This coalition of voluntary groups operates a network of safe houses or “refuges” in most areas, for women leaving violent homes. Refuge workers provide advice and assistance as well as accommodation. There are special refuges in some areas for women from minority ethnic groups. Some refuges can also offer facilities for disabled women. You will usually be encouraged to move to a refuge away from your local area to ensure your safety and that of other women in the refuge. Try the telephone numbers listed at the end of this leaflet.

## LONGER TERM RIGHTS TO YOUR HOME

### Owner occupiers

If you are married, you have **“matrimonial home rights”** which prevent your partner from evicting you from the home without a court order for as long as you are married, whether or not you are legally the owner or joint owner of the

property. The property cannot be sold without your consent – although you will need to register your interest in it through a solicitor to prevent this. The court has power to grant an **“occupation order”** for as long as it sees fit, and to renew it when it runs out. There need not have been violence for the court to decide that the spouse who does not legally own the house should remain in it for a period of time. If you are a joint or sole owner of the home, the court may make a **“property adjustment order”** transferring ownership to one or the other spouse or to a child of the family when the marriage formally ends.

If you are living/cohabiting with your partner, your rights to remain in the home will vary according to various factors. If you bought and own the house jointly, then regardless of whether you are heterosexual, gay or lesbian or have children, you can apply to the court for an occupation order in the same way as a married couple. If your partner is the sole owner of the property, you have no automatic right to remain, but may apply to the court for an occupation order giving temporary rights to remain (this does not apply to gay or lesbian non-owners). Also, if you have a child from the relationship, the court has power under the **Children Act 1989** to transfer ownership or allow one partner occupation of the home, if it is in the interests of the child.

### Tenants

If you are married, you have the same right to occupy the home as your spouse, even if you are not legally a sole or joint tenant. Neither you nor your spouse can be excluded from the home without a court order. You can ask the court to grant an **occupation order** to allow you to remain in the home until divorce – and to transfer the tenancy to you after divorce – you should get legal advice about this early on. There are ways of reallocating the tenancy without going to court – ask an adviser.

If you have been or are living together (heterosexual couples only) and have children, you can apply to the court for a transfer of the tenancy under the **Children Act**. Even if you do not have children and are not the tenant, you can

apply for an occupation order allowing you to remain in the home, in the same way as a married non-tenant. The order may last for up to six months and be renewed for another six months only, and the court must bear in mind that you have not “given the commitment of marriage”. However, lesbian and gay people are not included in the legal definition of a “cohabitant” so will only have rights if they are the joint or sole tenant – but council tenants should check whether their landlord has a relationship breakdown policy, which covers them.

## OCCUPATION ORDERS

**The Family Law Act 1996** introduced these orders, under which the court may enforce the applicant’s right to occupy, allow re-entry to the home, regulate occupation by both partners, exclude one from all or part of the home or suspend/terminate the right of one partner to occupy. In making the order, the court must take into account the housing needs and resources of both parties and any children, financial resources, and the effect of making or not making the order on the health, safety or well-being of each side and any relevant child – and consider whether significant harm will result from either making or not making an order.

## APPLYING TO THE COUNCIL

If you cannot now remain in your home, or you have already left because of violence or threats from someone you have lived with/are living with, then you can apply as homeless to the council. You are entitled to apply to any council, regardless of whether you have a previous connection with the area, if you are homeless through domestic violence. The council has a duty to advise and assist anyone who is homeless on how to find housing. If you have children who are dependent on you, or are pregnant, over 60 years, have a disability or are “vulnerable” for some other special reason, the council may have a duty to provide you with temporary accommodation until permanent rehousing is available.

**It is best to get advice about this early on, before you give up your home, if you can. Council policies vary considerably. Ask at the council or call an Advice Centre or specialist helpline.**

People who have restrictions on their rights because of their immigration status cannot get the same help with housing as those with full citizenship (see Immigration). You will need advice about your individual circumstances if this applies to you.

## CARE OF YOUR CHILDREN

All mothers, whether married or unmarried, and married fathers legally have “**parental responsibility**” under the **Children Act**. Unmarried fathers can be given parental responsibility by applying to the court or by written agreement with the mother. Parental responsibility means that either parent may make important decisions about the child’s life without the other parent necessarily being involved, unless the court has already made a ruling on the matter.

The courts have powers to make a variety of orders concerning your children, the most common being “**residence orders**” (to decide who they live with) and “**contact orders**” (to decide who they see and in what circumstances).

It is expected that you and your partner will try to reach an agreement between you, before the case can come to court to make an order. If you do ask the court to make an order, first consideration is meant to be given to the interests of your child(ren), including their wishes and needs. The court may take account of the behaviour of both sides, so if your partner has been violent towards you he/she may be less likely to be granted a residence order. However, it is rare for judges to make orders preventing any contact with children even where they themselves have been abused, “**supervised contact**” may be granted. Many judges consider the perceived benefit of maintaining the child’s relationship with the father outweighs any risk to the mother. Court rulings are never final, and you or your partner can apply to vary an order if there has been a change in circumstances AMICA (Aids for Mothers in Contact Action).

**Because the law in this area does not recognise lesbian relationships, women in same-sex relationships may benefit from specialist advice on child contact. Contact Rights of Women (see address list at the end of this leaflet).**

## MONEY

If you break up with your partner you may be worse off than before or have urgent expenses for a while. You have the right to claim benefits for yourself and any children living with you, even if you are working, dependent on your own income and circumstances – unless you are in the United Kingdom on condition that you have **no recourse to public funds**. Get a claim form from your local Department of Works and Pensions Office (in the telephone book). If your partner makes maintenance payments your benefit will be reduced by up to the same amount as the payment. **The Child Support Agency** will be informed of your claim. You must assist the Child Support Agency to recover some child maintenance costs from the father by letting them know where he is – unless you think this could put you or your children at “risk of harm or undue distress”. If so, make sure you state this when making your claim.

If you qualify for Income Support or Jobseekers Allowance you can get some help with housing costs, whether for rent or mortgage payments.

If you need help with mortgage payments to keep your home, how soon you can get help with the interest element will depend on whether the loan was taken on before 2 October 1995. You should contact your lender to discuss any difficulties in making payments as early as you can.

- If the mortgage began before the 2 October 1995, OR if you are not required to sign on for work because your partner deserted you with a dependent child, you will receive nothing for the first 8 weeks of the claim, then half of the interest for the next 18 weeks, and from week 27 the full amount of eligible interest on the loan.
- If the mortgage was taken out after 2 October 1995 and you are not a “deserted partner” (see above), you will not receive any help for the first nine months of the claim but should receive full interest from week 40.

If you are still liable for rent on a home you have left because of violence, and to which you intend to return, as well as rent on a temporary place, you may be able

to claim housing benefit for both homes for up to 52 weeks. Even if you have a joint tenancy you may be able to claim the total rent rather than just your half. If you do not intend to return, you can still claim rent for two homes for up to 4 weeks.

**Remember, you could lose your home if you allow rent or mortgage arrears to build up – giving grounds for repossession – even if your husband or partner is the sole owner or tenant and therefore liable. Check with a legal adviser whether you have the right to make payments to prevent eviction.**

## IMMIGRATION

If you come under the definition of a “person from abroad” in the 1996 Asylum and Immigration Act, you will not be entitled to assistance with housing or benefits. Persons from abroad include:

- People who need leave to enter or remain in the United Kingdom
- People who are not habitually resident in the United Kingdom eg if you have been living abroad in the last five years you may have difficulties
- European nationals who have been ordered to leave the United Kingdom

If you think this definition may apply to you, get specialist advice before leaving home and applying to the council or Department of Works and Pensions, unless it is an emergency.

## FINDING AND PAYING FOR LEGAL HELP

Contact an advice agency, the council or Women’s Aid to ask if they know of local solicitors specialising in family law and housing rights. The Law Centres Federation can also advise on your nearest law centre.

If you are claiming benefits you may have the cost of paying a solicitor met in full through funding – other households on low incomes will receive a means tested contribution to the cost. The cost of getting a court order varies from £500-£1,500.

## FURTHER ADVICE

### WOMEN’S AID AND WOMEN’S REFUGE locally:

Bury St Edmunds	01284 753085
Ipswich	01473 745111
Lowestoft	0800 5877890

### SUFFOLK DOMESTIC VIOLENCE AND ABUSE

Freephone helpline and other contact numbers 0808 7835121

### NATIONAL DOMESTIC VIOLENCE HELPLINE

(staffed by Women’s Aid and Refuge) 24 hours 0808 2000247

### CHILDLINE

Family Welfare Association Domestic Abuse 0800 1111  
Children and Families Workers

### IPSWICH AND SUFFOLK COASTAL

07966 982612

### LOWESTOFT AND WAVENEY

07967 272332

### WEST SUFFOLK (Great Cornard)

07966 982611

### POLICE – in an emergency always dial

999

### POLICE VICTIM LIASION OFFICERS

Eastern area	01986 835170
Southern area	01473 383082
Western area	01284 774183

### NATIONAL CHILD PROTECTION HELPLINE (NSPCC)

0800 800500

### VICTIM SUPPORT LINE

0845 3030900

### RIGHTS OF WOMEN: free legal telephone service

0207 2516577

### REUNITE (Council for Abducted Children)

01662 556234

### S.O.L.A. (Domestic Violence Helpline for Lesbians)

0345 909090

### NATIONAL COUNCIL FOR ONE PARENT FAMILIES

0207 4285400

IMKAAAN (Advice and Campaign Group) 0207 4349945

(Asian Women's Project can advise on domestic violence and related immigration issues)

AMICA (Aid for Mothers involved in Contact Action)

C/o Women's Resource Centre

56A Dover Street

Canterbury

CT1 3HD

LESBIAN AND GAY Switchboard 24 hour helpline 0171 837 7324

REFUGEE LEGAL CENTRE 0171 827 9090

Sussex House

39-45 Bermondsey Street

London

SE1 3XF

LAW CENTRES FEDERATION  
(for details of your nearest Law Centre) 0171 387 8570

RELATE

*Ipswich*

Neale Chambers

6 Neale Street

Ipswich

IP1 3JB

*Bury St Edmunds*

9 Short Brackland

Bury St Edmunds

IP33 1EL

*Lowestoft*

88 Alexandra Road

Lowestoft

NR32 1PL

## USEFUL WEBSITES

[www.safersuffolk.org.uk](http://www.safersuffolk.org.uk)

[www.womensaid.org.uk](http://www.womensaid.org.uk)

[www.domesticviolencedata.org](http://www.domesticviolencedata.org)

[www.bbc.co.uk/health/hh](http://www.bbc.co.uk/health/hh)

[www.survivors.org.uk](http://www.survivors.org.uk)

[www.suffolkgayandlesbianhelpline.co.uk](http://www.suffolkgayandlesbianhelpline.co.uk)

[www.homeoffice.gov.uk/violenceagainstwomen](http://www.homeoffice.gov.uk/violenceagainstwomen)

Home Office website which includes multi-agency guidance for addressing domestic violence.

[www.domesticviolencedata.org](http://www.domesticviolencedata.org)

Central access point for a wide range of materials about domestic violence including research projects and links to related sites

[www.womens-unit.gov.uk](http://www.womens-unit.gov.uk)

Provides general information on Government action against domestic violence, including the Government Living Without Fear Campaign to tackle violence against women

[www.dduf.org](http://www.dduf.org)

Darlington Domestic Violence Forum website (can download injunction forms to save time and legal costs)