

Respondent Information



Terms used in this document

Domestic and/or family violence: When one person in a relationship acts abusively, dominating and controlling their partner, family member or a person who depends upon them for help with their daily living activities (their unpaid carer). 'Abuse' can be physical, nonphysical or sexual. Children can also be affected by domestic violence if they hear or see the violence, or by the consequences of the violent behaviour.

Aggrieved: The person experiencing domestic and/ or family violence and who will benefit from having a domestic violence order or a police protection notice.

Respondent: The person who is allegedly responsible for the domestic and / or family violence and against whom the domestic violence order or police protection notice is made.

DVO: A DVO (domestic violence order) is a court order, generally made by a Magistrates Court, designed to protect the aggrieved, and their children or others named on it.

Breach: When the respondent has been served with / notified of an order and then disobeys the terms and conditions of that order.

What is a DVO?

A Domestic Violence Order or DVO is a civil order that may contain a series of conditions which are intended to protect the aggrieved from future domestic violence from the respondent.

DVOs can also protect the children, other relatives, or associates (including friends, support persons, partners, or workmates) who may be affected by the domestic or family violence the DVO is intervening upon.

What if I don't go to court?

If you receive an application against you and do not attend court, the court may make a temporary or final protection order against you without you being present. A warrant may also be issued against you so that the police may take you into custody and bring you to court. Warrants generally are not issued for DV Court unless there are associated criminal matters.

What happens at court?

The first time you attend court is called a 'mention'. The purpose of this is for the Magistrate to understand the application and to consider the conditions requested by the aggrieved. You can then respond in one of three ways:

- Agree with making a DVO - whether or not you admit to the facts of the case or that you committed violence against the aggrieved. The Magistrate will then enact a DVO.



- Request an adjournment - so that you may seek legal advice. A Magistrate may enact a temporary order until the next court date.
- Disagree with making a DVO – in this situation the magistrate will give you another court date, called a Hearing, where you will explain why you disagree and produce any evidence or witnesses you may have to support this.

Do I need legal representation at Court?

You can attend court by yourself, or with a lawyer. If you would like legal representation but cannot afford it you should contact either Legal Aid Queensland or your local Courthouse.

What happens if I also have a DVO application against the aggrieved?

When both parties apply for DVOs against one another it is called a 'cross-application'. It is important to get legal advice if the person responsible for the violence applies for a DVO against the aggrieved. The aggrieved can choose to attend court to respond to the allegations, or a DVO may be granted against them. Where there are cross-applications set for Hearing (when a Respondent does not agree with the Magistrate making a DVO and both the applicant/aggrieved and the respondent produce evidence to support their argument – see above), the magistrate should identify the person / party most in need of protection, based on the evidence provided by all parties.

What if I, or the aggrieved, do not agree with the court's decision?

You or the aggrieved may apply for an appeal of the magistrate's decision. An appeal must be lodged within 28 days of the decision as the District Court in order to be considered.

What if there is a change in circumstances?

There are a number of reasons why either the respondent or aggrieved may need to vary a condition, the time frame, or persons named on a DVO. An application to vary a DVO must be lodged at a Magistrates Court and the court will then consider whether this is appropriate and does not place the aggrieved in danger of further domestic violence.

What orders can be included in a DVO?

All DVOs have two standard conditions that the respondent must:

- be of good behaviour toward the aggrieved and any others named in the order; and
- not commit domestic violence against the aggrieved, or any others named in the order; or expose any named children in the order to domestic violence.

However, the magistrate may make additional orders where they believe further protections are needed. There are 'no contact' conditions which, for example, prevent the respondent from approaching or contacting the aggrieved (and other protected persons) or having someone else do so on their behalf. There are 'ouster conditions', which prevent the respondent from remaining in, entering, or coming within a certain distance of the home the aggrieved and respondent have shared. There are also 'return conditions' which allow the respondent to return for a specified period of time, after which they must comply with any no contact conditions in the DVO.



How can an order be breached?

An order can be breached if the respondent does not obey the conditions of the order with which they have been served/ of which they have been notified. That is, for example, if the respondent:

- uses domestic violence against the aggrieved, or exposes children named on the order to domestic violence
- does not comply with the terms of a no contact order, for example by:
- using phone, text, email or social media to contact the aggrieved, their children and others named on the order
- writing a letter to anyone named on the order
- asking a friend or family member to try to locate or contact the aggrieved
- following the movements of or approaching anyone protected by the order
- returning / entering or approaching the house of the aggrieved inside the distance specified in the order.

What happens if there is a breach of a condition on the order?

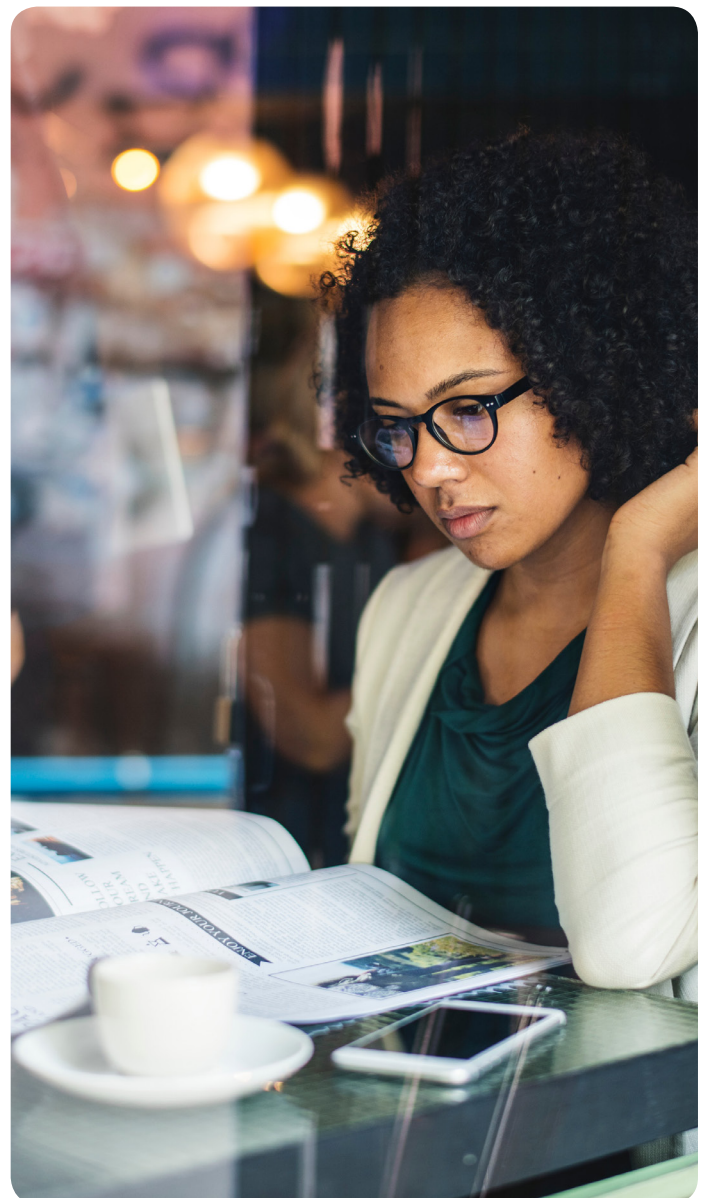
Failing to comply with a condition on a DVO is a criminal offence and police can charge the respondent with a 'breach' of the order. If the actions of the respondent also amount to another criminal offence, such as grievous bodily harm, and there is sufficient evidence, they can also be arrested and charged with that offence. If the respondent is convicted of the breach, the court can:

- send them to prison for up to three years (first breach offence)
- put them on a good behaviour bond
- order them to do community service or fine them.

What if I own a weapon?

Under the Weapons Act 1990, if a final DVO is taken out against the respondent, their

weapons licence is automatically suspended for a period of five years. A respondent to a temporary protection order is prohibited from possessing a weapon for the duration of that order. If the respondent has used an item (e.g. a cricket bat) to intimidate or control their partner, the court may also consider that item as a weapon and prevent the respondent from keeping it for the duration of the order. Respondents whose job requires them to carry a weapon (e.g. a security guard) are generally exempt from having to comply with the Weapons Act, but the court can prohibit them from possessing a weapon for the duration of the DVO. (Failure to comply with the terms of the DVO is a breach of the DVO and may be a criminal offence under the Weapons Act.)



LEGAL SERVICES

Legal Aid

www.legalaid.qld.gov.au

or call 1300 651 188

Community Legal Centres

www.qails.org.au

Queensland Law Society

www.qls.com.au

Office of the Adult Guardian:

1300 653 187

DVO Application Form:

<http://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders/applying-for-a-domestic-violence-order>



SUPPORT AND RESOURCES

Call the Domestic Violence Hotline on **1800 811 811**

Support Services:

Regional domestic and family violence services provide information, referral, advice, counselling and support to women experiencing domestic and family violence. Many of these services also have information on counselling services available for people who use domestic and family violence in relationships.

To find your nearest support service, call the Domestic Violence Hotline or visit

<http://qlddomesticviolencelink.org.au>

Scan this code using a QR reader app on your smartphone to access the full range of fact sheets.



The Queensland Centre for Domestic and Family Violence Research receives defined term funding from the Queensland Department of Communities, Child Safety and Disability Services to undertake research and develop educational resources pertaining to domestic and family violence in Queensland.