# Legal protections

For some people who experience domestic and family violence, seeking protection through the courts may be the right option for them.

In a specialist domestic violence court there are domestic violence court advocates that can help during the court process. They can provide information, support and advocacy, along with a quiet and safe place to meet with duty lawyers for legal advice, or to wait for a court appearance. It’s a good idea to contact the court in advance to find out if they have these support options available.

In Queensland, we have the Domestic & Family Violence Protection Act 2012, which was put in place to provide **safety and protection** to people who are experiencing domestic and family violence. It does this by applying a Domestic Violence Order which seeks to restrict the behaviour of the person committing abuse or violence. This is often referred to as a DVO, a Protection Order, or an Order.

Under the Act a person in need of protection from domestic and family violence is referred to as the **aggrieved** and the person accused of using violence the **respondent**.

A **Domestic Violence Order** is made by a magistrate in court. The Order directs the **respondent not to commit acts of domestic violence**.

The standard condition of a Protection Order is:

1. the respondent must be of good behaviour towards the aggrieved and not commit domestic violence; and
2. the respondent must be of good behaviour towards any named person or child in the order and not commit an act of associated domestic violence against the person or child.

In addition, the court can include extra conditions on the Order to restrict the **respondent’s** contact with the **aggrieved** and any named person or child.

These conditions can include an order to prohibit the respondent from remaining at a shared residence with the aggrieved and not to contact or approach the aggrieved or named person or child.

To seek a Domestic Violence Order, an application must be made to the Magistrates Court. An application can be applied for privately by the aggrieved, through police or an authorised person. The application forms and other useful documentation can be found on the Queensland Courts website. There is no fee for filing the application.

Once the application is lodged, the police will serve the respondent with a copy of the application.

If protection is required urgently, the aggrieved or the police can apply for a Temporary Protection Order, which can be considered by the magistrate on the first court date.

Otherwise, the process of obtaining and finalising a Protection Order may involve attending court on a number of occasions, depending on whether the respondent consents or disagrees with the conditions being proposed on the Order.

When the respondent disagrees, the application may need to go to a hearing where evidence from both sides is considered by a magistrate.

Once a Protection Order has been made, it needs to be served by police on the respondent. Until it has been served, the order is not enforceable by police. If further incidents of domestic violence occur in the meantime, they should be reported to the police.

A breach or contravention of a Temporary Protection Order or a Protection Order occurs when the respondent does not comply with the conditions of the Order. This is a criminal offence.

Since 2017, a Protection Order is recognisable and enforceable nationwide. For people with a DVO issued in New Zealand, it is not necessary to reapply for protection here, however the DVO will need to be registered in Queensland.

## Breaches of the Order

If it is believed that the respondent has breached a Protection Order, this can be reported to the police. The aggrieved may be asked to provide a statement.

If the police charge the respondent with a breach of the Order, they can be brought before the court for a criminal offence. If the respondent pleads not guilty, the matter will be sent to a trial or hearing. If the matter is sent to trial, the aggrieved may be required to give evidence at court.

## Family Law Orders and Parenting Plans

Sometimes, after leaving a relationship, it may be necessary to stay in contact, for example where there is shared care or regular contact with the children. Where there is a Family Law Order or Parenting Plan in place, a Protection Order can include exceptions to allow for contact to occur.

A Family Law Order may direct children to maintain contact with their other parent and extended family, such as grandparents, uncles, aunts, and cousins. It is important to make safety a priority. If there are any concerns, meeting up for the handover of children could occur in a public place such as a police station or a family contact centre. Another person may come along for support or to witness if any violence or abuse occurs.

It may be helpful for the children to develop a safety plan. The children’s workers at a specialist domestic violence service may be able to assist them to do this.

It is important to seek legal advice regarding Protection Orders, Family Law Orders and Parenting Plans. For more information regarding legal resources please go to our website.

*Transcript from video: Legal protections
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