

DOMESTIC VIOLENCE

WHAT IS DOMESTIC VIOLENCE?

Domestic violence is when one person behaves in a way that controls or dominates another person and causes fear for their safety and wellbeing.

Domestic violence is usually a pattern of abusive and controlling behaviour taking many forms. It happens in intimate, family or informal care relationships.

Regardless of age, culture, sexuality or gender identity, you have the right to live without fear.

Domestic violence includes a wide range of behaviours that control or dominate someone or cause them to fear for their personal safety or wellbeing. These behaviours may include:

- **physical or sexual abuse** — punching, hitting, choking, or threatening to punch or hit, forcing a person to participate in sexual acts, damaging someone's property or threatening to damage property, including hurting or threatening to hurt pets
- **emotional or psychological abuse** — stalking, repeated text messaging, making insulting comments, calling someone names, blackmailing or extorting, preventing contact with family and/or friends, controlling someone's appearance, putting them down, threatening to expose their sexual orientation
- **economic abuse** — denying, withholding, controlling or misusing money or property, or threatening to do so
- **threatening behaviour** — saying things or acting in a way to make someone feel afraid, threatening to commit suicide or self-harm, stalking
- **coercive behaviour** — forcing, intimidating or manipulating a person to do things they don't want to do, such as sign a contract (e.g. for a loan) or a legal document giving another person power over their affairs (e.g. power of attorney).

Domestic violence extends to children seeing violence, like their parent being hurt, being called names, things being broken or police arriving.

WHAT ARE DOMESTIC VIOLENCE RELATIONSHIPS?

Violence is considered domestic violence when any of the behaviours listed above take place in any of these relationships:

- **an intimate personal relationship** — two people (regardless of gender) who are, or were, a couple, engaged, married, in a de facto relationship, the parents of a child or in a registered relationship (a legally recognised relationship between two people regardless of gender)
- **a family relationship** — two relatives (by marriage or blood), including a child over 18, parent, stepchild, stepparent, brother, sister, grandparent, aunt, uncle, nephew or niece, as for some community groups, a person who is not related by blood or marriage but is considered a relative
- **an informal care relationship** — one person who is, or was, depending on another person for help with daily living activities. (Note: It is not considered 'domestic' violence when a person is a paid carer under a commercial arrangement.

WHAT IS A DOMESTIC VIOLENCE ORDER?

A Domestic Violence Order (**DVO**) is an official document issued by the court to stop threats or acts of domestic violence.

A DVO sets out rules that the 'Respondent' (the person who has committed domestic violence against you) must obey. It is designed to keep the 'Aggrieved' (the person who has had violence against them - you) safe by making it illegal for the respondent to behave in specific ways.

A DVO is a civil court order so it will not appear on the Respondent's criminal history. However, it is a criminal offence to disobey an order, and this will appear on the respondent criminal history.

2 TYPES OF DVOs

Protection order

A Protection Order is a domestic violence order made by a magistrate in court to protect people in domestic and family violence situations. Most protection orders last for five (5) years; however, the order can be made for a shorter period, or be extended if the court feels it's appropriate.



Temporary protection order

If you need protection urgently, the aggrieved or the police can apply for a Temporary Protection Order (TPO), which can be considered early by a magistrate.

A TPO is like a protection order, but it's for a shorter time to protect those in danger up until the date that a magistrate can decide the application for the full protection order.

ORDER CONDITIONS

Every DVO has a standard condition that the respondent must be of good behaviour and not commit domestic violence against the aggrieved or any other person named on the order, including children, relatives or friends, if they are at risk of violence.

When a court makes a DVO, it sets out specific rules that must be obeyed by the person who has committed the violence.

If a DVO is made against a respondent and they have a weapons licence, they can't own weapons and their licence will be suspended, or cancelled, and they can't hold another licence for up to five years.

An order can have other conditions to stop someone:

- approaching the aggrieved at home or work;
- following the aggrieved or being within a specified distance of them;
- staying in a home they both currently share or previously shared, even if the house is owned or rented in the respondent's name
- approaching relatives or friends (if named in the order)
- going to a child's school or day care centre
- requiring the aggrieved access the property with police to retrieve personal belongings

Your application will list any extra conditions that you want put in the order (beyond the standard condition). You can also apply to vary the order conditions later if circumstances change.

WHAT A DVO MEANS

Once in place, the aggrieved and the respondent get a copy of the DVO (the temporary protection order or protection order), as do any adults listed on the order.

A DVO doesn't stop you living with, or being in a relationship with, the other person or them spending time with children, unless special conditions are added to stop the respondent having contact. Sometimes couples do want to stay together, but safety should always be considered first.

Keep your copy of the DVO somewhere safe. If police are ever called to your home for domestic violence, show them the order.

BREACHES OF A DVO

It's a criminal offence to disobey any of the conditions of a temporary protection order or protection order.

If the respondent breaches the DVO in anyway, the aggrieved should call the police immediately on 000.

The police have a duty to investigate domestic violence and can charge the respondent with breaching the DVO. The respondent would need to appear before the court for a criminal offence.

They could face up to three years in jail the first time they're found guilty of a breach, and up to five years if they breach again within five years.

DVOS AND OTHER COURT ORDERS

A DVO can be made even if the respondent already has a family court order or other type of order in place. The magistrate considers all family law orders in place before deciding to make a DVO.

CROSS APPLICATIONS

A cross application is where both parties apply for DVOs against each other. If you the other party has made an application against you (or is planning to), the court will try to hear both matters together.

ORDERS FROM ANOTHER STATE OR TERRITORY

If you have an active DVO which was issued in another Australian state or territory and if your order was made before 25 November 2017, you need to make an application to declare your DVO so it can be recognised and enforceable in Queensland.

Orders made after 25 November 2017 are now automatically recognised and enforceable across all Australian States and Territories.

MAKING CHANGES TO YOUR DOMESTIC VIOLENCE ORDER

If your situation changes, you can apply to make changes to the order if your name appears on a current Queensland DVO (temporary protection order or a protection order). The law calls this an application to vary the protection order.

You can ask the Court to consider changing any domestic violence order, even if a police officer made the original application to the court.



If the court decides to make the changes you are asking for, a varied order will be issued. If the court does not agree to the changes you are asking for, the current domestic violence order will remain in place.

Changes to current orders can include:

- adding or removing conditions
- adding or removing named people (e.g. children, relatives, and associates)
- extending or reducing the time the order is in force.

If you are the aggrieved or a named person, the court must consider whether the requested changes will reduce your and/or a named person's safety, protection or wellbeing. If you are the respondent, consideration will be given to how the requested changes will affect the aggrieved or a named person. If the police have applied for the original Order on behalf of an aggrieved, they will also be consulted as to any changes that are requested.

More information

This fact sheet contains general information only. For specific information and advice as to your particular circumstances, please contact our office on (07) 3172 3474 or reception.bris@redhilllegal.com.au.