

Domestic Violence

You may be experiencing or have experienced a fear of violence or actual violence from your partner. This may be why you are considering separation or may be the reason you have stayed.

What is domestic violence?

Domestic violence is a term used to describe abuse committed by one person against another person when the parties are in either an intimate relationship, a family relationship or an informal carer relationship. Domestic violence is usually perpetrated by a man against a woman within an intimate partner relationship and their children. Domestic violence is not confined to heterosexual relationships and anyone can be a victim or perpetrator of domestic violence. Regardless of the type of relationship, perpetrators of domestic violence are solely responsible for their use of violence and the impact it has on other people.

The term 'domestic violence' covers a range of behaviours. These behaviours are about one person attempting to gain or maintain power and/or control over the other person.

Domestic violence is defined within the Domestic and Family Violence Protection Act 2012 to include, but is not limited to, behaviour which:

- **Is physically or sexually abusive** including punching, pushing or shoving, pulling hair, slapping, kicking, twisting arms, being thrown against walls or furniture, being hit with objects or injured with weapons, causing or threatening to cause the death of, or injury to an animal, causing personal injury to a person or threatening to do so, coercing a person to engage in sexual activity or attempting to do so, depriving a person of the person's liberty or threatening to do so.

Domestic violence is defined within the Domestic and Family Violence Protection Act 2012 to include, but is not limited to, behaviour which:

- **Is emotionally or psychologically abusive** including behaviour that torments, intimidates, harasses or is offensive to the person to whom the behaviour is directed, following a person when the person is out in public, remaining outside a person's residence or place of work, repeatedly contacting a person by telephone, SMS message, email or social networking site without the person's consent, preventing a person from making or keeping connections with the person's family, friends or culture, including cultural or spiritual ceremonies or practices, or preventing the person from expressing the person's cultural identity, unauthorised surveillance of a person, and/or unlawfully stalking a person.
- **Is economically abusive** including coercing a person to relinquish control over assets and income removing or keeping a person's property, or threatening to do so, disposing of property owned by a person, against the person's wishes and without lawful excuse, preventing a person from having access to joint financial assets for the purposes of meeting normal household expenses, preventing a person from seeking or keeping employment, coercing a person to claim social security payments; coercing a person to sign a power of attorney that would enable the person's finances to be managed by another person, coercing a person to sign a contract for the purchase of goods or services, coercing a person to sign a contract for the provision of finance, a loan or credit; coercing a person to be a guarantor, and/or coercing a person to sign any legal document for the establishment of a business.
- **Is threatening or coercive** including threatening to disclose a person's sexual orientation to the person's friends or family without the person's consent, threatening to withhold a person's medication, threatening a person with death or injury, or threatening death or injury of the person's child, threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed; having another party engage in violent, abusive, threatening, intimidating or coercive behaviour on their behalf.

- **In any other way controls or dominates another person** and causes that person to fear for their own safety or wellbeing or the safety and wellbeing of someone which can include monitoring a person's SMS messages, email account, internet browser history or personal account with a social networking site, using a GPS device to track a person's movements or checking the recorded history in a person's GPS device, damaging a person's property or threatening to do so.

The examples set out above are a non-exhaustive list and there are other behaviours that will come within the scope of the definition of domestic violence that are not included in the list.

Domestic violence is common and very harmful. It happens in all sections of the community and, as far as we know, in all cultures. Traditional or cultural practices cannot be relied upon to minimise or excuse domestic violence. Being abused is not a normal part of a healthy relationship and the law acknowledges that living free from violence is both a human right and fundamental social value.

If you are experiencing domestic violence, it is important that you know what legal, financial, and housing options are available to you and that you can rely on someone to support you in the choices you make.

Services have been set up to help women who are being or have been abused by their partner or ex-partner. These services can provide support and help you to look at the choices you may have to make. With support, you will start to feel that you have more control over your life.

How can I leave safely?

Safety planning

A safety plan is a guide to help you and your children stay safe from violence. A safety plan looks at your individual situation and what you need to increase your safety. You should prepare a safety plan in advance so you know what to do in an emergency.

As your situation changes, you may need to look at it again and update it. The ideas contained here are only a guide. You will need to be the judge of what is safest; what is realistic; and what you can afford to do.

Safety in the relationship

A plan to avoid serious injury during a violent incident at home:

- Identify a neighbour you can tell about the violence and ask them to call the police if they hear a disturbance coming from the home.
- Leave the situation if possible - know the easiest escape routes from the house including windows and doors and obstacles to avoid in a speedy exit.
- Move to a space in the house with access to an outside door. Avoid rooms without access to an outside door, or rooms such as bathrooms and kitchens with hard surfaces and weapons.
- Plan in advance where you will go in an emergency- this could be your nearest 24-hour police station, a friend or family member.
- Keep some cash, spare house and car keys, medications, important papers and change of clothes for yourself and your children with a friend or in a place you can easily access them if you need to leave quickly.
- Keep your mobile phone with you (on your person) at all times - program the telephone number for the police (000) and DVConnect 1800 811 811 (24-hour crisis support and refuge referral) and other emergency telephone numbers into your mobile (keeping in mind digital safety).
- Develop a simple safety plan so your children know what to do when domestic violence is occurring. Teach young children to call the police in an emergency and to memorise their address.
- Call the police as soon as it is safe to report the incident - police can also arrange safe accommodation for you and your children.
- If you are planning to leave the relationship, think about safety in your preparations. Gather information about accommodation options, finances and Centrelink benefits and support available and seek legal advice (be aware of safety risks with technology when planning to leave).

Safety after separation?

Many women have found that the violence increases at the time of separation and after separation. Your partner/ex-partner may feel he/she is losing control over you and may try to assert dominance at this time. Whether you have remained in the home, or if you have moved out, separation can be a dangerous time for you and for your children.

A plan to increase safety after separation:

- Change your mobile number and landline. Make your landline a silent unlisted number.
- Change the locks to all doors and windows.
- Install security screens, motion sensitive lighting, and security cameras. Some domestic violence services provide funding for security upgrades. Contact your local domestic violence service to find out if you are eligible.
- An affordable option is wood dowel in sliding windows and doors.
- Check smoke detectors and purchase fire extinguishers.
- Increase safety where you park your car and enter the home e.g. an automatic garage door opener, safety lighting, removal of shrubs/trees in the area.
- Inform trusted people/neighbours that your partner no longer lives with you and ask that they call police if that person, or his/her vehicle, is observed near your home or if they hear a disturbance.
- Inform all the people who provide care for your children (school, child care centre), who has permission to pick them up and who does not -- if you have a domestic violence protection order and/or family court orders, a copy may be left with them. School staff cannot prevent a parent from removing a child but can notify you if this occurs.
- Teach your children how to use the telephone to call police or a trusted person if in danger.
- Try not to frequent places you used to go – use different shops, banks etc. to those you used previously.
- Vary your travel routes to and from work – keep a map handy and pre-plan routes in unknown areas to prevent you from having to leave your vehicle.
- Inform your employer about your situation (that you have a domestic violence protection order or that you are afraid of your ex-partner) and ask for your phone calls at work to be screened.
- Call police if you see the person who has abused you near your home or if they threaten you or communicate with you in any other way.
- If your ex-partner breaches the domestic violence protection order, call the police and report it – if the police officer you speak to is unhelpful, ask to speak to a Domestic Violence Liaison Officer or contact a domestic violence service or legal service for advocacy and support.

Telling him/her about your plan to leave

For some women it may be too unsafe to tell their partner that they are leaving. If this is your circumstance you may wish to leave a note.

If you want to talk to your partner about leaving think about the safest way you can talk to him/her. It may be safer with friends, family or the police present, or over the phone once you are safe.

Digital safety

Also remember digital safety. For many of us, our use of the internet, social networks and our devices are a way of life. However, while technology can help us keep in touch with friends, access information and organise our lives, that same use of technology can put personal safety at risk in situations where domestic violence is present.

Keep records of abuse from emails, texts and social media as this can be used as evidence for a domestic violence protection order and/or criminal charges.

Technology is constantly changing and abusers may use technology to further abuse. If you have concerns around digital safety, contact specialist domestic violence service providers for up-to-date information.

What legal protection can I get?

There are a number of legal protections available to people who have experienced violence and abuse.

Any person in the community who has been the victim of domestic violence is able to make a report to the police and seek protection, or to report a crime if they have been assaulted. In certain circumstances laws against stalking and strangulation may apply.

A victim of domestic violence is able to apply for a domestic violence order to protect them from domestic violence. A person who is married or in a de facto relationship may consider applying for an order or an injunction (sometimes called a restraining order) under the Family Law Act 1975.

An injunction orders the person's husband or partner to stop assaulting, contacting or harassing them. Be aware that an injunction can only be applied for if the parties are going to court for other family law proceedings. Further, an application for injunctive relief can be expensive and difficult to obtain in comparison to orders sought under the Domestic and Family Violence Protection Act 2012. They are also more difficult to enforce because the state police cannot enforce them or prosecute any breaches.

Domestic and Family Violence Protection Act 2012

How do I get protection?

The Domestic and Family Violence Protection Act enables people to get protection orders from a Magistrates Court. An order can include a range of conditions that stop the respondent from committing violence. If you are covered by this Act it is usually the fastest and cheapest option to help protect you against violence from your partner or ex-partner.

A protection order is not a criminal charge however criminal charges may result from a breach of the order. It is intended to provide protection against further domestic violence, not to provide punishment for what has already occurred.

Many women find that having a protection order helps to end violence against them. For some people, the shame of going to court and having a protection order against them, and the desire to avoid criminal charges may be enough to stop the abuse. If you are separated from your partner, a protection order may also act as a message to your ex-partner that the relationship is really over, and that they must leave you alone.

However, some people do not care about the law and the chance that they may be punished if they breach an order. If this sounds like your situation, you should still take out a protection order, but you may also want to consider developing other strategies to protect yourself. Contact a domestic violence service to discuss strategies that may work for you.

The violence may also be a criminal offence and you can ask the police to take criminal action against your partner or ex-partner. Any criminal charges would be dealt with separately from your protection order application.

Who is covered by the Domestic and Family Violence Protection Act 2012?

The Domestic and Family Violence Protection Act 2012 covers people in a relevant relationship.

A relevant relationship is:

- An intimate personal relationship, or
- A family relationship, or
- An informal care relationship.

INTIMATE PERSONAL RELATIONSHIP

Includes people:

- ✓ Who are or have been legally married.
- ✓ Who are or have been living together in a de facto relationship including same-sex relationships.
- ✓ Who are the biological parents of a child or anyone else having or exercising parental responsibility for the child (other than the chief executive in a child protection matter).
- ✓ Who are in a couple relationship.
- ✓ Who are or were engaged to be married, including people who were betrothed or promised to each other under cultural or religious tradition.

FAMILY RELATIONSHIP

A family relationship exists between two persons if one of them is a relative of the other and the usual social definition of a relative applies (although a relative can also be a former relative). The definition also includes a wider concept of relative that may exist in some communities or cultures, such as the sense of relative as used by Aboriginal people, Torres Strait Islanders, members of certain communities from non English speaking backgrounds or people with particular religious beliefs.

INFORMAL CARE RELATIONSHIP

This relationship exists between people if one of them is or was dependent on the other person for help in an activity of daily living. An informal care relationship does not exist between a child and a parent of a child or between two persons where the daily living care is provided as a result of a commercial arrangement (i.e. hired home help).

SOME EXCEPTIONS

People under the age of 18 will be covered by the Act only if an intimate personal relationship or an informal care relationship exists between the child and the other party named in the application, or if they are a named person on someone else's order. Where an intimate personal relationship or informal care relationship can be demonstrated, a person under the age of 18 can be named as the aggrieved or the respondent in a protection order or a police protection notice.

If a parent requires protection from a child under the age of 18 they are unable to do so under the domestic violence legislation.

In such circumstances a parent may have to speak to police or child protection authorities. Likewise, a child under the age of 18 will only have protection, via a domestic violence order, against a parent or relative if they are a named person in someone else's application.

Children, family, associates such as friends, and workmates, who have also been threatened, abused or harassed can be included on a person's protection order, if they are specifically named in the order. Make sure to include these people and details of their experience of the domestic violence in your application.

The Act does not cover neighbours, professional relationships or flatmates. If you are not covered by this Act and are frightened of someone you may be able to use the stalking laws or the Peace and Good Behaviour Act.

If you are not sure whether you are covered by the Act obtain legal advice from either Legal Aid, a community legal centre or a domestic violence service.

How do I get a protection order?

There are three different ways you can apply for an order:

- **You can be the applicant** and either get a solicitor or police prosecutor to represent you. You can do this by completing an application form for a protection order and lodging it at your local Magistrates court. When completing the form you need to include a detailed description of the domestic violence that has occurred, including dates. You also need to include details of why you feel the order is necessary or desirable (e.g. whether you are fearful of threats being carried out and why you feel you are at risk of domestic violence).
 - If you want the police prosecutor to represent you, you will need to ask him or her each time you go to court. The police prosecutor may not be able to represent you at the final hearing. If you want a solicitor to represent you, you will have to organise this yourself through Legal Aid or a private firm. Many courts in Queensland have duty lawyers available to help you with procedural matters in court and give advice.
- **The police can be the applicant** and go to court for you. In some circumstances the police do not require your permission. Police represent the aggrieved person in police applications.
- **You can authorise any person** such as a welfare worker, family member or friend to make an application and act on your behalf.

When may the court make a protection order?

Protection orders are made by Magistrates at Magistrates Courts. The Magistrate must be satisfied that:

- A relevant relationship exists between the aggrieved applicant and the respondent.
- The respondent has committed domestic violence against the aggrieved.
- The protection order is necessary or desirable to protect the aggrieved from domestic violence.

The Magistrate must also consider the principles of the Act and may consider whether an intervention order has been previously made against the respondent and whether the respondent complied with the order. An intervention order is where the respondent voluntarily does a behaviour change programme or undertakes counselling.

Can I get protection urgently?

If you believe yourself to be in need of urgent protection, a temporary order may be made on the same day you apply for a protection order. The court must be satisfied that the making of a temporary protection order is necessary or desirable to protect you, or another person named in the application, from domestic violence. A temporary order can be issued in the same terms as a protection order and have the same conditions. A temporary order will usually provide protection until the hearing date for the final protection order. The order can be made in the absence of your partner or ex-partner and is called an 'ex parte' order.

To apply for an urgent temporary protection order you will need to complete the section requesting a temporary order on the application form, inform the Registrar of the court that you are in immediate danger and request that arrangements be made to bring the matter before the Magistrate as soon as possible and before the respondent is served.

Police protection notice

Short-term police protection notices can also provide for the immediate safety of an aggrieved party until the matter gets to court.

A police officer may issue a notice against the respondent in circumstances where police have been called, and the police officer believes that domestic violence has occurred and a protection notice is necessary or desirable to protect the aggrieved from domestic violence. It is advisable to seek legal advice if you believe that you need more protection than what police are asking for in a police protection notice.

What will happen at court?

The way that your matter proceeds in court will depend on a number of things, including whether your partner or ex-partner attends court and contests the application. The flow chart on the following page shows what could happen to your application in the Magistrates Court.

Mention/first court date

The first court date is a procedural hearing and it is very unlikely that final orders will be made on this day. The only circumstance in which final orders would be made is if the respondent had been served with a copy of your application and failed to attend or attends court on the day and consents to the order. Usually at first mention the Magistrate will determine whether or not the respondent has been served, and if they have been served and are in attendance, whether they consent to your application. If the respondent has not been served, the Magistrate will adjourn the proceedings to another mention date to enable service to take place, and may decide to make a temporary protection order.

If the respondent has been served, but has not had the opportunity to obtain legal advice the court may grant a short adjournment for a few weeks to enable the respondent to obtain legal advice. If the respondent attends, has been served, does not request an adjournment for legal advice and does not consent to your application, the Magistrate will list the matter for a contested hearing. The hearing date will likely be in four to eight weeks time (though possibly longer). The Magistrate may also give directions for the filing of further evidence by both parties and a date for the parties to attend court and make sure they have complied with the court's directions and are ready for the final hearing to proceed.

If the matter is adjourned you can ask the court for a temporary order in the meantime if you fear for your safety during that time. A temporary order is one that will usually be in place until the matter is finalised. If you fear for your immediate safety you should always ask the court for a temporary order.

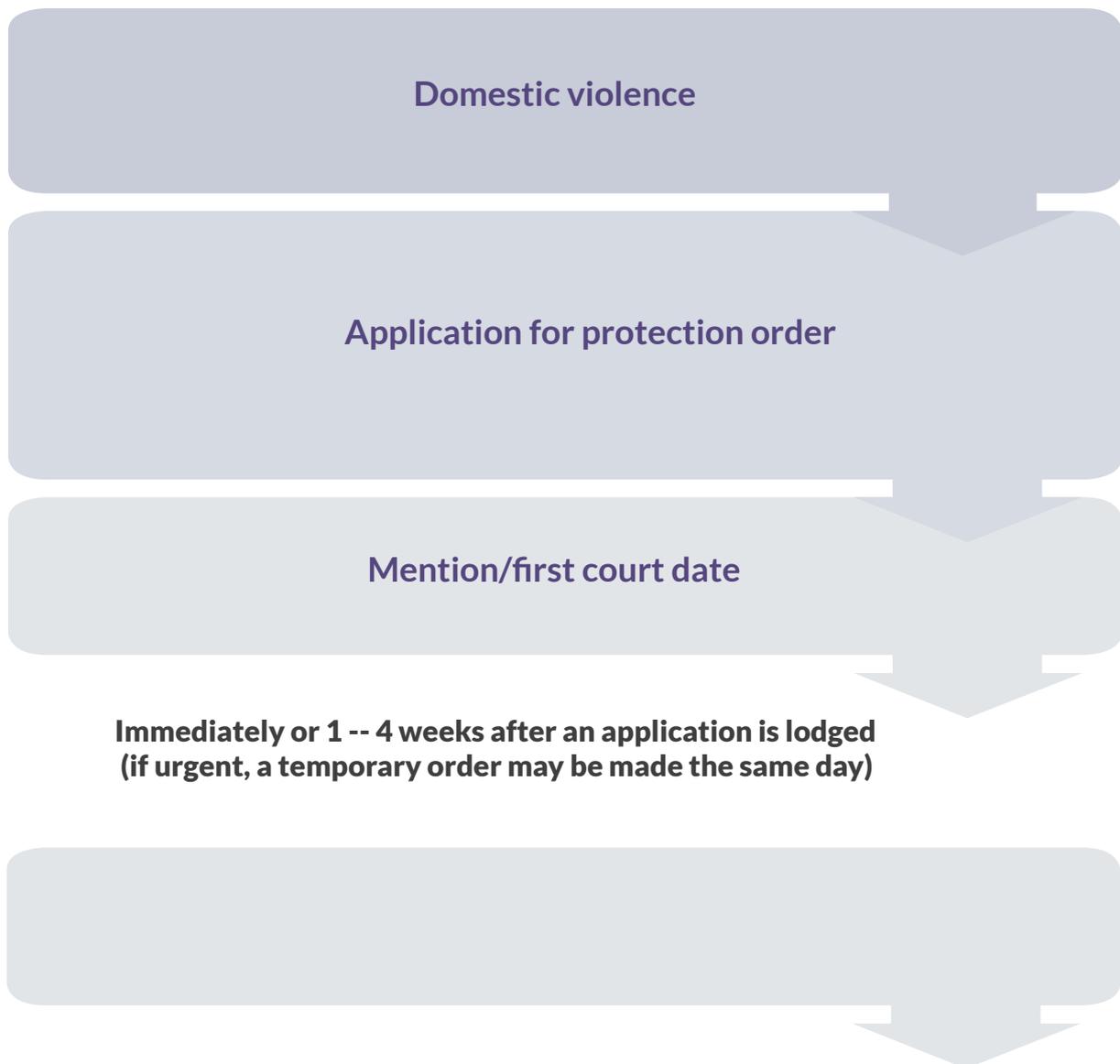
Final hearing

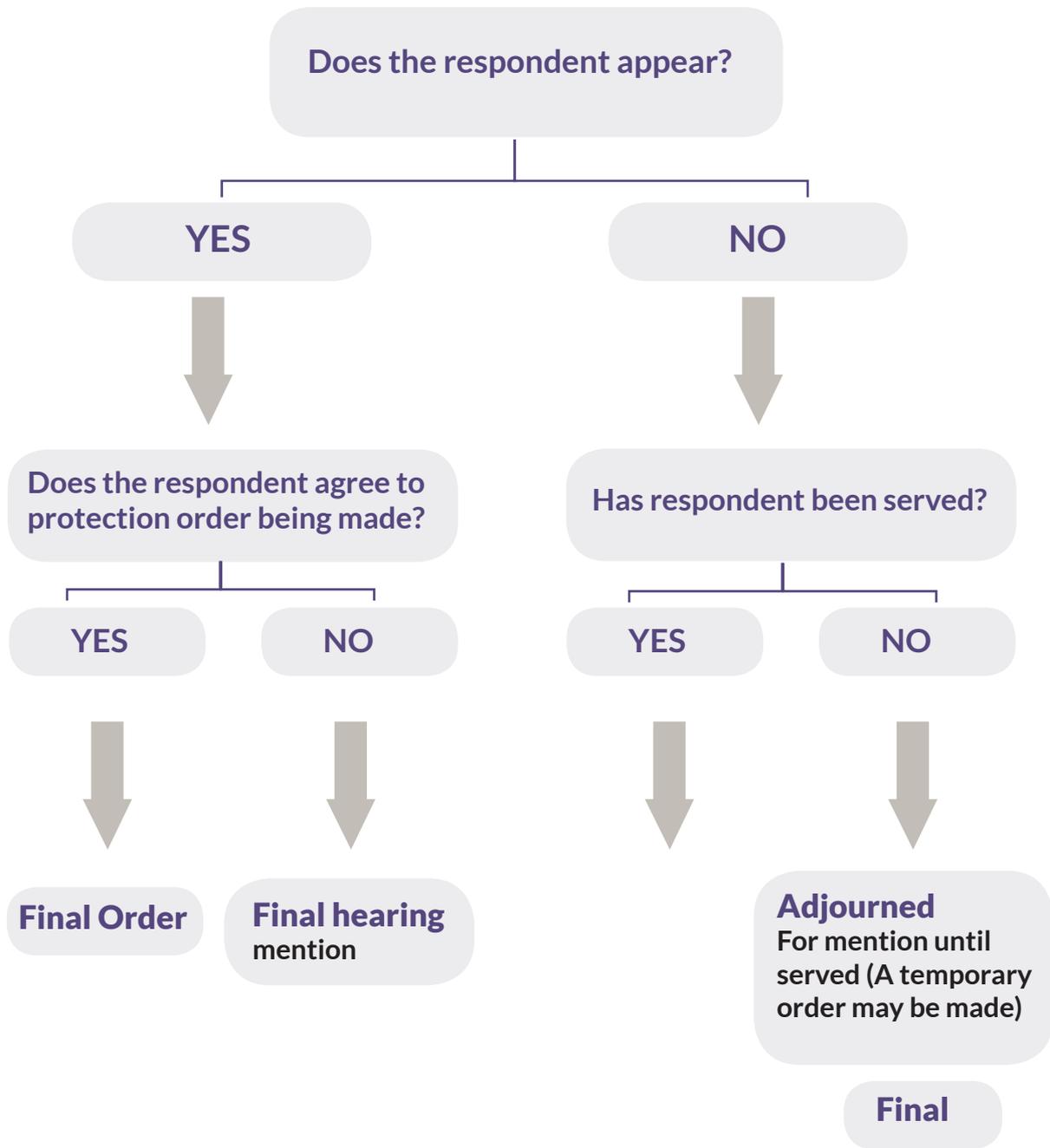
The final hearing is the day when a Magistrate hears evidence from both parties, and their witnesses, to determine whether an order should be made.

Evidence in domestic violence hearings is in the form of affidavit, which is a sworn, written statement. You, and anyone else who completes an affidavit in support of your application, may be cross examined (questioned) about what is in your affidavit. . If your ex-partner is self-represented they may be able to cross-examine you, although you can make submissions asking the court to make an order that your ex-partner is unable to cross-examine you on the basis that it will cause you to suffer either emotional harm or distress, or intimidate you to the point of disadvantaging you as a witness.

If such an order is made your ex-partner will be given time to either obtain legal representation for further hearings or a lawyer for the sole purpose of cross examining you. If your ex-partner already has a solicitor, the solicitor can cross-examine you. During cross-examination try to remain calm, and remember you must always tell the truth.

COURT PROCESS FOR A DOMESTIC VIOLENCE HEARING WHEN SEEKING AN ORDER





A support person is allowed to assist you in court. This can be anyone of your choosing. Some community organisations provide court assistance and/or support for women applying for a protection order. Ask the court staff if they know of such a service or contact a domestic violence service for more information.

Some courts have safe rooms where you can wait until your application comes before the Magistrate. If you are worried about your safety at court, talk to the court staff about what can be done to keep you safe. There is also a safety form which is available from the court registry that you can complete regarding safety. When completing the application for a protection order form, if you do not want your partner or ex-partner to have your address, ask the court registry staff for a separate form to inform the court (but no-one else) of your address.

Do I need a solicitor?

You do not need a solicitor to represent you at the time of making an application for a protection order. However it is always advisable to get legal advice before filing your application. You may be able to get advice and possibly representation from a duty lawyer at any stage before the hearing stage. Duty lawyers do not represent people in hearings. If you believe that your partner or ex-partner will contest your application or apply for an order against you, it is important to get a solicitor or the police prosecutor to represent you. If you are eligible for Legal Aid you may be able to get a solicitor to act for you in obtaining a protection order.

What conditions can be made into a protection order?

When a court makes any protection order, the following standard conditions must be included:

1. That the respondent must be of good behaviour towards the aggrieved and not commit domestic violence.
2. If the order includes protection for a named person, that the respondent must be of good behaviour towards the named person in the order and not commit an act of associated domestic violence against the named person.
3. If the named person is a child, the respondent must be of good behaviour towards the child and not commit an act of domestic violence against the child or expose the child to domestic violence.

The court can set out other conditions in a protection order if it is necessary in the circumstances, and desirable in the interests of the aggrieved, any named person, or the respondent. In including any other condition the court will do so on the basis that the safety, protection and wellbeing of the people who fear or experience domestic violence are paramount.

The types of additional conditions that a court may impose include:

- Not to enter or remain in any place where you are living.
- Not to come within (a specified distance) of any place where you are living.
- Not to approach within (a specified distance) of you.
- To vacate the premises where the respondent and you used to live together (an ouster condition).
- If an ouster condition is included, the court must consider allowing the respondent a period of time in which to vacate and/or collect specific property from the premises; the court will decide whether a police officer should supervise this.
- Not to come to your work place, either a particular address or any place where you may be working or where you frequent.
- Not to approach or remain in any place where (named) relatives or associates are living, staying or working.
- Not to be present at, or in a place, associated with any of your children.
- Not to contact, try to contact or ask someone else to contact you directly or indirectly.
- Not to contact, try to contact or ask someone else to contact your (named) relatives or associates.
- Not to contact, try to contact or ask someone else to contact you directly or indirectly, except for contact with your child/children as per written agreement or in accordance with a court order.
- Not to locate or try to locate or ask someone else to locate you or your relatives and associates listed in the order.
- To return the respondent's essential personal property as stated (if an ouster order is made).
- To allow you to return to your former home to recover personal property as stated.
- An order that the respondent attend either or both an approved intervention program and/or counselling. There are certain requirements that must be met to include this condition, and the condition can only be made if the respondent is present in court and agrees to the order being made, and to comply with the order being made.
- Any other condition the court considers necessary in the circumstances and desirable in the interest of the aggrieved, any named person or the respondent. You may have a special request relating to your circumstances which the court may accept.

After a protection order has been made, a copy is served on your partner or ex-partner if he/she is at court. If your partner or ex-partner is not at court the local police will serve the order.

SOME FACTORS TO BE AWARE OF

If a final order is made and your partner or ex-partner has a firearms licence, the licence will automatically be revoked and the respondent cannot reapply for five years under the Weapons Act 1990. Your partner or ex-partner will also have to surrender any firearms in his/her possession to the police within a day of being served with the order. These requirements will be noted on the protection order and the order will specify the nature of the weapons the respondent has access to and the location of those weapons. If your partner or ex-partner can access firearms through work, a notice will be given to your ex-partner's employer to prevent him/her accessing firearms at work.

The court can include an exception to all or some of the additional conditions set out above, to allow the respondent to have contact with your child/children as per written agreement or in accordance with an order of the Family Court, or to allow the parties to have contact for the purpose of attending court or mediation.

A condition for the protection of an unborn child is now included within the legislation. This means that if you are pregnant when a domestic violence order is made, the court may impose a condition that your child is protected by the order as soon as he or she is born.

If you seek that an ouster condition be included on your protection order you will need to provide evidence to satisfy the court that an order is desirable, in the interest of you, any person named on the order, or the respondent. You will particularly need to demonstrate the impact upon you, and any child living with you, if an order is not made (with an emphasis on minimising disruption, retaining continuity and social connections, and support for both you and your children e.g. continuing employment, schooling and child care without interruption). If an order is made the court must consider providing the respondent with a given period of time in which to leave and/or collect specific property from the premises. The court will decide whether a police officer should supervise this; the respondent is not allowed to take personal property required to meet the daily needs of any persons remaining on the property. The court must also consider the impact of the order upon the respondent however the consideration is in relation to the particular accommodation needs of the respondent (e.g. if they have a disability).

The conditions of a protection order do not prohibit the respondent from asking a lawyer to contact the applicant or named person.

What about my ex-partner seeing the children?

If you have children you will need to think about how your ex-partner will spend time with or communicate with your children, and how to preserve your safety. If you do not have an order or parenting plan that the children spend time with or communicate with the other parent you should get legal advice about what you should agree to and how to arrange visits to lessen the opportunity for harassment or violence. If you have concerns about your children's safety you may be able to have the children included in the protection order and you should get legal advice about this. Orders for children are discussed at length in our Children information sheet. If you have concerns about your safety during changeover times when the children see your ex-partner, one option is to arrange changeover points away from your house.

A possible place for changeover to occur is in front of your local police station or another busy public place where you may feel safe. If you do elect a police station as the changeover point it is important to note that the police are often reluctant to become involved in any issues that occur around or during changeover and are unlikely to intervene in any way unless an actual offence occurs.

A contact centre may be the most appropriate avenue for changeover to take place where domestic violence is a concern. Contact centres provide professional staff to supervise the changeover and/or the period that your ex-partner sees the children. A community legal centre or Legal Aid can provide more information on contact centres.

Another option is to arrange changeover through a trusted friend or relative although these arrangements can fail if the circumstances of the friend or relative change or the relationship deteriorates. Further, in instances where parties have obtained orders for time with children which specify changeover through a third party, such orders are not binding on a third party unless an undertaking has been given by that third party and filed with the court. Consequently, a contact centre may be a more reliable solution provided that the contact centre is able to accommodate the changeover times.

Protection orders and parenting orders

If you have a Family Court or Federal Circuit Court parenting order, or have an application currently before either of these courts, and you apply for a protection order, you must tell the Magistrate hearing the application for a domestic violence protection order about the existence of the parenting order and provide a copy if you have one.

1. This enables the court to have regard to any family law order and, where a domestic violence order is inconsistent with the parenting order, consider whether to amend the domestic violence order. The court must not diminish the standard of protection given by a protection order for the purpose of ensuring consistency with a family law order. This provision relates to final orders only, and is not a consideration of the court at the time of making a temporary protection order.
2. Alternatively, the court may exercise its power under s68R of the Family Law Act 1975 to vary, discharge or suspend the family law order to make it safer for you and the children when visits and/or communication takes place. The Magistrate can do so if they are satisfied it would be too unsafe for you or the children if visits and/or communication continued (in an unchanged form).

How long will my order last?

Protection orders last for five years, unless the Magistrate is satisfied that there are good reasons for making it less than five years.

Will my protection order be valid in other states?

A protection order (including a temporary protection order) made in Queensland after November 2017 is recognised in all other states and territories in Australia. Domestic violence orders made after November 2017 in other states and territories are also recognised in Queensland. If you have a domestic violence order made before November 2017 and would like it to be recognised in other states, you should get legal advice from Women's Legal Service.

If you have a domestic violence order from New Zealand, you can register it in Australia, and it then becomes recognised in all states and territories of Australia.

What if my ex-partner applies for a protection order?

In some circumstances your ex-partner could apply for a protection order even though you already have a protection order in place and it is you who are afraid of him/her. This is called a cross-application. If your ex-partner makes a cross-application you can contest the application. The court should identify who is most in need of protection. In instances of conflicting allegations that both parties are committing acts of violence the court will weigh up the evidence and determine whether an order ought to be made and which party most requires an order for their protection.

The court may dismiss an application if it decides that there is insufficient evidence of domestic violence and/or the order is not necessary or desirable to protect the cross applicant. If you find yourself responding to a cross-application you will need legal help with this and you should contact either a domestic violence service, Legal Aid, a community legal centre or private solicitor.

Sometimes pressure is placed on women to consent to an order to avoid further court action. However, if you consent to an order and both of you have a protection order, both orders may prove less effective if a complaint is made to police. A protection order against you may also impact on any family law proceedings.

You can apply to have your legal costs paid for by your ex-partner if the court decides that he/she had no good reason for applying for the order.

Can I change or stop my order?

Your protection order can be changed (varied) or stopped by a Magistrate. You will need to make an application to vary a domestic violence order and go back to court to do this. You may need to change your order and/or add or remove conditions if your circumstances change. For example, you no longer attend a particular address that is covered in your protection order.

If you believe that the order is no longer of use (for example, if you have reconciled), then you can apply to vary the date the order ends. However, you can still retain some protection by simply varying the order (for example, by removing the condition which prohibits your partner's attendance at your home but keeping the other conditions). If your partner's abuse really has stopped, his/her willingness for you to keep the order for your own peace of mind may be an indication of your partner's willingness to change.

If a variation is proposed that may negatively impact on the safety, protection or wellbeing of the aggrieved, then the court must have regard to any expressed wishes of the aggrieved (or named person), any contact between the aggrieved and the respondent, and whether any pressure, or threat, has been applied to the aggrieved by the respondent. The court may only vary an order if the court considers that there will not be any negative effect on the safety, protection or wellbeing of the aggrieved.

You can obtain an application to vary a domestic violence order form from your local Magistrates Court, police station or visit the court's website on www.courts.qld.gov.au.

Can I extend my order?

If your order is about to expire and you feel that you still need protection, you will need to file an application to vary a protection order before the current order expires (to extend the duration of the order). Speak to registry staff at your nearest Magistrates Court, or get legal advice, to find out exactly when to file your application to vary so that you can seek a new order before the current one expires.

You will need to include in the application details of any incidents of domestic violence since the order was made, any breaches of the existing order and why you feel it is necessary or desirable for the order to be extended.

If you feel there is an urgent risk of violence, you should ask for a temporary variation order to be made.

What if my ex-partner breaks the order?

If a protection order is broken (breached) by your partner or ex-partner, he or she has committed a criminal offence under the Domestic and Family Violence Protection Act 2012 and can be dealt with by the police. You should report the breach to the police promptly so that they can take action. You should also call '000' if a breach of the order is placing you at immediate risk of domestic violence.

Any evidence such as doctor's reports, photographs, or information from witnesses can be useful. It may be useful for future reference to make diary notes (signed and dated) about incidents that occur for you to refer to later.

If you try to report a breach and the police are unhelpful, ask to speak to either the officer-in-charge of the police station or a police domestic violence liaison officer, or contact a domestic violence service or community legal centre for advice.

A breach can be punished by imprisonment for up to three years if it is a first offence, and up to five years if in the last five years the respondent has been convicted of a domestic violence offence. However, the punishment is decided by a court and these sorts of penalties may not be imposed if the breach is not considered to be a serious offence.

What if I have recently arrived in Australia?

If you are an immigrant, and are married or in a de facto relationship with an Australian citizen or permanent resident, and your relationship has ended due to violence from your partner, then there may be provision for you to remain permanently in Australia. It is vital to quickly seek legal advice about your circumstances before approaching the Department of Immigration and Citizenship ('DIAC'). Only registered migration agents can provide advice on immigration matters. The Refugee and Immigration Legal Service (RAILS) specialises in immigration law and can provide free advice.

What if I need more information and assistance?

For more information on domestic violence, taking out a protection order, and the court process, contact a domestic violence service or Women's Legal Service.