

Responding to a domestic violence order application

If you are served with an Application for a Protection Order (Form DV1), you should attend court. If you DO NOT appear in court, the court may make a domestic violence order in your absence.

You should get legal advice before deciding whether you agree or disagree with the application, or before asking for a contested hearing.

What are my options in court?

Option 1. Consent

Choose this if you agree to a domestic violence order being made against you, or the changes asked for in an application to vary (change) an existing domestic violence order. When asked, tell the magistrate you consent to (or do not oppose) the domestic violence order being made or varied. You can agree to a domestic violence order being made even if you do not agree with any or all of the statements made in the application — this is called ‘consenting without admission’.

Option 2. Adjournment

Choose this if you have not had legal advice. When asked by the magistrate, explain that you need more time to get advice. The magistrate may make a temporary protection order until the next court date. On the adjourned date you must then tell the court if you agree or disagree with a final protection order being made.

Option 3. Contest

Choose this if you disagree with a domestic violence order being made. When asked, tell the magistrate you are opposing the application, and a contested hearing date will be set. A contested hearing can also be called a trial. For the hearing you will need to prepare and give evidence about why the domestic violence order should not be made. The aggrieved or applicant will also give evidence about why the domestic violence order should be made. **If your matter is set down for a contested hearing, get legal advice immediately.**

Option 4. Do nothing and not attend court

If you do not appear in court, the court may make a domestic violence order in your absence.

What conditions can be made in a domestic violence order?

A domestic violence order puts limits on your behaviour. You must be well behaved towards the aggrieved and anyone else named in the order. The order can also protect children, relatives, friends or workmates if there has been violence or threats of violence towards them.

The other conditions vary from case to case, but could include things to stop you from:

- approaching the aggrieved's workplace or home
- going near the aggrieved, their relatives or other people named in the order, eg you might have to stay at least 100 metres away
- living in the home you share with the aggrieved
- trying to locate the aggrieved
- having any contact with the aggrieved by telephone except for mediation or counselling
- going to places where the aggrieved's children frequently visit, like their school or kindy.

You will need to let the magistrate know if you and the aggrieved have parenting orders in place because the domestic violence order could affect them.

Will I get a criminal record?

Not unless you breach (break) the order. You must follow the terms set down in the order. If you don't and you break the order, the police can charge you with a criminal offence which may result in fines and/or imprisonment.

Note: If a domestic violence order is made, it may affect licences and other cards you may hold, including weapons and security licences. Get legal advice.

Legal words and phrases explained

Aggrieved — The person who needs a domestic violence order.

Authorised person — A person authorised to make an application for a domestic violence order on behalf of an aggrieved. For example, if the police apply for the domestic violence order, a police prosecutor will prosecute the application in court. An authorised person can also be called the applicant.

Domestic violence – Domestic and family violence is when you engage in the following behaviour with another person you have a relationship with. It includes if you:

- are physically or sexually abusive, or
- are emotionally or psychologically abusive, or
- are economically abusive, or
- are threatening, or
- are coercive, or
- in any other way control or dominate a person you have a relationship with and cause them to fear for their safety or wellbeing or that of someone else.

Domestic violence order — A domestic violence order (DVO) is an official document issued by the court with the aim to prevent threats or acts of violence and behaviour that is controlling or causes fear. The term domestic violence order includes temporary (short-term) protection orders and final (long-term) protection orders.

Family law exception — An exception that may be added to extra conditions on a domestic violence order that allows the respondent to have contact with the aggrieved or their child/ren in particular circumstances — this is set out in writing between the aggrieved and respondent or is in line with a court order.

Hearing/contested hearing — If the respondent opposes a domestic violence order, or if the aggrieved/applicant and respondent cannot agree about the order's conditions at the mention, you will be given a new court date for a contested hearing. A contested hearing can also be called a trial. At the hearing, the magistrate will hear your evidence about why a domestic violence order should not be made and evidence from the aggrieved or the police about why an order should be made. The magistrate can also hear evidence from witnesses. In most courts, all evidence such as affidavits (sworn statements), photographs, medical certificates/reports, text messages, telephone logs or emails is ordered by the magistrate to be given to the registry and the other party before the hearing. At the end of the hearing the magistrate will then decide whether to make a domestic violence order.

Mention — This is a short court appearance held in a closed court — it is not open to the public. The magistrate will want to know if the Application for a Protection Order (Form DV1) has been served on (given to) the respondent and, if the respondent is present in the court, whether they agree or disagree with a domestic violence order being made. There may be one or more mentions. A temporary protection order can be made at a mention and will last until the next mention date or contested hearing date.

Protection order — A final domestic violence order that usually lasts five years.

Respondent — If someone has lodged an Application for a Protection Order (Form DV1) against you, you will be called ‘the respondent’ on the application and in the courtroom. The respondent is the person who is accused of committing acts of domestic violence.

Temporary protection order — A short-term domestic violence order that lasts until another decision is made by the magistrate. A temporary protection order may be made if the magistrate adjourns a matter for another mention or if the matter is set down for a contested hearing/trial.

How do I apply for legal aid?

You need to complete an application form, which you can get from our offices throughout Queensland or from our website www.legalaid.qld.gov.au. Your application is more likely to succeed if you get legal advice before you apply.

Can you organise an interpreter?

Yes. We can organise for an accredited interpreter to help you. We are committed to making our services accessible to all people who need our services. If you would like information about domestic violence explained in your language, please phone the Translating and Interpreting Service on 13 14 50 to speak to an interpreter. Ask them to connect you to Legal Aid Queensland on 1800 998 980 (our legal information line). If you are deaf or have a hearing or speech impairment you can contact us using the National Relay Service. Visit www.relayservice.gov.au and ask for 1800 998 980. These are free services.

Where to go for help

Legal services

Domestic and family violence duty lawyer

The domestic and family violence duty lawyer is a free lawyer who may be able to help if you're appearing in court to apply for or respond to a domestic violence order.

The domestic and family law duty lawyer may not necessarily appear with you in court (unless you have a specific need), but they can still help you by:

- discussing your situation and available options
- giving you free legal information and advice
- explaining what will happen in court
- helping you with court forms or documents
- helping you complete a Legal Aid Queensland application form
- discussing your eligibility for ongoing representation from Legal Aid Queensland

- referring you to other organisations who may be able to help
- referring you for legal advice, help and representation (if eligible) for related family law and child protection issues.

You don't have to book to see the domestic and family violence duty lawyer, but you should check if they're available at the court you're attending and on your court date. If you need legal help, you should arrive early to the court (on your court date) and ask to see the domestic and family violence duty lawyer.

Note: The domestic and family violence duty lawyer can only help on the day you're appearing in court. For example, if your court date is on a Tuesday, you can't get help from the duty lawyer before Tuesday. They can't help if your matter isn't listed in the court on that specific day.

Make sure you bring all your court documents with you. Without them, the domestic and family law duty lawyer can only give you limited help.

Let the domestic and family violence duty lawyer know if you need extra help— for example, if you've experienced domestic or family violence, or you need an interpreter, have difficulty reading or writing, or have a disability.

Other legal services

Legal Aid Queensland	1300 65 11 88
Aboriginal and Torres Strait Islander Information Line (Legal Aid Queensland)	1300 65 01 43
Community Legal Centres Queensland	(07) 3392 0092
Violence Prevention and Women's Advocacy (Legal Aid Queensland)	(07) 3917 0597
Queensland Indigenous Family Violence Legal Service	1800 887 700
Aboriginal and Torres Strait Islander Legal Service	1800 012 255
Women's Legal Service	1800 957 957
Women's Legal Service — Rural, Regional and Remote Line	1800 457 117
Refugee and Immigration Legal Service	(07) 3846 9333
LGBTI Legal Service	(07) 3124 7160
Queensland Law Society	1300 367 757
Aged and Disability Advocacy Australia	1800 818 338

Government agencies

Women's Infolink	1800 177 577
Centrelink	(07) 3392 0092
Child Safety Enquiries and Notification Unit	1300 65 01 43

Domestic violence services

1800 RESPECT telephone counselling	1800 737 732
DV Connect	1800 811 811
DV Connect – Mensline	1800 600 636
Mensline Australia	1300 789 978
Immigrant Women’s Support Service	(07) 3846 3490

Counselling and support services

Lifeline	13 11 14
Suicide Call Back Service	1300 659 467
Ozcare	1800 692 273
Relationships Australia and Rainbow Counselling	1300 364 277
Diverse Voices (LGBTI peer support)	1800 184 527

For more information call
1300 65 11 88 or 1300 65 01 43
(Aboriginal and Torres Strait
Islander Information Line) or visit
www.legalaid.qld.gov.au

