

# Using domestic violence protection notices and domestic violence protection orders to make victims safer

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Written by College of Policing

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Domestic violence protection notices and orders provide short-term protection for domestic abuse victims.

## Introduction

Officers have a duty to take or initiate steps to make a victim as safe as possible. Officers should consider domestic violence protection notices (DVPN) and domestic violence protection orders (DVPO) at an early stage following a domestic abuse incident as part of this duty. These notices and orders may be used following a domestic incident to provide short-term protection to the victim when arrest has not been made but positive action is required, or where an arrest has taken place but the investigation is in progress. This could be where a decision is made to caution the perpetrator or take no further action (NFA), or when the suspect is bailed without conditions. They may also be considered when a case is referred by [MARAC](#).

For further information see [Home Office DVPN and DVPO Guidance document](#).

The process is designed to give breathing space to victims by granting a temporary respite from their abuser and allowing referral to support services without interference. The point at which victims seek help or leave their abuser can be when they are most at risk.

The DVPN/DVPO process can be pursued without the victim's active support, or even against their wishes, if this is considered necessary to protect them from violence or threat of violence. The victim also does not have to attend court. This can help by removing responsibility from the victim for taking action against their abuser.

For the police, it provides an alternative to allowing the suspect to remain at or return home. DVPNs and DVPOs are governed by sections 24 to 33 of the [Crime and Security Act 2010](#) (CSA).

It is a two-stage process involving both the police and the magistrates' court. Once the police have served a DVPN on the suspect, an application must be made to the magistrates' court for the DVPO within 48 hours of the DVPN being served. There are strict conditions which apply at each stage. Breach of either the notice or the order carries a power of arrest.

Where criminal proceedings are being considered, the tight timescales generally mean that starting the DVPN/DVPO process cannot wait until after a decision has been made in the criminal case. This means that officers need to consider the application of the threshold test and start the process for superintendent's authorisation for the DVPN in parallel.

It is vital that where a DVPN or DVPO is issued there is a plan for monitoring and enforcing the conditions. This may involve the victim in notifying police of breaches and the use of local policing teams to monitor the victim and/or suspect.

For further information see [Victim safety and support](#).

## Domestic violence protection notices

### When is a DVPN available?

In order for a DVPN to be available:

- the suspect must be over 18
- there must be reasonable grounds for believing that the suspect has been violent or has threatened violence towards an associated person, **and**
- that the DVPN is necessary to protect the associated person from violence or threat of violence by the suspect

An associated person is a person who is associated with the suspect within the meaning of [section 62\(3\)](#) of the Family Law Act 1996.

### What does the term 'violence' mean in the context of DVPNs and DVPOs?

Violence is not defined in either the Crime and Security Act (CSA) 2010 or the Home Office guidance on DVPNs and DVPOs. In the absence of a bespoke definition, the Oxford English Dictionary definition includes:

- behaviour involving physical force intended to hurt, damage or kill someone or something
- strength of emotion or of a destructive natural force

This suggests that violence is defined by the physical behaviour of the person engaging in it, whether it is aimed at persons or property.

In addition, the CSA refers to 'threat of violence' – this allows a wide interpretation to include any behaviour by the perpetrator which instils a fear of violence in the victim.

## The decision to issue a DVPN

The decision to issue a DVPN must be made by the authorising officer (AO), who is an officer of superintendent rank or above. In reaching the decision, the AO must consider in particular:

- the welfare of any relevant persons under 18
- the opinion of the person to be protected
- any representations made by the suspect
- where both parties live at the same address, the opinion of any other associated person also residing at the address

It is for the AO to decide who is a relevant person.

The AO should take reasonable steps to find out the opinions mentioned above, however, consent is not required.

There is no power to detain the suspect for the purpose of obtaining authorisation.

## Terms of the DVPN

The terms which can be included in the DVPN are set out in the [\*\*CSA, section 24, subsections 6 to 8\*\*](#) and vary according to whether or not the two parties are living together.

There must in all cases be a prohibition on molesting the victim, either generally or with regard to a particular type of conduct.

Where the parties live at the same address, the provisions can also:

- prohibit the suspect from evicting or excluding the victim from the premises
- prohibit the suspect from entering the premises
- require the suspect to leave the premises
- prohibit the suspect from coming within a specified distance of the premises

## Content of the DVPN

The DVPN must:

- state the reasons for issuing the notice
- warn the suspect that he or she can be arrested if there are reasonable grounds to believe the notice has been breached
- state that an application for a DVPO will be made within 48 hours and that notice of the hearing will be given separately
- state that the DVPN will remain in force until a decision has been made on the application, and
- set out the likely terms of a DVPO

## Issuing the DVPN and notice of the hearing of the DVPO

The DVPN must be personally served in writing on the suspect by a constable. This applies whether or not the person has been arrested. The notice of the hearing (NH) of the DVPO should be served at the same time if possible, but can be served later. At the time of serving the DVPN, the constable must ask for an address at which the NH can be served. If provided, this is recorded on the DVPN.

The NH must also be personally served. It is deemed served if left at the address provided by the suspect on the DVPN.

If no address is provided, the officer must make reasonable efforts to give the suspect notice of the hearing. If the suspect later fails to attend the hearing, the court can still hear the application in their absence if the police officer can show that such reasonable steps were taken.

There is no power to detain the suspect for the purpose of serving the DVPN or NH.

Ideally, the DVPO application should be listed in a **specialist domestic violence court** (SDVC), but this is rarely possible owing to the 48-hour time limit.

There are human rights implications to making a person temporarily homeless by issuing a DVPN and it is good practice to provide the suspect with details of emergency accommodation when serving the notice.

The suspect should be referred to a voluntary perpetrator scheme if available in the force area.

## After the DVPN has been issued

The victim should be made aware that a DVPN has been issued and what it prohibits. The process should be explained to them in a way that they understand. They should be provided with details of relevant support agencies as soon as possible so that victim services can use the 48-hour period to support the victim to make decisions about their relationship. Victims should be encouraged to seek information about their options from an **Independent Domestic Violence Adviser** (IDVA), outreach support worker or other specialist domestic abuse support service.

### Free national helpline details

National Domestic Violence Helpline (Run by Refuge)

0808 2000 247

All Wales Domestic Abuse and Sexual Violence Helpline (Run by Welsh Women's Aid)

0808 80 10 800

See also CPS Domestic Abuse Guidelines for Prosecutors, **Annex E – National support organisations**

A high-risk flag should be added to the PNC, including a note of the specific terms of the DVPN, so that any breach can be acted on promptly.

Although breach of a DVPN is not a crime carrying a formal sanction, there are consequences for the suspect. If an officer has reasonable grounds to believe that the suspect has breached

the DVPN, the person should be arrested under **section 25(1)(b)** CSA. They should then be kept in custody until they are brought before a magistrates' court, which must be within 24 hours of arrest (not including Sundays, bank holidays, Christmas and Good Friday). The court can hear the DVPO application at this court appearance even if it was originally listed at a different time or day. If the matter is adjourned, the court can decide to remand the suspect in custody until the next hearing.

It is important to clearly highlight the time of arrest so that the 24 hours do not expire before the breach can be dealt with. If it expires, no action can be taken and the person must be released.

The DVPN continues to apply until a decision is made on the DVPO application.

## Domestic violence protection orders

### Making the application

The application must be heard within 48 hours of serving the DVPN. It is made by way of complaint to the magistrates' court. It should be listed in the SDVC, but this is only possible if it is sitting within the 48-hour period. Sundays, bank holidays, Christmas and Good Friday do not count towards the 48-hour period.

For further information see See **section 27** and **section 28** of the Crime and Security Act 2010.

### Checklist: DVPO application

#### Service

The application must clearly state that:

- the DVPN was served on (date) at (time) and no more than 48 hours before the hearing
- if the respondent appears in custody in breach of the DVPN before the anticipated hearing date, they have been brought before the court within 24 hours of arrest

If the perpetrator does not attend the hearing, the application can still proceed in their absence provided the officer can show that:

- the NH was served in person, or

- the NH was served at the address provided by the perpetrator on the DVPN (it is deemed served), or
- where no address was provided, reasonable efforts were made to serve the NH – setting out all the steps taken

## Content

The content of the application must establish that:

- there are reasonable grounds for believing that the perpetrator has been violent or has threatened violence towards an associated person, and
- that the DVPO is necessary to protect the person from violence or threat of violence by the perpetrator.

Minimum content of the supporting file should include:

- front sheet
- case summary
- witness statements
- previous convictions of the perpetrator
- copy of the superintendent's authorisation for the DVPN

It is important to refer not only to the latest incident but also to the history of the couple (and any relevant history with previous partners) so that the court understands the context in which the incident has taken place. This should include any history of abuse, including emotional, financial and sexual abuse, and coercive and controlling behaviour.

The officer should also be able to explain any reasons for not charging.

The proposed terms, usually based on the DVPN, should be set out in full.

The victim is not required to make a statement or attend court. Instead, it is appropriate to rely on the officer's statement, including information admissible as hearsay.

The normal duty to give notice of hearsay under section 2(1) of the Civil Evidence Act 1995, along with provisions relating to cross-examination of hearsay witnesses contained in the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999, do not apply

in DVPO proceedings by virtue of the **Magistrates' Courts (Domestic Violence Protection Order Proceedings) Rules 2011**.

## The court decision

The court's decision is made on the balance of probabilities, which means they must find it more likely than not that:

- violence or threat of violence has occurred, and
- the DVPO is necessary to protect the victim from further violence or threat of violence

The outcome of the hearing is that the DVPO is either issued or not issued, but the court can also decide to adjourn the case. If this happens, the DVPN continues to apply until the next hearing. The perpetrator can also be remanded in custody.

If the DVPO is made, it must last for a minimum of 14 days and a maximum of 28 days. It should specify the end date of the order.

There is no power for the court to vary or revoke the order once it has been made. It simply lapses on the end date.

## After the DVPO hearing

The key to a successful DVPO is active management of the victim and the perpetrator during the period of the order. The focus should be on:

- keeping the victim informed
- ongoing risk assessment and management
- monitoring compliance and proactive policing of breaches

### Keep the victim informed

The victim must be told of the outcome of the application as soon as reasonably practicable.

If the DVPO is granted, the officer should explain:

- the details and duration of the order

- that the obligation is on the perpetrator to comply with the terms, but that the victim should also cease any contact with them
- if there is a term which allows the perpetrator to attend on one occasion with a police officer to collect essential belongings
- if the terms allow child contact under certain conditions
- the consequences of a breach and what to do if the perpetrator breaches the order

If the DVPO is refused, the officer should:

- ask the victim if they wish to reconsider support for criminal proceedings (if they had previously refused)
- provide the victim with a point of contact, preferably in the domestic abuse or public protection unit, and remind them to call the emergency services if there are any further incidents
- ensure the victim is aware of all safety planning measures that are in place and how to make use of them

#### **Free national helpline details**

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All Wales Domestic Abuse and Sexual Violence Helpline (Run by Welsh Women's Aid)

0808 80 10 800

See also CPS Domestic Abuse Guidelines for Prosecutors, [Annex E – National support organisations](#).

Whatever the outcome, officers should take the opportunity to remind victims of the availability of specialist domestic abuse services.

#### **Manage risk**

Risk assessment and safety planning must be reviewed and updated on issue, refusal and expiry of the DVPO, as part of an overall multi-agency approach to managing the victim's needs. The officer should:

- carry out a further risk assessment and safety planning exercise
- keep relevant agencies informed of the outcome of the DVPO application and any expiry date
- make appropriate multi-agency referrals if not previously done

The PNC marker must be kept up to date at all times. This means:

- removing the DVPN marker when a DVPO is issued or refused
- adding a DVPO marker when one is issued
- removing the DVPO flag at the end of the period

## Be proactive with breaches

If there are reasonable grounds to believe that the person has breached the DVPO, they should be arrested and brought before a magistrates' court within 24 hours of arrest. The time of arrest should be prominently flagged on the breach paperwork so that the 24 hours do not expire before the breach can be dealt with. Sundays, bank holidays, Christmas and Good Friday do not count towards the 24-hour period.

The arrest should be made at the first opportunity. It is important to be proactive, as any delay loses the victim's confidence and defeats the purpose of the order. It is also damaging in court because magistrates often query the existence of risk if the police appear relaxed about the urgency of the situation.

There is no power of entry for breach of a DVPO so officers must rely on [PACE, section 17](#) or the power relating to a breach of the peace.

Breach of a DVPO is a civil contempt of court under the [Magistrates' Courts Act 1980, section 63](#). The court can order a fine not exceeding £50 per day up to a maximum of £5,000 or up to two months' imprisonment. As it is not a criminal offence, it is not recordable.

If the case is adjourned, the court can remand the person in custody for up to three weeks.

Officers should always consider if the conduct could also amount to a substantive criminal offence. If it could, this must be investigated in addition to bringing the perpetrator before the court for breach of the DVPO.

## Tags

Domestic violence   Domestic abuse