

## FACT SHEET

## Information for Respondents in domestic violence matters

### Who is the respondent?

A respondent is a person against whom an application for a protection order is made.

### Who is the aggrieved?

An aggrieved is the person who is in need of protection.

### What is a Domestic and Family Violence?

Domestic or family violence can include:

- physical abuse;
- emotional or psychological abuse – stalking, blackmailing, repeated text messages or making insulting comments etc;
- sexual abuse;
- verbal abuse;
- harassment or intimidation;
- financial abuse – controlling or misusing money or property etc;
- threatening or coercive behaviour; and/or
- behaviour which in any way controls or dominates another person and causes that person to fear for his/her safety or wellbeing or for that of someone else.

### Protection Orders

#### Final Protection order

A protection order is a domestic violence order made by a Magistrate to protect people in domestic and family violence situations. Most final protection orders last for five years. However, if the court feels it's appropriate, the order can be made for a shorter period, or be extended. In making a final order the Magistrate must be satisfied that a relevant relationship exists, that an act of domestic violence has occurred, and that the protection order is necessary or desirable to protect the aggrieved and named children/persons from domestic violence.

#### Temporary protection order

A temporary protection order aims to provide the aggrieved with protection from domestic violence until the application is decided by the Court. When making a temporary order, the Magistrate must be satisfied that the order is necessary or desirable to protect the aggrieved and named children/persons.

### Can I make an application against the aggrieved?

Yes, if the aggrieved has committed any recent acts of domestic violence against you (the respondent), a cross application may be sought.

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*"BCLS recommends you get legal advice when someone has applied for a protection order against you and before you agree or disagree to an order being made."*

#### What are my options when responding to an Application in court?

When someone has applied for a protection order against you, you have four options to consider including:-

##### 1. Agree

You can tell the Magistrate you consent to (or do not oppose) a protection order being made or varied. You can do this even if you do not admit to any or all the particulars/allegations of the application.

##### 2. Disagree

You can tell the Magistrate you disagree with the protection order being made, and a hearing date will be set. At the hearing, you can give evidence about what happened and why a domestic violence order should not be made and bring along any witnesses or evidence you wish to rely on. There will be several directions made by the Magistrate regarding the filing of Affidavit material. It is recommended that you seek legal advice when preparing for a hearing.

##### 3. Adjourn

If you have not had time to get legal advice you can ask for an adjournment to another date. This means that you can come back to court at a later date to either agree or disagree with protection order being made. The Magistrate may make a temporary protection until the application is decided by the Court.

##### 4. Do nothing and do not attend court.

If you do not attend court, the Magistrate may make the protection order in your absence.

#### What conditions can be made in a protection order?

Specific rules are set out in a protection order that must be obeyed by the respondent. Every order has a standard condition that says the respondent must be of good behaviour and not commit domestic violence against the aggrieved and named children/persons on the order. Other conditions can be included to stop someone:

- having contact with the aggrieved and named children/persons;
- going near the aggrieved for e.g. you must stay at last 100 metres away;
- locating the aggrieved;

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- approaching the aggrieved at their home, work or somewhere they frequently visit; and
- staying in a home both parties currently share or have previously shared, even if the house is owned by the respondent or rented in the respondent's name.

### What happens if a protection order is made?

A protection order is a civil order and therefore it does not go on your criminal history. If a protection order is made it may affect licences and other cards you hold, including weapons and security licences. If a protection order is made against a you (the respondent) and you hold a weapons licence, you cannot own a weapon and your licence will be suspended, or cancelled, and you cannot hold another licence for up to five years.

### What happens if I breach a protection order?

The police have a duty to investigate breaches of a domestic violence order and can charge the respondent with breaching the order. Breaching a protection order is a criminal offence. If you breach the order and found guilty of the offence, it may appear on your criminal record. A respondent can face up to three years imprisonment for the first time they are found guilty of

a breach, and up to five years if they breach again within five years.

### Varying a protection order later

It is possible to vary an order at a later date. This can be done by filing an Application to Vary a Protection Order. This form can be found on the Court's website <https://www.courts.qld.gov.au/>. This Application can be filed by either the aggrieved or the respondent to the order.

### Need legal advice?

BCLS provides FREE legal information, referrals, advice and assistance about domestic violence matters. To make an appointment contact (07) 3162 3282 or book online <http://bcls.org.au>.



[www.bcls.org.au](http://www.bcls.org.au)

[info@bcls.org.au](mailto:info@bcls.org.au)

07 3162 3282

Wynnum Community Centre, 105 Florence Street, Wynnum QLD 4178

PO Box 103, Wynnum QLD 4178

*Bayside Community Legal Service acknowledges the traditional owners of the lands across Queensland, and in particular the Quandamooka people, the traditional owners of this land where our Bayside community is situated. We pay our respect to elders past, present and emerging*