

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 needs a protection order.

What is 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 in court to protect people in domestic and family violence situations. Most final protection orders last for five years. If the court feels it's appropriate, the order can be made for a shorter period, or be extended.

In making a final protection order the Magistrate must be satisfied that:

- A relevant relationship exists;
- An act of domestic violence has occurred; and
- The protection order is necessary or desirable to protect the aggrieved from domestic violence.

Temporary protection order (TPO)

A temporary protection order is granted when an applicant is in urgent need of protection. The aggrieved or the police can apply for a TPO, which can be considered early by a Magistrate in court. A temporary protection order works the same as a final protection order, but it is in force in the meantime to protect those in danger until the Magistrate can decide on the application for a final protection order.

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.

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:-

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. If a protection order is made you will not

have a criminal record if you follow the terms of the order. However, a conviction for breaching (breaking) a protection order is a criminal matter.

2. Disagree

If you disagree with the protection order being made, tell the Magistrate and a hearing date will be set. On the hearing date you can give evidence about 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 representation if you choose to defend an application.

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 later to either agree or disagree with protection order being made. The Magistrate may make a temporary protection order.

4. Do nothing and don't 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 or any other person named in the order, including children, relatives or friends, if they are at risk of violence. Other conditions can be included to stop someone:

- having contact with the aggrieved;
- locating the aggrieved;
- going near the aggrieved, for example, you must stay at least 100 metres away;
- 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?

If a protection order is made you will not have a criminal record if you follow the terms of the order. 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 respondent and they have a weapons licence, they cannot own weapons and their licence will be suspended, or cancelled, and they can't hold another licence for up to five years.

What happens if I breach a protection order?

Breaching a protection order is a criminal offence. The police have a duty to investigate breaches of a domestic violence order and can charge the respondent with breaching the order. 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 it again within five years.

Can I vary 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 application can be filed by either the aggrieved or the respondent to the order.

Where to get Legal Advice?

If you are a respondent in a Domestic Violence matter you should get legal advice. BCLS provides FREE legal information, referrals, advice and assistance about domestic violence matters. To make an appointment see our contact details below.

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

Contact Bayside Community Legal Service

Website: www.bcls.org.au

Email: info@bcls.org.au

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Office Hours: 8:30am to 4:30pm Monday to Thursday

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