

# Domestic violence

Information about where to get help and what legal steps you can take to protect you and your children



MINISTRY OF  
**JUSTICE**

*Tāhū o te Iure*



## Ensuring you and your family are safe

If you or your children have experienced domestic violence, you need to get immediate help. If you feel in danger, call the Police on **111**. Your safety, and your children's safety, is the priority.

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### What is domestic violence?

Domestic violence is defined by the Domestic Violence Act 1995 as including:

- physical abuse
- sexual abuse
- psychological abuse, including but not limited to:
  - intimidation
  - harassment
  - damage to property
  - threats of physical, sexual or psychological abuse
  - financial or economic abuse.

Domestic violence can also involve children. As well as protecting the children from direct violence the Act also protects children from people who cause them to see and hear violence or put them at risk of seeing and hearing violence.

If you're at risk of domestic violence, the court can give you a Protection Order and/or an urgent Parenting Order straight away, if needed.

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### What is a Protection Order?

A Protection Order is made by a judge to protect people from domestic violence. Its conditions can be enforced by the Police.

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A judge can make the Order if they are satisfied that there has been domestic violence. The judge also needs to be sure that the Order is needed to protect a person, and any children who usually live with them, from the person who has been violent.

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## **How does a Protection Order work?**

The person who applies for a Protection Order is called the applicant. The Protection Order protects the applicant and any children who regularly live with them. Any child who turns 17 while the Protection Order is in place is protected if they live with the applicant, no matter when the Protection Order was made.

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## **Applying for a Protection Order**

A person who needs protection from domestic violence can apply for a Protection Order through the Family Court. If it's urgent, the Family Court can make a temporary (interim) Protection Order, usually on the same day. This is made without notice to the respondent (refer to the section 'How long will the Protection Order last?').

The respondent is the legal name for the person who this Order applies to. The respondent can ask to be heard by the court before a final Order is issued.

If the application is not urgent, the respondent will be served with the application and will have the chance to defend it. The Family Court judge will then listen to the evidence and decide if a final Protection Order should be issued or not.

As soon as you apply for a Protection Order, you can access the free confidential safety service. These services are for adults only and are available by phone or face to face.



A service provider approved by the Ministry of Justice will:

- identify what your needs are and provide immediate safety advice
- help you plan how to deal with risks and provide support and information about how to keep safe.

Once your Protection Order is made you can continue with this service.

To apply for a Protection Order, you need to be in a domestic relationship with the person being violent.

'Domestic relationships' are defined by the Domestic Violence Act 1995 as:

- spouses
- civil union partners
- de facto partners
- people who are the biological parents of the same person
- people related by blood
- people related through marriage, civil union, a de facto relationship or adoption
- members of the same family/whānau or other culturally recognised family group
- flatmates or other people who live in the same house or flat
- people in a close personal relationship, whether or not they live together.

If you're not in a domestic relationship with someone who is being violent towards you then you can apply for a Restraining Order. See the back page for contact details.



## CRIMINAL COURT

A criminal court can also make a Protection Order to protect victims from domestic violence. A criminal court can make:

- a temporary Protection Order if someone breaches a Police Safety Order (please note that this Order cannot be made if an application for a Protection Order is waiting for a decision in the Family Court)
- a final Protection Order when someone is sentenced for a domestic violence offence.

The person who is being violent is called the respondent. The Order can also be made to protect other people who need protection from the respondent, like a new partner, older children or a flatmate. The applicant must ask for these people to be protected in the Order.

Sometimes, the respondent may encourage other people to be violent towards the applicant. In this case, the Protection Order will protect you against those people as well. Those people are called associated respondents.

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## Conditions of a Protection Order

The Protection Order will set conditions that the respondent must not break. If the respondent breaks any of these conditions, they can be arrested and charged by the Police with a criminal offence. Protection Orders usually have two types of conditions: non-violence conditions and non-contact conditions.

The non-violence conditions state that the respondent must not:

- abuse (physically, sexually or psychologically) the person or people protected by the Order
- threaten to physically or sexually abuse the person protected by the Order

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- damage, or threaten to damage, the protected person's property
  - encourage anyone else to abuse or threaten the person protected by the Order.

The non-contact conditions state that the respondent must not:

- go to the protected person's home, workplace or school
- stalk the person by hanging around where the protected person goes often or regularly, like where they work, their neighbourhood or where they study
- follow the protected person
- try to stop the protected person from coming or going somewhere
- phone, text, email, send letters, fax or contact the protected person in any other way.

The non-contact conditions don't apply if the respondent and the applicant live together.

The applicant has the choice to tell the respondent at any time that they no longer want to live with them or have contact with them. If this happens, the non-contact conditions will be put in place.

The respondent must leave if asked. If they don't, they're breaching the Protection Order and can be arrested and charged with a criminal offence. You should call the Police (dial **111**).



## EXCEPTIONAL CIRCUMSTANCES

There may be exceptional circumstances where the protected person agrees to have contact with the respondent. Generally, contact may be allowed:

- if there's an emergency and the contact is reasonably necessary
- under a Court Order (such as a Parenting Order) or a written parenting agreement between the respondent and the adult protected person
- if the contact is listed as a special condition of the Protection Order
- if the protected person and the respondent need to attend a family group conference under the Children, Young Persons, and Their Families Act 1989.

The Protection Order may contain special conditions, such as contact arrangements allowing the respondent to have contact with their children (this is often supervised contact).

## WEAPONS

When a temporary Protection Order is made, the respondent must give the Police:

- any firearms licences they have
- any weapons they have – weapons are any firearm, airgun, pistol, restricted weapon, ammunition or explosive.

If the respondent is subject to a final Protection Order, their firearms licence will be automatically cancelled by the Police.



## How long will the Protection Order last?

A temporary Protection Order will last for three months. However, the respondent may tell the court that they want to be heard on whether a final Order should be made, instead of the temporary Order. At the hearing, the court may cancel the temporary Order or make it final.

If the respondent takes no steps, after three months, the Order becomes a final Protection Order and takes effect immediately. A final Protection Order remains in force permanently, unless the respondent or the applicant asks the Family Court to cancel it and the court agrees to this.

The court has to be satisfied that the reasons for the Protection Order are no longer an issue and the respondent is no longer a risk to the applicant.

If any children are included in the Protection Order, it'll stay in force while they regularly live with the applicant, regardless of their age. If a child does not want the Order to apply once they reach 17, and they're still living with the applicant, the respondent or the applicant needs to apply to the court to have the Order changed.

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## Breaking the conditions of a Protection Order

Breaking the conditions of a Protection Order is a criminal offence. Breaking the conditions is legally called a breach. If a respondent is charged by Police with a breach they'll have to appear in a criminal court. Respondents may get a criminal record and could be sent to prison for up to three years.

It's also a criminal offence if respondents don't finish a non-violence programme, if they've been ordered to go to one. If respondents are convicted in a criminal court of this offence they could be fined up to \$5000 or sent to prison for up to six months and they'll still have to go to a programme.



## **Non-violence and safety programmes**

### **NON-VIOLENCE PROGRAMMES**

When a Protection Order is made, most respondents will be directed by the court to go to a non-violence programme. Information about where and when the programme will happen will be on the Protection Order.

The non-violence programme will teach the respondent about:

- domestic violence and how it affects protected people
- skills for living without violence and for dealing with future arguments or conflict in better ways.

The non-violence programme may be for an individual or a group of respondents. Respondents must go to the programme regularly and sometimes they can last for several months. The programme is free.

### **FREE SAFETY PROGRAMMES FOR PROTECTED PEOPLE**

Protected people (including children) can go to domestic violence safety programmes coordinated by the Family Court. These are free and private. These programmes can help protected people feel more confident and move forward in life. Most importantly, the programmes can teach them how to keep themselves safe from domestic violence in the future.

The programmes also give them detailed information about domestic violence and what it does to children and families, and more information about how Protection Orders work.

If protected people want to go to a programme, they should talk to either their lawyer or Family Court staff. They'll make sure the protected person gets access to the nearest available programme.

A protected person can ask to attend a safety programme at any time while a Protection Order is in place.



## SAFETY PROGRAMMES FOR CHILDREN

Programmes developed specifically for children can help them develop their own safety plans and understand and deal with the violence and its effects on them and the family.

Although these programmes cover very serious issues, they are designed to be interactive and fun so that children will get the most out of the programme.

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## Protection Orders and care of children

A Protection Order protects any children aged under 17 who usually or regularly live with the applicant. Because of the non-contact conditions in a Protection Order, the respondent may only have contact that is approved by the judge. That contact would normally be supervised.

The respondent can have contact with their children if:

- this is allowed under a Parenting Order or some other Court Order, or under a written parenting agreement between the protected person and respondent
- the applicant has agreed to live with the respondent.

The court can decide to make a temporary Order about who is to have day-to-day care and contact with any child covered by the Protection Order, even if no one has applied for a Parenting Order.

Then the person who is given day-to-day care must apply for a Parenting Order under the Care of Children Act 2004 as soon as they can.



## **Review of care arrangements**

If the court has made a temporary Protection Order, it can order a review of the care arrangements for any child covered by the Order. The only people who can attend the review are the applicant and respondent, their lawyers, any lawyer representing the child and anyone the judge permits to be present.

If the applicant and respondent both attend, or are represented at the review, the judge can make a temporary Order. However, if they do not attend, the judge is still able to make an Order if they believe it is in the child's best interests.

### **PARENTING ORDERS MADE UNDER CARE OF CHILDREN ACT 2004**

Both the applicant and respondent can apply to the Family Court for a Parenting Order under the Care of Children Act 2004. A Parenting Order will set out who has day-to-day care of the children and who can have contact with them.

A judge has to be satisfied that the children will be safe with the respondent to allow any level of contact. The judge may say that the respondent can only have contact with their children when it's supervised by another adult. If supervised contact is allowed, then the Parenting Order will say when the respondent can see their children.

If the Protection Order has been made in a criminal court, the applicant or the respondent will have to apply separately to the Family Court for a Parenting Order. See the back page for details about finding out more about this.



## Other Orders

### PROPERTY ORDERS

Property Orders set out who can live in a particular house or flat and who can keep the furniture and appliances (such as the tv or stereo). The furniture covered by the Property Order will be listed in the Order. The applicant applies to the Family Court for a Property Order.

A judge will make the Property Order if the protected person needs it or if it's in the best interests of the children. Property Orders are usually applied for at the same time as the Protection Order and can be made by a judge with or without notice to the respondent.

If a Protection Order has been made in a criminal court, then the protected person will have to apply separately for a Property Order in the Family Court.

### ORDERS DEALING WITH WHO LIVES IN THE HOME

An Occupation Order gives the applicant the right to live in the house or flat where they're now living. The Order stops the respondent from living there without the applicant's agreement.

A Tenancy Order says that the respondent is no longer the tenant of a house that they've been renting with the applicant. The applicant can continue living there, and the Order stops the respondent from living there.

If the applicant has an Occupation or Tenancy Order, the respondent must leave the property named on the Order. If the respondent stays in the property, the District Court can issue an arrest warrant and the Police can remove the respondent. The respondent can also be charged with trespassing. If they're convicted of this offence, they may be sent to prison for up to three months.



## ORDERS DEALING WITH FURNITURE

If the applicant wants to stay in the house or flat they used to share with the respondent, they can apply to the Family Court for an Ancillary Furniture Order to let them keep the furniture and appliances in the house or flat.

If the applicant wants to move out, they can apply for a Furniture Order to let them take all or some of the furniture and appliances with them to their new home. It doesn't matter if the respondent or the applicant owns the furniture.

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## Police Safety Order

A Police Safety Order is issued if the Police believe on reasonable grounds that domestic violence has happened or might happen.

The Order lasts for up to 5 days but is more usually for one or 2 days. The purpose of a Police Safety Order is to protect the person at risk from violence, harassment or intimidation. The Order stays in force until the expiry time or date listed on the Order. The Police do not need the consent of the person at risk to issue the Order.

### WHAT HAPPENS IF A POLICE SAFETY ORDER IS MADE?

When a Police Safety Order is made, the respondent must leave the address while the Order is in force, even if they own the address and/or normally live there.

The respondent must not assault, threaten, intimidate or harass the protected person or encourage anyone else to do so. The respondent must not follow, stop or contact the protected person in any way, in any place, either at home or work or anywhere else the protected person visits often. The respondent must surrender all firearms and their firearms licence to the Police for the period of the Police Safety Order.



The Police Safety Order also protects any children living with the person at risk, and any conditions of Parenting Orders or agreements allowing access or care by the respondent are suspended. The Police may detain the respondent for up to two hours to issue and serve the Police Safety Order. There's no right of appeal.

### **WHAT HAPPENS IF SOMEONE BREACHES A POLICE SAFETY ORDER?**

If the respondent breaches the Police Safety Order, the Police can charge the respondent and take them to court.

The court may issue a warrant to arrest the respondent and bring them before the court. The court may:

- release the respondent without any further Order
- direct the Police to issue another Police Safety Order
- issue a temporary Protection Order (if the person at risk agrees and an application is not waiting for a decision in the Family Court).

In these circumstances a criminal court doesn't need an application from anyone to issue a temporary Protection Order. Other offences, such as assaults or property damage, will be investigated and charges laid if there is enough evidence.



## Where can you get advice?

### FAMILY COURT

You can go to any Family Court in the country to find out more about Protection Orders. See the back page for contact details.

### POLICE

See the back page for details about Police Safety Orders.

### LAWYER

You should get advice from a lawyer. They can help you understand what a Protection Order means and how to get one in the Family Court. See the back page for contact details.

### LEGAL AID

Anyone who needs a lawyer but can't afford one may be able to get legal aid. This is where the government pays some or all of your lawyer's bills. Sometimes you may have to pay some or all of it back. However, legal aid for a Protection Order doesn't have to be paid back. See the back page for contact details.

## Remember, it's not OK!

For more information on domestic violence, what it is and how to get help, visit [areyouok.org.nz](http://areyouok.org.nz) or call 0800 456 450 for free.

### IN AN EMERGENCY

- Police: call 111
- Women's Refuge Crisis Line: call 0800 REFUGE (0800 733 843)

## Find more information

### Online

#### Find your local court

[www.justice.govt.nz/contact-us/find-us](http://www.justice.govt.nz/contact-us/find-us)

#### Find a family lawyer

[www.familylaw.org.nz](http://www.familylaw.org.nz)

#### Ministry of Justice 'Family' section

[www.justice.govt.nz/family](http://www.justice.govt.nz/family)

#### Parenting Orders

[www.justice.govt.nz/family/care-of-children/  
when-you-dont-agree/disagreements/apply-parenting-order/](http://www.justice.govt.nz/family/care-of-children/when-you-dont-agree/disagreements/apply-parenting-order/)

#### Police Safety Orders

[www.police.govt.nz](http://www.police.govt.nz)

#### Protection Orders

[www.justice.govt.nz/family/domestic-violence/  
apply-for-a-protection-order/](http://www.justice.govt.nz/family/domestic-violence/apply-for-a-protection-order/)

#### Restraining Orders

[www.justice.govt.nz/courts/civil/civil-disputes/restraining-orders](http://www.justice.govt.nz/courts/civil/civil-disputes/restraining-orders)

### Phone

Call 0800 COURTS (0800 268 787)

### Email

[family@justice.govt.nz](mailto:family@justice.govt.nz)

### Order printed copies

To order a free booklet, go to [www.justice.govt.nz/family/  
care-of-children/resources/](http://www.justice.govt.nz/family/care-of-children/resources/)



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