

4.4 Witnessing applications under the *Domestic and Family Violence Protection Act 2012*

What is the *Domestic and Family Violence Protection Act 2012*?

This Act deals with violence committed or threatened to be committed by a person in a ‘relevant relationship’. Relevant relationships include:

- family relationship
- informal care relationship
- intimate personal relationship
- spousal relationship
- engagement relationship
- couple relationship.

Why would someone make an application under this Act?

Anyone has the right to make an application for a protection order if they are experiencing emotional, mental or physical abuse in a relationship.

What are the objectives of the Act?

The main objectives defined in the Act are:

- a. to maximise the safety, protection and wellbeing of people who fear or experience domestic violence, and to minimise disruption to their lives
- b. to prevent or reduce domestic violence and the exposure of children to domestic violence
- c. to ensure that people who commit domestic violence are held accountable for their actions.

What is the definition of domestic violence?

The *Domestic and Family Violence Protection Act 2012* provides for a broader definition of domestic violence and the relationships that are protected by it.

Meaning of domestic violence

(1) Domestic violence means behaviour by a person (the first person) towards another person (the second person) with whom the first person is in a relevant relationship that—

- a. is physically or sexually abusive; or*
- b. is emotionally or psychologically abusive; or*
- c. is economically abusive; or*
- d. is threatening; or*
- e. is coercive; or*
- f. in any other way controls or dominates the second person and causes the second person to fear for the second person’s safety or wellbeing or that of someone else.*

Examples of domestic violence behaviours that are included in the Act are:

- causing personal injury to a person or threatening to do so
- coercing a person to engage in sexual activity or attempting to do so

- damaging a person’s property or threatening to do so
- depriving a person of the person’s liberty or threatening to do so
- threatening a person with the death or injury of the person, a child of the person or someone else
- threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed
- causing or threatening to cause the death of, or injury to, an animal—whether or not the animal belongs to the person to whom the behaviour is directed—so as to control, dominate or coerce the person
- unauthorised surveillance of a person
- unlawfully stalking a person.

How do I witness an application for a protection order under the Act?

1. Ask the applicant for identification and enter their name and the type of identification presented in your logbook.
2. Check the declarant understands the declaration.
3. Explain to the applicant you will have to read through the document to ensure it appears to be fully completed. Do not assist the person to complete the form and do not offer advice or opinions. Should the declarant require advice, you can assist by directing them to the DVConnect Service on 1800 811 811.
4. Issue the applicant with the warning that they need to tell the truth and take their declaration.
5. Ensure the document is signed in front of you. Place your signature, full name, seal and number on the statutory declaration.
6. Enter the details in your logbook. Details can include the:
 - a. date you witnessed the declaration
 - b. name of the signatory
 - c. type of document witnessed
 - d. type of identification sighted
 - e. location where the document was witnessed
 - f. whether there were any special requirements you needed to take to ensure compliance with the document
 - g. any questions asked and answers given to clarify the document’s contents and the signatory’s understanding of the document.

Frequently asked questions

Does the application need to be made by the aggrieved?

No. An application can be made by:

- a police officer
- an aggrieved person’s guardian appointed under the *Guardianship and Administration Act 2000*
- an attorney for the aggrieved appointed under an enduring power of attorney under the *Powers of Attorney Act 1998*
- any person 18 years of age and over who is authorised to appear by the aggrieved person (an authorised person). This person can be authorised in writing. If the authority is not in writing—such as for a person who has a disability and can’t write—then oral authority can be given.

Can additional pages be submitted with the application?

Yes. Additional pages can be submitted with the application. If there are attached statements, they should be prepared as statutory declarations or annexures to the original declaration and should be witnessed accordingly.

A domestic and family violence safety form may also accompany the application. If the person has concerns for their safety, this form should be completed by the aggrieved or a representative.

What applications can I witness?

There are several forms you might be asked to witness and where you will need to take the applicant's declaration. These include:

- *DV1 Application for a protection order*
- *DV4 Application to vary a domestic violence order*
- *DV9 Application to vary or revoke a voluntary intervention order*
- *DV14 Application for registration in Queensland of an interstate domestic violence order*
- *DV16 Application to vary or cancel a registered interstate order*
- *DV21 Affidavit of service.*

Where can I get more information?

Domestic and family violence

www.qld.gov.au/domesticviolence

Queensland Courts

www.courts.qld.gov.au/dfv

Violence Prevention Unit, Department of Communities, Child Safety and Disability Services

www.communities.qld.gov.au/communityservices/violence-prevention

For help and advice

DVConnect Womensline 1800 811 811 Mensline 1800 600 636 www.dvconnect.org

Kids Help Line

1800 55 1800 www.kidshelpline.com.au

Elder Abuse Helpline

1300 651 192 www.eapu.com.au

Forms

Application for a protection order (DV1)—statutory declaration

www.qld.gov.au/dfvorders

Sample form

Protection order application—statutory declaration (page 1 of 1)

12. Statutory Declaration
<p>The applicant, except if a member of the Queensland Police Service, must sign this application in the presence of a Justice of the Peace, Commissioner for Declarations, or a Solicitor</p>
<p>I, <input style="width: 300px;" type="text" value="Insert full name"/> the applicant in this application, do solemnly and sincerely declare:</p>
<p>The information set out in this application, and any other attached statement, is true and correct to the best of my knowledge and belief. I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the <i>Oaths Act 1867</i>.</p>
<p>Declared by <input style="width: 150px;" type="text" value="Insert full name"/> on <input style="width: 50px;" type="text" value="DD /MM /YY"/> at <input style="width: 150px;" type="text" value="Town, suburb or state"/> in the</p>
<p>presence of</p>
<p><i>(Signature of Applicant)</i> <i>(Signature of person taking statement)</i></p>
<p>.....</p>
<p><i>(Full name of Applicant)</i> <i>(Full name and Qualification of Witness)</i></p>
<p><input style="width: 150px;" type="text" value="Insert full name"/> <input style="width: 150px;" type="text" value="Insert full name"/></p>
<p>.....</p>
<p>Insert your seal of office or your prescribed mark of office and insert your registration number beside or below your signature</p>
<p>Queensland Police Service Applicant <i>The applicant, if a member of the Queensland Police Service, must sign this application and provide the details below:</i></p>
<p>Full Name and Rank: <input style="width: 300px;" type="text"/></p>
<p>Registration No: <input style="width: 300px;" type="text"/></p>
<p>Signature: <input style="width: 300px;" type="text"/></p>
<p>Date: <input style="width: 300px;" type="text"/></p>
<p>Notes to the respondent</p>
<p>If you do not appear in court a domestic violence order may be made in your absence. The court may issue a warrant for you to be taken into custody by a police officer and brought before the court if the court believes that it is necessary for you to be heard.</p>
<p>Office Use Only</p>
<p>Court file number (if known) :</p>
<p>YOU ARE NOTIFIED that this application will be heard at the time and place as follows:</p>
<p>Court: <input style="width: 300px;" type="text"/></p>
<p>Place: <input style="width: 300px;" type="text"/></p>
<p>Date: <input style="width: 300px;" type="text"/></p>
<p>Time: <input style="width: 300px;" type="text"/></p>
<p>Signature Clerk of the Court/Queensland Police Service</p>
<p>Domestic and Family Violence Protection Act 2012 Form DV1 – version 2 – 22 March 2016</p>
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Quick guide

Follow this process to witness an application for a protection order

① Ask the declarant for identification.

② Enter their name and type of identification in your logbook.

Explain you will have to read through the document to ensure it is fully completed.

③ a. Do not help the person complete the form.

b. Do not give advice or opinions.

c. Direct the declarant to DVConnect on 1800 811 811 if they need advice.

④ Warn the declarant they must tell the truth.

⑤ Take their declaration.

⑥ Ask them to sign the document in front of you.

⑦ Place your signature, full name, seal and number on the statutory declaration.

⑧ Enter all relevant details in your logbook.
