

**Domestic Violence Protection Notices (DVPNs) and Domestic  
Violence Protection Orders (DVPOs) Guidance**

**Sections 24-33 Crime and Security Act 2010**

**December 2016**

## **1 INTRODUCTION**

- 1.1 Domestic violence and abuse is a devastating crime that shatters the lives of victims and families. It is important that the police have the right tools to enable them to provide effective protection to vulnerable victims.
- 1.2 Domestic Violence Protection Orders (DVPOs) and Domestic Violence Protection Notices (DVPNs) were rolled out across all 43 police forces in England Wales from 8 March 2014. DVPOs are a civil order that fills a “gap” in providing protection to victims by enabling the police and magistrates’ courts to put in place protective measures in the immediate aftermath of a domestic violence incident where there is insufficient evidence to charge a perpetrator and provide protection to a victim via bail conditions. It is important to note that bail with conditions and protective measures can be used simultaneously to build up greater protection for the victim.
- 1.3 A DVPN is an emergency non-molestation and eviction notice which can be issued by the police, when attending to a domestic abuse incident, to a perpetrator. Because the DVPN is a police-issued notice, it is effective from the time of issue, thereby giving the victim the immediate support they require in such a situation. Within 48 hours of the DVPN being served on the perpetrator, an application by police to a magistrates’ court for a DVPO must be heard. A DVPO can prevent the perpetrator from returning to a residence and from having contact with the victim for up to 28 days. **This allows the victim a degree of breathing space to consider their options with the help of a support agency. Both the DVPN and DVPO contain a condition prohibiting the perpetrator from molesting the victim.**
- 1.4 The Crime and Security Act (CSA 2010) gained royal assent on 8th April 2010 of which Sections 24-33 of the Act relate to Domestic Violence Protection Notices and Orders (DVPNs and DVPOs). The relevant sections of the Act are contained within Appendix A.

## **2. AIMS AND OBJECTIVES**

- 2.1 This guidance aims to provide:
- An overview of the relevant legislation, namely Sections 24-33 Crime and Security Act 2010 (CSA 2010)

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- Interpretation of this legislation into a national process (Annex B details a process map)
- Cross-references to existing processes and guidance documents;
  - i) [Authorised Professional Practice for Domestic Abuse](#)
  - ii) Domestic Abuse, Stalking and Harassment and Honour Based Violence Risk Assessment (DASH)
  - iii) Multi-Agency Risk Assessment Conferences (MARACs)

- 2.2 A Domestic Violence Protection Notice and subsequent Order are aimed at perpetrators who present an on-going risk of violence to the victim with the objective of securing a co-ordinated approach across agencies for the protection of victims and the management of perpetrators.
- 2.3 The DVPN / DVPO process builds on existing procedures and bridges the current protective gap, providing immediate emergency protection for the victim and allowing them protected space to explore the options available to them and make informed decisions regarding their safety.
- 2.4 The DVPN / DVPO process does not aim to replace the criminal justice system in respect of charge and bail of a perpetrator. A DVPN will be issued in circumstances where no other enforceable restrictions can be placed upon the perpetrator. It is important that there is no conflict between any bail conditions and the terms of a DVPN.
- 2.5 Officers should always give consideration to identification of and prosecution for substantive criminal offences, If CPS advice is to charge for a domestic related offence then a DVPN may not be necessary or proportionate where there is a remand in custody (RIC) or when strict bail conditions are in place.

### **3. MULTI-AGENCY ENGAGEMENT**

- 3.1 Although the power to issue a DVPN and subsequent application for a DVPO lies with the police and ultimately the criminal justice service, the success of any such process will be reliant on the partnership work with other agencies and organisations including those that contribute to Multi-Agency Risk Assessment Conferences<sup>1</sup> (MARACs) and service providers for Independent Domestic Violence Advocates<sup>2</sup> (IDVAs) or other, similar services.

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<sup>1</sup> MARACs are voluntary meetings where information is shared on the highest risk cases between representatives from local police, health, child protection, housing, IDVAs and other specialists from the voluntary and specialist sectors. A coordinated safety plan for each victim is then created.

<sup>2</sup> Independent Domestic Violence Advocates (IDVAs) are independent professional advisors that work with victims from the point of crisis to assess the level of risk, discuss the range of suitable options and

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3.2 Engagement with the victim and the agencies referred to above at the earliest opportunity, is crucial to the success of the DVPN/ DVPO process.

### 3.3 Summary

3.3.1 It is important to note that a DVPN (and subsequent DVPO) should be issued when it is necessary to protect a person from violence/threat of violence from the Perpetrator and is seen as an additional mechanism available to police forces alongside existing processes / procedures designed to provide emergency protection to victims of domestic violence.

3.3.2 It is essential that throughout the process, all officers involved ensure that substantive criminal offences are thoroughly investigated and actively pursued.

3.3.3 It is envisaged that a DVPN will be issued in incidents that fit or are likely to fulfil the following criteria:

Criteria	Required	Explanation
Alleged perpetrator is 18 or over		
Violence used or threatened on this occasion towards the victim and/or an associated person	Y	
Alleged perpetrator is to be released from custody without any conditions (i.e. NFA, Caution or bail without conditions)	Y	This outcome will strengthen the necessity and justification for the issuing of a DVPN.
DVPN necessary to protect the victim and/or associated person from violence or threat of violence by the alleged perpetrator	Y	

## 4. DEFINITIONS

4.1 **Victim (V)** The person for whom the Notice or Order is aimed at providing protection. In this guidance the Victim will be referred to as 'V'

4.2 **Alleged perpetrator (P)** must be aged 18 years or over

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develop coordinated safety plans. In some areas different titles are used for organisations and individuals who provide similar support.

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- 4.3 **Authorising Officer (AO)** a member of a police force not below the rank of Superintendent.
- 4.4 **Domestic Violence Protection Notice (DVPN)** – A DVPN is the initial notice of immediate emergency protection that is issued by a police force.
- 1) The DVPN will include:
    - (a) the grounds on which it has been issued,
    - (b) that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPN,
    - (c) that an application for a domestic violence protection order under section 27 will be heard within 48 hours of the time of service of the DVPN and a notice of the hearing will be given to P, The Notice of the Hearing will act as the summons for this purpose and must be given to P under section 27(5).
    - (d) that the DVPN continues in effect until that application has been determined (or 48 hours has expired), and
    - (e) the provisions that a magistrates' court may include in a domestic violence protection order.
  - 2) A DVPN must be in writing and must be served on P personally by a constable.
  - 3) On serving P with a DVPN, the constable must ask P for an address for the purposes of being given the notice of the hearing of the application for the domestic violence protection order.

### 4.4.1 Notice of the Hearing

The Notice of the Hearing acts as a summons for the purposes of the application for the DVPO to be heard at Magistrates Court within 48 hours of the DVPN being served (excluding Sundays, Bank Holidays, Christmas and Good Friday). A requirement of section 27(5) Crime and Security Act 2010 is that the Notice of the Hearing must be given to P in all cases and is separate to the DVPN.

- 4.5 **Domestic Violence Protection Order (DVPO)** – a DVPO is an order made by a magistrates' court after a DVPN has been issued. The protective conditions available to a magistrates' court are the same as those available to the AO. A DVPO may be in force for between 14-28 days, beginning on the date it is made by the magistrates' court.

4.6 **Associated Person (AP)** – an associated person means a person who is associated with the alleged perpetrator within the meaning of section 62 of the Family Law Act 1996.

In summary this includes:

- they are married or have been married;
- they are cohabitants or former cohabitants;
- they live or have lived in the same household, otherwise than merely by reason of one of them being the other's employee, tenant, lodger or boarder;
- they are relatives;
- they have agreed to marry one another (whether or not that agreement has been terminated);
- in relation to any child, they are either a parent or have parental responsibility for a child.

This will also include civil partners, people who have entered into a civil partnership agreement and people who have or have had an intimate personal relationship with each other which is or was of a significant duration.

4.7 **Constable** –A complaint can be made by the police constable in person, by a solicitor employed by the police, by a barrister/legal advisor instructed by the police or by 'another person authorised to make the complaint'.

4.8 **Time periods** - In calculating when the period of 24 hours and 48 hours ends, Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in England and Wales are to be disregarded.

4.9 **'Made by Complaint'** – In addition to the DVPN, detailing the prohibitions issued by the Authorising Officer, P will be served with a Notice of the Hearing of a DVPO application under section 27(5) and this will be treated as a summons. The complaint is the application for the DVPO which must be made to a magistrates' court within 48 hours of the service of the DVPN.

4.10 **Breach of a DVPN** – a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPN. Section 29(1) provides a power of arrest and a duty to remand in custody and bring P before a magistrates' court within 24 hours from the time of arrest.

4.11 **Breach of a DVPO** - a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPO. Section 29(1) contains a duty to remand P in custody and bring P before a magistrates' court within 24 hours from the time of arrest. The breach of the DVPO will be a civil contempt of court, treated as a breach of a civil order under section 63 of the Magistrates' Court Act 1980 (MCA). Section 57A of the MCA allows for the transfer of civil proceedings to another magistrates' court.

## **5. THE DVPN / DVPO PROCESS**

An overview of the entire DVPN / DVPO process is summarised in Appendix B: DVPN / DVPO Process Map.

### **5.1 Stage 1 – Application to Authorising Officer (AO)**

- 5.1.1 A DVPN can only be issued by a police officer of the rank of Superintendent or above. Early consideration must be given to the gathering of evidence and the need to make contact with a Superintendent who may not be readily available. This will be particularly apparent outside of normal office hours where the 'on call' Superintendent will have to be contacted, utilising existing force protocols.
- 5.1.2 It is also important to recognise that there is no power contained within sections 24-33 of the CSA 2010 to detain a person in custody purely for the consideration and service of a DVPN. If a DVPN is to be issued whilst P is in custody for other reasons, the DVPN must be issued before any existing powers to detain P have expired. However, there is no requirement for P to be in custody for a DVPN to be served.
- 5.1.3 A DVPN / DVPO does not require the consent of the victim and therefore all other evidence / information available should be passed to the Superintendent and also the relevant magistrates' court. It may be necessary and proportionate to issue a DVPN even though a victim does not wish it because there may be suspicion of the presence of coercive and controlling behaviour affecting the decision-making of the victim or it may simply be necessary to protect the victim. Officers should consider carefully whether the issue of a DVPN is necessary and proportionate to protect the victim.
- 5.1.4 In all domestic abuse cases officers/staff should consider the incident as a whole including previous calls to the address, the presence and welfare of children, other witness accounts and any other available intelligence held by other agencies. It is imperative to the success of the DVPN / DVPO process that this investigation is conducted at the earliest opportunity as it will form part of the information given to the AO.
- 5.1.5 In the context of this guidance, a child is any person under the age of 18 years. The police have a duty to have regard to the need to safeguard and promote the welfare of children when exercising their functions; in all investigations the principle that the welfare of the child is paramount should be observed.
- 5.1.4 The presence of children is particularly important as the AO must consider the welfare of any person under the age of 18 whose interests the officer considers relevant to the issuing of the DVPN (whether or not that person is an AP).

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- 5.1.5 Nothing in this guidance or due to the implementation should alter the existing arrangements for risk identification (DASH). A DASH risk assessment, or equivalent, should form part of the information that is provided to the superintendent upon seeking approval for the issue of a DVPN.
- 5.1.6 Nothing regarding the implementation should change the process of referrals to MARAC (cross reference 6.2.3 GIDA) and subsequent safety planning (cross reference 6.2.4 GIDA). Where a DVPN/DVPO is issued and the case has been risk assessed as being HIGH the case is to be taken to MARAC.
- 5.1.7 Police forces may wish to consider the use of a 'gate-keeper' to determine the appropriateness of the request prior to a Superintendent being contacted, such as the custody sergeant or duty inspector.
- **Consultation and authority must be sought from an Authorising Officer of the rank of Superintendent or above, at an early stage.**

## 5.2 Stage 2 - Authorisation of DVPN

- 5.2.1 Section 24(1)-(2) of the CSA 2010 provides the power to issue a DVPN.

The AO may issue a DVPN to P if they **have reasonable grounds for believing that:**

- P has been violent towards, or has threatened violence towards an AP

And

- The issue of the DVPN is **necessary** to protect that person from violence or a threat of violence by P.

- 5.2.2 With regards to necessity to prevent further violence / threat of violence, consideration should be given to:

- What the DVPN will seek to achieve and why this cannot be obtained by any other or less disruptive means, e.g. bail conditions not applicable or P has accepted a formal police caution;
- Whether the risk of harm is too great to allow P to return to the address and therefore the sole use of a suitable risk management plan is not adequate;
- The only option to reduce risk of further violence or threat of violence is to remove P from the address and to continue to deny access to P by issuing a DVPN.

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5.2.3 Section 24(3)-(5) of the CSA 2010 outlines the areas that the AO must consider prior to issuing a DVPN and must take reasonable steps to discover the opinions of;

the welfare of any person under the age of 18 whose interests the officer considers relevant:

- the opinion of the person for whose protection the DVPN would be issued;
- any representations made by P; and
- the opinion of any other AP who lives in the premises to which the DVPN would relate.

5.2.4 The AO may issue a DVPN in circumstances where the person for whose protection it is issued does not consent to the issuing of the DVPN. For example, there may be suspicion of the presence of coercive and controlling behaviour affecting the decision-making of the victim.

5.2.5 If V has provided a statement at any point in the proceedings then they may be required to attend court **if it is relied upon** as part of the application for the DVPO. Consideration must therefore be given in these circumstances to base the decision to issue a DVPN on all other available evidence and not be solely reliant upon V's statement. It should be noted that the AO must not rely on the statement of V, to inform their decision making, if V is not to go to Court.

5.2.6 Appendix C offers a list of supporting documentation which the AO may wish to consider when deciding on the authorisation of a DVPN.

5.2.7 **Prohibitive conditions of a DVPN** - Section 24(6)-(8) of the CSA 2010 details the specific prohibitive conditions available upon authorisation and service of a DVPN. A DVPN must contain a provision to prohibit P from molesting the person for whose protection it is issued. This may be explicit in referring to particular acts of molestation, to molestation in general, or to both.

5.2.8 The terms 'molestation' and 'particular acts of molestation' are not defined in the CSA 2010. The dictionary definition of molestation is 'the act of disturbing, annoying or tormenting someone with persistent behaviour and to pester in a hostile way'. Therefore it could also include using or threatening violence, intimidating and harassing.

5.2.9 Particular acts of molestation include coming near or entering the victim's premises, even in cases where P and V are not co-habiting.

5.2.10 If P lives in the same premises as V, the DVPN may also:

- prohibit P from evicting or excluding from the premises the person for whose protection the DVPN is issued;

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- prohibit P from entering the premises; an exception should be considered that, on one occasion, P will need to enter the property, in the presence of officers, to collect necessary possessions, ( see 5.3.13);
- require P to leave the premises; or
- prohibit P from coming within such distance of the premises as may be specified in the DVPN.

5.2.11 The AO can apply any or all of these prohibitive conditions. However, with each prohibition there would be an expectation that the AO would be able to provide justification for their decision, ensuring that it is both proportionate and necessary, giving consideration to the human rights of both the V and P - for example, the necessity of such a notice and whether it is possible to safeguard the victim by any alternative measures which would constitute a lesser interference with P's rights and therefore be more proportionate.

Article 3 of the European Convention on Human Rights (ECHR), (the right to be free from inhumane or degrading treatment), given legal effect by the Human Rights Act 1998, should be considered. It is not inconceivable that preventing P from returning to their home could result in them being in a state of inhumane or degrading treatment (i.e. not having adequate shelter from the elements, food/water, basic hygiene facilities etc.) This might be particularly applicable if P is mentally ill, has a learning disability or suffers a medical condition that requires regular treatment. When considering issuing a necessary and proportionate notice, the AO may need to consider other steps to ensure P does not suffer interference with Article 3 rights (which are absolute), such as seeking alternative accommodation.

[National police guidance](#) on responding to people with mental ill health or learning disabilities should be referred to if it is considered that this maybe relevant to either V or P.

5.2.12 If there are any issues around property recovery, emergency accommodation, refer to local force policy or [national police guidance on domestic abuse](#).

5.2.13 In most cases where an act of domestic violence occurs in asylum support accommodation, the accommodation provider (who provides accommodation on behalf of the Border Force) will usually take immediate steps to transfer the victim and any children to alternative accommodation that is safe and secure.

If under the DVPN a supported person, who has undertaken an act of domestic violence, is evicted from asylum support accommodation and is as a result destitute, he/she should be referred to the Border Force to ascertain whether asylum support accommodation may be provided to him/her. Whether he/she can be provided with asylum support accommodation will depend on whether he/she remains eligible for asylum support. Please note, that if a supported person is evicted from his/her current asylum support accommodation, then even if he/she remains eligible for this support, it is unlikely that accommodation

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will be immediately available to him/her. However, in the case of those who are assessed as being vulnerable, their cases will be prioritised.

The provision of asylum support is subject to supported persons complying with conditions of support. One of these conditions is that the supported person must comply with standards of behaviour, which includes not committing acts of serious violence. If a supported person is found to have breached the conditions of his/her support, such as a result of serious violence, a decision may be taken to discontinue the provision of support to him/ her.

5.2.14 Appendix D provides a template for the AO's authority.

### **5.3 Stage 3 – DVPN Issued**

5.3.1 Sections 25 (1)-(3) of the CSA 2010 provides the requirements for the contents and service of a DVPN.

5.3.2 Appendix E provides a template of a DVPN which fulfils the requirements of section 25(1) CSA 2010.

5.3.3 A DVPN must be in writing and must be served on P personally by a constable. It will often be most simple to serve a DVPN to a person when they are in custody. The service of this notice should be recorded in the custody record and/or officers pocket note book in case it is ever disputed.

5.3.4 In all cases, upon service of a DVPN, the constable must ask P for an address for the purpose of serving P with the Notice of the Hearing of the application for the DVPO. This is of particular importance when the date and time of the court hearing is unknown and, therefore, the Notice of the Hearing not immediately served. The Notice of the Hearing must be given to P in all cases and is separate to the DVPN.

Nothing in this legislation requires P to provide an address and this would not be grounds to seek a remand in custody. However, if P fails to provide an address they should be informed that the court may hear the application for the DVPO in their absence if the court is satisfied that the police have made reasonable efforts to give P notice of the hearing. (See 5.5.5).

5.3.4.1 Appendix F provides a template of Notice of the Hearing, which fulfils the requirements of section 27(5) CSA 2010.

5.3.5 The Notice of the Hearing must be given to P in each case and the notice will be treated as a summons.

5.3.6 Upon service of a DVPN the officer should ensure that P fully understands the prohibitions that have been placed upon him/her. Officers should also inform P of the possible consequences if they breach any of these conditions.

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- 5.3.7 If P is homeless as a result of the issuing of a DVPN then consideration should be given to providing him/her with contact details of suitable local emergency accommodation. In cases where P is at risk of a Article 3 ECHR breach (see paragraph 5.2.12), the police will have to take steps to prevent the breach by ensuring that the required information on alternative sources of support is available to P. It must be noted that the steps to be taken will differ in each case and in circumstances when a breach of Article 3 is so immediate and foreseeable then the condition of barring them from entering their home should not be imposed.
- 5.3.8 Knowledge and approval of where P is living will assist in the continued assessment of risk that they pose to the victim.
- 5.3.9 It should also be explained that the responsibility for complying with these conditions rests with P regardless of the actions of the victim. For example, even if V invites P to a place from where P is prohibited, P must still comply with the conditions of the DVPN. .
- 5.3.10 As well as the DVPN, P should also be issued with the DVPN recipient's information leaflet. This leaflet contains details of organisations and voluntary agencies that provide programmes and associated support services, delivering effective interventions with perpetrators of domestic abuse.
- 5.3.11 Once a DVPN is issued the following information should also be placed onto PNC as soon as practicable:
- Details of the individual subject of a DVPN;
  - date, time and police force issuing the DVPN and any pre-arranged court hearing for the application of the DVPO;
  - list of the prohibitive conditions;
  - power of arrest without warrant for a breach and
  - OIC details and a 24/7 contact.
- 5.3.12 As soon as the decision has been taken to issue a DVPN and in any case prior to the release of P the victim should be informed of the following:
- the prohibitions contained within the DVPN and exactly what they mean;
  - action that the victim should take if P breaches any of the prohibitive conditions.

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- Officers should explain that the responsibility for complying with DVPN conditions rests with P.
- the date, time and court of the subsequent hearing of the application for the DVPO. If this information is not known at the time, then the fact that this information will be relayed to V as soon as it is known;
- the identification and contact details of any caseworker support or IDVA that will be making contact with V imminently.

5.3.13 V will be given a DVPN information leaflet which contains details of organisations and voluntary agencies that provide programmes and associated support services for survivors of domestic abuse.

5.3.14 An application for a DVPO must be heard no later than 48 hours after the DVPN was served. If it is not then the DVPN will lapse and must be removed from PNC.

5.3.15 Within the prohibitions authorised by the AO, consideration should be made to stipulate that officers will be present whilst P is allowed, on one occasion, to take essential items that they may need for daily living out of the home. The police officers' presence will be to prevent a breach of the peace.

The items will be particular to P and the need in terms of possessions will depend on:

- a) their circumstances; and
- b) the length of time for which they are barred from their home.

P should be given an opportunity to explain what possessions he needs and why. This will probably include some money, personal papers, clothes, medicines and things that they need for work, for example. It is suggested that items to be removed by P are agreed before attending the address.

In such circumstances P will not be arrested for a breach unless the constable has reasonable grounds to believe that P is in breach of the DVPO. A breach may, depending on the facts of the case, include where P attempts to remove property that is not essential to his daily living from the home.

### **5.4 Breach of a DVPN**

5.4.1 Section 26(1)-(4) of the CSA 2010 outlines the powers in relation to a breach of a DVPN.

5.4.2 Section 25(1)(b) CSA 2010 provides the power for a constable to arrest without warrant if the constable has reasonable grounds for believing that P is in breach of a DVPN.

5.4.3 Where the police have reasonable grounds to believe that there has been a breach of the DVPN then efforts should be made to arrest P for the breach at

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the earliest available opportunity. The fact that P is wanted for a breach of a DVPN should also be placed onto PNC as soon as practicable. The wanted/missing report should outline clearly the circumstances of the breach and also the powers enacted by this legislation to police forces dealing with suspects for breaches.

- 5.4.4 In the event of a breach of a DVPN, officers should consider the possibility of the identification of further substantive criminal offences. The prosecution of substantive criminal offences should be actively pursued alongside the breach. It is therefore important that evidence is gathered wherever possible and from every available source in order to support both the breach and any other offences disclosed.
- 5.4.5 Section 26(1)(a) provides that P must be remanded in custody to be brought before the magistrates court in order to hear the application for the DVPO.
- 5.4.6 There is no power of entry to arrest P for a breach of a DVPN. Therefore, officers will have to be reliant upon other powers of entry such as section 17 PACE (save life or limb) or power to enter to prevent a breach of the peace, if appropriate.
- 5.4.7 On arrest for a breach of a DVPN, under section 26(1) CSA, the person arrested for the breach must be brought before the magistrates' court specified within the Notice of the Hearing, within 24 hours of arrest or for the application of the DVPO.
- 5.4.8 The magistrates' court has the power to adjourn the hearing and remand the person in custody.
- 5.4.9 It is imperative that the victim in this process is informed as soon as practicable of the breach of the DVPN and if necessary alternative protective measures taken.
- 5.4.10 It is important that any other agency that has already been notified of the issuing of the DVPN is informed as soon as practicable of the breach of the DVPN.
- 5.4.11 A breach of a DVPN is not a criminal or recordable offence and as such there is no power to take a persons fingerprints, photograph or DNA.
- 5.4.12 Although a breach of a DVPN itself is not a criminal offence, it will be a relevant factor for the magistrates' court to consider when deciding an application for a DVPO.

## 5.5 Stage 4 – Application for a DVPO

- 5.5.1 Section 27(1)-(10) of the CSA 2010 provides the requirements for the application for a DVPO.
- 5.5.2 The application for a DVPO will be made by a police constable, by a solicitor employed by the police, by a barrister/legal advisor instructed by the police or by 'another person authorised to make the complaint'.
- 5.5.3 It is anticipated that the paperwork for the hearing of the application of the DVPO will consist of a file front sheet (MG1), a case summary (MG5), any relevant witness statements (MG11), any previous convictions (Court / Defence / Probation print) of the alleged perpetrator, the superintendent's authority and any other relevant admissible paperwork.
- 5.5.4 Force areas should consider the use of Specialist Domestic Violence Courts (SDVCs) wherever possible to conduct the application for the DVPO.
- 5.5.5 A notice of the hearing of the application for the DVPO must have been given to P. However, if P failed to provide an address then it will need to be shown by the police that reasonable efforts were made to serve the notice of the hearing on P. This will include postage/left at the last known address of P where this is not the address he is precluded from residing at (civil service procedure). If the court is satisfied that this has happened, then the court may hear the application for the DVPO in the absence of P.
- 5.5.6 The magistrates' court may adjourn the hearing of the application. If this occurs the DVPN and prohibitions continue to be in effect until the application has been determined.
- 5.5.7 If a victim statement exists which undermines the DVPO application, the statement must be disclosed to the court.
- 5.5.8 Section 27(10) CSA 2010 states that the victim cannot be compelled to attend court **unless** they have given oral or written evidence at the hearing.

This does not exclude V from attending Court in cases where he/she is willing to participate.

- 5.5.9 The Magistrates' Courts (Domestic Violence Protection Order Proceedings) Rules 2011 make provision in respect of proceedings in magistrates' courts for applications for Domestic Violence Protection Orders (DVPOs) under the CSA

Rule 4 disapplies section 2(1) of the Civil Evidence Act 1995 (c.38) (the 1995 Act), which requires parties proposing to adduce hearsay evidence in civil proceedings to give notice of the proposal. Rule 5 amends rule 2 of the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999 (SI

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1999/681) (the 1999 Rules) to exclude the 1999 rules in respect of applications for DVPOs. The 1999 Rules make further provision concerning hearsay evidence, including the contents of hearsay notices (rule 3), the procedure to call witnesses for cross-examination on hearsay evidence (rule 4), credibility and the use of previous inconsistent statements (rule 5) and the service of documents (rule 6).

The provisions under the 1995 Act and 1999 Rules have been respectively disapplied or excluded because they are either incompatible with the procedures prescribed for applying for DVPOs under the 2010 Act or else cease to have effect in consequence of the disapplication or exclusion of other of these provisions.

### 5.6 Stage 5 – DVPO Process

- 5.6.1 Section 28(1)-(3) CSA 2010 provides the conditions which have to be met when a magistrates' court considers issuing a DVPO.

A magistrates' court may make a DVPO if they **are satisfied on the balance of probabilities** that P has been violent towards, or has threatened violence towards an AP;

#### And

that the making of the DVPO is **necessary** to protect that person from violence or a threat of violence by P.

- 5.6.2 Section 28(4)-(5) CSA 2010 provides the considerations when making a DVPO, the welfare of any person under the age of 18 whose interests the court considers relevant any opinion of which the court is made aware:
- of the person for whose protection the DVPO would be made; and
  - of any other AP who lives in the premises to which the DVPO would relate.
- 5.6.3 A DVPO can be issued without the consent of V.
- 5.6.4 Section 28(6)-(8) CSA 2010 outlines the prohibitions available for a DVPO.
- 5.6.5 A DVPO must contain a provision to prohibit P from molesting the person for whose protection it is made. This may be explicit in referring to particular acts of molestation, to molestation in general, or to both.
- 5.6.6 If P lives in the same premises as the person for whose protection the DVPO is made, the DVPO may also:
- prohibit P from evicting or excluding from the premises the person for whose protection the DVPO is issued;

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- prohibit P from entering the premises; An exception should be considered that, on one occasion, P will need to enter the property, in the presence of officers, to collect necessary possessions (see 5.7.4);
- require P to leave the premises; or
- prohibit P from coming within such distance of the premises as may be specified in the DVPO.

5.6.7 A DVPO must state that a constable may arrest P without a warrant if the constable has reasonable grounds for believing that P is in breach of the DVPO.

5.6.8 A DVPO must state the period for which it is to be in force. This will be for a minimum of 14 days and a maximum of 28 days, beginning with the day on which it is made.

5.6.9 There is no power for the court to vary or revoke the DVPO once it is made and after the end date it will automatically lapse.

5.6.10 Appendix G provides a template which may be used as a DVPO and issued by the Magistrates' court.

### 5.7 DVPO Granted

- 5.7.1 As soon a decision has been taken by the Court to grant a DVPO, P should be informed of the following:
- The prohibitions contained within the DVPO and what they mean.
  - The responsibility of P to comply with the prohibitions and that a breach of any or all of the conditions may lead to P being arrested for the breach and a possible fine of £50 for every day whilst in breach, up to a maximum of £5000 or 2 months' imprisonment.
  - The duration of the DVPO, including the expiry.

Informing P of the above is of particular importance if they are not legally represented.

- 5.7.2 As soon as the decision has been taken by the court to grant a DVPO, the victim should be informed of the following:
- the prohibitions contained within the DVPO and exactly what they mean;
  - action that the victim should take if P breaches any of the prohibitive conditions;
  - Officers should explain that the responsibility for complying with DVPO conditions rests with P. However, V should be advised to cease all contact with P for the duration of the DVPO;
  - the duration of the DVPO including the expiry date and

## DVPO guidance

- the identification and contact details of any caseworker support or IDVA provision that will be making contact with the victim imminently.

5.7.3 Once a DVPO is granted, the following information should also be placed onto PNC as soon as practicable:

- details of the individual subject of a DVPO;
- date, time and court issuing the DVPO and its duration/expiry date;
- list of the prohibitive conditions;
- power of arrest without warrant for a breach;
- OIC details and a 24/7 contact; and
- **the DVPN should be removed at this point from PNC.**

5.7.4 If an exception has been included within the prohibitions, that P may return to the premises on one occasion to collect essential items for daily living, then officers will be present whilst P is allowed to such items that out of the home to ensure a breach of the peace does not occur.

These items will be particular to P and the need in terms of possessions will depend on:

a) their circumstances;

and

b) the length of time for which they are barred from their home.

P should be given an opportunity to explain what possessions he/she needs and why. This will probably include some money, personal papers, clothes, medicines and things that they need for work, for example. If the items are beyond essential then these should not be removed from the home.

In such circumstances P will not be arrested for a breach unless the constable has reasonable grounds to believe that P is in breach of the DVPO. A breach may include, depending on the facts of the case, where P attempts to remove property that is not essential to his daily living from the home.

## 5.8 DVPO Refused

5.8.1 If the decision is made by the magistrate's court **NOT** to grant a DVPO, the DVPN will cease to be in effect. It is imperative that the following action is taken by the police as soon as practicable:

- V must be informed of the fact that a DVPO has not been granted and that the prohibitions contained within the DVPN no longer apply;
- all other relevant agencies must also be informed of the above;

## DVPO guidance

- the risk assessment must now be revisited and assure that safety measures are adequate;
- if the correct threshold is met then the case may now be referred into a MARAC;
- **the DVPN must be removed from PNC.**

### 5.9 Breach of DVPO

- 5.9.1 A breach of a DVPO is a civil breach of a court order under section 63 of the MCA. The penalty for a breach of a civil order is £50 for every day that the person is in default of the order, up to a maximum of £5000 or 2 months' imprisonment.
- 5.9.2 Section 28(9) CSA 2010 provides the power for a constable to arrest without a warrant if the constable has **reasonable grounds for believing** that P is in breach of the DVPO.
- 5.9.3 There is no power of entry to arrest P for a breach of a DVPO. Therefore, officers will have to be reliant upon other powers of entry such as section 17 PACE (save life or limb) or power to enter to prevent a breach of the peace, if appropriate.
- 5.9.4 Where the police have reasonable grounds to believe that there has been a breach of a DVPO, then efforts should be made to arrest P at the earliest available opportunity. The fact that P is wanted for a breach of a DVPO should also be placed onto PNC as soon as practicable. The wanted/missing report should outline clearly the circumstances of the breach and also the powers enacted by this legislation.
- 5.9.5 In the event of a breach of a DVPO, officers should consider the possibility of the identification of further substantive criminal offences. The prosecution of substantive criminal offences should be actively pursued alongside and not instead of the breach. It is therefore important that evidence is gathered wherever possible and from every available source in order to support both the breach and any other offences disclosed.
- 5.9.6 Any person arrested by virtue of section 29(1) for a breach of a DVPO must be remanded in custody and presented to the court before the end of the period of 24 hours beginning with the time of the arrest.
- 5.9.7 Section 57A of the MCA allows for the transfer of any civil proceedings to another magistrates' court, bearing in mind that P must be taken to court within 24 hours from the time of arrest. The magistrates' court has the power to adjourn the hearing and remand the person in custody.

## DVPO guidance

- 5.9.8 It is imperative that the victim in this process is informed as soon as practicable of the breach of the DVPO. It may be necessary to review the risk assessment and if necessary ensure that alternative protective measures are taken,
- 5.9.9 It is important that any other agency that has already been notified of the issuing of the DVPO is informed as soon as practicable of the breach of the DVPO.
- 5.9.10 A breach of a DVPO is not a criminal or recordable offence and as such there is no existing power or any contained within this legislation to take a person's fingerprints, photograph or DNA.
- 5.9.11 It is important at this stage to review the risk assessment and the level of risk posed by the alleged perpetrator to the victim / children / vulnerable persons.

### **5.10 Stage 6 – Full Multi-Agency Engagement**

- 5.10.1 The ongoing management of DVPO cases should include a multi-agency approach. Police forces should identify a single point of contact (SPOC) or officer in charge (OIC) for DVPOs who should monitor DVPO cases to evaluate and update risk assessment and risk management plans.
- 5.10.2 Any DVPO involving children at the premises should result in a referral to Children's Services as per local procedures.
- 5.10.3 Cross-ref Section 9 GIDA 2008 which outlines the roles and responsibilities of other agencies, including CPS, CAF/CASS, Education, Health, Children's Social Care, Housing, Probation, Prison, Refuge/Outreach services, Registered Social Landlords, Victim Support.

### **5.11 Stage 7 – Close of Enquiry / DVPO ends**

- 5.11.1 Nothing is required of a police force to end a DVPO; at the expiry date it will simply lapse. Police forces must however ensure that once a DVPO has lapsed the relevant report/marker on PNC is removed.
- 5.11.2 The police should also consider at this point ensuring that P and V, are aware of the DVPO lapsing and therefore the prohibitions ceasing to be in effect.

## **6. MAINTAINING A RECORD OF DVPN/DVPO PROCESS**

- 6.1 It is important that any decisions made as a result of this process are recorded in a format that would stand scrutiny of any formal review and should wherever possible utilise/mirror existing force procedures and protocols.
- 6.2. It is also crucial that any relevant information coming to light as part of this process is shared as appropriate with all relevant agencies.

**APPENDICES**

- APPENDIX A** The Crime and Security Act (CSA 2010) legislation. Sections 24-33 of the Act relate to Domestic Violence Protection Notices and Orders
- APPENDIX B** An overview of the entire DVPN / DVPO process is summarised in Appendix B: DVPN / DVPO Process Map
- APPENDIX C** Offers a list of supporting documentation which the AO may wish to consider when deciding on the authorisation of a DVPN
- APPENDIX D** Provides a template for the Superintendents Authority.
- APPENDIX E** Provides a template of a DVPN which fulfils the requirements of section 25(1) CSA 2010
- APPENDIX F** Provides a template of Notice Of the Hearing, which fulfils the requirements of section 27(5) CSA 2010
- APPENDIX G** Provides a template which may be used as a DVPO and issued by the magistrates' court
- APPENDIX H** Provides a copy of the Statutory Instrument 2011 No 1434. The Magistrates' Courts (Domestic Violence Protection Order Proceedings) Rules 2011

**APPENDIX A**

The Crime and Security Act (CSA 2010) legislation.  
Sections 24-33 of the Act relate to Domestic Violence  
Protection Notices and Orders

***Domestic violence***

**24 Power to issue a domestic violence protection notice**

(1) A member of a police force not below the rank of superintendent (“the authorising officer”) may issue a domestic violence protection notice (“a DVPN”) under this section.

(2) A DVPN may be issued to a person (“P”) aged 18 years or over if the authorising officer has reasonable grounds for believing that—

(a) P has been violent towards, or has threatened violence towards, an associated person, and

(b) the issue of the DVPN is necessary to protect that person from violence or a threat of violence by P.

(3) Before issuing a DVPN, the authorising officer must, in particular, consider—

(a) the welfare of any person under the age of 18 whose interests the officer considers relevant to the issuing of the DVPN (whether or not that person is an associated person),

(b) the opinion of the person for whose protection the DVPN would be issued as to the issuing of the DVPN,

(c) any representations made by P as to the issuing of the DVPN, and

(d) in the case of provision included by virtue of subsection (8), the opinion of any other associated person who lives in the premises to which the provision would relate.

(4) The authorising officer must take reasonable steps to discover the opinions mentioned in subsection (3).

(5) But the authorising officer may issue a DVPN in circumstances where the person for whose protection it is issued does not consent to the issuing of the DVPN.

(6) A DVPN must contain provision to prohibit P from molesting the person for whose protection it is issued.

(7) Provision required to be included by virtue of subsection (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.

## DVPO guidance

(8) If P lives in premises which are also lived in by a person for whose protection the DVPN is issued, the DVPN may also contain provision—

(a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPN is issued,

(b) to prohibit P from entering the premises,

(c) to require P to leave the premises, or

(d) to prohibit P from coming within such distance of the premises as may be specified in the DVPN.

(9) An “associated person” means a person who is associated with P within the meaning of section 62 of the Family Law Act 1996.

(10) Subsection (11) applies where a DVPN includes provision in relation to premises by virtue of subsection (8)(b) or (8)(c) and the authorising officer believes that—

(a) P is a person subject to service law in accordance with sections 367 to 369 of the Armed Forces Act 2006, and

(b) the premises fall within paragraph (a) of the definition of “service living accommodation” in section 96(1) of that Act.

(11) The authorising officer must make reasonable efforts to inform P’s commanding officer (within the meaning of section 360 of the Armed Forces Act 2006) of the issuing of the notice.

### **25 Contents and service of a domestic violence protection notice**

(1) A DVPN must state—

(a) the grounds on which it has been issued,

(b) that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPN,

(c) that an application for a domestic violence protection order under section 27 will be heard within 48 hours of the time of service of the DVPN and a notice of the hearing will be given to P,

(d) that the DVPN continues in effect until that application has been determined, and

## DVPO guidance

(e) the provision that a magistrates' court may include in a domestic violence protection order.

(2) A DVPN must be in writing and must be served on P personally by a constable.

(3) On serving P with a DVPN, the constable must ask P for an address for the purposes of being given the notice of the hearing of the application for the domestic violence protection order.

### **26 Breach of a domestic violence protection notice**

(1) A person arrested by virtue of section 25(1)(b) for a breach of a DVPN must be held in custody and brought before the magistrates' court which will hear the application for the DVPO under section 27—

(a) before the end of the period of 24 hours beginning with the time of the arrest, or

(b) if earlier, at the hearing of that application.

(2) If the person is brought before the court by virtue of subsection (1)(a), the court may remand the person.

(3) If the court adjourns the hearing of the application by virtue of section 27(8), the court may remand the person.

(4) In calculating when the period of 24 hours mentioned in subsection (1)(a) ends, Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 are to be disregarded.

### **27 Application for a domestic violence protection order**

(1) If a DVPN has been issued, a constable must apply for a domestic violence protection order ("a DVPO").

(2) The application must be made by complaint to a magistrates' court.

(3) The application must be heard by the magistrates' court not later than 48 hours after the DVPN was served pursuant to section 25(2).

(4) In calculating when the period of 48 hours mentioned in subsection (3) ends, Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 are to be disregarded.

(5) A notice of the hearing of the application must be given to P.

## DVPO guidance

(6) The notice is deemed given if it has been left at the address given by P under section 25(3).

(7) But if the notice has not been given because no address was given by P under section 25(3), the court may hear the application for the DVPO if the court is satisfied that the constable applying for the DVPO has made reasonable efforts to give P the notice.

(8) The magistrates' court may adjourn the hearing of the application.

(9) If the court adjourns the hearing, the DVPN continues in effect until the application has been determined.

(10) On the hearing of an application for a DVPO, section 97 of the Magistrates' Courts Act 1980 (summons to witness and warrant for his arrest) does not apply in relation to a person for whose protection the DVPO would be made, except where the person has given oral or written evidence at the hearing.

### **28 Conditions for and contents of a domestic violence protection order**

(1) The court may make a DVPO if two conditions are met.

(2) The first condition is that the court is satisfied on the balance of probabilities that P has been violent towards, or has threatened violence towards, an associated person.

(3) The second condition is that the court thinks that making the DVPO is necessary to protect that person from violence or a threat of violence by P.

(4) Before making a DVPO, the court must, in particular, consider—

(a) the welfare of any person under the age of 18 whose interests the court considers relevant to the making of the DVPO (whether or not that person is an associated person), and

(b) any opinion of which the court is made aware—

(i) of the person for whose protection the DVPO would be made, and

(ii) in the case of provision included by virtue of subsection (8), of any other associated person who lives in the premises to which the provision would relate.

(5) But the court may make a DVPO in circumstances where the person for whose protection it is made does not consent to the making of the DVPO.

(6) A DVPO must contain provision to prohibit P from molesting the person for whose protection it is made.

## DVPO guidance

(7) Provision required to be included by virtue of subsection (6) may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both.

(8) If P lives in premises which are also lived in by a person for whose protection the DVPO is made, the DVPO may also contain provision—

(a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPO is made,

(b) to prohibit P from entering the premises,

(c) to require P to leave the premises, or

(d) to prohibit P from coming within such distance of the premises as may be specified in the DVPO.

(9) A DVPO must state that a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPO.

(10) A DVPO may be in force for—

(a) no fewer than 14 days beginning with the day on which it is made, and

(b) no more than 28 days beginning with that day.

(11) A DVPO must state the period for which it is to be in force.

### **29 Breach of a domestic violence protection order**

(1) A person arrested by virtue of section 28(9) for a breach of a DVPO must be held in custody and brought before a magistrates' court within the period of 24 hours beginning with the time of the arrest.

(2) If the matter is not disposed of when the person is brought before the court, the court may remand the person.

(3) In calculating when the period of 24 hours mentioned in subsection (1) ends, Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 are to be disregarded.

### **30 Further provision about remand**

## DVPO guidance

(1) This section applies for the purposes of the remand of a person by a magistrates' court under section 26(2) or (3) or 29(2).

(2) In the application of section 128(6) of the Magistrates' Courts Act 1980 for those purposes, the reference to the "other party" is to be read—

(a) in the case of a remand prior to the hearing of an application for a DVPO, as a reference to the authorising officer,

(b) in any other case, as a reference to the constable who applied for the DVPO.

(3) If the court has reason to suspect that a medical report will be required, the power to remand a person may be exercised for the purpose of enabling a medical examination to take place and a report to be made.

(4) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.

(5) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.

(6) If the court has reason to suspect that the person is suffering from a mental disorder within the meaning of the Mental Health Act 1983, the court has the same power to make an order under section 35 of that Act (remand to hospital for medical report) as it has under that section in the case of an accused person (within the meaning of that section).

(7) The court may, when remanding the person on bail, require the person to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

### **31 Guidance**

(1) The Secretary of State may from time to time issue guidance relating to the exercise by a constable of functions under sections 24 to 30.

(2) A constable must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.

(3) Before issuing guidance under this section, the Secretary of State must consult—

(a) the Association of Chief Police Officers,

(b) the National Policing Improvement Agency, and

## DVPO guidance

(c) such other persons as the Secretary of State thinks fit.

### **32 Ministry of Defence Police**

(1) A member of the Ministry of Defence Police not below the rank of superintendent may issue a DVPN under section 24 for the protection of an associated person if either P or the associated person lives in premises which fall within paragraph (a) of the definition of “service living accommodation” in section 96(1) of the Armed Forces Act 2006.

(2) If a DVPN is issued by a member of the Ministry of Defence Police by virtue of subsection (1), provision may be included in the DVPN by virtue of section 24(8) in relation to any other premises in England or Wales lived in by P and the associated person.

### **33 Pilot schemes**

(1) The Secretary of State may by order made by statutory instrument provide for any provision of sections 24 to 32 to come into force for a period of time to be specified in or under the order for the purpose of assessing the effectiveness of the provision.

(2) Such an order may make different provision for different areas.

(3) More than one order may be made under this section.

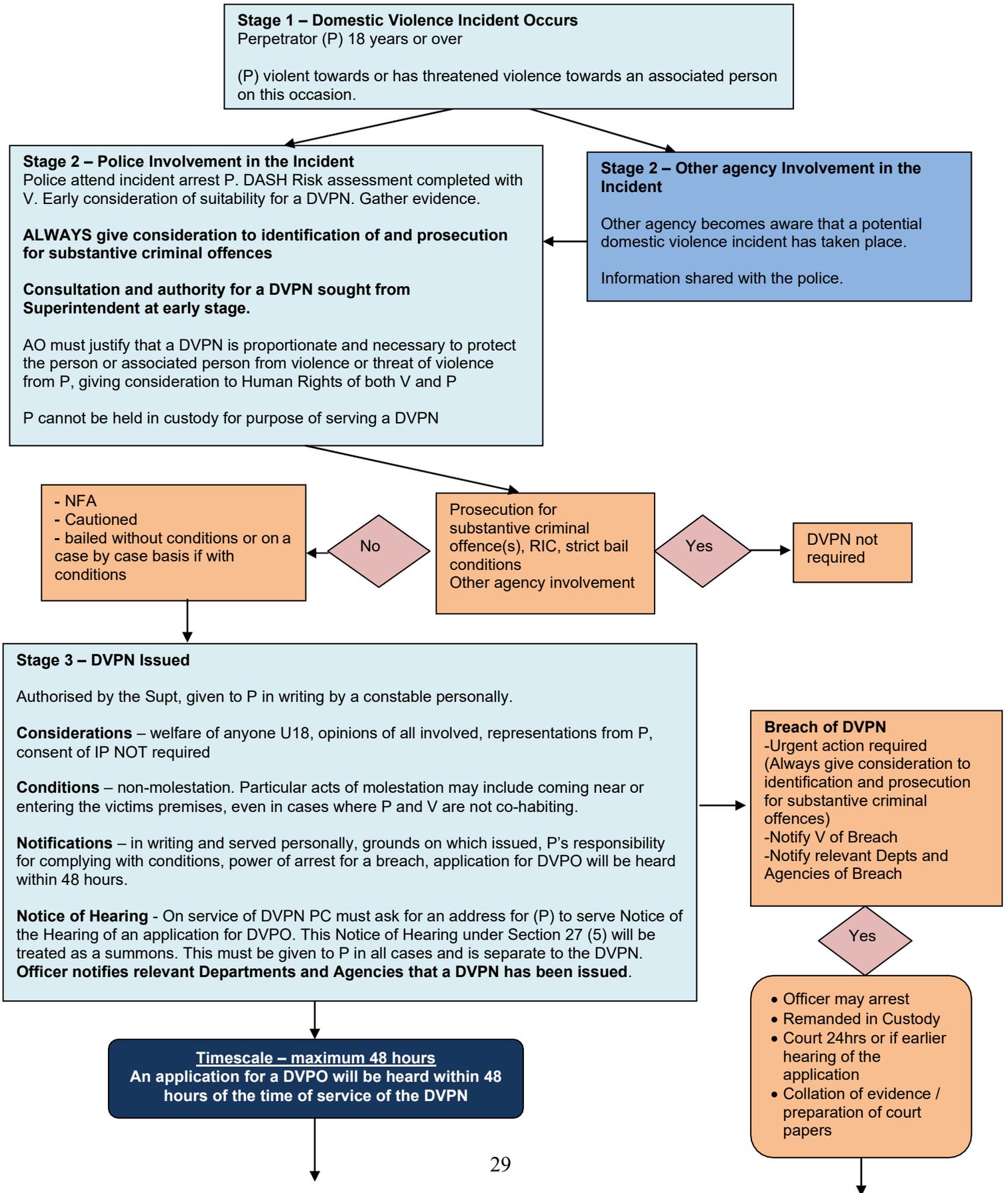
(4) Provision included in an order under this section does not affect the provision that may be included in relation to sections 24 to 32 in an order under section 59 (commencement).

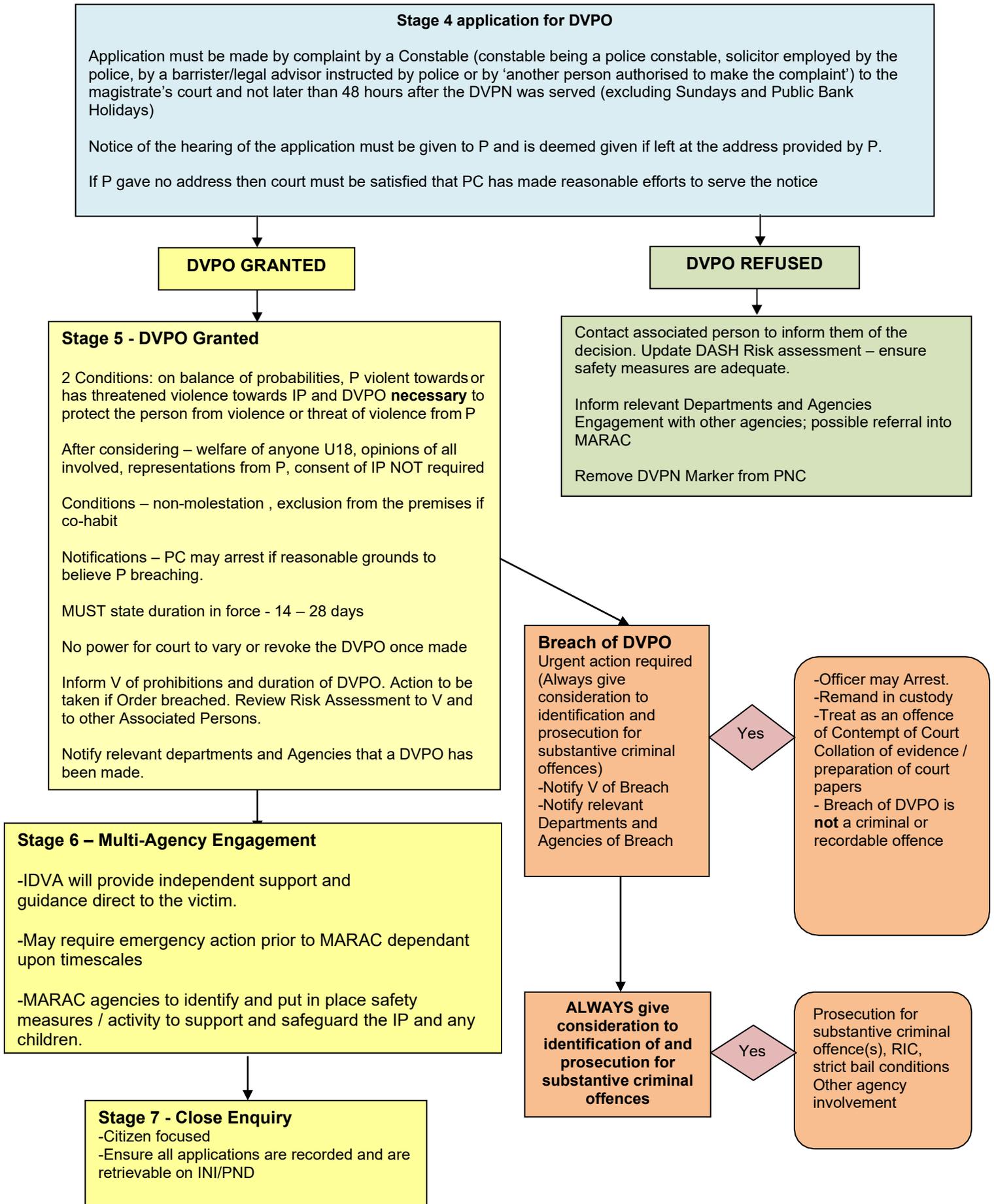
## **APPENDIX B**

An overview of the entire DVPN / DVPO process is summarised in DVPN / DVPO Process Map

## DVPO guidance

# DOMESTIC VIOLENCE PROTECTION NOTICE (DVPN) AND (DVPO) ORDER – PROCESS MAP





**APPENDIX C**

Offers a list of supporting documentation which the AO may wish to consider when deciding on the authorisation of a DVPN

## **SUPPORTING DOCUMENTATION/INFORMATION**

The below provides some guidance for officers when gathering supporting DVPN documentation and information for submission to the Authorising Officer.

The list is not exhaustive.

### **The Scene:**

- DASH Risk Assessment and Investigation Record
- Details of the victim's injuries (medical, where available, photographic and written);
- Details of any children of the family, including where they were during the incident and the impact of the domestic abuse upon them;
- Witness statements, including those from police officers and any third parties. – Hearsay evidence may be considered for applications for DVPO's.
- Description of the scene with any photographic evidence or relevant statements including those from the first officer at the scene;
- PNB Entries.

### **Background**

- Crime/incident reports from previous incidents including those against other victims.
- Incident Logs
- Summary of intelligence, including any warnings and Crimestoppers Reports, where applicable.
- Any Risk Management Plan
- PNC Print

### **Record and report on:**

- Victims views on the Domestic Violence Protection Notice being served on P.
- Victim's views on their own and their children's personal safety if a DVPN is authorised or declined.
- View of another Associated Person living within the address.
- Status of the victim's current relationship with the suspect/defendant;
- Location of the address of the victim and the suspect/defendant in relation to one another;
- Whether counter-allegations have been made.

### **Additional Evidence:**

- Summary of any interview, where available;
- Written summary detail of any photographic or CCTV evidence and digital recordings of a 999 call, where available.
- Any evidence pending or not currently available to be included as part of a later submission when available.

DVPO guidance

## **APPENDIX D**

Provides a template for the Superintendent's Authority.

DVPO guidance

**RESTRICTED (when completed)**

DVPN SA  
Rev 06/11

Force code:
Case reference no:
Custody Reference no:

**DOMESTIC VIOLENCE PROTECTION NOTICE  
SUPERINTENDENT'S AUTHORISATION**

Name of alleged perpetrator:	
Address:	
Date of birth:	

Name of person to be protected:	
Address:	
Age:	

<b>BRIEF CIRCUMSTANCES</b>

<b>SUPPORTING DOCUMENTS &amp; INFORMATION</b> (list reference numbers, dates, location if not attached)
Attached? [Choose]

Consideration must be given to:  
NB: The AO must take reasonable steps to discover the opinions mentioned in sub sections 1, 2 and 3.

1.	Welfare of any person under 18 years of age whose interests the officer considers relevant to the issuing of a DVPN:
	If not known, what reasonable steps have been taken to discover this:

2.	Opinion of the person (including their willingness to support the application) for whose protection the DVPN would be issued:
	If not known, what reasonable steps have been taken to discover this:

3.	Any representations made by the alleged perpetrator about the issuing of a DVPN:
	If not known, what reasonable steps have been taken to discover this:

DVPO guidance

**RESTRICTED (when completed)**

Force code:
Case reference no:
Custody Reference no:

4.	Opinion of any other associated person (AP): <ul style="list-style-type: none"> <li>• Definition of AP under S62 of the Family Law Act 1996 – married or were married, cohabitants or former cohabitants, live/lived in the same house (not as tenant, lodger, employee, etc), relatives, agreed to marry, have a child (parent or parental responsibility) who lives in the premises to which the DVPN would relate. This will also include civil partners, people who have entered into a civil partnership agreement and people who have had an intimate personal relationship with each other which is or was of a significant duration.</li> </ul>
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**NOTE: The AO may issue a DVPN in circumstances where the person for whose protection it is issued does not consent to the issuing of the DVPN.**

<b>OFFICER/STAFF REQUESTING SUPERINTENDENT'S AUTHORISATION FOR A DOMESTIC VIOLENCE PREVENTION NOTICE</b>			
I confirm that the information contained within this form is accurate to the best of my knowledge and belief.			
Signature:			
Rank/Title:			
Name:			
Number:			
Date:		Time:	

Does the AO have reasonable grounds for believing that:	
a) [insert name of alleged perpetrator] has been violent or threatened violence towards [insert name of associated person to be protected]	[Choose]
AND	
b) the issue of the DVPN is necessary to protect that person from violence or a threat of violence by [insert name of alleged perpetrator]	
If 'No' record reasons and rationale:	

<b>GROUND ON WHICH THE AUTHORISATION IS GIVEN</b>
It is appropriate to issue this notice because the authorising officer, not below the rank of Superintendent, [insert police force/authorising officer's name, rank, etc], has reasonable grounds for believing that [name of alleged perpetrator]:
<ul style="list-style-type: none"> <li>• is over 18; and</li> <li>• has used violence or threatened towards an associated person, namely [insert name of associated person to be protected]; AND</li> <li>• that the issuing of the DVPN is necessary to protect the associated person, namely [insert name] from violence or threats of violence by [name of alleged perpetrator].</li> </ul>
Detail grounds for decision:

DVPO guidance

**RESTRICTED (when completed)**

DVPN SA  
Rev 06/11

Force code:
Case reference no:
Custody Reference no:
1.
2.
3.
4.
5.

Decision to issue a DVPN and apply the following prohibitions:	[Choose]
Justification	
Proportionality	
Necessity	
Human Rights	

<b>GUIDANCE NOTES</b>
<p>Consideration should be given to the following:</p> <ul style="list-style-type: none"> <li>• Article 2 ECHR – Right to life;</li> <li>• Article 3 ECHR – Torture, no one shall be subjected to torture or to inhuman or degrading treatment or punishment;</li> <li>• Article 8 ECHR – Right to respect for private and family life;</li> <li>• Protocol 1, Article 1 – Right to peaceful enjoyment of possessions, which includes property;</li> <li>• Statutory obligation to protect children (see Working Together to Safeguard Children 2010).</li> </ul>

<b>PROHIBITIONS</b> (indicate as appropriate)	
1. <input type="checkbox"/>	<p>To prohibit [insert name of alleged perpetrator] from molesting the associated person for whose protection it is issued [insert name]. This includes molestation in general [Choose] particular acts of molestation.</p> <p>Specify:</p> <ul style="list-style-type: none"> <li>• If the alleged perpetrator also lives in the same premises as the associated person to be protected.</li> </ul>
2. <input type="checkbox"/>	To prohibit [insert name of alleged perpetrator] from evicting or excluding from [insert address] the associated person for whose protection the DVPN is issued [insert name].
3. <input type="checkbox"/>	To prohibit [insert name of alleged perpetrator] from entering [insert address].
4. <input type="checkbox"/>	To require [insert name of alleged perpetrator] to leave [insert address].

DVPO guidance

**RESTRICTED (when completed)**

Force code:
Case reference no:
Custody Reference no:

5. <input type="checkbox"/>	To prohibit [insert name of alleged perpetrator] from coming within [insert distance] of [insert address].
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<b>NOTICE AUTHORISATION</b>			
Rank:			
Name:			
Number:			
Date:		Time:	

Once the DVPN and Notice of the Hearing have been served upon the perpetrator, you must (at the soonest opportunity) provide copies of each to the victim, including the prohibitions and the court date/time.

<b>VICTIM INFORMED OF DVPN BY</b>			
Name:			
Rank:		Collar No:	
Date:		Time:	

<b>VICTIM REFERRED TO SUPPORT AGENCY</b>			
Name:			
Rank:		Collar No:	
Date:		Time:	

<b>PERPETRATOR REFERRED TO SUPPORT AGENCY</b>			
Name:			
Rank:		Collar No:	
Date:		Time:	

**APPENDIX E**

Provides a template of a DVPN which fulfils the requirements of section 25(1) CSA 2010.

DVPO guidance

DVPN  
Rev 06/11

**RESTRICTED (when completed)**

Force Code:
Case Reference No:
Custody Reference No:

**DOMESTIC VIOLENCE PROTECTION NOTICE**

TO BE SERVED ON SUBJECT PERSONALLY

**NOTICE** (insert name, date of birth and address of the individual on whom this notice is served)

To:

**WARNING**

**You must obey this notice. You should read the notice carefully. You should seek advice from a legal advisor.**

The application for a Domestic Violence Protection Order (DVPO) will be heard at the Magistrates' Court within 48 hours of service of this notice, who may consider any or all of the prohibitions as set out below. This may include a requirement for you to leave your address from between 14 and 28 days.

Where there are reasonable grounds for believing that you are in breach of any part of this notice, a constable may arrest you without warrant and you will be held in custody and brought before the Magistrates' Court within 24 hours to hear the application for the Domestic Violence Protection Order.

If you breach a DVPO you may be liable for a fine of £50 for each day that you are in breach, up to a maximum of £5000 or 2 month's imprisonment.

**GROUND ON WHICH THE NOTICE IS ISSUED**

It is appropriate to issue this notice because the authorising officer, not below the rank of Superintendent, [insert police force/authorising officer's name, rank, etc], has reasonable grounds for believing that [name of alleged perpetrator]:

- is over 18; and
- has used violence or threatened towards an associated person, namely [insert name of associated person to be protected]; AND
- that the issuing of the DVPN is necessary to protect the associated person, namely [insert name] from violence or threats of violence by [name of alleged perpetrator].

Detail grounds for decision:

- 1.
- 2.
- 3.
- 4.
- 5.

**PROHIBITIONS** (indicate as appropriate)

This notice prohibits [insert name of alleged perpetrator] from the following:

- |    |   |
|----|---|
| 1. | From molesting [insert name of associated person to be protected]. This includes molestation in general, to particular acts of molestation, or to both [insert any specific details]. |
|----|---|

DVPO guidance

**RESTRICTED (when completed)**

Force Code: Case Reference No: Custody Reference No:
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2.	To prohibit [insert name of alleged perpetrator] from evicting or excluding from [insert address] [insert name of associated person to be protected].
3.	To prohibit [insert name of alleged perpetrator] from entering [insert address].
4.	To require [insert name of alleged perpetrator] to leave [insert address].
5.	To prohibit [insert name of alleged perpetrator] from coming within [specify distance] of [insert address].

<p><b>NOTICE OF HEARING</b></p> <p>You will receive a separate notice entitled Notice of Hearing (Section 27(5), CSA 2010). This notice will act as a summons to Magistrates Court for an application for a Domestic Violence Protection Order (DVPO) to be heard.</p> <p>The application for a DVPO, will be heard within 48 hours of the time of service of the DVPN.</p> <p>The order may be heard in your absence if the court is satisfied that the police have made reasonable efforts to serve the notice upon you and you fail to attend.</p> <p>If a Domestic Violence Protection Order is made in your absence, the prohibitions will still apply and a breach of any or all of these may result in you being arrested.</p> <p>If the place, date or time of the hearing is not yet established then list here the address for service of the notice of the hearing. (Constable to request an address recording both the request made and any response to that request).</p> <p>Address for serving Notice of Hearing:</p> <p>Response to request:</p> <p><b>DVPO Provisions</b></p> <p>The Magistrates may include the following provisions when making a DVPO:</p> <ul style="list-style-type: none"><li>• Prohibit P from molesting the person for whose protection it is made which may be expressed so as to refer to molestation in general, to particular acts of molestation, or to both;</li><li>• If P lives in premises which are also lived in by a person for whose protection the DVPO is made, the DVPO may also contain provision:<ul style="list-style-type: none"><li>(a) to prohibit P from evicting or excluding from the premises the person for whose protection the DVPO is made;</li><li>(b) to prohibit P from entering the premises;</li><li>(c) to require P to leave the premises; or</li><li>(d) to prohibit P from coming within such distance of the premises as may be specified in the DVPO.</li></ul></li></ul>
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DVPO guidance

**RESTRICTED (when completed)**

Force Code: Case Reference No: Custody Reference No:
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<b>DURATION OF NOTICE</b>
This notice continues in effect until the application for a Domestic Violence Protection Order has been determined by the Magistrates' Court.

<b>POWER OF ARREST FOR BREACHING THE NOTICE</b>
If you are arrested for a breach of this notice, by virtue of section 25(1)(b) Crime and Security Act 2010 you will be kept in custody and brought before the Magistrates Court who will hear the application for a Domestic Violence Protection Order (DVPO) within 24 hours beginning with the time of arrest.
The 24 hours shall not include Christmas Day, Good Friday or any Sunday and any day that is a bank holiday in England and Wales.
If the matter is not disposed of forthwith, the court may remand you.

<b>TERMS OF THE NOTICE</b>	
<b>Date/time of service of the notice:</b>	
Name of person to be protected:	

<b>SIGNATURE OF RECEIPT OF NOTICE</b>			
Name:			
			PRINT NAME
Date:		Time :	

**APPENDIX F**

Provides a template of Notice Of the Hearing, which fulfils the requirements of section 27(5) CSA 2010

DVPO guidance

DVPN  
Rev 06/11

**RESTRICTED (when completed)**

Force Code:
Case Reference No:
Custody Reference No:

**NOTICE OF HEARING**  
S27(5) of the Crime & Security Act 2010

<b>NOTICE OF FURTHER HEARING</b>	
Following the issue of a DVPN, an application will be made to the Magistrates' Court who will consider whether to make a Domestic Violence Protection Order (DVPO). If the Magistrates decide to make a DVPO, they may impose prohibitions from between 14 and 28 days in accordance with Section 27 Crime and Security Act 2010.	
Place:	[insert name of court]
Date:	[insert date]
Time:	[insert time]
If you do not attend at the time and date shown the court may make an order in your absence.	

<b>SIGNATURE OF RECEIPT OF NOTICE</b>			
Name:			
	PRINT NAME		
Date:		Time:	

<b>NOTICE SERVED BY</b>			
Name:			
Rank:		Collar No:	
Date:		Time:	

<b>NOTICE AUTHORISED BY</b>			
Name:			
Rank:		Collar No:	
Date:		Time:	

The order may be heard in your absence if the court is satisfied that the police have made reasonable efforts to serve the notice upon you and you fail to attend.  
If a Domestic Violence Protection Order is made in your absence, the prohibitions will still apply and a breach of any or all of these may result in you being arrested.

**APPENDIX G**

Provides a template which may be used as a DVPO and issued by the Magistrates' court



<Defendant's Name>  
<Defendant's Address>  
<Address Line 2>  
<Address Line 3>  
<Address Line 4>  
<Address Line 5>  
<Post Code>

Case number: <Case Number>  
[Born: <Date of Birth>]

### Domestic Violence Protection order

**Important notice to:** <alleged perpetrator name>

**You must obey this order.** A Constable may arrest you without warrant if there are reasonable grounds for believing that you are in breach of the DVPO.

If you breach the order you may be fined or committed to custody (under Section 63 of the Magistrates' Courts Act 1980).

You should read the order carefully. If you do not understand anything in this order you should go to a solicitor, Legal Advice Centre or Citizens Advice Bureau.

#### Order

This order is made to protect [insert name of associated person to be protected] from violence or a threat of violence because the court has found that you have been violent towards or threatened violence towards that person and that an order is necessary to protect [insert name of associated person to be protected] from violence or a threat of violence.

(Please delete the below paragraphs as applicable)

This order requires [insert name of alleged perpetrator] to leave [insert address].

This order further (delete if n/a) prohibits [insert name of alleged perpetrator] from the following:

1. From molesting [insert name of associated person to be protected]. This includes molestation in general and also the following particular acts of molestation [insert any specific details - acts are not limited to the examples below - please amend/delete as appropriate]:

DVPO guidance

- a) use or threaten violence against the person for whose protection the DVPO is made and must not instruct or encourage or in any way suggest that any other person should do so
- b) intimidate, harass or pester the person for whose protection the DVPO is made and must not encourage or in any way suggest that any other person should do so

2 From evicting or excluding from [insert address] [insert name of associated person to be protected].

3. From entering [insert address].

4. From coming within [specify distance] of [insert address].

<Defendant's Name>

<date printed>/RO 6.2/<Doc Ref>/1

<Court Name>  
Code <Court Code>

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This order lasts until **<End Date>**.

**Note to the Arresting Officer**

Under section 28 (9) of Crime and Security Act 2010 order a constable may arrest a person without warrant if the constable has reasonable grounds for believing that the person is in breach of the order.

They must be held in custody and brought before the Magistrates Court within the period of 24 hours beginning with the time of the arrest.

If the matter is not disposed of when the person is brought before the court, the court may remand the person.

The period of 24 hours shall not include Christmas Day, Good Friday or any Sunday and any day that is a bank holiday in England and Wales.

Date: <Date of Document>

<Justices' Clerk Signature>  
**Justices' Clerk**

<Defendant's Name>

<date printed>/RO 6.2/<Doc Ref>/2

**APPENDIX H**

Provides a copy of the Statutory Instrument 2011 No 1434. The Magistrates' Courts (Domestic Violence Protection Order Proceedings) Rules 2011

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STATUTORY INSTRUMENTS

**2011 No. 1434 (L. 11) MAGISTRATES' COURTS,  
ENGLAND AND WALES  
PROCEDURE**

The Magistrates' Courts (Domestic Violence  
Protection Order Proceedings) Rules 2011

<i>Made</i>	- - - -	<i>6th June 2011</i>
<i>Laid before Parliament</i>		<i>9th June 2011</i>
<i>Coming into force</i>	- -	<i>30th June 2011</i>

The Lord Chief Justice makes the following Rules under sections 144(1) and 145(1)(a) of the Magistrates' Courts Act 1980(1) and section 2(2)(a) of the Civil Evidence Act 1995(2).

In accordance with section 144 of the Magistrates' Courts Act 1980 he has consulted with the rule committee appointed under that section and makes these Rules with the concurrence of the Lord Chancellor.

**Citation and Commencement**

1. These Rules may be cited as the Magistrates' Courts (Domestic Violence Protection Order Proceedings) Rules 2011 and shall come into force on 30 June 2011.

**Application and Interpretation**

2. In these rules—

“the 1995 Act” means the Civil Evidence Act 1995;

“the 1999 Rules” means the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999(3);

“the 2010 Act” means the Crime and Security Act 2010(4);

“DVPO” means a Domestic Violence Protection Order made in accordance with section 28 (conditions for and contents of a domestic violence protection order) of the 2010 Act; and

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(1) 1980 c. 43. Section 144(1) was amended by section 15 of, and paragraphs 99 and 102 of Schedule 4 to, the Constitutional Reform Act 2005 (c. 4) and section 109 of, and paragraph 245 of Schedule 8 and Schedule 10 to, the Courts Act 2003 (c. 39).

(2) 1995 c.38.

(3) S.I. 1999/681; to which there have been amendments which are not relevant to these Rules.

(4) 2010 c.17.

## DVPO guidance

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“DVPO proceedings” means proceedings under any of sections 26 (breach of domestic violence protection notice) 27 (application for a domestic violence protection order) and 29 (breach of domestic violence protection order) of the 2010 Act.

3. These Rules shall apply to DVPO proceedings in magistrates’ courts.

### **Disapplication of section 2(1) the 1995 Act**

4. Section 2(1) (notice of proposal to adduce hearsay evidence) of the 1995 Act does not apply to DVPO proceedings.

### **Exclusion of the 1999 Rules**

5.—(1) Rule 2 (application and interpretation) of the 1999 Rules is amended as follows. (2)

After rule 2(3) insert—

“(4) These rules shall not apply to Domestic Violence Protection Order proceedings as defined in “DVPO proceedings” under rule 2 (application and interpretation) of the Magistrates’ Courts (Domestic Violence Protection Order Proceedings) Rules 2011.”.

### **Application for a DVPO in the magistrates’ court**

6. In an application for a DVPO, the application, in accordance with section 27(2) of the 2010 Act, must be made by complaint and, accordingly, when an application for a DVPO is made, the applicant shall be deemed to be a complainant, the respondent to be a defendant and any notice given under section 27(5) of the 2010 Act to be a summons, but nothing in this rule shall be construed as enabling a warrant of arrest to be issued for failure to appear in answer to any such notice.

*Lord Judge, C.J.*

I concur

Signed by authority of the Lord Chancellor

*J Djanogly*  
Parliamentary Under Secretary of State  
Ministry of Justice

6th June 2011

## DVPO guidance

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

These rules make provision in respect of proceedings in the magistrates' court for applications for Domestic Violence Protection Orders (DVPOs) under the Crime and Security Act 2010 (c.17) (the 2010 Act).

Rule 4 disapplies section 2(1) of the Civil Evidence Act 1995 (c.38) (the 1995 Act), which requires parties proposing to adduce hearsay evidence in civil proceedings to give notice of the proposal.

Rule 5 amends rule 2 of the Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules 1999 (SI 1999/681) (the 1999 Rules) to exclude the 1999 rules in respect of applications for DVPOs. The 1999 Rules make further provision concerning hearsay evidence, including the contents of hearsay notices (rule 3), the procedure to call witnesses for cross-examination on hearsay evidence (rule 4), credibility and the use of previous inconsistent statements (rule 5) and the service of documents (rule 6).

The provisions under the 1995 Act and 1999 Rules have been respectively disapplied or excluded because they are either incompatible with the procedures prescribed for applying for DVPOs under the 2010 Act or else cease to have effect in consequence of the disapplication or exclusion of other of these provisions.

Section 27 of the 2010 Act provides that an application for a DVPO must be made by complaint to the magistrates' court. Rule 6 prescribes the procedure to be followed in such circumstances.