

Domestic violence prevention orders/notices

The Home Office has commenced a 12 month pilot to trial a new approach to tackling domestic violence. A key strand of this will be the use of Domestic Violence Protection Orders.

What are Domestic Violence Protection Notices and Orders?

The relevant statutory provisions are contained at sections 24-33 of the Crime and Security Act 2010 – a copy is available here <http://www.legislation.gov.uk/ukpga/2010/17/contents>.

Domestic Violence Protection Notice (DVPN)

A DVPN is the initial notice issued by the police in order to provide emergency protection to an individual believed to be the victim of domestic violence. This notice, which must be authorised by a police superintendent, contains prohibitions that effectively bar the suspected perpetrator from returning to the victim's home or otherwise contacting the victim.

A DVPN may be issued to a person aged 18 years and over if the police superintendent has reasonable grounds for believing that:

- the individual has been violent towards, or has threatened violence towards an *associated person*, AND
- The issue of the DVPN is necessary to protect that person from violence or a threat of violence by the intended recipient of the DVPN

The *associated person* mentioned above does not have to consent to the issuing of a DVPN or DVPO.

Following an alleged breach of the DVPN, the police may arrest the individual without warrant and hold that person in custody pending the magistrates' court hearing of the DVPO application; this hearing must take place within 24 hours of the arrest for the alleged DVPN breach.

Domestic Violence Prevention Order (DVPO)

Within 48 hours of the DVPN being issued (excluding weekends and bank holidays), the police must submit an application to the magistrates' court for the DVPO. The Magistrates can make a DVPO if two conditions are met:

- The court is satisfied on the balance of probabilities that the recipient has been violent towards, or has threatened violence towards, an *associated person*
- The court thinks that making the DVPO is necessary to protect that person from violence or a threat of violence by the recipient

A DVPO may be in force for no fewer than 14 days beginning on the day on which it was made and no more than 28 days.

An individual who breaches a DVPO may be arrested without warrant and held in custody to be brought before the magistrates' court within 24 hours.

Where are they being trialled?

There are three police forces participating in the trial:

- Greater Manchester
- Wiltshire
- West Mercia

How do clients access legal aid if faced with a DVPN?

Providers with a 2010 Standard Crime Contract will be able to represent eligible clients in receipt of a DVPN. There are several routes by which clients will access advice:

- Following arrest and having been taken to the police station (from where the DVPN is almost always served), police station advice and assistance will apply and the solicitor can apply for a representation order for the DVPO hearing at the Magistrates court.
- Having been issued with a DVPN, the client may approach a 2010 Crime contract holder who could provide free standing advice and assistance away from the police station. This is subject to a means and eligibility test as set out in the Contract Specification (Part B, Section 9). The firm can subsequently apply for a representation order which will be subject to the usual 'Interests of Justice' test and means test.
- The Magistrates Court duty solicitor scheme is available for clients who arrive for their court hearing without any prior representation in place. DVPOs have been added to the list of 'prescribed proceedings' for which the court duty solicitor can advise. A copy of the relevant statutory instrument is attached here:
<http://www.legislation.gov.uk/ukxi/2011/1453/contents/made>
- In the event of either a breach of the DVPN or DVPO, police station advice and assistance and the Magistrates' Court duty solicitor scheme will apply in the usual way.