

Neighbourhood Support New Zealand



Phone 0800 4NEIGHBOURS
Phone 0800 463 444
www.ns.org.nz

Neighbourhood Support Fact Sheet

Domestic violence – Protection Orders

The objectives of the **Domestic Violence Act 1995** are to reduce domestic violence through the use of education and counselling programmes and to deal with violence when it occurs, through the use of “protection orders”. The Act covers a range of “close personal” domestic relationships where protection may be necessary. This includes any form of family relationship regardless of whether the relationship arises from a legal or a de facto union. Homosexual relationships, flatmates and friends can be subject to a protection order. Specifically excluded from the definition of “close personal relationship” are landlord / tenant and employer / employee relationships.

The definition of acts of violence includes physical, sexual and psychological abuse. It covers such things as intimidation, harassment, damage to property and threats of abuse. This could be a single serious act or a pattern of behaviour resulting from a number of minor acts.

Violence is committed “against a child” if the child is abused or even allowed to witness abuse of a person with whom they share a domestic relationship. Threats or intimidation of a child's mother qualify as violence against the child, if the child witnesses those threats.

Before a Court will grant a protection order, the person applying for the order (the applicant) must show a domestic relationship exists and that an order is necessary to protect them or their child against the person using violence (the respondent). The need for protection will depend on such things as the nature of the violent behaviour, the risk of further violence and the effect the violent behaviour has on the applicant or their child. In most circumstances an applicant may obtain a protection order without forewarning the respondent of their application to the Family Court. Where a hearing is held without the respondent receiving notice and the Court is satisfied that protection is required, the respondent will be served with a “temporary” protection order prohibiting the specified violent behaviour and stopping any contact with the applicant if that is requested. In addition to this, protection orders generally require that the respondent attend a non-violence counselling course, surrender any firearms they possess and forfeit their firearms permit. In certain circumstances, a failure to attend a counselling course as ordered, can result in imprisonment for up to two years.

Where it is proven that the respondent used violence “against a child” and the Court is satisfied that the child is not safe, then the Court will only allow “supervised access” to the respondent in respect of that child. This means that the respondent parent can only meet with their child at a specified place in the presence of a Court specified person. The onus for organising and paying for supervised access is also born by the respondent.

Once a temporary protection order has been served on the respondent they have just under three months to file an intention to defend. Where they do file an intention to defend within this time, the

Court must hold a hearing within 6 weeks. Failure to defend means the order becomes permanent and conditions relating to custody and access can only be varied on an application to the Family Court.

Where a protection order is breached the respondent may be arrested and cannot be bailed by the Police for 24 hours, unless there is an earlier opportunity to take them to Court. The maximum penalty for a single breach of a protection order is six months in prison or a \$5,000 fine. Any subsequent breach of the protection order within three years carries a potential maximum of two years in prison. The consequences of a protection order are serious and respondents are advised to seek legal advice immediately on being served such an order.

Anyone wanting further information on this law should contact a solicitor or a [Community Law Centre](#).