



## Applying to vary domestic violence orders in Queensland

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Date: Sunday February 1, 2026

If a final domestic violence protection order (**DVPO**) has been made against you, or protecting you, there may be circumstances that arise during the operation of the order which cause you to consider applying to change the order – for example, the duration or conditions attached to the order.

It is important to know that any requested change/s require an application to the court, and therefore should also involve legal advice regarding the prospects of the court successfully granting your request.

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This blog is also relevant if you are deciding how to approach a final DVPO against you. It is unlikely to be a sound approach to 'just consent without admissions' to a final DVPO now, and seek to vary it later.

Temporary Protection Orders (**TPOs**) can also be varied or amended. However, this blog will focus on amending final DVPOs.

### Can DVPOs be varied after they are made?

The *Domestic and Family Violence Protection Act 2012* enables an application to vary to be brought by an aggrieved, respondent, named person or a police officer. It can relate to any aspect of a DVPO, including duration. Any application to vary is to be served on the other parties named on the DVPO, and also the police.

# What must the court consider when determining if a DVPO should be varied?

When deciding to grant an application to vary a DVPO or not, the court must consider:

- the grounds set out in the application for the original protection order;
- the findings of the court that made the domestic violence order;
- any non-compliance with an intervention order or diversion order that was previously made against a respondent (note the court may consider compliance with such order, however, the court must not decide to vary a DVPO merely because an intervention order or diversion order has been complied with);

If the proposed variation may adversely affect the safety, protection or well-being of the aggrieved or any named person, the court must also have regard to:

- any expressed wishes of the aggrieved or named person;
- any current contact between the aggrieved or named person and the respondent;
- whether any pressure has been applied, or threat has been made, to the aggrieved or named person by the respondent or someone else for the respondent;
- the principle that the safety, protection and well-being of people who fear or experience domestic violence, including children, are paramount; and
- any other relevant matter.

The court may consider a respondent's criminal history and domestic violence history if it considers it is relevant to do so. This is likely to be relevant if the respondent has breached the DVPO.

Further, the court may only vary a DVPO if:

- the safety, protection or well-being of the aggrieved or the named person would not be adversely affected by the variation; and
- if the proposed variation is to reduce the duration of the order, there are reasons for doing so.

## Case law – application to reduce duration of DVPO order

The 2025 decision of his Honour Magistrate Sinclair of *JEK v REM* [2025] QMC 10 is instructive in relation to applications to vary, in particular, where there is consideration to shortening the duration of a previously made final DVPO.

His Honour said there should be finality in such decisions, unless there is a 'significant change of circumstances' and 'some evidence to compel the court to conclude safety no longer requires aspects of the order sought to be changed'.

In particular, Magistrate Sinclair said it would be difficult to see how an application to reduce an order could ever succeed until, at the very least, the respondent had demonstrated some sustained change in behaviour resulting from the successful completion of

an appropriate behaviour change course and the passing of sufficient time had occurred to show it has made a difference to the risk.

However, his Honour noted that, in many cases, these factors may not be sufficient to overcome the requirement that the court only vary the order if the safety, protection or wellbeing of the aggrieved or named persons would not be adversely affected and that reasons are required for reducing the duration of the order.

## Practical factors which may be relevant to an application to vary a DVPO order

Considering the above, the following features should be carefully considered before bringing an application to vary a DVPO:

- If the respondent consented without admissions to a final DVPO – whether any submissions were made regarding duration and/or appropriate conditions, and any findings made by the court;
- Any alleged breaches of the DVPO and/or convictions for breaching the DVPO;
- Any evidence of attendance at, and completion of, behavioural change program/s and/or any other relevant courses, counselling and/or therapy demonstrating a 'sustained change in behaviour';
- How much time has passed since the original event/s the subject of the application, the making of the DVPO and any breaches; and
- Other matters which may otherwise constitute a significant change in circumstances relevant to the safety, wellbeing and protection of the aggrieved and named persons, such as one party moving interstate and/or the finalisation of family court proceedings.

## Other considerations

The court must examine the original application and any changes in circumstances.

Therefore, in an application to vary, a hearing may be required to allow findings on these issues to be made, particularly if the application to vary is contested. This could expose a respondent to the risks of findings being made by the court that they committed domestic violence, which they may have avoided if they had previously consented without admissions to the final DVPO.

Given that the court must take into account the expressed wishes of the aggrieved and named person and their safety, protection and well-being, any concerns they have for their safety may well be a powerful factor to refuse the application. Therefore, a prudent first step may be for a respondent's lawyer to ascertain the views of an aggrieved and/or named person before filing any application.

Note, just because an aggrieved or named person brings the application seeking to reduce any aspect of a final DVPO on the basis that they do not have concerns for their safety, does not mean the court will automatically grant the application. The court is still required to assess their safety, protection and well-being.

Further, if the application to vary fails, it may expose the unsuccessful applicant to a [costs order being made against them](#).

## Seeking legal advice

If you are considering applying to vary a DVPO, or are served with such an application, you should contact a lawyer immediately to ensure you understand the relevant issues above.

## Contacting Gilshenan &Luton Lawyers

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## Further reading

- [Changes to the Domestic and Family Violence Protection Act August 2023](#)
- [Breach of domestic violence orders when encouraged by the aggrieved](#)

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*This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.*