

Multi-Agency Guidance (Non Police)

Domestic Violence protection Notices

Domestic Violence Protection Orders

Sections 24-33 crime and security Act 2010

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Multi-Agency Guidance (Non Police)

Domestic Violence Protection Notices (DVPNs) Domestic Violence Protection Orders (DVPOs) (Sections 24-33 Crime and Security Act 2010)

Introduction

DVPNs and DVPOs were piloted in the policing areas of Greater Manchester, West Mercia and Wiltshire and are now being rolled out nationally. They will commence in Sussex 12 June 2014. A DVPO is a civil order which is heard in the Magistrates Court.

Prior to June 2014 there has been no readily available, consistent, affordable and timely access to civil court orders in the immediate aftermath of a domestic violence incident and therefore a gap existed between how the criminal justice system and civil law processes interacted to provide immediate safety and a seamless service to victims at on-going risk of violence.

Domestic Violence Protection Notices and Orders are aimed at perpetrators who present an on-going risk of violence to the victim and/or associated persons, with the objective of securing a co-ordinated approach across agencies for the protection of victims and the management of perpetrators. This process builds on existing procedures and bridges the previous protective gap, providing immediate emergency protection for the victim and allowing them the protected space to explore the options available to them and make informed decisions regarding their safety.

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 enforceable restrictions can be placed upon the perpetrator

Sussex Police will give consideration to identification and prosecution for substantive criminal offences. If CPS advice is to charge for a domestic violence/abuse 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.

MULTI-AGENCY ENGAGEMENT

Although the power to issue a DVPN and subsequent application for a DVPO lies with the police and ultimately the Criminal Justice Service (CJS), 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 (MARACs)
- Service providers for Independent Domestic Violence Advocates (IDVAs)

Engagement of these agencies with the victim, at the earliest opportunity, is crucial to the success of the DVPN/ DVPO process.

In cases where non Police agencies become aware of an incident of domestic abuse the matter may be reported to Sussex Police as follows:

- An incident of domestic abuse that requires an urgent response – contact 999
- An incident which is of concern, but not urgent, or where it appears a DVPN may assist, the relevant Adult Protection Team (APT) of Sussex Police should be contacted.

Sussex Police will consider will consider a DVPN as part of the investigative process

Criteria

- Alleged perpetrator is 18 + and
- Violence has been used or threatened on this occasion towards the victim and/or an associated person and
- A DVPN is necessary to protect the victim and/or associated person from the violence or threat of violence by the alleged perpetrator

Definitions

Victim (V) – The person for whom the Notice or order is aimed at providing protection

Alleged Perpetrator (P) must be aged 18 +

Authorising Officer (AO) a member of Sussex Police not below the rank of Superintendent

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.

Application to Authorising Officer (AO)

- A DVPN can only be issued by a police officer of the rank of Superintendent or above.
- Although a DVPN / DVPO does not require the consent of the victim, all evidence /information available at the time will support the subsequent consideration by the Superintendent and also the Magistrate's Court.
- In all domestic abuse cases Sussex Police should consider all the circumstances 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.

- In the context of this guidance, a child is any person under the age of 18 years. Sussex Police have a duty 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.
- 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)
- Nothing should alter the existing arrangements for risk identification (DASH). A DASH risk assessment should form part of the information that is provided to the Superintendent upon seeking approval for the issue of a DVPN.
- Nothing regarding the implementation should change the process of referrals to MARAC.

Domestic Violence Protection Notice (DVPN) – Authorised

A DVPN is the initial notice of immediate emergency protection that is issued by Sussex Police.

The DVPN will include:

- The grounds on which it has been issued
- That a constable may arrest P without warrant if the constable has reasonable grounds for believing that P is in breach of the DVPN
- 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 given to P under section 27(5) of the Crime and Security Act 2010
- That the DVPN continues in effect until that application has been determined
- The provision that a magistrates' court may include in a DVPO

A DVPN must be in writing and must be served on P personally by a constable, 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 DVPO.

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 and Bank Holidays). This is a requirement of Section 27 (5) Crime and Security Act 2010. The Notice of the Hearing must be given to 'P' in all cases and is separate to the DVPN.

During the period of the DVPN (up to 48 hours) Sussex Police and the IDVA Service will liaise and carry out the following:

Sussex Police

- Supply "P" with DVPN/O explanatory leaflet
- Notify victim of notice
- Provide victim and or associated persons with DVPN/O explanatory leaflet
- Provide victim with basic safety advice
- Provide victim and or associated persons with IDVA service contact details
- Provide IDVA service with Safe contact details for "V" and/or "AP"
- Provide IDVA service with completed DASH for "V" and/or "AP"
- APT will send copies of the DVPN to:
 - IDVA Service/DV specialist service (as agreed in local area)
 - Children's Social Care (where applicable)
 - Adult's Social Care (where applicable)
 - Probation
 - Housing Department of Local Authority
- Place relevant markers on police systems

IDVA Service

- Make contact with victim and/or associated persons (ideally before date/time of court hearing)
- Establish if victim is supportive of the DVPN/O
- Establish victims intentions relating to court

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. This will only provide a power of arrest and a duty to remand in custody to enable 'P' to be brought before the Magistrates Court which will hear the application for the DVPO within 24 hours from the time of arrest.

Court Hearing

At the time of the court hearing Sussex Police will liaise with the IDVA Service and carry out the following:

Sussex Police

- Complete history marker on STORM (this will should already be in place from DVPN)
- Complete flag on perpetrator on NICHE
- Complete PNC information marker
- Agree lead for victim, this will usually be:
 - IDVA Service – where victim has been successfully engaged
 - Sussex Police – where victim is not engaged

IDVA Service

- Attend court where possible – cases will be heard in Brighton & Crawley Remand Courts
- Support victim around court process

- Complete safety plan with victim – where victims is engaged, reporting to Sussex Police APT in cases where risk is increased.
- Arrange on-going contact with victim
-

Domestic Violence Protection Order (DVPO) – Granted

A DVPO is an order made by the Magistrates' Court after a DVPN has been issued. The protective conditions available to the 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.

Sussex Police will

- Inform the victim that a DVPO has been granted
- Send a copy of the order to the following agencies:
 - IDVA Service
 - Children's' Social care (where applicable)
 - Adult's Social Care (where applicable)
 - Probation
 - Housing Department of relevant Local Authority

During this 14 – 28 day period Sussex Police and IDVA Service will liaise regularly and have a regular contact point on a weekly basis to:

- Review and confirm lead agency/person for victim
- Review the combined safety plan
- Review the exit strategy
- The lead agency will hold the master copy of the combined safety plan

Domestic Violence Protection order – Not Granted

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 Sussex Police as soon as practicable:

- The victim must be informed of the fact that a DVPO has not been granted and that the prohibitions contained within the DVPN no longer apply
- The following agencies must be informed
 - IDVA Service
 - Children's' Social care (where applicable)
 - Adult's Social Care (where applicable)
 - Any other agencies that have been identified as relevant
- The risk assessment must now be re-assessed and appropriate action taken
- DVPN removed from Police National Computer (PNC)

Breach of a DVPO

A breach of a 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. Section 57 (a) of the Magistrates and Court Act allows for the transfer of civil proceedings. This means that it is a breach of a civil order and not a criminal matter. The Magistrates' Court hears both civil and criminal matters.

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.

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.

Full Multi-Agency Engagement

The on-going management of DVPO cases should include a multi-agency approach which will include Sussex Police and IDVA service and may also include, Adult's Social Care, CAFASS, Children's Social care, Education, Health, , Housing, Probation, Prison, Refuge, Outreach, Registered Social Landlords and Victim Support. This list is not exhaustive and the agencies involved will depend on the individual circumstances of each case.

Any DVPO involving children at the premises should result in a referral to Children's Services as per local procedures. The initial referral will usually be made by Sussex Police (if they identify the need for a DVPO) and any further risks or relevant information identified by any agency should be flagged with Children's Services as per their Safeguarding policy and procedure.

Close of Enquiry / DVPO ends

Nothing is required to end a DVPO; at the expiry date it will simply lapse. Sussex Police must however ensure that once a DVPO has lapsed the relevant report/marker on PNC is removed. The exit strategy having been agreed at the weekly contact point between Sussex Police and the IDVA Service.