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[Home](#) > [Domestic Abuse Bill 2020: factsheets](#)



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Policy paper

# Domestic Abuse Protection Notices / Orders factsheet

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## Contents

- [1. What are we going to do?](#)
- [2. How are we going to do it?](#)
- [3. Background](#)
- [4. DAPOs have the potential](#)
- [5. Won't victims and agencies still be confused if other protective orders remain available?](#)
- [6. What provision is there for positive requirements like accredited perpetrator programmes?](#)

## 1. What are we going to do?

The Bill introduces a new civil Domestic Abuse Protection Notice (DAPN) to provide immediate protection following a domestic abuse incident, and a new civil Domestic Abuse Protection Order (DAPO) to provide flexible, longer-term protection for victims

Refuge, written evidence to the Joint Committee on the Draft Domestic Abuse Bill, April 2019:

“ The survivors Refuge work with consistently report that existing injunctions are limited in their effectiveness... Refuge, therefore, welcomes the provisions establishing the new consolidated Domestic Abuse Protection Order (DAPO) and that breach of a DAPO will be a criminal offence. Further, Refuge is pleased that the new DAPO can be applied for, and recognised, in both criminal and civil courts.”

7. How will you ensure that effective action will be taken in response to breach of a DAPO?
8. What training and guidance will be put in place on the new orders?
9. Will Legal Aid be available for DAPOs?
10. Will DAPO applications be free for the police?
11. Why are DAPO applications restricted to the police, victims and relevant third parties?
12. Key facts

## 2. How are we going to do it?

We will enable DAPNs and DAPOs to be used to protect victims from all forms of domestic abuse, including non-physical abuse like controlling or coercive behaviour.

We will introduce a DAPN which, like the current Domestic Violence Protection Notice, will give victims immediate protection following an incident. A DAPN would be issued by the police and could, for example, require a perpetrator to leave the victim's home for up to 48 hours.

We will provide for DAPOs to have flexible duration so that longer-term protection can be provided where necessary and proportionate.

We will introduce alternative application routes so that the police, victims and specified third parties can make applications to different courts. We will also enable courts to make a DAPO of their own volition during existing court proceedings, which do not have to be domestic abuse-related.

We will enable DAPOs to impose both prohibitions and positive requirements on perpetrators. These could include prohibiting any form of contact with the victim and/or requiring the perpetrator to be assessed for suitability for a perpetrator behaviour change programme, an alcohol or substance misuse programme or mental health treatment.

=We will enable the conditions of a DAPO to be varied by the courts so that they can respond to changes over time in the perpetrator's behaviour and the level of risk they pose.

We will provide courts with the express power to use electronic monitoring ('tagging') to monitor a perpetrator's compliance with certain requirements of a DAPO.

All DAPOs will include notification requirements, which will require perpetrators to notify the police of their name and address and of any changes to this information. The Bill also includes the power for additional notification requirements to be specified in regulations, which courts may consider imposing on a case-by-case basis as appropriate.

Breach of a DAPO will be a criminal offence, carrying a maximum penalty of up to 5 years' imprisonment, or a fine, or both. We will also enable a breach to instead be dealt with as a civil contempt of court and would expect for the victim's views to be taken into account when deciding which sanction for breach will be pursued.

We will pilot DAPNs and DAPOs in a small number of police force areas across the UK to assess the effectiveness and cost impacts of the new model prior to any national roll out. The Bill will repeal the current Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs).

### **3. Background**

There are a range of existing orders that can be used in domestic abuse cases, including Non-Molestation Orders, Occupation Orders, Restraining Orders and DVPOs. These orders vary widely in terms of who can apply for them, the conditions that can be attached to them and the consequences of breach. In addition, there is currently no single order that is equally accessible across the criminal, family and civil courts. This can lead to confusion for victims and practitioners in domestic abuse cases and problems with enforcement.

We have also heard from the police, practitioners and organisations representing victims that the effectiveness of the current DVPO is limited due to the absence of criminal sanctions if the order is breached, and the fact that it has a maximum duration of just 28 days.

### **4. DAPOs have the potential to place a significant burden on perpetrators. Isn't this disproportionate?**

To make a DAPO the court must be satisfied that the order is necessary and proportionate to protect the victim from domestic abuse.

The wide range of prohibitions and requirements available will enable the courts to impose a tailored order that will adequately protect the victim based on the specific facts of each individual case.

Before imposing a positive requirement, the court must receive evidence about its suitability and enforceability from the person who will supervise compliance with that requirement.

### **5. Won't victims and agencies still be confused if other protective orders remain available?**

The Bill will repeal existing Domestic Violence Protection Orders.

Other protective orders, such as Non-Molestation Orders and Restraining Orders, will remain in place so that they can continue to be used in cases which are not domestic abuse-related, such as cases of stalking or harassment where the perpetrator is not a current or former intimate partner or a family member.

Our policy intention in creating new DAPNs and DAPOs is to bring together the strongest elements of existing protective orders into a single comprehensive, flexible order which will provide more effective and longer-term protection to victims of domestic abuse and their children

It is our intention that DAPOs will become the 'go to' protective order in cases of domestic abuse.

Statutory guidance on the orders will cover how DAPOs fit within the existing protective order landscape and scenarios in which they should be considered.

## **6. What provision is there for positive requirements like accredited perpetrator programmes?**

We will continue to work with local areas to support effective commissioning of domestic abuse services, including high-quality, safe perpetrator programmes.

The Domestic Abuse Commissioner will play a key role in doing this, including through raising awareness of the issues, monitoring and overseeing the delivery of services and ensuring that work with perpetrators is effective, evidence-based and safe.

## **7. How will you ensure that effective action will be taken in response to breach of a DAPO?**

The government is keen to ensure that the authority of the court is upheld. That is why the Bill provides for breach of an order to be a criminal offence, punishable by up to 5 years' imprisonment, or a fine, or both.

For each positive requirement imposed by a DAPO, the order must specify the person responsible for supervising compliance with that requirement. That person will be required to promote compliance with the requirement and inform the police of breaches.

All DAPOs carry notification requirements requiring the person to notify the police of their name and home address and of any changes to this information, thereby assisting the police to monitor the perpetrator's whereabouts and the risk they pose to the victim. Breach of the notification requirements is also a criminal offence punishable by up to 5 years' imprisonment, or a fine or both.

## **8. What training and guidance will be put in place on the new orders?**

We will produce detailed statutory guidance and a programme of training and toolkits for professionals to embed understanding of the new orders.

The Judicial College has a regular training programme for all judges and magistrates, and HM Courts and Tribunals Service provides training for all court staff. We will work with both partners to introduce training on DAPOs into ongoing training programmes.

We will also pilot the orders in a small number of police force areas to assess the effectiveness and cost impacts of the new model prior to any national roll out, and to inform guidance and training products.

## **9. Will Legal Aid be available for DAPOs?**

Legal Aid will be available for civil representation for victims applying for an order and for representing the accused in criminal courts.

As a protective order, DAPOs could be added to the list of accepted evidence of domestic abuse and could therefore be used by the applicant to apply for Legal Aid in private family law disputes, subject to means and merits tests

## **10. Will DAPO applications be free for the police?**

We have made it clear that victims will not have to pay a fee to apply for a DAPO, to ensure that the new orders are accessible to victims.

However, we also want to ensure that the orders can be made without the victim's involvement where appropriate and that application fees do not in any way deter the police from using them.

Accordingly, we will provide sufficient funding to cover the cost of court fees incurred by the police for any applications for DAPOs they consider appropriate during the proposed 2 year piloting of DAPOs.

We will use the pilot to better understand the cost to the police and we will then take a decision on whether to continue to provide funding thereafter when DAPOs are rolled out nationally.

# 11. Why are DAPO applications restricted to the police, victims and relevant third parties?

Any person can apply for a DAPO, provided that the court gives them leave to apply.

The Bill enables victims and the police to apply without leave of the court, and any other person to apply with leave of the court.

The Bill also includes provision for other persons as specified in regulations to be able to apply. These third parties would be able to apply without leave of the court and could include, for example, local authorities.

## 12. Key facts

In the year ending March 2019, 4,349 DVPNs were issued (data from 24 forces) and 5,859 DVPOs were made (data from 39 forces).

In the year ending March 2019, 27,787 Non-Molestation Orders were made (an increase of 22% over the past 9 years).

We estimate that around 55,000 DAPOs will be made per year. This is based on current use of DVPOs, Non-Molestation Orders, Occupation Orders and Restraining Orders, plus a 5-10 % increase (assuming 32,300 DAPOs granted annually in a civil court and 20,700 DAPOs granted annually in a criminal court).

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