

## Domestic Violence Protection Notices and Orders

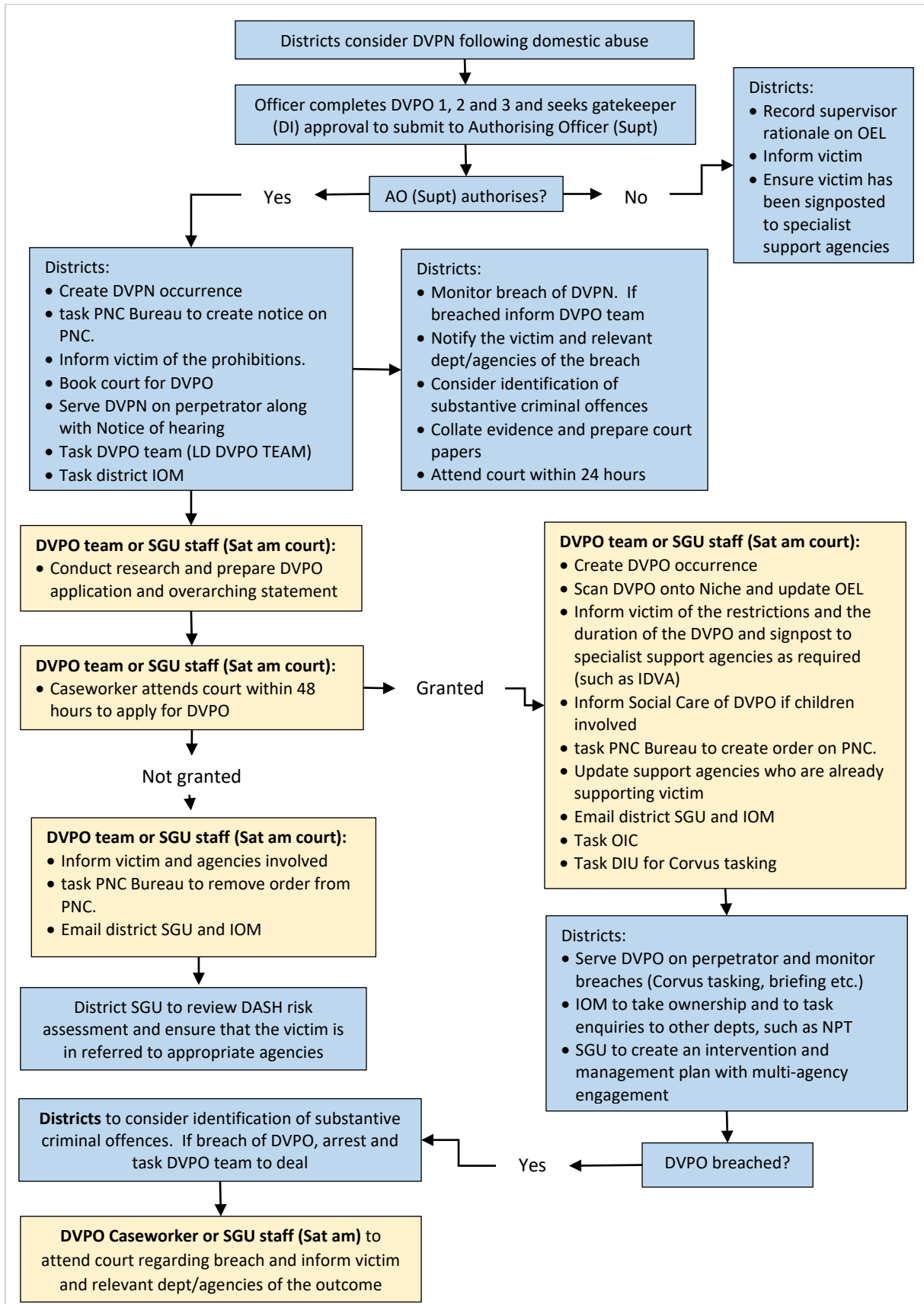
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# Flowchart



## Policy Statement

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### Summary

West Yorkshire Police must safeguard victims of domestic abuse and has the option of providing immediate emergency protection for the victim by using Domestic Violence Protection Notices (DVPNs) or Orders (DVPOs).

DVPNs and DVPOs do not require the consent of the victim and are aimed at perpetrators who present an ongoing risk of violence to the victim with the objective of securing a co-ordinated approach across agencies to protect victims and manage perpetrators. They do not replace the criminal justice system in respect of arresting, charging and prosecuting a perpetrator.

The aims of this policy are to explain:

- How to apply for a notice or order;
  - The roles and responsibilities of police officers and police staff, particularly the authorising officer and the gatekeeper; and
  - What happens when DVPNs/DVPOs are granted and served or refused, as well as keeping victims and perpetrators informed.
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### Scope

This policy applies to all police officers, police staff, communication staff and public enquiry counter staff.

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## Principles

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### General

DVPOs are a useful tool to safeguard a vulnerable victim. However, before using this option, all enquiries to secure a prosecution should be exhausted and it is not a replacement for a full investigation, irrespective of whether the victim wishes to proceed. Evidence led prosecutions should be sought and evidence presented to CPS where appropriate.

The Force will:

- Ensure that substantive criminal offences are thoroughly investigated and actively pursued.
- Ensure that those victims that are difficult to engage are not discarded.
- Seek to prosecute criminal offences and secure a restraining order for the victim as a preferred option. A DVPN will be issued when applicable in circumstances where no enforceable restrictions can be placed on the perpetrator.
- Apply the WYP common standard interventions for victims of domestic abuse in that the sergeant of the officer in case (OIC) will endorse the OEL with a rationale if the crime is to be finalised NFA if no DVPN is to be applied.

- Issue DVPNs, if the perpetrator is in custody, before any existing powers to detain them have expired.
- NB:**
- There is **no** power contained in the Crime and Security Act 2010 to detain a person in custody while a DVPN is considered; and
  - No requirement for them to be in custody so that a DVPN can be served.
- Take into consideration where the incident occurred and where the victim resides when making a decision about whether to authorise a DVPN and apply for a DVPO. If the incident took place:
    - Outside of West Yorkshire but the victim resides in West Yorkshire, the presumption will be in favour of authorising a DVPN / DVPO; or
    - In West Yorkshire but the victim resides outside West Yorkshire and in a Force area that has not yet adopted this legislation, consider if the case qualifies for a DVPN on a 'case by case' basis. The presumption will be in favour of West Yorkshire Police proceeding by sending a police officer into another court jurisdiction or by making the application to Leeds Magistrate Court.
  - Ensure district senior leadership teams supervise the ongoing management of DVPO cases and this includes a proactive multi-agency approach and investigators/co-ordinators monitor, evaluate and update risk assessments and management plans.
  - Refer DVPO cases involving children to children's services as per local procedures and, if appropriate, education and health services.
  - Refer cases to MARAC and instigate safety planning regardless of whether a DVPN/DVPO is issued or not. District SGU's:
    - Will take cases to MARAC where a notice or order is issued and the case is **high risk**; and
    - Are encouraged to share all notices and orders with MARAC partners even if the case is deemed as 'medium risk.'
  - Record all information for the DVPN / DVPO process on Niche and monitor performance.
  - Endeavour to recover the payments for the contested DVPO applications (not breaches) made to Her Majesty's Courts and Tribunal Service from the perpetrator by applying to the Magistrates Court.
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## Domestic Violence Protection Notices - Responsibilities

### All Police Officers and Police Staff

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#### Initial Action

Police officers and police staff are responsible for:

- Gathering evidence and information early on and, considering the incident as a whole, collating information to give to the AO, including:
  - State of the scene, injuries and demeanour of those present;
  - Previous calls to the address;

- The presence and welfare of children under the age of 18 whose interests you consider relevant to the issuing of the DVPN (whether they are related to the perpetrator or not);
  - Other witness accounts; and
  - Any other available intelligence held by other agencies.
  - Completing a DASH risk assessment. Those assessed as 'standard' will be excluded from the DVPN/DVPO process once this risk grading has been confirmed by the gatekeeper.
  - Completing the DVPN form before reaching an NFA conclusion and creating a DVPN occurrence on Niche.
  - Finding out what the complainant thinks about a DVPO before applying for one.
  - Making contact with a gatekeeper as soon as possible, particularly if this is outside normal office hours and the night cadre detective inspector has to be contacted using existing Force protocols. The gatekeeper can be bypassed and the authorising officer (superintendent) approached directly if this can be justified.
  - Completing forms DVPO1, 2 and 3 on Niche and ask a detective inspector to check they are correct and suitable for a superintendent to consider.
  - Being present when the perpetrator is allowed one occasion to take essential items out of the home, in consultation with the victim. This may depend on their circumstances, the length of time they are barred (potentially 28 days if the DVPO is authorised at court) and their explanation of what they need and why, e.g. money, personal papers, clothes, toiletries, medicines and items that they need for work.
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**Serving a DVPN**

Police officers and police staff are responsible for:

- Serving the notice, in writing, on the perpetrator in person.
- Sending an email to court to book the hearing, as per the protocol.
- Asking the perpetrator for a residential address for the purpose of serving them with the Notice of the Hearing of the application for the DVPO (summons). Ideally, this information will be known before serving the DVPN so that the 'exclusion zone' takes into consideration this new address where the perpetrator plans to reside. The perpetrator does not have to provide an address (and this cannot be grounds for seeking to remand them in custody) but, if not, they should be informed that the court may hear the application in their absence. Ordinarily, the Notice of Hearing will be served with the DVPN except for cases outside of West Yorkshire court jurisdiction.
- Asking for other methods of contacting them in order to help determine the 'exclusion zone' and to enable enquiries to be made to arrest them if the DVPN or DVPO is breached, e.g.:
  - Work address;
  - Email address;
  - Any social media address; and
  - Any telephone numbers.

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- Ensuring that the alleged perpetrator fully understands the prohibitions placed on them, the possible consequences if they breach the conditions and their responsibility to comply with them regardless of the actions or contact from the victim.
- If served in the custody suite, recording on camera/audio, on Niche and in pocket notebooks.
- If served elsewhere, recording on body worn device if possible, on Niche and in pocket notebooks and witnessed by a colleague.
- Scanning the completed DVPN onto the Niche occurrence to send a high priority task to the PNC Bureau to apply the conditions of the DVPN on the offender.
- Recording the response of the alleged perpetrator, including whether they intend to attend/not attend the court hearing for the DVPO as this information is crucial for the officer making the application.
- If the perpetrator is made homeless, giving them contact details of suitable local emergency accommodation. Partner agencies in West Yorkshire are aware of the DVPN/DVPO process and emergency accommodation should be available. When a breach of Article 3 of the Human Rights Act 1998 is so immediate and foreseeable, then the condition of barring them from entering their home should not be imposed.
- Issuing the perpetrator with information regarding organisations and voluntary agencies located within their district that provide support services and deliver effective interventions. If the perpetrator is female, services may have to be obtained outside of the district/West Yorkshire area.
- Tasking the dedicated DVPO team to prepare the DVPO application. Please Note: SGU will prepare the application if it is to be heard on Saturday morning.
- Tasking the district Integrated Offender Management (IOM) team to monitor compliance.

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**Informing the Victim**

As soon as the decision has been taken to issue a DVPN and, in any case, before the perpetrator is released (if in custody), police officers and police staff are responsible for:

- Informing the victim:
  - About the prohibitions contained within the DVPN and exactly what they mean;
  - What action that they should take if the perpetrator breaches any of the prohibitive conditions;
  - Of the date, time and court of the subsequent hearing of the application for the DVPO. If this information is not known at the time, owing to the court jurisdiction being outside of West Yorkshire, that this information will be relayed to the victim as soon as it is known; and
  - That West Yorkshire Police 'proactively' police DVPOs which means their neighbourhood policing team will contact them and regularly conduct 'home visits' and will ask to 'search' the home to check the perpetrator is not present.

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- Providing them with:
    - A copy of the DVPN, which can either be in person, via email or post;
    - The identity and contact details of the OIC, any support caseworker or Independent Domestic Violence Advocate (IDVA) who will be contacting them;
    - An information leaflet which contains details of organisations and voluntary agencies that provide programmes and associated support services; and
    - Information about Cocoon Watch and Police Watch.
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**DVPN Not  
Authorised**

Police officers and police staff are responsible for:

- Recording the supervisor's rationale on the OEL.
  - Informing the victim and ensuring that they have been signposted to specialist support agencies.
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**Breach of a  
DVPN**

Where the police have reasonable grounds to believe that the DVPN has been breached, police officers and police staff are responsible for:

- Making efforts to arrest the perpetrator at the earliest available opportunity. Breaching a DVPN is not a criminal offence so there is no power of entry to arrest so you must use s17 PACE, prevent a breach of the peace or other criminal offence that has been committed. Neither is there a power to take a person's fingerprints, photograph or DNA.
- Updating PNC regarding the breach as soon as practicable and the wanted/missing report must clearly outline the circumstances of the breach and the powers for dealing with it.
- Identifying further substantive criminal offences and gathering all available evidence to support taking action regarding the breach and prosecuting criminal offences. The criminal offence, if proven, must take priority but consideration should be given to pursuing the breach of DVPN, to secure a DVPO and support an application to 'remand in custody' until they can be brought before the Magistrates Court for the hearing (within 24 hours of arrest). A breach of DVPN on its own, only gives the police the power to arrest and detain the perpetrator for the next available court and only serves to bring forward the DVPO hearing.
- Formally interviewing them regarding the breach so that they have the opportunity to explain their actions, admit or deny the breach and/or put forward any alibi or defence if this will assist the police and defence in preparing for the hearing, avoiding adjournments and further distressing the victim.
- Informing the victim as soon as practicable and, if necessary, taking alternative protective measures.
- Tasking the DVPO team to ensure that they are aware of the breach of DVPN.
- Informing any other agency already notified that the notice has been issued.

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## PNC Bureau

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### **DVPN Authorised**

As the DVPN is created within Niche, a high priority task is passed to the PNC Bureau which is responsible for, as soon as is practicable:

- Updating PNC with the:
    - Details of the individual subject of a DVPN;
    - Date, time and police force issuing the DVPN and any pre-arranged court hearing for the application of the DVPO;
    - List of the prohibitive conditions;
    - Power of arrest without warrant for a breach; and
    - OIC details and a 24/7 contact which should be the district safeguarding/domestic abuse unit/district hub supervisor.
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## Detective Inspector - Gatekeeper

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### **Responsibilities**

Detective inspectors, who are acting as gatekeepers, are responsible for:

- Determining the suitability of the request before contacting an authorising officer to considering granting a DVPN/DVPO.
  - Reviewing any criminal investigation, ensuring that all enquiries have been exhausted and offering appropriate guidance to the response / investigating officer. This also includes reviews of any 'non crime' incidents where the nature of the conduct together with any previous incidents may or would amount to a criminal offence under the Protection from Harassment Act 1997. This avoids 'repeat' incidents being treated in isolation where a restraining order would be preferable.
  - If deem a DVPN/DVPO is appropriate for the case in question, contacting an authorising officer as soon as possible, particularly if this is outside normal office hours where the PACE superintendent has to be contacted using existing Force protocols.
  - Requesting appropriate conditions are considered.
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## Superintendent or Above - Authorising Officer (AO)

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### **Responsibilities**

Superintendents or above, who are acting as AOs, are responsible for:

- Authorising the issue of a DVPN to the perpetrator when there are reasonable grounds to believe that:
  - They have been violent towards, or has threatened violence towards an associated person; and
  - It is necessary to protect that person from violence or a threat of violence by them.



- Considering, with regards to necessity to prevent further violence or threat of violence:
    - What the DVPN seeks to achieve and why this cannot be obtained by any other or less disruptive means, i.e. NFA, bail conditions not applicable or the perpetrator has accepted a formal police caution;
    - The risk of harm being too great to allow the perpetrator to return to the address and, therefore, a risk management plan is not suitable on its own; or
    - Removing the perpetrator from the address and to continue to deny access to them, by issuing a DVPN.
  - Taking reasonable steps to ascertain:
    - The welfare of any person under the age of 18 whose interests are considered relevant;
    - The opinion of the person for whose protection the DVPN would be issued;
    - Any representations made by the perpetrator;
    - The opinion of any other associated person who lives in the premises to which the DVPN would relate; and
    - The prohibitive conditions that must apply which are proportionate, necessary and justified to both the victim and perpetrator, and explicitly referencing particular acts (of molestation, molestation in general or both), premises (eviction or exclusion of the victim, perpetrator leaving and or not entering or coming within a specified distance).
  - If the victim has provided a statement at any point in the proceedings, considering whether to base the decision to issue a DVPN on all other available evidence and not rely solely on the victim's statement (i.e. not basing their decision on the victim's statement if they aren't going to court in relation to the application for a DVPO).
  - Within the prohibitions, considering stipulating that officers are present while the perpetrator is allowed (on one occasion only) to take essential items out of the home.
  - Only authorising a DVPN when linked to a police caution in exceptional circumstances, i.e. risk of future harm to the victim has been identified, e.g. via the DASH risk assessment. In these cases charging and obtaining a restraining order would be the preferred option.
  - Challenging different advice from the CPS, to the above, using the charge 'appeal' process via a detective inspector or detective chief inspector.
  - Signing the DVPN. The courts will accept an 'electronic' signature if it can be proven to originate from the author. This is evidenced by the authorising officer using their 'log in' numbers on Niche when completing the required forms and providing an update on the Niche OEL.
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## Domestic Violence Protection Orders – Responsibilities

### Domestic Violence Protection Order (DVPO) Team

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#### Important

If the DVPO application is to be heard at the Saturday morning court, specially trained officers within the Safeguarding Unit/Domestic Abuse Unit are responsible for the below tasks.

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#### Applications

The DVPO team is responsible for:

- Researching police systems to gather evidence to prepare the DVPO application.
  - Completing an overarching statement.
  - Applying for a DVPO to Leeds Magistrates Court sitting in its civil capacity no later than 48 hours after the DVPN is served in accordance with the protocol.
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#### Granted

The DVPO team is responsible for:

- Scanning a copy onto a new DVPO Niche occurrence so that the PNC Bureau is tasked to update PNC as soon as practicable with the conditions of the DVPO and remove the DVPN.
- When a DVPO is contested, updating the DVPO occurrence summary section regarding 'costs awarded' or 'costs not awarded' and notifying Business Support so they can raise an invoice.
- Providing the victim with a copy of the DVPO either in person, via email or by post and informing them:
  - About the prohibitions contained in the DVPO and what they mean;
  - Of the duration of the DVPO including the expiry date;
  - What action they should take if the alleged perpetrator breaches any of the prohibitive conditions;
  - That the responsibility for complying with DVPO conditions rests primarily with the perpetrator, however, they should cease all contact for the duration of the DVPO;
  - Of the identity and contact details of the OIC, support caseworker or IDVA who will be making contact with them; and
  - That West Yorkshire Police 'proactively' police DVPOs which means their neighbourhood policing team will contact them and regularly conduct 'home visits' and will ask to 'search' the home to check the perpetrator is not present.
- Informing Children's Social Care of the DVPO, including the restrictions on the perpetrator, if children are involved.
- Informing support agencies whom the victim may already be in contact with.
- Informing the district SGU and IOM that the DVPO is in place.
- Tasking the OIC on Niche.

- Tasking the District Intelligence Unit (DIU) for Corvus tasking.
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**Refused**

The DVPO team is responsible for, as soon as practicable:

- Informing the victim that a DVPO has not been granted and that the prohibitions contained within the DVPN no longer apply.
  - Informing all other relevant agencies.
  - Updating Niche so that the PNC Bureau is tasked to update PNC as soon as practicable and remove the DVPN.
  - Updating the district SGU and IOM that the DVPO has not been granted.
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**Breach of DVPO**

The DVPO team is responsible for:

- Presenting to the court before the end of the period of 24 hours beginning with the time of the arrest if this is to be heard Monday-Friday. District staff are responsible for presenting the breach on Saturday morning.
  - Informing the SGU/DAT teams of the outcome of the breach.
  - Informing the victim and relevant agencies of the outcome of the breach.
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**Contact Details**

The DVPO team have been operational since the 12<sup>th</sup> February 2018. See intranet for more information on the team and contact details.

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**Rejecting a DVPO**

The DVPO team have the authority to challenge any DVPO application brought to their attention based on the information presented, if there are inaccuracies or omissions.

If the DVPO team feel that it is most appropriate to reject a DVPN/O sent by district, the DVPO Supervisor is responsible for:

- Consulting with the DCI of the Safeguarding Central Governance Unit.
  - Making contact with the Sergeant, Inspector (gatekeeper) and the Superintendent to consult with them on the proposed decision, including providing a full rationale and noting any contrary views.
  - Documenting the full rationale as to why the DVPO team have not taken the application on the OEL of the DVPN and crime occurrences, including details of the conversation had by the officers at District.
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## District Safeguarding Unit/Domestic Abuse Unit

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**Important**

**If the DVPO application is to be heard at the Saturday morning court, specially trained officers within the Safeguarding Unit/Domestic Abuse Unit are responsible for carrying out the duties of the DVPO team (above).**

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**Granted**

As soon as is practicable, a specially trained police officer is responsible for:

- Notifying the perpetrator by any means possible (in person, 'phone, etc.) of the:
  - Prohibitions contained within the order and what they mean;
  - Their responsibility to comply with the prohibitions and that a breach of any or all of the conditions may lead to them being arrested for the breach and a possible fine up to a maximum of £5000 or two months imprisonment; and
  - Duration of the DVPO, including the expiry date.

**NB This is particularly important if they are not legally represented or if they are not at court when the DVPO is granted.**

- Recording the notification and or all attempts to notify the perpetrator on Niche. If any 'breach' of the DVPO is subsequently committed the perpetrators knowledge of it being granted assists further in proving the breach.
  - If the 'one access visit' to recover personal belongings owned by the perpetrator has not been completed during the 48 hours of the DVPN, doing this during the DVPO if deemed appropriate and necessary in the circumstances.
  - Documenting on the OEL a multi-agency intervention and management plan to support and safeguard the victim and any children.
  - Considering a Clare's Law disclosure under 'Right to Know.' (See DVDS policy).
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**Refused**

A specially trained police officer is responsible for:

- Reviewing the DASH risk assessment and, if necessary, taking alternative protective measures.
  - Ensuring that the victim is signposted to relevant support agencies.
  - Considering a Clare's Law disclosure under 'Right to Know.' (See DVDS policy).
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**Lapsed**

A specially trained police officer is responsible for:

- Ensuring that the perpetrator and the person for whose protection the DVPO was made, are aware of the order lapsing and that the prohibitions cease to be in effect.
  - Recording all decisions made as a result of this process in a format that would stand a formal inspection review on Niche.
  - Sharing information with all relevant agencies, as appropriate.
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**Breach of a DVPO**

A specially trained police officer is responsible for:

- Making efforts to arrest the perpetrator at the earliest available opportunity. Breaching a DVPO is not a criminal offence so there is no power of entry to arrest so you must use s17 PACE, prevent a breach of the peace or other criminal offence that has been committed. Neither is there a power to take a person's fingerprints, photograph or DNA.

- Updating PNC regarding the breach as soon as practicable and the wanted/missing report must clearly outline the circumstances of the breach and the powers for dealing with the breach.
  - Arresting and remanding the perpetrator in custody and tasking the DVPO team to present to the court before the end of the period of 24 hours beginning with the time of the arrest if this is to be heard Monday-Friday. District staff are responsible for presenting the breach on Saturday morning.
  - Completing DVPO4 and attaching to the occurrence.
  - If arrested in another district or police force area, notifying and transferring the perpetrator to the original district's custody suite so that they can be interviewed and the case can be heard in the Magistrates Court which dealt with the DVPO. If this isn't possible because, e.g. due to time constraints (24 hours from the time of their arrest), the other district/police force should interview, present the case to their local Magistrates Court and conduct the initial prosecution for the breach (unless they have assurances from the other district/police force that they can and will complete this). The proceedings should be transferred to the Magistrates Court originally dealing with the DVPO.
  - Informing the victim as soon as practicable and reviewing the DASH risk assessment and, if necessary, taking alternative protective measures.
  - Informing any other agency already notified of the issuing of the notice.
  - Formally interviewing them regarding the breach so that they have the opportunity to explain their actions, admit or deny the breach and/or put forward any alibi or defence if this will assist the police and defence in preparing for the hearing, avoiding adjournments and further distressing the victim.
  - Prosecuting the case jointly with the CPS for the criminal offence that has been committed and the breach of the DVPO at the same time.
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## Integrated Offender Management (IOM)

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### Granted

The IOM team is responsible for:

- Engaging with the subject of the DVPO and endeavouring to provide support and assistance to reduce their offending behaviour by offering pathways to support agencies, for example assistance with anger management or substance abuse or help with housing.
  - Discussing the subject of the DVPO with partners within the risk of harm cohort.
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## District Intelligence Units (DIU)

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### Granted

District DIUs are responsible for:

- Creating Corvus tasking in order for districts to proactively police DVPOs.
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## Neighbourhood Policing Teams (NPT)

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### Granted

When tasked, NPT officers are responsible for:

- 'Proactively' policing DVPOs by contacting the victim and regularly conducting 'home visits' to check that the perpetrator is not present.
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## PNC Bureau

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### Granted

When a DVPO is granted via Niche, a task is passed to the PNC Bureau which is responsible for, as soon as is practicable:

- Updating PNC with the:
    - Details of the individual subject of a DVPO;
    - Date, time and court issuing the DVPO and its duration/ expiry date and list of prohibitive conditions;
    - Power of arrest without warrant for a breach; and
    - OIC details and the district Safeguarding/Domestic Abuse Unit contact details.
  - Removing the DVPN.
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### Refused

If the decision is made by the Magistrate's Court not to grant a DVPO, the DVPN will cease to be in effect. Once Niche is updated, a task is passed to the PNC Bureau which is responsible for, as soon as is practicable, removing the DVPN.

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### Lapsed

When the DVPO lapses on the expiry date, PNC Bureau must remove the relevant report / marker from PNC.

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## Additional Information

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### Compliance

This policy complies with the following legislation, policy and guidance:

- Crime and Security Act 2010 Sections 24 to 30
  - Criminal Justice and Public Order Act 1994 Sections 36 & 37
  - Protection from Harassment Act 1997
  - Human Rights Act 1998
  - Police and Criminal Evidence Act (PACE) 1984
  - Data Protection Act 2018
  - APP Intelligence management
  - APP Investigation
  - Home Office's Provision of therapy for vulnerable or intimidated adult witnesses prior to a criminal trial – practice guidance
  - DVPN/DVPO iLearn
  - Domestic Abuse policy
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### Supporting Information

The supporting information for this policy can be accessed online.

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