



Your Court, Your Safety

**A guide to going
to court and
getting help with
domestic violence**



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Disclaimer: While every effort has been made to ensure that the information in this booklet is as up to date and accurate as possible, it is not a substitute for legal advice. The law is complex and may change. Readers are advised to seek specific legal advice in relation to their particular situation.

Information for service providers

This booklet is intended to provide victims of domestic and family violence with comprehensive information about the legal process for domestic violence and a range of support services available in New South Wales. It is a result of research conducted by the Department of Justice and Attorney General. Victims of domestic and family violence were found to need access to information about the legal process before they go to court, to enable them to participate fully in the justice process and empower them to make decisions about their families' safety. This resource is best given to victims at their first contact with justice agencies and support services, to serve as a resource throughout the court process and to aid their recovery from violence.

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Section 1

Introduction

If you are reading this booklet you are likely to have experienced domestic and family violence. This booklet will give you information about the legal process for domestic and family violence, help you prepare for court and explain your rights as a victim of crime. It will also tell you about support available from NSW Government departments and other services to help you recover from domestic and family violence and make positive plans for your future.

What is domestic and family violence?

Domestic and family violence is a pattern of abusive behaviour. It is the use of violence and abuse by one person to gain and maintain power over another person with whom they are in a close personal or family relationship.

Domestic and family violence:

- occurs in many forms of relationships. This includes between partners or ex-partners who have been married or in de facto relationships, between children and parents, in same-sex relationships, towards older people, and between people sharing a home

- can happen regardless of culture, race, background, income level, age group, social status, abilities, sexual preference or religion
- is not an ordinary relationship problem or anger management issue. The abusive person is responsible for their actions. Physical or sexual assaults are a crime whether they happen in your home or on the street
- can make you feel uncomfortable, scared and unsafe. It can be subtle or blatant.

Domestic and family violence may include the following sorts of behaviour:

Psychological or emotional abuse: For example, attempts to make you feel worthless or afraid, using intimidation, threats to hurt you, your children or your pets, or threats of suicide.

Physical abuse: This is the use of violence to hurt, control or intimidate you. This may include hitting, punching, slapping, kicking, strangling or using weapons.

Sexual abuse: This is the use of sex as a way to control, hurt and intimidate you. This may include sexual assault, forcing you to view pornography, or participate in other unwanted sexual acts.

Financial abuse: This includes restricting access to money, threatening to withdraw financial support or making you responsible for debts that are not your own. This can affect your ability to care for your family or leave an abusive relationship.

Social control: This includes isolating you from family, friends and the community by restricting access to family or cultural events and activities like religious meetings or education.

Stalking: This is when a person follows or watches you, or visits places where they know you will be, to try to monitor your whereabouts and intimidate you.

Intimidation: This is abusive behaviour to make you fearful. It can be obvious or subtle. It includes threatening statements, looks or gestures, or other behaviour that makes you feel afraid.

Harassment: This is repeated unwanted contact by the abusive person. It can include contact made directly, by phone, email or on social networking websites, or through another person.

Section 2

Domestic and family violence and the legal system

The legal system in NSW has two ways of responding to domestic and family violence:

- preventing future violence, through apprehended domestic violence orders (ADVOs)
- dealing with crimes that have already occurred. If there is evidence that a crime has been committed, a defendant will be charged with a criminal offence.

This section explains the legal process for ADVOs, what happens when a person is charged, and answers some frequently asked questions.

Apprehended domestic violence orders

What is an ADVO?

An apprehended domestic violence order or ADVO is an order that a court makes to protect people. The order tells the defendant what they must not do. The defendant must obey the order.

The ADVO will refer to you as the 'protected person' or 'the person in need of protection', and 'the defendant' is the person whose behaviour the order restricts.

The Local Court process for ADVOs

The application: Under NSW law, if a police officer has a concern for your safety they can apply to the Local Court for an ADVO on your behalf. You can also contact a police station to discuss the need for an ADVO.

You can also apply directly for an ADVO at any Local Court registry.

If possible, it is best to have police apply for the ADVO, as they know the legal process and can represent you in court.

Provisional or interim order:

If police apply for an urgent order after they attend an incident of violence, it is called a provisional order. A provisional order is a temporary ADVO and lasts for 28 days, or until the Court makes another order.

If you need immediate protection and apply directly to the Local Court, the Court may make an interim order. This order lasts from one court date to the next, until the magistrate makes a final decision. An interim order can be made without the defendant being notified first. If you need an urgent order, explain why you need it to Local Court staff.

Both provisional and interim orders can be enforced once a copy has been given to the defendant.

The mention: The first time you go to court is called a mention. A number of things will happen there:

- The magistrate will check to see that the defendant has been 'served' or given a copy of the application notice. If the defendant has not been served or is not at court the magistrate may adjourn or postpone the case for a week or so to allow the defendant to be in court

- The magistrate will ask the defendant whether they agree to the order, do not agree or 'consent without admissions'. Consent without admissions means that they do not admit that anything occurred, but agree that the Court can make an ADVO. If they agree or consent without admissions an order will be made immediately

- If the defendant does not agree to the order, the magistrate will set a date for the protected person and the defendant to come back to court for a hearing. Sometimes there will be another mention before the hearing to allow the defendant to seek legal advice, or for another legal reason. Check with the Local Court registry or the police officer in charge of your case about when the matter will come back to court

→ The magistrate will ask which orders are requested on the ADVO. Changes to a provisional order can also be made at this time. Information about the types of orders that can be made is included later in this section

→ The magistrate may make an interim order or continue a provisional order. An interim order is in place until a final decision is made. The defendant must obey an interim or provisional order.

The hearing: At a hearing the magistrate examines the evidence and makes a decision about the ADVO.

You may be asked to give evidence about what happened to make you feel fearful. There are different steps to giving evidence in a court case:

→ **Evidence-in-chief** is when the police prosecutor asks you questions about what happened

→ **Cross-examination** is when the defence lawyer asks you questions

→ **Re-examination** is when the prosecutor sometimes decides to ask you more questions

→ **The magistrate** may also ask you questions about your evidence.

If police applied for the order, a prosecutor will ask you questions and question the defendant and witnesses.

In private applications your solicitor will ask the questions. If you do not have a solicitor to represent you, you will need to ask questions of the defendant and witnesses. The Women's Domestic Violence Advocacy Service may be able to help you to arrange legal representation. Contact details are on page 19.

The magistrate's decision: The magistrate's decision is based on whether your fear and/or the fears that police hold for your safety are reasonable. The magistrate will decide on the balance of probabilities whether there are reasonable grounds to make an ADVO.

The magistrate can make an ADVO even if you are not at court, if they are satisfied that you have been a victim of physical abuse and an ADVO is necessary to protect you from future violence.

If the ADVO is not granted, you can appeal this decision within 28 days.

Appealing the decision: If the Local Court or Children's Court dismisses an application for an ADVO, either you or the prosecutor may lodge an appeal in the District Court. The appeal notice must be made within 28 days after the original ADVO application was dismissed.

The staff at your Local Court office can give you information about making an appeal to the District Court for an ADVO. Contact the Police if a police officer made the original application. If you made the application, it is recommended that you arrange legal representation through Legal Aid NSW or by hiring a solicitor.

What orders can a court make?

Standard orders

All ADVOs contain standard orders that the defendant must not:

- assault, molest, harass, threaten or interfere with you
- intimidate you
- stalk you.

These three mandatory conditions also protect anyone in a domestic relationship with you, such as your children, or a new partner.

Other orders

A court can also make orders telling the defendant that they must not:

- live in the family home
- approach or enter places where you live, work or visit regularly
- approach or contact you
- go to your children's school or child care centre

- approach you, or places you may be, after drinking alcohol or taking drugs
- possess any firearms
- damage your property.

The magistrate can also make other conditions as needed. You can discuss the need for other orders with a Police Domestic Violence Liaison Officer (DVLO) or domestic violence support worker, who can ask the police prosecutor to request that the orders be made.

Exclusion orders

An exclusion order within an ADVO restricts the defendant from living in your home, visiting or going near your home. This kind of order can be made even if the defendant normally lives with you, and even if they own the home.

The Court will look at a number of things when deciding, such as:

- the safety and protection of you and your children, if such an order is not made
- any hardship it may cause
- the accommodation needs of you and your children, and the defendant.

When deciding whether you should ask for an exclusion order, think about your safety and discuss this carefully with a support worker. They can help you consider the risks and benefits.

It is important that you talk about this option with a lawyer, court support worker or police officer when you apply for an ADVO.

Some areas of NSW have a Staying Home Leaving Violence (SHLV) project. The program gives support and help to women who want to remain safely in the family home or another home of their choice. Contact the Community Services Domestic Violence (DV) Line on 1800 656 463 to see if there is a SHLV project in your area.

Property recovery orders

A magistrate can also make an order to allow you to recover your property from the defendant, or allow the defendant to collect their property from your home. This kind of order is not intended to resolve disputes about who owns personal property, but it can ensure that items can be recovered without further problems occurring.

You, the police, or the defendant can request the order, or the magistrate can decide that it is necessary. The order can specify the items to be collected, the time of collection, and whether the defendant must be accompanied by the police or another person. Such an order does not mean that a person has the right to enter another person's property by force.

Criminal charges for domestic violence

If a person is charged with a criminal offence, the legal process can be different depending on the seriousness of the charges.

Most charges for domestic violence are heard in the Local Court and prosecuted by a police prosecutor. Matters such as sexual assaults or physical assaults where someone is badly injured might be transferred to the District Court where the NSW Office of the Director of Public Prosecutions prosecutes the case.

Local Court process if a person is charged

After an incident of domestic violence police will investigate and collect any evidence. If they find evidence that a crime was committed, police will charge the accused with an offence. If the offence is against a person with whom they are in a domestic relationship (a partner, ex-partner, family member or someone they live with), this is called a domestic violence offence.

If a person is charged with a domestic violence offence, police are required by law to apply for an ADVO. Generally the Local Court will deal with the criminal charges and the ADVO at the same time.

An overview of the process

Police prepare a brief of

evidence: When someone is charged with an offence, a police officer must prepare a brief (or folder) of evidence. It will include all relevant witness statements, photographs and other evidence.

A copy of the brief of evidence must be given to the prosecutor and to the accused or their legal representative. In domestic violence cases, key parts of this brief are provided the first time the case goes to court in order to reduce the time it takes to go through the court process. The rest of the brief will be served at a later time if the matter is defended.

The mention: The first time the matter goes to court is called a mention. The process for mentions of charges in the Local Court is similar to the ADVO process, which is described on page 5.

The accused is asked whether they are prepared to enter a plea (they either plead guilty or not guilty). If they have not yet had legal advice they will be given the opportunity to do so. If so, the Court will adjourn (reschedule) the matter for a week or more.

In criminal cases there is often more than one mention. It is important that you know when you need to return to court. You can find out when the next court date is from the police or court staff.

If the accused pleads guilty there will be no hearing and the matter will go straight to sentencing.

The hearing: A hearing for a charge is also similar to the ADVO process, which is outlined on page 6. At a hearing the magistrate listens to or examines the evidence and makes a decision about the charges.

At the hearing you may be asked to give evidence about the events that led to the charges. The accused and other witnesses may also give evidence. For more information about giving evidence at court see page 17.

In a criminal matter, the prosecution must prove their case 'beyond reasonable doubt'. This differs from an ADVO, where the magistrate decides 'on the balance of probabilities'.

Sentencing: In criminal cases, if the accused is found guilty the magistrate may give a sentence such as a bond, fine or prison sentence or other penalty.

If the magistrate needs more information to help them decide on the appropriate sentence, sentencing may take place on another day.

Appeals: Sometimes an appeal is made to the District Court to have the conviction overturned or the sentence changed.

If there is an appeal the Office of the Director of Public Prosecutions will take over the case instead of the Police. A crown prosecutor will act on behalf of the victim in court, instead of a police prosecutor.

More information about support for victims and witnesses in the District Court is included on page 19.

Information about court services for people with a disability is included on page 47.

Frequently asked questions about the legal process, charges and ADVOs

Q What's the difference between an AVO and an ADVO?

A An Apprehended Violence Order (AVO) is an order made by the court to protect people from future violence.

When there is a domestic relationship between the defendant and the protected person the order is called an Apprehended Domestic Violence Order (ADVO). A domestic relationship is one where the two people:

- have been in an intimate relationship (married, de facto, boyfriend or girlfriend whether or not their relationship has been sexual)
- are family members
- have been in a relationship where one provides care for the other
- have lived in the same household
- have an Aboriginal kinship relationship.

Q When does an ADVO begin and end?

A If the defendant is in court when an ADVO is made, the order begins immediately. If the defendant is not in court when an ADVO is made, the order will not begin until they are given or ‘served with’ a copy of the ADVO.

The ADVO will last for the period of time written in the order. Orders usually last one or two years. The magistrate can make a longer order if there are good reasons for doing so.

Q Is an ADVO a criminal charge?

A No. An ADVO is not a criminal charge so the person named in the order will not get a criminal record. It is a crime to disobey an ADVO.

Q What happens if the defendant disobeys the ADVO?

A If the defendant disobeys any of the orders in the ADVO, contact police immediately. Call ‘000’ if you are in immediate danger, otherwise go to your local police station and report the breach as soon as possible.

If the defendant disobeys an ADVO, they are seen to ‘breach’ or ‘contravene’ the order, and may be arrested and charged. The maximum penalty for disobeying an ADVO is two years’ imprisonment and/or a fine of \$5,500.

Q What if I don’t want the ADVO?

A Sometimes victims are fearful or reluctant about taking out an ADVO. To lessen the pressure victims might get from defendants, the law says police must take action if they have concerns for the safety of a victim—even if the victim does not want an ADVO. Talk to a police officer about any concerns you have and why they are making a court application.

Q Can an ADVO be cancelled or changed?

A ADVOs can be changed or cancelled by applying to the Local Court. If children are named on the ADVO, then only the Police can ask the court for it to be cancelled or changed. If you would like more information about changing or cancelling an ADVO, contact your Police Domestic Violence Liaison Officer (DVLO) or Local Court office.

Q Can an ADVO be extended?

A Yes. Before the order expires, if you still have fears for your safety you can apply to have the order extended. If a police officer applied for the order, discuss an extension with the DVLO or contact your Local Court registry. Try to apply to the court at least six weeks before the order expires to avoid having to apply for a new order.

Q Is there any cost for applications for an ADVO?

A There is no cost to apply for an ADVO, however, in cases where the Local Court believes that an application is frivolous (where there is no real basis for one) or vexatious (where it is made to threaten or annoy the other person) the court can award costs against the applicant.

Q What is a cross application?

A A cross application is where the defendant applies for an ADVO against the protected person. If a defendant makes a cross application the Local Court is obliged to consider their application. Support and legal representation for women who are defendants in ADVO matters, including cross applications, may be available from the Women's Domestic Violence Court Advocacy Service (WDVCAS).

Q Do I need a solicitor?

A If police apply for your ADVO, the police prosecutor will usually represent you in court, so you will not need a private solicitor.

If you applied for an ADVO yourself, you can have a solicitor represent you, or you can represent yourself. Representation for women in private applications for ADVOS may be available through the WDVCAS.

Q Is my family protected by the ADVO?

A The standard orders in an ADVO automatically apply to people who are in a domestic relationship with you. They protect members of your family, your children, or a new partner, if they are also at risk of violence from the defendant.

If additional orders are required to protect these people, you can ask the Local Court to have them named on the order. Talk to the Police DVLO about this, or if you are applying privately for the ADVO, explain to the magistrate why there are also concerns for their safety.

In NSW the law requires that children of the protected person are named on an ADVO, unless there is a good reason for not doing so. If children are named on the ADVO, this can affect orders made by the Family Court. If you have children it is important to get legal advice about the implications of the ADVO.

Q Can children apply for ADVOs?

A If you are a child or young person aged under 16 years a police officer must apply for an ADVO on your behalf. They must also apply to change or revoke the order.

Q Where can I get more information about ADVOs or criminal charges?

A LawAccess NSW on 1300 888 529 or on their website www.lawaccess.nsw.gov.au

→ Wurringa Baiya Aboriginal Women's Legal Service on 1800 686 587

→ Domestic Violence Liaison Officer at your local police station

→ Women's Domestic Violence Court Advocacy Service at your local court – for details visit the website at www.legalaid.nsw.gov.au and go to >get legal help>specialist services

→ Department of Justice and Attorney General's Victims Services website at www.lawlink.nsw.gov.au/vs Justice Journey section

→ Women's Legal Services NSW – Domestic Violence Advocacy Service on 02 8745 6999 or Rural Free Call Line 1800 810 784.

Q What about charges heard in the District Court?

A This booklet covers the Local Court process, but there is information about the District Court process on the Department of Justice and Attorney General's Victims Services website: www.lawlink.nsw.gov.au/vs



Section 3

Preparing for court

It is normal to have many questions when preparing to go to court. This section has answers to some common questions and explains where you can get assistance to prepare for court.

Common questions about going to court

Q When do I have to go to court?

A The date and time that you need to go to court will be on your interim order – the court papers that police gave you or the court posted to you. If the magistrate reschedules to another date, she or he will tell you when to come back. If in doubt, contact the Local Court registry.

Arrive at the court at least 30 minutes before the mention or hearing to talk to the domestic violence support workers or the police prosecutor about your case.

It is important that you attend court at the first mention, and all other mentions or hearings, unless the magistrate or police tell you that you do not have to attend.

Q How long will I have to be at court?

A The amount of time you have to be at court depends on whether you are there for a mention or for a hearing. Mentions are usually fairly short sessions. There may be many cases listed on the same day, so it is likely that there will be some waiting. Hearings can last a day or more.

It is best to prepare to spend most of a day at court and bring food to eat in the waiting room.

Usual court sitting hours are 9.30am to 4pm Monday to Friday. The court usually breaks for morning tea at about 11.30am and for lunch between 1pm and 2pm.

Q Do I have to give evidence?

A In ADVO applications, some magistrates require the person in need of protection to enter the witness box, to swear that the information in their application is truthful and correct.

If there is an application for an ADVO and a hearing is held, or if the person who harmed you is charged with an offence, it is likely that you will be called as a prosecution witness when the case goes to court.

Q Can I give evidence via Audio Visual Link (AVL) at the hearing?

A Children under 16 or people with a cognitive impairment have an automatic right to give their evidence via AVL when going to court for domestic violence. Other victims of violence can also ask the court if they can give evidence in the same way. If you would like to give evidence via AVL discuss this with the Police prosecutor, DVLO or the court staff.

Q Can I have an interpreter?

A Yes. If you find it hard to understand or speak English an interpreter can be provided. Tell the police officer involved in your case as soon as possible before going to court. They will arrange an interpreter for you.

Q Can the court assist with access or other needs?

A Yes. If you have a disability or special needs for giving your evidence tell the court staff, your domestic violence support worker, or the DVLO, prosecutor, or police officer in charge of your case.

Q Who is who in the court?

A If you have never been in a courtroom before you may feel a bit worried about what to expect on the day. There is helpful information for you on the Department of Justice and Attorney General's Victims Services website at www.lawlink.nsw.gov.au/vs

Q How do I behave in court?

A The courtroom is a formal place and there are basic rules you need to follow:

- switch off mobile phones before entering the courtroom

- have a quiet and respectful manner in court

- dress appropriately, this means smart casual, comfortable and warm

- take off your hat, cap or sunglasses

- do not eat, drink, chew gum or smoke inside the courtroom

- remember to bow towards the magistrate's bench when you enter or leave the courtroom and to show your respect, stand when the magistrate enters the courtroom

- remember the magistrate is the person in charge in the court.

Magistrates in the Local Court and judges in the District and Supreme Courts are addressed as 'Your Honour'.

Q Where do I sit before court?

A The Local Court usually has a safe room or area for women in domestic violence cases. It may be within the court or in a nearby building.

If there is no safe room and you feel worried or unsafe you should tell the court staff. They will arrange help to make sure you are safe and that no one will intimidate you. You are also allowed to bring along a friend to the court for support.

There will be a list displayed of all the cases to be held that day, including the number of the courtroom where your case will be heard. Find the courtroom and sit outside. (You can also wait in the safe room if there is one.) A Police DVLO or court officer will call your name when you need to go into the courtroom.

Q Do I have to take an oath?

A You are likely to need to make an oath or affirmation only if giving evidence in the witness box.

A court officer will ask if you prefer to take an oath or an affirmation. Both are a promise to tell the truth. An oath has religious meaning and an affirmation does not. Your evidence will be seen in the same way whichever you choose.

Generally the court officer reads the oath or affirmation and the witness responds with, 'I do'.

When people give evidence in court they must tell the truth. It is an offence to give false evidence in court after taking this oath or affirmation.

Q What do I need to know about giving evidence?

A When giving evidence your role is to tell the court about what happened to you. Helpful things to remember about giving evidence:

- listen carefully and think about each question before you answer

- if you do not understand a question, say so

- take your time and do not guess. If you are not sure about an answer, just say so

- do not say what someone else has told you, unless you are asked

- speak loudly, clearly and slowly so that your evidence can be heard and understood

- use short sentences

- if you have swear words in your statement it is okay to say these when you are telling the court what happened

- try not to get angry with the defence lawyer even if they seem aggressive or rude towards you

- do not talk to anyone about your evidence, until the prosecutor or police officer says you can.

If you have given a statement it is a good idea to read it again before you go to court so that you are familiar with it. Think about the events and try to remember details such as dates, times, descriptions, actions and exact words used.

Q What if I get upset while giving evidence?

A You may get upset or embarrassed when you are giving evidence. Courts understand that this happens, especially if you are talking about personal things.

If you do get upset, you may be asked if you need a break or you can ask for one. It is a good idea to ask a friend or family member to go into court with you for support, provided they are not a witness.

Q Will I get information about the accused being released from prison?

A The following agencies have victims' registers. If you wish you can ask to be on the appropriate register once an offender is convicted and sentenced. You can contact the registers on the following numbers or visit their websites to find out about their role and the information they give to victims.

Corrective Services NSW

is responsible for people convicted of an offence and in custody or being supervised in the community.

Phone: 02 8346 1374

Website:

www.correctiveservices.nsw.gov.au/offender_management/restorative_justice/victims_register

The Forensic Division of the Mental Health Review

Tribunal keeps a register for victims of forensic patients.

Phone: 02 9816 5955

Website: www.mhrt.nsw.gov.au

NSW Juvenile Justice

is responsible for young people convicted of an offence and in custody.

Phone: 02 9219 9400

Website: www.djj.nsw.gov.au

Support to help you prepare for court

Q Can I get support at court?

A There are services and people that can help you prepare for court if you are a victim of domestic violence. They can give you information, advice and support you in the courtroom.

Women's Domestic Violence Court Advocacy Service:

In most Local Courts in NSW, the WDV CAS can help you apply for an ADVO. This service can also assist you with information about what will happen in court, support you at court, help you with other issues such as safety and housing, and organise for you to get advice about family law.

The WDV CAS can give you and your children support, advocacy, referrals and information. If you are making a private application for an ADVO, the service can also arrange someone to represent you in court to make it easier for you to get protection orders.

To find out if there is a WDV CAS in your area call LawAccess on 1300 888 529, or visit the Legal Aid NSW website at www.legalaid.nsw.gov.au and go to >get legal help>specialist services.

Domestic Violence Liaison Officer:

This is a specialist police officer, whose role is to support you through the court process for ADVOs and refer you to support agencies. DVLOs work at major police stations across NSW. You can phone your local police station and ask to speak to the DVLO.

Support for victims and witnesses in the District Court:

Assistance is available for victims of crime and witnesses in the District Court through the Witness Assistance Service (WAS). The WAS is part of the Office of the Director of Public Prosecutions.

This service can help you and your children with information, court preparation, coordinating court support and follow-up after court, if you are a prosecution witness or victim of crime.

If the matter is heard in the District Court, WAS officers can help you get ready for court by:

- preparing you and your children for giving evidence in court

- talking with the prosecution lawyers

- arranging a visit to a court so you can get to know what it is like

- finding ways for you to cope with coming to court and being a witness

- arranging support for you if you are giving evidence in court

- preparing you for court outcomes

- referring you to other services if needed.

For more information about WAS, you can visit the Office of the Director of Public Prosecutions (ODPP) website at www.odpp.nsw.gov.au or contact the service on:
Phone: 02 9285 2502
or 1800 814 534
TTY: 02 9285 8646



Section 4

Your rights as a victim of crime

Victims of crime in NSW have certain rights. These rights are set out in the Charter of Victims Rights. All NSW Government agencies must comply with the charter.

Charter of Victims Rights

1. Respect

You should be treated with respect, courtesy and compassion when dealing with NSW Government departments (eg. NSW Police or court officers) about the crime. At all times your culture, rights and dignity should be respected.

2. Information about services

You should be told as soon as possible about the different services that can help you, including counselling and legal services.

3. Access to services

If available you should be able to receive medical support, counselling or legal assistance.

4. Information about investigation of the crime

If you ask, you should be told about how the police investigation is going, however, in some cases there may be some things the police cannot tell you.

5. Information about the prosecution

Prosecution is about taking the offender to court for the crime. This is done by police, or, in serious cases, the Director of Public Prosecutions.

As a victim of domestic and family violence you should be told:

- if charges are made, what they are, or why the offender has not been charged

- any decision to change or drop the charges

- the date, time and place of the court hearing

- the final court result, including any appeal or gaol sentence given.

6. Information about being a witness

If you have to give evidence as a witness in a trial you should be told about how the trial works and what you have to do.

7. No contact with the offender

While your case is in court you should be protected from contact with the offender and the offender's witnesses.

8. Protection of your privacy

You can keep your address and phone numbers private unless the Court says otherwise.

9. Court business before the trial

You do not have to go to any committal hearing (like a mini-trial) or other court business before the trial unless the Court says you must.

10. Returning your items used as evidence

If the police or prosecution took any of your items as evidence you have the right to get them back as soon as possible. This might not occur until after the matter is finalised or after the expiry of the appeal period.

11. Your protection

If you need protection tell the police or prosecutor when the offender applies for bail.

12. Special bail conditions

You should be told about any special bail conditions the offender is given, which are meant to protect you and your family, like a condition that they must not contact you.

13. Bail decision

If you were the victim of sexual assault, domestic and family violence or other serious assault you should be told if the offender gets bail or not.

14. Victim impact statement

If you want to tell the Court about how the crime has affected you, then you should be given help and support to do this. This is called giving a Victim Impact Statement.

15. When the offender gets released

If the offender is in gaol you can be told if the offender is going to be released from gaol soon, has escaped gaol or is on day release.

16. When the offender applies for parole

You can have a say if the offender applies for parole.

17. Victims compensation

If you were the victim of sexual assault, domestic and family violence or other serious assault, you can apply for victim's compensation.

If you are concerned that your rights under the charter are not being met you may make a complaint to the relevant department or call the Victims Access Line on 1800 633 063.

Victims Services

Victims Services is a division of the NSW Department of Justice and Attorney General. They provide the following services:

Counselling

Victims Services can help you get access to free counselling through the Approved Counselling Scheme, if you:

- are the victim of domestic and family violence

- witnessed domestic and family violence

- are the parent or guardian of a domestic and family violence victim who was a child at the time of the incident.

Compensation for victims of violent crime

You may also be eligible for compensation if you were:

- the victim of domestic and family violence

- injured by violence including physical and psychological injury

- the parent or guardian of a child victim of domestic or family violence and you suffered injury after becoming aware of the violence.

Compensation can be claimed for:

- injuries listed in the schedule of injuries

- actual medical and related expenses

- actual loss of earnings

- lost, destroyed or damaged personal items that were worn or carried at the time of the violence.

Applications for compensation must be made within two years of the event. In some circumstances this time limit can be extended.

Any compensation you receive comes from the Victims Compensation Fund¹. The fund can then take legal action against the person who injured you, to order them to pay back all or some of the money. This is called restitution. You do not have to take part in this process.

24 hour support

The Referral and Support Team is a 24 hour telephone service that provides confidential support, referral and information for victims of crime. Call the Victims Access Line on 1800 633 063 and ask to speak with Referral and Support.

More information about services and eligibility for counselling and compensation is available from Victims Services.

Victims Access Line

Phone: 02 8688 5511

or 1800 633 063

Fax: 02 8688 9631

TTY: 1800 555 677

then ask for 1800 633 063

Email: vcb@agd.nsw.gov.au

Website:

www.lawlink.nsw.gov.au/vs

1. The *Victims Support and Rehabilitation Act 1996* provides for compensation for victims.

Section 5

Family law

Family law, children and domestic violence

Family law is the area of law that deals with family matters including:

- children

- child support and maintenance

- divorce

- property.

Most family law issues in Australia are covered by the *Family Law Act 1975*. This is a Commonwealth Act that applies in all states and territories in Australia. The Act applies if you have been married or in a de facto relationship. It also applies where there is a disagreement about children, regardless of whether their parents were married, in a de facto relationship or never in a relationship.

This section gives information about how Family Courts deal with domestic and family violence, explains parenting orders and other types of orders made by the family courts in relation to children. It will also point you towards places where you can get more information, legal advice and support.

While this section focuses on family law in relation to children, there is a list of contacts for queries about divorce and property settlement at the end of the section.

Family Courts and family violence

In NSW family law matters are usually dealt with by the Family Court of Australia, the Federal Magistrates Court, or sometimes by the Local Court.

The *Family Law Act 1975* sets out the special responsibility of the Family Courts to protect you and your children from domestic and family violence and its effects. Any decisions made in the Family Courts must:

- recognise any violence in your family

- ensure any orders it makes are in line with a Family Violence Order (or Apprehended Domestic Violence Order) that already applies to your family, or explain to you why the orders change the Family Violence orders and what the changes mean

- ensure your children are not exposed to an unacceptable risk of violence. The Court assesses the risk in deciding what relationship a child should have with a parent if family violence or abuse is involved

- consider your children's right to know and have a relationship with both parents.

It is important that you tell your lawyer or the Family Court about any violence you have experienced so that the court can take this into account in its decisions. Tell the court about any Apprehended Domestic Violence Orders, domestic violence charges, or other court orders that relate to your family. It is also vital that you discuss this with a lawyer as soon as possible. Contact details of services that can provide legal advice or referrals are included at the end of this section.

What is a parenting order?

A parenting order sets out parenting arrangements for your child. A court can make a parenting order based on an agreement between you and your ex-partner (these are called Consent Orders), or a Judge, Federal Magistrate or Local Court Magistrate can make orders after a court hearing. A parent can be punished for not obeying a parenting order.

A parenting order may include:

- where your children will live

- the amount of time the children spend with you, their other parent and other people

- how you and their other parent will share parental responsibility

- how your children will talk to, or have contact with, other people
- financial arrangements for your child
- any other aspect relating to your children's care, welfare or development.

A parenting order can also outline the process you and the other parent need to follow to try to work out any disagreements about what is in the order, before you apply to the Court for any changes.

A parenting order or parenting plan may say that two or more people have equal shared parental responsibility for children. This means you must decide together about any major long-term issues that affect your children. This means you all need to talk with each other and agree on things like where the children will live, what school they will go to, how they will observe their religion and culture and medical treatment. It does not cover day-to-day decisions such as what your children eat or wear.

A parenting order is in force until a new parenting order or a parenting plan changes it in some way. Even if the needs or circumstances of you, your children or the other party change, the order applies until a court formally changes it or you enter into a parenting plan.

If you and the other parent agree to change the arrangements, you can agree on a parenting plan or apply for Consent Orders that vary the existing orders.

For more information about Consent Orders call 1300 352 000 or go to www.familylawcourts.gov.au

What is a parenting plan and how is it different from parenting orders?

Arrangements for a child might be set out in a parenting plan. A parenting plan is a written agreement between you and your former partner (and others if needed) that sets out how you will care for your children.

Parenting plans cannot be enforced by the courts. This means that if a parenting plan is breached, the court cannot do anything to fix the problem. However a court will look at what is written in any parenting plan when they make decisions.

For more information about parenting plans call 1800 050 321 or go to www.familyrelationships.gov.au

How does domestic and family violence influence the Courts' decisions about parenting orders?

When the Family Courts make decisions about children's issues they weigh up two main considerations. These are:

- the benefit to children of a meaningful relationship with both parents

- the need to protect children from physical or psychological harm, abuse, neglect and family violence.

When the Court makes a parenting order, it assumes that it is best for your children if you have equal shared parental responsibility with their other parent, unless there is a reason why this is not in the best interests of the child. One reason might be if there was any violence or child abuse by a parent or a person who lives with the other parent.

Usually when you apply for a parenting order you need a certificate that says you have been to family dispute resolution. If there has been domestic and family violence or child abuse, or you feel there is a risk to you or your children's safety, you do not have to go to dispute resolution first.

You can go straight to the Court to apply for an order. You must be able to prove the abuse or violence, or a risk of these, if you do not have a certificate. The Court must believe that your fear of violence or concern for your wellbeing or safety is reasonable.

What do I do if the other parent is not obeying the parenting orders?

When a parenting order is made, each person affected by the order must comply with (follow) the order. If you believe another person has not complied with an order, you can seek legal advice, or notify the court. For more information see the fact sheet 'Compliance with parenting orders' on the Family Law Courts website www.familylawcourts.gov.au. Also see the Legal Aid NSW Factsheet *'My ex partner is not following the court orders about our children – what can I do?'* available at www.legalaid.nsw.gov.au/publications.

What other kinds of orders can Family Courts make about children?

Location and Recovery Orders

If you or the other parent breach a Parenting Order and cannot be found, a court can make a Location Order. This means other people or organisations including Government Departments must give any information they have to the Court about the location of the children.

If you or the other parent breach a Parenting Order by not returning your child, a court may also make a Recovery Order. Recovery orders can include orders that the Marshal of the Court and all Federal, State and Territory police officers find your child and place them where the orders say the children should live until final orders are made.

For more information about location and recovery orders see the Legal Aid Fact sheet *'My ex-partner has taken our children without my permission... What can I do?'* available at www.legalaid.nsw.gov.au/publications.

Orders to prevent children from being taken overseas

If you are worried that the children might be taken out of Australia you can apply to the Court to place the children on the Airport Watch List. If you are concerned that the children are at risk of being removed from Australia you should seek urgent legal advice by either telephoning LawAccess NSW on 1300 888 529 or contacting Legal Aid NSW or a Community Legal Centre that provides this sort of advice.

A child's name can be placed on the Airport Watch List immediately after you have filed an application at court if you ask for that to be done in your application. You must then make sure that you immediately provide the Australian Federal Police with copies of any orders made.

For more information about preventing children from being taken overseas, and the role of the Federal Police go to www.afp.gov.au/policing.

I'm worried about my safety when going to the Family Court. What can be done?

If you have any concerns for your safety it is important you let the Family Court know prior to attending a court event, including conferences or hearings. You can inform the Court by calling 1300 352 000.

You can discuss your concerns with a Client Service Officer. The Officer will ask you a few questions and decide what arrangements are needed to enable you to participate in court events safely. You should call at least two days before your court event so arrangements can be made for your safety. If there is an existing family violence order, you must tell the Courts before your first court event.

Where can I get more information about divorce and property settlements?

For more information about family law see the Legal Aid NSW brochure *What happens when your relationship ends?* This booklet assists families in matters such as divorce, property, making arrangements for sharing children, and child support. It is available at www.legalaid.nsw.gov.au/publications.

Where can I get more legal advice, help and support?

Legal Aid NSW

Visit www.legalaid.nsw.gov.au to find your nearest office.

LawAccess NSW

A telephone service which provides legal information, referral and in some cases legal advice. Phone: 1300 888 529 or TTY: 1300 889 529.

Family Relationship Centre

Visit www.familyrelationships.gov.au to find your nearest centre.

Family Relationship Advice Line

A national service on 1800 050 321.

Family Courts of Australia

Phone: 1300 352 000.

Visit www.familylawcourts.gov.au. The Family Court and the Federal Magistrate Court share their registry and telephone information services.

NSW Legal Aid Child Support Service

This is a service for people who are having problems with child support. Please call for an appointment. Phone: 02 9633 9916 (Sydney and metropolitan areas) or 1800 451 784 (outside Sydney).



Section 6

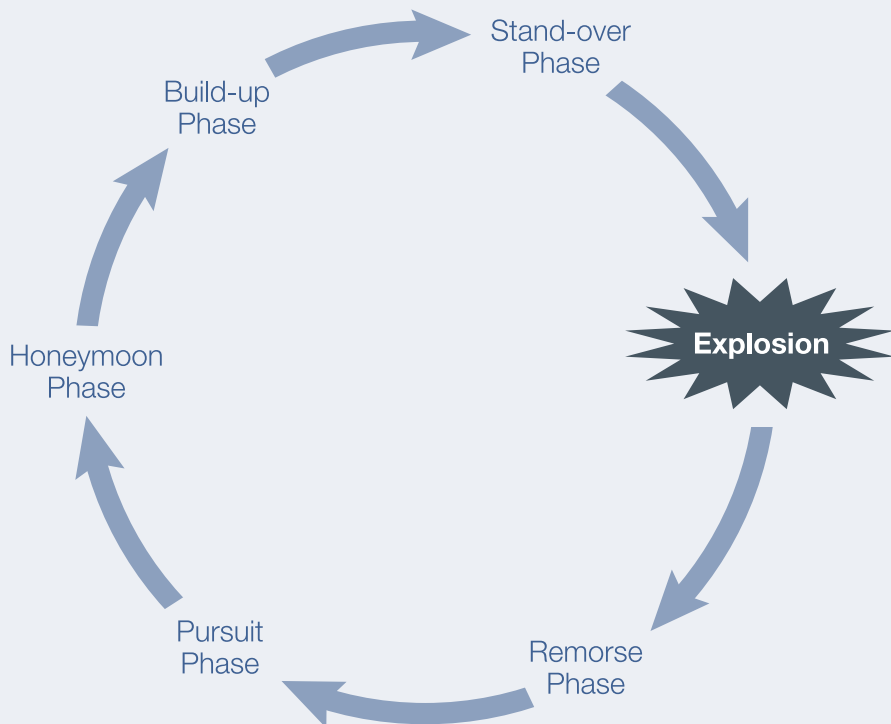
Your safety and the impact of domestic and family violence

This section has information about the dynamics and impact of domestic and family violence, understanding the risk of future violence, and ways to increase your safety.

The dynamics of domestic and family violence

Some people can find it helpful to understand domestic violence as a cycle of behaviour. The ‘cycle of violence’² explains the behaviour and tactics an abusive person might use to control you and your children. The violence moves between relative calm and an explosion of abuse. In reality, the phases can be in different combinations, order, levels of intensity or overlapping, so this model may not show your experience exactly.

2. Dr Lenore Walker, *The Battered Woman*, 1980, Harper and Row, New York.



Build-up	Increases tension, harassment and arguments.
Stand-over	Increases level of control and threats, creates fear in the victim and children.
Explosion	Uses extreme abuse, aggression, violence and malicious damage (as an extreme controlling behaviour).
Remorse	Tries to justify and play down actions, blames victim, shows guilt and may include threats of self-harm.
Pursuit	Promises it will not happen again, claims they are the 'victim', blames other factors or substance abuse (such as alcohol).
Honeymoon	Returns to the courting phase, increased caring, attentive and romantic.

The impact of domestic and family violence

Domestic and family violence can have wide-ranging and long-term effects on a person's physical, emotional and mental health and well-being. People who suffer domestic violence may experience feelings of depression, anxiety, disrupted eating patterns, feel that life is not worth living or use/overuse substances such as drugs, cigarettes or alcohol to manage the pain of being abused.

Many people who have experienced domestic and family violence say that one of the hardest things to deal with is 'what it does to your head', as the person abusing you uses emotional abuse to undermine your self belief. It can help to talk to people who are experienced in working with victims of domestic and family violence. They can help you to talk about the abuse and think through the best options for you and your family. It can also help to have workers advocate on your behalf as you negotiate other services and systems to regain your safety. Contact details for support services are on page 36.

Experiencing domestic and family violence can also have social or other effects, including limiting education and job opportunities, the loss of secure housing and income, and separation from your community and support network.

People who experience family violence can sometimes have difficulty in seeking help, because of fear of the abusive person, uncertainty over what might happen if the relationship ends, concern for the children, worries about practical issues like housing, employment, transport and childcare, pressure from others to stay in the relationship, or because they want to keep their relationship but have the violence stop.

The impact of domestic and family violence on children

Domestic and family violence and the threat of violence at home creates fear and harms normal family life. Children and young people don't have to see the violence to be affected by it.

There are a number of ways that children are affected by domestic and family violence. Children might:

- witness the violence (this includes both seeing and hearing the violence)

- be physically and emotionally abused themselves or hurt while attempting to intervene

- be threatened or abused as a way of hurting or intimidating the other parent

- be deliberately alienated from or used to abuse their parent by the abusive parent

- become isolated from extended family, peer and broader support networks

- lose a connection with their parent as their energy may be focused on surviving the violence.

For children to develop well, they need a secure and nurturing environment. In a home where there is domestic and family violence it is not safe or secure. Children can be scared about what might happen to them and the people they love.

Children who witness domestic and family violence can be more likely to have behaviour problems, develop insomnia, have anxiety or depression, diminished self-esteem and poorer academic performance. They may also have health problems.

You can help your children to heal from the impact of domestic violence. They will benefit from lots of attention and affection, and from talking to you and others to help them make sense of the violence. Some important messages to tell children and young people are that:

- the violence is not their fault

- feeling sad or angry is understandable and normal

- they can talk to you about the violence or anything else that they are concerned about, and that you will take action together

- plan with them where they should go, and what they should do if they are afraid for your safety or their own

- they should not try to intervene.

There are services that can assist you to support your children. For help contact your local family support service or child health service.

Assessing the risk of future violence

When making decisions about your safety, it is important to consider the risk of further violence. Domestic and family violence support services can help you understand the risk posed by the abusive person. Support services are listed in sections 7 and 8.

When thinking about your risk of future violence you should ask yourself the following:

Is there an immediate threat of violence? If the abusive person has made direct or recent threats (physical, verbal or implied), threatened suicide, or made threats towards your children, these must be taken very seriously. Call '000' if you are in immediate danger. Otherwise, discuss the threats with a police officer or call the DVLO at your local police station.

How much does the abusive person attempt to control you? Consider how much they attempt to control you and isolate you from friends and family, whether they have stalked you, or made threats to harm you or your children if you leave. Abusive people who are highly controlling and jealous can be very dangerous if they think they are losing control of you.

For example, they may increase their abuse because you have left them, started a new relationship or taken legal action.

How dangerous is the abusive person's behaviour? If there is a history of physical or sexual violence, or the person has access to weapons, tried or threatened to kill you or anyone else, or the violence is escalating, there is a high risk of future and serious violence.

Are there factors that may increase the chance of the abusive person being violent? This could include things like excessive drinking, untreated mental illness or jealousy. These are not direct causes of violence, but can lead to a higher risk.

Are your children vulnerable to the abuse? Domestic and family violence has serious effects on children of all ages, including witnessing domestic violence, and being hurt by the abusive person. Being pregnant can also increase your vulnerability.

Are you fearful? Your fear of the abusive person is a good indicator that something is wrong, and should not be ignored. If anything causes you to become more fearful, it is important that you take immediate action by contacting police.

Are there factors that make it more difficult for you to get away from the abuse?

This could include factors like living with a disability, being isolated, or financially dependent on the abusive person. There are services that can help you find appropriate support listed in sections 7 and 8.

Safety planning

It is important for you to think about strategies you can use to try to improve your safety, and that these strategies suit your individual circumstances. Your strategies will be different if you are still in an abusive relationship or experiencing abuse after separation. For example, if you are separated you may need to change the locks on your home.

Remember call '000' if you are in immediate danger.

Some key things that you can do to increase your safety:

- Let people know what is happening, so that they can support you. This includes friends, family and police or domestic violence support services. Ask your neighbours to call the police if they hear a disturbance at your home.
- Report all instances of abuse to the police. Keep in touch with your DVLO and let them know if further abuse has occurred.
- Always have a way of contacting police in an emergency. For example, keep a mobile phone with you.
- Keep a diary or record of contacts with the abusive person. Save any abusive text or voice messages and report these to the police.
- Talk to a domestic violence support worker who will help you develop a safety plan.

Section 7

Where to get help and support



Emergency help

For urgent assistance when violence is occurring now or when there is an immediate fear of it about to happen, treat it as an emergency and call **000** – ask for the police.



Interpreters



If an interpreter would be helpful, ring the following services through the Translating and Interpreting Service.
Phone: 131 450

→ Domestic violence advice and referral

Domestic Violence Line

DV Line offers free counselling, information, advice, referral and support, 24 hours a day/seven days a week.

Phone: 1800 656 463

MensLine Australia

MensLine is the national telephone support, information and referral service for men with family and relationship concerns. The service is available 24 hours a day, seven days a week. MensLine Australia can also provide referrals to face-to-face counselling and support services.

Phone: 1300 789 978

Website: www.menslineaus.org.au

→ Child protection

Child Protection Helpline

If you are concerned that a child has been abused, or is at risk of being abused, you should contact the Community Services Helpline.

Phone: 132 111

→ Court support

Women's Domestic Violence Court Advocacy Service

The service provides court support, advocacy, referrals and information. If you are making a private application for an ADVO, the service can also arrange someone to represent you in court to make it easier for you to get protection orders. You can find out if there is a Women's Domestic Violence Court Advocacy Service in your area on: LawAccess Phone: 1300 888 529 Legal Aid NSW website: www.legalaid.nsw.gov.au and go to >get legal help>specialist services.

→ Health services

Community health centres

Community health centres provide child and family, sexual assault, drug and alcohol, and mental health services. Contact details are available at:

Website:

www.health.nsw.gov.au/services

Women's health centres

Women's health centres are non-government, community-based, feminist services that provide choices for women to meet their individual health needs. A list of women's health centres in NSW is available at: Website: www.whnsw.asn.au

→ **Housing and emergency accommodation**

Women's refuges

Women's refuges provide accommodation and support for you and your children if you have escaped domestic and family violence. If you need refuge accommodation call the Community Services' 24 hour Domestic Violence Line. Phone: 1800 656 463

Men's accommodation

Referrals to accommodation providers for single men and men with children are available 24 hours a day, seven days a week through MensLine Australia. Phone: 1300 789 978

Homeless Persons Information Centre

The Homeless Persons Information Centre (HPIC) is a telephone information and referral service for men, women and families who need emergency accommodation. HPIC is open seven days a week from 9am to 10pm (Closed 1pm to 2pm) Phone: 02 9265 9087 or 1800 234 566

→ **Staying in your own home**

Some areas of NSW have a Staying Home Leaving Violence project. This program provides support and assistance to women who prefer to remain safely in their own home, without the abusive person. Contact the Community Services DV Line to see if there is a Staying Home Leaving Violence project in your area. Phone: 1800 656 463

→ **Housing assistance from Housing NSW**

Housing NSW offers a range of services for victims of domestic and family violence.

Rentstart is available for eligible clients to help them access and stay in accommodation in the private rental market. This financial assistance may help you with a bond or advance rent.

Housing assistance options available include subsidised rental housing in public, community or Aboriginal housing. Priority is given to those in greatest need.

Start Safely is a rent subsidy that gives you financial help if you have experienced domestic or family violence so you can secure private rental accommodation and do not have to return to your home. Eligible clients may get this assistance for up to 12 months. The Start Safely subsidy is being trialled in a small number of locations. The statewide rollout for the subsidy will occur between July 2010 and June 2011.

A Mortgage Assistance Scheme provides short-term help if you have difficulties with home loan repayments.

For more information contact:

Housing Contact Centre

For information about housing assistance from Housing NSW available 24 hours a day, seven days a week.
Phone: 1300 468 746

After hours temporary accommodation

Available from 4.30pm to 10pm weekdays and 10am to 10pm on weekends and public holidays.
Phone: 1800 152 152
Website: www.housing.nsw.gov.au



Legal information and advocacy

LawAccess NSW

LawAccess provides legal information, advice and referrals to other services such as Legal Aid NSW or community legal centres.
Phone: 1300 888 529
TTY: 1300 889 529
Website:
www.lawaccess.nsw.gov.au

Women's Legal Services NSW – Domestic Violence Advocacy Service

The Domestic Violence Advocacy Service (DVAS) is a specialised legal service for women experiencing domestic violence, providing casework, legal advice and advocacy.
Phone: 02 8745 6999 or 1800 810 784
Website:
www.womenslegalnsw.asn.au

Legal Aid NSW

Legal Aid provides legal representation and information for eligible people in NSW.
Phone: 02 9219 5028
Website: www.legalaid.nsw.gov.au

Wirringa Baiya Aboriginal Women's Legal Centre

Wirringa Baiya is a community legal centre for Aboriginal women, children and youth living in New South Wales. Wirringa Baiya focuses on issues relating to violence against Aboriginal women, children and youth.

Phone: 02 9569 3847

or 1800 686 587

Website: www.wirringabaiya.org.au

Aboriginal Legal Service NSW/ACT

Aboriginal Legal Service (NSW/ACT) has 22 offices in towns across NSW and ACT. They provide legal advice and representation to Aboriginal and Torres Strait Islander people in criminal law and children's care and protection. They refer family law and civil law matters to alternative legal service providers and appropriate agencies.

Phone: 02 8303 6699

Website: www.alsnswact.org.au

→ Financial assistance

Centrelink

Centrelink can offer you support, specialist services and payments.

Staff will:

→ work out what payments, allowances, assistance and benefits you can get to support yourself and your children

→ get you a crisis payment or early payments

→ look at other ways to make sure you are safe and protect your privacy

→ tell you about other domestic violence support services.

Crisis payments: Crisis payments may be available for victims of domestic and family violence. Call Centrelink to find out if you are eligible. It is important to apply immediately.

Phone: 131 794

Social workers: Social workers in Centrelink will listen to your personal needs and offer you counselling and support. They can also refer you quickly to people who specialise in domestic violence issues and other support services. To arrange to talk to a social worker you can call or visit your local Centrelink Customer Service Centre.

Phone: 131 794

Indigenous customer service officers:

If you are an Aboriginal or Torres Strait Islander person you may like to talk with someone from a similar cultural background. Centrelink has Indigenous customer service officers to support you. If you live in a remote community you can ring the Indigenous Call Centre.

Phone: 136 380

Family Assistance Multilingual Service:

If you come from a multicultural background Centrelink can refer you to culturally-appropriate support services.

It also has a free interpreter service for interviews with you and translation of your Centrelink documents. You can ring and ask to speak with a Centrelink officer in your language.
Phone: 131 202

Employment Services Line:

You may find it difficult to get work because you need to update your skills, have young children to look after or other personal issues. Senior customer service advisers can help you get support, education or training, or work towards getting a job. For more information visit your local Centrelink Customer Service Centre.
Phone: 132 850

Other Centrelink numbers

Customer relations (for complaints, compliments and suggestions).
Phone: 1800 050 004
TTY: 1800 810 586

Sexual assault

NSW Rape Crisis Centre

A statewide 24 hours a day/seven days a week telephone and online crisis counselling service for anyone affected by sexual violence, and trauma counselling for women who were sexually assaulted when they were children.
Phone: 1800 424 017
Website: www.nswrapecrisis.com.au

Victims assistance

Victims Access Line

Confidential support, referral and information for victims of crime.
Phone: 1800 633 063

Victims Services Aboriginal Contact Line

Confidential enquiry line for Aboriginal and Torres Strait Islander people who are victims of crime.
Phone: 1800 019 123
TTY: 02 8688 5575

Witness Assistance Service

Helps with information, court preparation, coordinating court support and follow-up after court for prosecution witnesses or victims of crime appearing in the District Court. The WAS is part of the Office of the Director of Public Prosecutions.
Phone: 02 9285 2502
or 1800 814 534
TTY: 02 9285 8646



Section 8

Additional support and information for people from specific groups

People from culturally and linguistically diverse communities

If you are a victim of domestic and family violence and come from a culturally, linguistically or religiously diverse community it may be difficult to seek help for a number of reasons. Your community may be small and you don't want to bring shame to your family or the community. People may not believe your story or blame you for the violence. You may feel very alone. However, there are services available to help you.

Interpreters

If you need an interpreter when calling '000', say 'interpreter' and the language you speak. The operator will try to connect you to an interpreter immediately.

If English is not your first language you can choose to have a relative, friend or support person with you when you report to the police. But importantly, you can ask the police to arrange a free interpreter for you.

Many police stations have specialist staff called Multicultural Community Liaison Officers (MCLOs). MCLOs provide a link between police officers and people who are from multicultural backgrounds. You can ring your local police station and ask to speak with the MCLO for information and support.

At court

If you need an interpreter in court ask the court support worker, DVLO or police prosecutor to organise one for you.

Courts use interpreters who are properly trained and accredited. Courts will not allow friends or relatives to interpret for you, unless it is to pass on simple information and no other interpreter is available.

Interpreters must follow rules not to tell other people about your case. They take an oath to properly interpret all that is said in the court. Ask court staff for the brochure 'The role of an interpreter' or see the Diversity Services website at www.lawlink.nsw.gov.au/diversityservices.

If you believe your interpreter is not passing on your evidence to the court accurately you should tell the DVLO, police prosecutor or magistrate.

Immigration and ADVOs

If you have a temporary residence visa and leave your partner to get away from domestic and family violence you can apply to the Department of Immigration and Citizenship (DIAC) to stay in Australia. DIAC will look at your situation and decide on your visa and migration status. You do not have to do this on your own. One of the support services that are listed here can help you.

Section 7 lists a range of domestic and family violence support services that can help you. There are some additional agencies specifically for people from a diverse background listed below.

Translating and Interpreting Service (TIS)



If an interpreter would be helpful, ring TIS on 131 450.

Immigrant Women's Speakout Association

Information, support and crisis counselling, referral to domestic violence services, access to legal advice, help to apply for ADVOs and court support.

Phone: 02 9635 8022 9.30am to 5pm, Monday to Friday.

Migrant resource centres

To find a centre in your local area see the website www.eccnsw.org.au

Immigration Advice and Rights Centre

Free immigration legal advice to financially disadvantaged people.

Administration phone: 02 9279 4300

Advice phone: 02 9262 3833

(2pm to 4pm Tuesdays and Thursdays only)

Website: www.iarc.asn.au

Aboriginal and Torres Strait Islander people

There is a range of support services to help Aboriginal and Torres Strait Islander people who are victims of domestic and family violence and going through the legal system.

When reporting violence to police, you can talk to an Aboriginal Community Liaison Officer (ACLO). ACLOs work closely with police but are not police. ACLOs can work with Domestic Violence Liaison Officers (DVLOs) to support you through the court process.

There are also some special court support services that can help you if you are an Aboriginal or Torres Strait Islander.

Aboriginal Client Service Specialists (ACSS) work at a number of courts across NSW. If you are an Aboriginal victim of domestic and family violence they can tell you about court services that are there to help you.

Many of the Women's Domestic Violence Court Advocacy Services also have Aboriginal specialist workers, who can give you information about court and go into court with you. To find out if there is a Women's Domestic Violence Court Advocacy Service in your area visit the Legal Aid NSW website at www.legalaid.nsw.gov.au and go to >get legal help>specialist services.

If you are going to the District Court and the Director of Public Prosecutions is prosecuting your case, the Witness Assistance Service has Aboriginal witness assistance officers to help you. They support victims and witnesses, whether adults or children.

You can get more information about going to court on the Community Info page of the Department of Justice and Attorney General's website at www.lawlink.nsw.gov.au.

Who else can help you?

If you are a victim of domestic and family violence or sexual assault and want to talk to someone, you can also call the following services that help Aboriginal women. Some of them can give you legal advice about talking to the police, getting an ADVO or going to court:

Wirringa Baiya Aboriginal Women's Legal Centre

Wirringa Baiya has information for Aboriginal victims of violence about domestic and family violence, sexual assault, racial violence and applying for compensation.

Phone: 02 9569 3847
or 1800 686 587

Website: www.wirringabaiya.org.au

Indigenous Women's Legal Contact Line

Women's Legal Services NSW provides this toll-free line which is staffed by Aboriginal women. The Legal Contact Line is open 10am to 12.30pm and 1.30pm to 4pm each weekday except Wednesdays.

Phone: 1800 639 784

Aboriginal Legal Service NSW/ACT

Aboriginal Legal Service (NSW/ACT) has 22 offices in towns across NSW and ACT. They provide legal advice and representation to Aboriginal and Torres Strait Islander people in criminal law and children's care and protection. They refer family law and civil law matters to alternative legal service providers and appropriate agencies.

Phone: 02 8303 6699

Website: www.alsnswact.org.au

People with a disability

If you are a person with a disability you may have to depend on other people to care for you. This can make it especially difficult if your carer is the person abusing you.

You may need extra help when talking to police or going to court. There is a range of help available for you.

Support when with police – any disability

You have the right to ask a support person to be with you when you talk to the police, if you are a victim or a witness to domestic and family violence. They can be a carer, caseworker, legal representative, guardian or advocate.

Interpreter when with the police

It is very important you understand what is happening if you are in a police station, so if you are deaf you have a right to a free sign language interpreter.

Support when in contact with police – communication difficulty

The police will arrange an interpreter for you if you are:

- deaf or have difficulty hearing or speaking

- if you prefer to communicate in a language other than English.

Support when with police – intellectual disability

If you are a victim of domestic and family violence who has an intellectual disability you can contact the Criminal Justice Support Network (CJSN), if you have to talk to police or need legal advice. You can phone them on 1300 665 908.

The CJSN will help you understand your rights in the criminal justice system and make sure you can get them met. CJSN staff can support you at police interviews if you are a victim or a witness.

Support when in court – any disability

If you have a disability and will need help in the courtroom it is important that you talk with either the court staff, the police officer in charge of your case or your support person. Ask them to notify the court about:

- the help you will need to communicate

- the support person who will be helping you

- your need for an Auslan interpreter or hearing assistance equipment

- any need for documents to be in large print or alternative formats

- your personal care needs

- wheelchair access into the courthouse and the courtroom.

The brochure and form 'People with a disability – Request for court assistance' explains how you can ask the court for help. This brochure is available in English, Arabic, Chinese and Vietnamese. You can get the brochure at the court registry or on the NSW Department of Justice and Attorney General's website at www.lawlink.nsw.gov.au/diversityservices.

If you are going to the District Court, the ODPP Witness Assistance Service can help you prepare for court and make sure you have support when giving evidence in cases that the ODPP prosecutes.

Support when in court – intellectual or cognitive disability services

The Criminal Justice Support Network can give you special support if you are a domestic and family violence victim or a witness with an intellectual disability going through the legal process. Staff at the Criminal Justice Support Network will explain your rights in the legal system, help you access them and support you when you appear in court.

Phone: 1300 665 908

Intellectual Disability Rights Service (IDRS)

This service can help represent you in court.

Phone: 02 9318 0144

Website: www.idrs.org.au

Resources

The video *So you have to go to court* and the brochures *Your rights as a victim of crime* and *Things to remember for court* are available in the Community Info section on the Lawlink website at www.lawlink.nsw.gov.au.

Support when in court – communication difficulties (hearing/speech)

If you have a hearing or speech impairment or other disability that may make it difficult to communicate you can ask for an interpreter.

If you have a hearing aid or hearing impairment then you or your support person can ask to use the hearing amplification system (The Infra-Red Assistive Hearing System) when you visit the court. This system is like a hearing loop but keeps all the information within the courtroom. This system can be used if you are a witness, juror, legal professional, relative or friend.

You can ask to use the infra-red system yourself or let the prosecutor, your counsellor, support person or witness assistance officer know about your needs in advance. If you want to organise this yourself, then you need to do the following:

- At least two weeks before you go to court, you or your support person need to ring the court registry and ask for the infra-red system to be available for your case. You can find the contact details for your court in the Courts and Tribunals section on the Lawlink website at www.lawlink.nsw.gov.au
- On the day of your court case arrive early so you can find out how the device works.

If you want more information about ordering the infra-red system, see the information sheet *Can you hear in the courtroom?* on the Lawlink website. If you have any problems or questions before court contact Diversity Services in the NSW Department of Justice and Attorney General.

Phone: 02 8688 8460

TTY: 02 8688 7733

Fax: 02 8688 9626

Website: Justice Journey section on www.lawlink.nsw.gov.au/vs

Gay, lesbian, bisexual and transgender communities

Domestic and family violence in same-sex relationships

Domestic and family violence can occur if you are in a same-sex relationship. It can be similar to the abuse you see in some other relationships and have the same impact on you. There are also a few unique ways that your partner may try to control you, such as:

- 'outing' or threatening to 'out' you, if your family, friends, workmates or cultural community do not know you are gay or lesbian
- excluding you from your gay or lesbian community
- telling other people about your HIV status without you saying they can.

You may also find it hard to get help for domestic and family violence or report it for a number of reasons, such as:

- you may think abuse is part of being gay or lesbian, especially if young

→ your own fear of being seen as gay or lesbian

→ you feel that family or friends do not approve of gays and lesbians

→ your family or friends do not associate with you because of your sexual preference

→ you may be embarrassed about going to counselling and medical services

→ you feel you may not be seen as a 'real' victim or taken seriously, like women and children

→ you believe domestic and family violence is not seen as a 'real' problem in gay and lesbian relationships, so there are no services to help you

→ you live in a small gay or lesbian community, in a regional or rural area, where other people will know if you get help.

Although you can use most general domestic and family violence services if you are a lesbian, like refuges, court advocacy and counselling, they may have less experience in working with same-sex abuse. It can also be difficult to find services for gay men.

If you want to find out more about same-sex domestic and family violence, go to the AIDS Council of NSW (ACON) website *Another Closet – Domestic Violence in Gay and Lesbian Relationships* at www.ssdv.acon.org.au. It has information about what you can do if you are being abused, tips for recovering, helping a friend or relative, real stories about survivors and where to get help.

Domestic violence and transgender or transsexual people

If you are transgender or transsexual you are more likely than other people to experience higher levels of abuse. You may sometimes be the target of extremely vicious violence because of how other people see your cross-gender behaviour. You may still suffer abuse from your partner, as in other relationships. They may also target your gender identity, which can have a devastating impact on how you feel about yourself.

Transgender abuse can include:

- ridicule about how your body looks

- hurtful comments about whether you are a ‘real’ man or ‘real’ woman

- being told that no-one will believe you were abused as you are transgender

- pressure about how you should dress and whether or how you should wear make-up

- denying you medical treatment, such as taking away your hormone medication

- hiding or throwing out your binders and clothes

- ‘outing’ or threats to ‘out’ you as transgender.

If you are transgender you are also likely to experience very high levels of discrimination in society, so the impact of outing is significant. It can lead to you losing your job, friends, family and, in some cases, expose you to violence and harassment from others.

Many domestic and family violence victims like you worry about the safety of any children you have, especially if your partner threatens to stop you from seeing them. If you are a transgender parent this issue can be even worse – especially if people wrongly feel you are an unfit parent just because you are transgender. See the section under Family Law on page 24 concerning children.

If you would like to find out more about transgender issues generally, including support and help for domestic and family violence, visit the Gender Centre at www.gendercentre.org.au.

Help and Support

Police domestic violence liaison officers (DVLOs) are trained on domestic and family violence in gay, lesbian, bisexual and transgender communities. NSW Police also has gay and lesbian liaison officers (GLLOs) in some areas. If you are being abused you should contact your local police station, which is listed at www.police.nsw.gov.au.

See section 7 for domestic and family violence support services, however there are some additional agencies specifically for gay, lesbian, bisexual and transgender people:

Same Sex Domestic Violence website (ACON)

Website: www.ssdv.acon.org.au

Lesbian and Gay Anti-Violence Project

Phone: 02 9206 2066

Reporting Line: 02 9206 2116
or 1800 063 060

Website: www.avp.acon.org.au

Safe Relationships Project

The Inner City Legal Centre can help with court support and applying for an ADVO.
Phone: 02 9332 1966
or 1800 244 481.

Understanding Your Legal Rights: A Guide for Lesbians and Gay Men in NSW

is a booklet focusing on rights for gay and lesbian couples. There is a section on protection from violence, with information on apprehended violence orders and apprehended domestic violence orders. View online or order a copy from ACON on 02 9206 2000 or 1800 063 060.

Older people

Abuse of older people is any act that results in harm within what should be a trusting relationship. The abuse often occurs if you are vulnerable or depend on others for assistance or care, or it may be domestic and family violence that has occurred over a longer period of time.

Domestic and family violence or abuse of older people can include:

- physical abuse such as slapping, hitting, pushing
- sexual abuse
- threats or intimidation, restraint, swearing or shouting that is humiliating
- financial abuse such as control of your money or property, forcing you to sign papers without informed consent, stealing your money or forging signatures on your papers
- isolating you from your friends, family members or support services
- withholding care from you like food, clothing, health or personal care
- leaving you in unsafe and unclean living conditions.

You might find it hard to talk about these things particularly if the person who is mistreating you is a loved family member.

The abusive person could be your:

- partner, adult children, grandchildren or other family member
- neighbour or friend
- carer, either in your home, a nursing home or hostel.

See section 7 for domestic and family violence support services. There are some additional agencies that specifically help older people:

Older Persons' Legal Service

The Aged-Care Rights Service provides this legal service.

Phone: 02 9281 3600
or 1800 424 079

Aged Care Assessment Team

Contact your local Commonwealth Carelink Centre and ask for the Aged Care Assessment team in your area.

Phone: 1800 052 222

Aged Care Information Line

Phone: 1800 500 853



Section 9

Glossary

This dictionary has definitions of words and phrases you may hear used in court.

A

Affirmation

A promise to tell the truth in court. Used by people who do not wish to swear on the Bible or other religious book.

Alleged offender

Until a person is proven to be guilty of a crime, the person is an alleged offender.

Appeal

To take a case to a higher court in order to challenge a decision. The person who appeals is the appellant.

Apprehended violence orders (AVOs)

AVOs are court orders that protect people from physical assault, stalking, harassment, intimidation or damage to property by another person.

Apprehended domestic violence orders (ADVOs)

An ADVO is an AVO which applies when there is a 'domestic relationship' between the defendant and the person in need of protection.

B

Bail

An agreement to turn up to court. The police or the court may give the accused bail. A person on bail is allowed to go free until their case is decided in court.

Balance of probabilities

The test (or standard of proof) used by a court in ADVO applications, civil claims and children's care matters. It states that something must be more likely to have happened than not to have happened.

Beyond reasonable doubt

The test (or standard of proof) used by a jury, judge or magistrate to decide if the accused is guilty or not guilty of each criminal charge. It must be proven beyond reasonable doubt that a person has committed an offence before they can be convicted.

Breach

To break or disobey the conditions of an ADVO, bail or bond.

Brief or brief of evidence

A folder of documents prepared by the police that includes all relevant witness statements, photographs and other evidence.

C

Charge

An allegation that a person has committed a criminal offence.

Charter of Victims Rights

Victims of crime in NSW have a charter to protect and promote their rights. The Charter of Victims Rights obliges government agencies to ensure that a victim is at all times treated with respect.

Court

The building where the case is heard. Also used to describe in general terms the judicial officer hearing the case, such as a magistrate or judge.

Court officer

A person employed to assist with the running of the court. Generally this person will call your name when you need to enter the courtroom.

Cross-examination

When the lawyer for the accused (defence) asks the witness questions about the evidence they have given and other matters.

D

Defence

The accused person's case and the lawyers who represent them.

Domestic Violence Liaison Officer (DVLO)

A specialist police officer whose role is to support you through the court process.

E

Evidence

This is information provided to the court. Your statement forms the basis of the information or evidence that you will give in court, that is, what you saw, heard or experienced.

Evidence-in-chief/examination-in-chief

When the prosecutor asks the witness questions so that they can tell the court what happened.

I

Indictable offence

An offence punishable by two years' imprisonment or more. The less serious indictable offences are usually heard in a Local Court, the more serious indictable offences are usually heard in a higher court before a judge and jury (or judge alone).

Indictment

The formal charge for more serious cases. Used in the District and Supreme Courts.

J

Judge

The judge is in charge of the court and makes sure that it is run fairly for both sides. The judge is called 'Your Honour'. The judge decides the sentence of a convicted offender.

M

Magistrate

The person in charge of the Children's or Local Court.

Mention

A brief appearance at court to clarify what happens next in the court process.

O

Oath

A promise to tell the truth in court.

P

Plea

When the accused tells the court whether they are guilty or not guilty of the charge.

Prosecutor/prosecution

In the Local Court or Children's Court, the prosecutor is a specially trained police officer. The prosecutor does not wear a police uniform. In the District and Supreme Court, the prosecutor is a solicitor or barrister from the ODPP. The prosecutor represents the government in a criminal case and the interests of the Crown at court. In criminal cases, the prosecutor has the responsibility of deciding who and when to prosecute.

S

Sentencing

A range of penalties that can be imposed on a convicted offender including imprisonment, community service orders, good behaviour bonds and fines.

Statement

A written document that sets out the evidence of a witness or an accused.

Support person

A person who a witness will sometimes have sitting near them in the courtroom during a court case.

T

Trial

A hearing in a court where all evidence is heard and a judgment is made.

W

Witness

Any person who has to come to court and answer questions in front of a magistrate or judge and jury.

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