



DOMESTIC VIOLENCE AND SEPARATION

Domestic violence is very common and very harmful. The law recognises that living free from violence is a fundamental human right. If you are experiencing domestic violence it is important that you know your legal, financial and housing options. Obtain legal advice, especially if you are considering making a court application. Separation is a dangerous time. If possible speak to a domestic violence counsellor before leaving about safety planning for you and the children.

What is domestic violence (DV)?

Domestic violence covers a range of abusive behaviours by one person against another, usually when they are in an intimate personal relationship or are related. It can include the following types of behaviour:

- **Physical or sexual abuse** including punching, pushing, kicking, weapon attacks, threats against yourself, another person or a pet, strangling you, forcing you to have sex (or attempting to do so), or stopping you from leaving your house.
- **Emotional or psychological abuse** including behaviour that torments, intimidates, harasses or is offensive to you, for example: name calling, putdowns, following you, stalking you, hacking your Facebook or other social media, repeatedly contacting you, preventing you from maintaining connections with family, friends and culture, threats to withhold your medication or threats to commit suicide/self harm in order to intimidate or frighten you.
- **Economic abuse** including forcing you to hand over ownership/control of your property or income, selling property without your consent, preventing your access to joint assets/income, not allowing you access to money to cover normal household expenses, preventing you from getting or keeping a job, or coercing you to defraud Centrelink.
- **Other behaviour** that is threatening, coercive or controlling.

If you have experienced DV you may:

1. **Get specialised support from a DV counsellor.** They can talk through all your options in a non-judgemental way. If you don't want to separate they can talk about safe ways of staying in the relationship or safe ways of leaving, if this is what you want.
2. **Apply for a "domestic violence protection order" (DVPO).** These are available at local courts/ Magistrates courts. They can order a person to not commit DV against you and to comply with other conditions imposed by the court. In certain states/territories they may also include children. They are not a criminal offence however, breaking a DVPO can result in criminal charges.
3. **Seek help from the police.** If the behaviour is a criminal offence, such as assault, rape or damage to property, you can ask the police to lay criminal charges against the person. In some circumstances the police can make an application for a domestic violence protection order (DVPO) on your behalf. The decision to report can be difficult. Speak to a DV counsellor about all your options. **Call 000 if you are in immediate danger.**
4. **Seek other court orders.** If you are married or in a defacto relationship and are already going to the family law courts for other proceedings, the court can order that your ex stop their abusive behaviour towards you. These orders can be expensive and difficult to enforce in comparison to DVPOs.

Separation

If you are unhappy in your relationship you can separate at any time **you choose**. If you do not need to leave immediately, speak to a lawyer beforehand. The separation date is important for later legal proceedings, so note this down. Remember separation is a dangerous time if there has been violence in your relationship. If possible make a safety plan with 1800 RESPECT on 1800 737 732 (24/7) and work out what to take when you leave.

Do you have to leave home?

No, but if you do leave, you don't lose any rights to the home or other property. If your partner has been violent towards you and you apply for a DVPO, you may be able to apply for a condition that allows you to stay in the house and your partner to leave.

Another option is an Exclusive Use and Occupation Order from the family law courts. You and your partner must own the house or be buying it. You must live in it with children. These orders are difficult to obtain and may be costly.

Does my partner have to leave?

No, unless one of the above orders is made against them. You can be separated but live in the same house - called '**separated under the one roof**'. The law requires that you live 'separate lives' to be entitled to Centrelink benefits. Get legal advice and talk to Centrelink.

What are my options for financial support?

Speak to Centrelink about crisis payments and other benefits. If you have children together and they live with you, you can apply for child support from the other parent. If you apply for, or receive Centrelink, you will need to apply for child support. Speak to a Centrelink social worker if you have concerns about your safety. You may be exempt from applying for child support if it is unsafe to do so.

You may be entitled to spousal/ de facto maintenance to cover your own living expenses in some circumstances, e.g. you are unable to work. Court proceedings for maintenance must be started within 12 months of your divorce if you were married or within 2 years of the end of your de facto relationship. If you need money urgently you could apply to the family law courts for an urgent maintenance order.

Accommodation options and referrals:

- **1800 RESPECT 1800 737 732 (24 hrs/7 days)** if you have experienced domestic violence and need to go to a refuge.

Other options include:

- Speak with a Centrelink social worker for accommodation options and financial assistance.
- Your State Government Department that looks after public housing.
- Neighbourhood/ Community Centres for local, general housing information
- See www.nacdc.org.au for a referral to a community legal centre that provides tenancy legal advice.

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Legal Advice:

Find a Women's Legal Service at www.wlsa.org.au
Find a Community Legal Centre at www.nacdc.org.au
Find a Legal Aid Office at www.nationallegalaid.org.au

Domestic Violence Assistance:

1800 RESPECT 1800 737 732 (24hrs/7days)
Call Police 000 (emergency) or 131444 (non-emergency) (24hrs/7days)

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