Home Office

Ministry of Justice

Guidance

Domestic Abuse Protection Notice and Domestic Abuse Protection Order

October 2026

The purpose of this document is to provide guidance to legal practitioners and advice agencies on Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs), to help them prepare for undertaking DAPO casework. This guidance may be updated as necessary.

Please see the Legal Aid section for information on the legal aid available for DAPOs.

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Domestic Abuse Protection Notices and Orders Overview

The Domestic Abuse Act 2021[1] (the DA Act) received Royal Assent on 29th April 2021. Part 3 of the DA Act introduces Domestic Abuse Protection Notices (DAPNs) and Domestic Abuse Protection Orders (DAPOs) as new civil protective measures. DAPNs and DAPOs are a joint policy shared between the Ministry of Justice and Home Office.

The aim of the DAPO is to bring together the strongest elements of the existing protective order regime into a single comprehensive, flexible order to afford longer-term protection for victims of all domestic abuse. **Our intention is for the DAPO to become the go-to protective order for domestic abuse.**

DAPOs have been piloted since November 2024 in Greater Manchester, three London boroughs (Croydon, Bromley and Sutton) and with the British Transport Police in those areas. DAPOs were expanded to Cleveland and North Wales in Spring 2025.

From 25 November 2026, DAPNs and DAPOs will be available in all police force areas and courts across England and Wales. Other protective orders, including Non-Molestation Orders (NMOs), Occupation Orders, Restraining Orders and Stalking Protection Orders (SPOs), remain available where the relevant statutory requirements in respect of those protective orders are satisfied.

Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) will be retained for an initial six-month transition period following commencement of the DAPO national rollout on 25 November 2026.

The DAPO is the first order available in all court jurisdictions (criminal, family and civil) providing victims with different court routes to the order and an option to identity the most appropriate route. The decision to make DAPOs available in all courts stemmed from feedback received during the public consultation on the draft Domestic Abuse Bill and subsequent passage of the DA Act, which emphasised the importance of victims having more flexibility in accessing a protective order and allowing third parties the option to apply on behalf of victims.

Which courts will deal with DAPOs

Police-led DAPOs in the magistrates' courts

Like the existing DVPN, the DAPN is a police-issued notice that can be used to provide victims with immediate protection following an incident of domestic abuse. It

[1] https://www.legislation.gov.uk/ukpga/2021/17/contents/enacted

can impose prohibitions and requirements necessary to protect the victim from future domestic abuse or the risk of domestic abuse, such as prohibiting the alleged perpetrator from coming within a specified distance of the victim's home. If the police issue a DAPN, they must then apply for DAPO to the magistrates' court, and this application must be heard by the court within 48 hours of the DAPN being issued. If there is an adjournment, the DAPN continues to be valid until a DAPO is made. Police can also apply for a standalone DAPO without ever issuing a DAPN.

DAPOs in the family court

DAPOs are available on application by the victim or any third party with leave of the court. It is also available on application by the victim in any ongoing family proceedings which do not have to be domestic abuse related (where the victim and perpetrator are already parties to those proceedings) or on the court's own motion in such proceedings. This means that a victim who is already involved in family proceedings, for example children proceedings, may apply for a DAPO within those proceedings rather than issuing a separate standalone application. The procedure for family DAPOs is similar to the current processes used for NMOs, with elements of third-party applications that legal practitioners may be familiar with, through orders such as Female Genital Mutilation Protection Orders.

DAPOs in the civil (county) courts

DAPOs are available in limited circumstances in civil proceedings, as an ancillary order only – in ongoing county court proceedings which have been specified in regulations[2], including some types of property, financial, employment, personal injury and protective injunction cases, and where both the person to be protected and the perpetrator are parties to those proceedings.

DAPOs in criminal proceedings (magistrates' courts or the Crown Court)

DAPOs are available in criminal proceedings (magistrates' courts or Crown Courts) as an ancillary order, on conviction or acquittal for an offence, in a similar way to how a Restraining Order is currently available.

Scope of this guidance

This guidance is largely aimed at practitioners who will be advising clients involved in family and civil (county) court DAPO proceedings. Separate statutory DAPO guidance for the police is published on GOV.UK. Police guidance focuses on police-led DAPOs in the magistrates' courts in greater depth.

[2] https://www.legislation.gov.uk/uksi/2024/253/made

Key DAPO features

1. **Broader scope**: DAPNs and DAPOs can be used to protect victims from all forms of domestic abuse as defined in the DA Act, not just from physical violence or the threat of physical violence. This may include sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, and psychological or emotional abuse.

2. **Duration**: The DAPO does not have a minimum or maximum duration. This is to allow the courts to provide victims with the protection they require for as long as needed.

3. **Breach**: Breach of any DAPO requirement without reasonable excuse is a criminal offence, carrying a maximum penalty of up to 5 years imprisonment, a fine, or both. Breach can also be dealt with as a civil contempt of court.

4. **Access**: DAPOs are available in family, civil and criminal proceedings as set out above.

5. **Prohibitions**: the DAPO may include, but is not limited to, prohibitions such as exclusion zones, prohibiting the perpetrator from entering certain areas.

6. **Positive Requirements**: these can be programme-based or non-programme based and require the perpetrator to take specific action. From rollout, family and civil courts will not be able to impose programme based positive requirements. They will be available for police led DAPOs and DAPOs made in criminal proceedings. Non-programme based positive requirements will be available across all court jurisdictions.

7. **Electronic monitoring (EM)**: The DA Act provides for electronic monitoring requirements to be imposed as part of a DAPO to support the monitoring of a perpetrator's compliance with other requirements of the order (e.g., to monitor compliance with an exclusion zone around the victim's house). The infrastructure required to deliver electronic monitoring is not yet available consistently across England and Wales and is therefore not currently available for a DAPO.

8. **Mandatory notification requirements (notification of name and address)**: The perpetrator must notify the police of their name and address within three days from the day on which the DAPO is made, and any changes to these details within three days of the change. Failure to comply will mean breach of the order. Each DAPO will automatically carry this requirement.

9. **Police awareness**: DAPOs made in the family court are notified to the police and uploaded onto PNC directly by ACRO Criminal Records Office (a national police unit).

10. **Children**: Unlike NMOs, DAPOs can only directly protect a person aged 16 or over, although the court must consider the welfare of relevant children whose interests are relevant to the making of the order.

Legal aid

Background

Legal aid is available for DAPOs for both applicants, perpetrators, and (where applicable) eligible third parties (i.e. individuals with leave of the court to apply for a DAPO on behalf of someone else) subject to the relevant means and merits tests. Below is a high-level summary of how civil and criminal legal aid will apply for DAPNs and DAPOs across different courts.

Civil Legal Aid

As DAPOs are civil orders, civil legal aid is available for both:

- the applicant (and if different, the person for whose protection the order is sought); and
- the perpetrator (the person against whom a domestic abuse protection order is made), except in the circumstances outlined in the criminal legal aid section.

As multi-jurisdictional orders, civil legal aid is available across the county, family, magistrates' and High courts and in the case of appeals, the Crown court and Court of Appeal.

In the case of a police-led DAPO in the magistrates' courts, legal advice and assistance is available for the person to be protected (as the DAPO application itself would be led by the police). Although legal aid is available subject to means and merit testing, the existing means eligibility waiver will apply where appropriate.

Further information on the civil legal aid available for DAPOs can be found in the 2024 Standard Civil Contract DAPO Scheme Specification at https://www.gov.uk/government/publications/standard-civil-contract-2024. Crime providers may apply for civil legal aid for DAPOs under the Associated Civil Work provisions of the 2025 Standard Crime Contract and can find guidance on how to apply for civil legal aid at https://legalaidlearning.justice.gov.uk/domestic-abuse-protection-orders-dapo-application-guidance/.

Criminal Legal Aid

Criminal legal aid is available to alleged perpetrators/perpetrators for the making, varying, discharging and appealing of a DAPO where the DAPO is made against

them in criminal proceedings (either on conviction or acquittal of the offence). In all other circumstances, civil legal aid is available to the alleged perpetrator/perpetrator for the making, varying, discharging and appealing of a DAPO (including a police led DAPO application in the magistrates' court).

Criminal legal aid is also available to alleged perpetrators/perpetrators for the following breaches:

- a breach of a DAPN, where the person is arrested and remanded in custody before the DAPO hearing. Where a breach of a DAPN is heard at the same time as the police-led DAPO application, criminal legal aid may only cover the DAPN breach, and civil legal aid may only cover the DAPO application.

- a breach of a DAPO prosecuted as a criminal offence under section 39(1) of the DA Act.
- a breach of a DAPO dealt with as contempt of court.

Further information on the criminal legal aid available for alleged perpetrators/perpetrators can be found at:

- The 2025 Standard Crime Contract Specification at https://www.gov.uk/government/publications/standard-crime-contract-2025
- The Criminal Bills Assessment Manual at https://www.gov.uk/guidance/funding-and-costs-assessment-for-civil-and-crime-matters
- The Criminal Legal Aid Manual at https://www.gov.uk/government/publications/criminal-legal-aid-manual
- For a breach of a DAPO dealt with as contempt of court, https://www.gov.uk/guidance/apply-for-legal-aid-for-civil-contempt-cases

Conditions for making a DAPO

A DAPO is an order made for the purpose of protecting a victim against domestic abuse or the risk of domestic abuse as defined in Section 1 of the DA Act 2021 and:

a) Prohibits the perpetrator from carrying out actions specified in the order;

b) Requires the perpetrator to comply with actions specified in the order.

A court may make a DAPO if (Section 32):

a) The **perpetrator is aged 18** or over and has been abusive towards a **person aged 16** or over to whom they are personally connected[3];

b) The court considers the DAPO to be **necessary and proportionate** to protect the person from domestic abuse, or the risk of domestic abuse, carried out by the perpetrator.

A DAPO is a civil order and therefore **no prior conviction is required** for the court to make a DAPO or for police to make an application.

It does not matter whether the abusive behaviour took place in England, Wales or elsewhere (section 32(4)).

Making a DAPO without notice

The court may make a DAPO against the perpetrator without the perpetrator being given notice of the proceedings if the court consider it is just and convenient for the protection of the victim (Section 34). To note, Section 34 does not apply to DAPO applications made by the police following a DAPN where the police do not have an address for service. In such cases Section 29(4) to (6) applies.

In deciding whether to make a DAPO without notice, the court must have regard to all the circumstances, including:

a) any risk that the perpetrator will cause significant harm to the victim if the DAPO is not made immediately;

b) whether it is likely that the person who applied for the DAPO will be deterred or prevented from pursuing the application if the DAPO is not made immediately;

c) whether there is reason to believe that the perpetrator is aware of the proceedings but is deliberately evading service of notice of the hearing, and the delay involved in effecting substituted service of proceedings will cause serious prejudice to the person for whose protection the order would be made.

If a court makes a DAPO without notice against the perpetrator, the court must give the perpetrator the opportunity to make representations about the DAPO as soon as

[3] Section 2 of the DA Act defines the term 'personally connected' as two people who: (1) are, or have been, married to each other, (2) are, or have been, civil partners of each other, (3) have agreed to marry one another (regardless of whether the agreement has since been terminated), (4) they have entered into a civil partnership agreement (whether or not the agreement has been terminated), (5) are, or have been, in an intimate personal relationship with each other, (6) have, or there has been a time when they each have had, a parental relationship in relation to the same child, (7) are relatives.

is “just and convenient”, at a hearing of which all parties have been given notice in accordance with the rules of court.

Prohibitions, restrictions and positive requirements

Key provisions

The court must consider what requirements (if any) are **necessary** to protect the person from the abusive behaviour (Section 35(2)). The provisions sought by the police in their DAPO applications are expected to reflect this. The perpetrator’s abusive behaviour may take any of the forms set out in the definition of domestic abuse in Section 1 of the DA Act 2021, or any combination of them.

A court may impose provisions in the DAPO which it deems necessary to protect the person for whom the protection order is made. These provisions include **prohibitions, restrictions or positive requirements**.

The conditions of prohibitions/restrictions or positive requirements can be tailored to protect the victim and address the perpetrator’s abusive behaviour based on each case. The application for a DAPO must effectively set out the conditions the applicant deems necessary to protect the person from domestic abuse, or the risk of domestic abuse, by the perpetrator.

Prohibitions and restrictions include requirements such as prohibition of contact, exclusion zones and requiring the perpetrator to leave the premises. Section 35 provides a non-exhaustive list of examples of those requirements.

Positive requirements require the perpetrator to take an action. These may be programme-based or non-programme-based. A court may impose any positive requirement it considers necessary to protect the victim from domestic abuse, or the risk of domestic abuse. The examples in this guidance are illustrative and do not limit the type of positive requirement that may be imposed. Examples of a programme-based requirement include attendance on a behaviour change programme, mental health or substance misuse intervention, or a non-programme-based requirement such as removing content relating to a victim from social media or returning keys to a property.

The requirements of a DAPO must, **so far as practicable**, avoid conflict with the perpetrator’s religious beliefs, the perpetrator’s work or education, or the requirements of any other court order which the perpetrator is subject to. However, if it is not practicable to avoid the conflict, then the court may still impose the requirement (Section 36(1)).

A DAPO has effect for a fixed period specified in the order, until the occurrence of a specified event, or until a further order is made (Section 38). **Different durations**

may be specified in relation to different requirements of a DAPO. Whilst it is the court who have final say over the period for which an order and its individual requirements apply, practitioners can make recommendations in respect of the duration of any DAPO requirements.

If the perpetrator is already subject to another DAPO, the court may specify that the new DAPO will take effect on the previous DAPO ceasing to have effect (Section 38(2)). However, where the perpetrator is subject to another protective order, such as a NMO, a DAPO can still be made providing the conditions of each order do not conflict, as far as the court is aware.

A requirement imposed by a DAPO has effect in all parts of the United Kingdom unless expressly limited to a particular locality (Section 38(7)).

Prohibitions

DAPO may impose a range of requirements (Sections 35(4) to (6)), such as:

a) prohibiting the perpetrator from contacting the victim (this requirement captures contact by any means, including via telephone, post, email, SMS text message or social media);

b) prohibiting the perpetrator from coming within a specified distance of any premises in England and Wales where the victim is living. A DAPO may also prohibit the perpetrator from coming within specified distance of any premises specified by the court, or any other premises of a specified description. This will include, for example, any place where the victim may commonly be found, such as the victim's place of work or place of worship.

c) where the victim and the perpetrator live in the same premises, prohibiting the perpetrator from evicting or excluding the victim from those premises, prohibiting the perpetrator from entering those premises, or requiring the perpetrator to leave those premises (section 35(5)). This provision may be made irrespective of who owns or rents the premises.

An applicant may seek, and the court may subsequently impose, any requirements which are considered necessary to protect the person from domestic abuse, or the risk of domestic abuse by the perpetrator. The examples given in the DA Act 2021 are not exhaustive.

For example, an applicant can also seek provisions to address abusive behaviour such as:

a) Contacting or interacting with the victim via third parties. For example, the children, partner, other family members, friends or co-workers of the victim;

b) Hacking, monitoring or controlling the social media accounts, email, phone, computer, or other personal devices of the victim;

c) Engaging in any form of surveillance of the victim by any means: For example, monitoring the victim through drone surveillance, GPS tracking devices, or digital monitoring tools;

d) Interfering with or restricting the victim's access to goods, services or property;

e) Damaging or threatening to damage property belonging to the victim;

f) Cancelling or procuring goods or services in the name or account of the victim, or intentionally running up bills or debts in the name of the victim (with or without the knowledge of the victim);

g) Interfering with, restricting the victim's access to, or deliberately frustrating the disposal of joint assets;

h) Sharing or publishing, or threatening to share or publish, personal information or images relating to the victim;

i) Creating manipulated or synthetic material online relating to the victim;

j) Making reference to the victim on social media either directly or indirectly;

k) Abusing, or threatening to abuse animals owned by the victim or perpetrator

l) Using technology to track, monitor, harass, control or intimidate the victim, including through spyware, location-sharing applications, smart home devices, vehicle tracking systems or other connected technologies.

This list is not exhaustive.

Positive requirements

Under section 35 of the DA Act, a DAPO may impose a positive requirement requiring the perpetrator to take a specified action. Positive requirements may be imposed alongside prohibitions where the court considers them necessary and proportionate to protect the victim from domestic abuse, or the risk of domestic abuse.

As explained above, positive requirements may be programme-based or non-programme-based. Legislative changes made through section 142 of the Crime and

Policing Act 2026 insert new sections 5A and 5B into section 35 of the DA Act (programme-based positive requirements). These changes allow the court to make a DAPO at the first hearing, require the perpetrator to attend a suitability assessment, and include a programme requirement that takes effect if the perpetrator is later assessed as suitable. These changes will commence at rollout.

Programme-based requirements are currently only available for police-led DAPO applications and DAPOs made in criminal proceedings. **From rollout, family and civil courts will not be able to impose programme based positive requirements as currently there is no referral mechanism.** In family and civil proceedings, positive requirements are therefore only able to consist of non-programme based requirements tailored to the circumstances of the case.

Police are responsible for monitoring compliance with all positive requirements imposed as part of a DAPO, including non-programme-based positive requirements. Before proposing a requirement, consideration should be given as to whether compliance can be appropriately monitored and how any suspected non-compliance would be identified and managed.

Further details can be found in the police statutory guidance.

Electronic monitoring requirements

The DA Act provides courts with the power to impose electronic monitoring ("tagging") requirements as part of a DAPO.

Electronic monitoring may be used to support monitoring compliance with certain DAPO requirements (such as exclusion zones and curfews) where the court considers it necessary and proportionate.

The infrastructure required to deliver electronic monitoring is not yet available consistently across England and Wales. As a result, electronic monitoring is not yet currently available for DAPOs.

This guidance will be updated once a consistent framework for the implementation of electronic monitoring for DAPOs is in place across England and Wales.

Mandatory notification requirements

Scope of notification requirements

A perpetrator subject to a DAPO is automatically subject to mandatory **notification requirements of name and address** (Section 41). This requires them to notify the police of their name(s) (including any aliases) and their home address within three days, beginning with the day on which the DAPO is made. Any changes to name or

address must also be notified to the police within three days of the event. Such information will assist the police in monitoring compliance with the DAPO and in managing the risks posed by the perpetrator.

Where a perpetrator is present at the hearing, the three-day period for complying with the notification requirements begins on the day the DAPO is made (Section 41). Where a DAPO is made without notice, section 39(2) provides that a perpetrator cannot be treated as having breached the order unless they were aware of its existence at the time of the alleged breach.

“Home address” is defined at section 56 as:

a) the address of the person’s sole or main residence in the United Kingdom, or

b) if the person has no such residence –

   i. the address or location of a place in the United Kingdom where the person can regularly be found;

   ii. if there is more than one such place, the address or location of whichever one of those places the person selects.

The notification requirements do not apply where the perpetrator is already subject to notification requirements (Section 41(8)):

a) imposed by another DAPO; or

b) under Part 2 of the Sexual Offences Act 2003; or

c) under Section 9 of the Stalking Protection Act 2019.

If the perpetrator ceases to be subject to any of those notification requirements before the expiry of a DAPO, the deadline for notification would be three days beginning with the day on which the perpetrator ceases to be subject to the other notification requirements (i.e. beginning with the day on which the other order or orders expire) (Section 41(9)).

These perpetrator obligations have effect like any other requirement imposed by the DAPO.

Offences relating to notification

It is an offence if the perpetrator fails, without reasonable excuse, to comply with the notification requirements or if they provide information which they know to be false

It is an offence if the perpetrator fails, without reasonable excuse, to allow the officer receiving their notification to verify their identity by taking their fingerprints and/or their photograph.

The maximum penalty is 5 years imprisonment, a fine, or both.

A person can only be prosecuted once for the same period of non-compliance.

Variation or discharge of a DAPO

An application to vary or discharge a DAPO, can be submitted by (Section 44 (1-3)):

a) The person for whose protection the order was made;

b) The person against whom the order was made, the perpetrator;

c) Where the order was made under section 28, the person who applied for the order;

d) The chief officer of police of the force maintained for any police area in which the perpetrator resides;

e) The chief officer of police of any other force maintained for a police area who believes that the perpetrator is in that police area or intending to come to it.

The application to vary or discharge the DAPO must be made to the appropriate court, which varies depending on the circumstances in which the DAPO was originally made. This is subject to some exceptions (Section 45 (1-3)).

Where a DAPO was made in the family court, proceedings in respect of the variation or discharge of that order can take place at any location where the family court sits.

The court can also vary or discharge the DAPO of its own volition (Section 44(2)(b)) in any case in which it could make a DAPO of its own initiative (section 29)[4].

Court rules set out who should serve the order. The Rules are different depending on which court made the original order. In police-led proceedings taking place in the magistrates' court, the police are responsible for serving the perpetrator the order.

Where a DAPO has been varied without notice, it must be served on the perpetrator before it can be enforced.

[4] Section 29 of the DA Act provides that the court may make a DAPO of its own initiative during other family, criminal or civil proceedings.

A perpetrator who breaches a varied DAPO will not have committed an offence unless and until they are aware of the making of the variation, and, if, in the absence of the variation, their behaviour would not have constituted an offence (Section 45(9)).

When deciding whether to vary or discharge a DAPO, the court must hear from the chief officer of police, if they wish to be heard (section 44(4)(a) and (5)):

a) who applied for the DAPO;

b) for the police force area where the perpetrator resides, or where they believe the perpetrator is or is intending to come to, **even if they did not originally apply for the DAPO**.

The court must hear from the victim, in cases where the victim is seeking to discharge the DAPO, remove any requirements, or make any of the requirements less onerous on the perpetrator (Section 44 (4)(b)). This guards against circumstances in which the victim is coerced by the perpetrator to vary or discharge the DAPO.

These provisions mean that, where they wish to do so, the police are still able to put forward relevant evidence or intelligence which they may have regarding the level of risk posed to the victim by the perpetrator or the nature of their abusive behaviour, even where the police have not previously been involved in the case (for example, if they were not the party who applied for the DAPO).

If the court is satisfied that varying the DAPO is necessary to protect the person from domestic abuse or the risk of domestic abuse, the DAPO may be varied to:

a) Impose additional requirements on the perpetrator; or

b) Extend the duration of the DAPO, or the duration of particular requirements.

The court may only remove a particular requirement, or make that requirement less onerous on the perpetrator, if it is satisfied that the requirement is no longer necessary to protect the person from domestic abuse or the risk of domestic abuse or compromise their safety.

If it appears to the court that any conditions necessary for a requirement to be imposed are no longer met, the court may not extend that requirement and must remove that requirement.

The court may only discharge the DAPO if it is satisfied that the DAPO is no longer necessary to protect the person from domestic abuse or the risk of domestic abuse or compromise their safety.

A DAPO may be varied without notice in exceptional or urgent circumstances (Section 44(7) and section 34). The perpetrator must however be given an opportunity, as soon as is just and convenient, to make representations about the variation at a return hearing on notice.

Notifications from the family and civil court

For DAPOs made in the family and civil courts, the police will not be involved in the court proceedings. To ensure that the police are aware of DAPOs made in the family and civil courts:

- In the family court, all orders will be automatically notified to the police to inform that a DAPO has been made.
- In the civil court, all orders will be manually sent to the police via email from the court.

Police are expected to review the DAPO upon receipt ensuring appropriate safeguarding, risk management and enforcement activity where appropriate.

Breach of a DAPO

It is an offence for a perpetrator to breach a DAPO without reasonable excuse. Breach could involve doing anything prohibited by the DAPO or failing to do something which is required by the DAPO.

Offences relating to a DAPO include:

a) breach any requirement of a DAPO without reasonable excuse (Section 39 (1));

b) failure to comply with notification requirements without reasonable excuse or knowingly provide the police with false information (Section 43 (1-2));

c) failure to comply with obligations in relation to electronic monitoring requirements (Section 37(8)).

The police have responsibility for investigating a reported breach of any DAPO, regardless of whether the police applied for that DAPO. Breach of a DAPO is a criminal offence, irrespective of the court in which the order was made or who made the original application. The police are expected to treat all reported breaches of a DAPO seriously and take appropriate action in accordance with the circumstances of the case.

In instances where the perpetrator is subject to probation management in relation to another offence, and a DAPO breach occurs, the police are responsible for informing the probation service. This information sharing should be reciprocal.

Where the DAPO was made against the perpetrator without notice, the perpetrator only commits an offence in respect of behaviour that occurred at a time when the perpetrator was aware of the existence of the DAPO (Section 39(2)). The perpetrator does not commit an offence unless and until they are aware of the making of the variation, and if in the absence of the variation their behaviour would not have constituted an offence (Sections 45(8-9).

The maximum penalty for breach of a DAPO is the maximum imprisonment available in the magistrates' court, a fine, or both, on summary conviction; or five years' imprisonment, a fine, or both, on conviction on indictment (Section 39 (5)).

If a person is convicted of breach of a DAPO (Sections 39 (6-7)), provide that it is not open to the court, to make an order for a conditional discharge.

Dealing with breach as a civil contempt of court

Breach of a DAPO can be dealt with as a civil contempt of court. Civil contempt of court is a court enforcement process used where a person is alleged to have failed to comply with a court order. This does not apply to an order made by a magistrates' court which does not have the power to punish for civil contempt. Breaches of magistrates' courts orders should therefore always be dealt with by arrest and charge for the criminal offence.

Where the police and CPS do not pursue criminal charges following breach of a DAPO, the victim and other parties to the proceedings (e.g., social services) may be able to bring proceedings against the perpetrator as contempt of court in civil proceedings.

Dealing with a breach of a DAPO as a civil matter may be appropriate in cases where the victim does not want the perpetrator to be criminalised, for example if they wish to continue their relationship with the perpetrator.

The victim, the person who applied for the standalone DAPO, or anyone else with the leave of the court may apply to the court which made the DAPO for an arrest warrant if they consider that the perpetrator has breached the DAPO or is otherwise in contempt of court in relation to the DAPO (Section 40 (3)). Once the perpetrator has been arrested and brought before the court, the court may either deal with the contempt of court there and then or remand the perpetrator, whether in custody or on bail, for the case to the dealt with at a later date.

Where the perpetrator is convicted of breach of a DAPO in respect of any behaviour, that same behaviour is not punishable as a contempt of court (Sections 39 (3)).

Where the perpetrator has been found in contempt of court in relation to the DAPO, they may not be convicted of breach of a DAPO in respect of that same behaviour (Section 39 (4)).

Breach occurring outside of England and Wales

Part 3 of the DA Act 2021 extends to England and Wales only. This means that it does not form part of the law of Scotland, Northern Ireland or any other country and is not capable of producing any legal effect outside England and Wales.

However, Section 38 provides that a requirement imposed by a DAPO has effect in all parts of the United Kingdom unless expressly limited to a particular locality. This means that an act or conduct in breach of a DAPO, even if carried out in Scotland or Northern Ireland, will constitute as an offence in England and Wales.

Appeals

Sections 46 and 47 set out appeal provisions.

Summary of the circumstances in which a DAPO may be appealed:

Person who may appeal	**DAPO under Section 28 of the DA Act 2021 – including following a DAPN being given**	**DAPO made of the court's own motion under Section 31 of the DA Act 2021 as part of other proceedings**	**DAPO under Section 44 of the DA Act 2021**
The victim	✓	See footnote[5]	✓
The person who made the application (if different)	✓	N/A	✓
The defendant/perpetrator	✓ (if the DAPO is made)	✓	✓

[5] The DA Act does not explicitly set out that the victim may appeal a decision of the court relating to a DAPO made of the court's own motion under Section 31 because this is a general right of appeal which is already available to the victim by virtue of other legislation, such as that listed at Section 46(9).

The chief officer of police for the police force area where the perpetrator resides, or where they believe the perpetrator is or is intending to come to. **Please note that for the pilot this will only be applicable where the perpetrator resides in a piloting force.**	X	X	✓

The appeal must be made to the appropriate court, which varies depending on the circumstances in which the DAPO or the relevant decision in relation to the DAPO was made:

a) Where the DAPO, or the decision in relation to the DAPO, was made by a magistrates' court, the appeal must be made to the Crown Court (section 46(7)(a));

b) Where the DAPO, or the decision in relation to the DAPO, was made by a Crown Court, the appeal must be made to the Court of Appeal (section 46(7)(b));

c) Appeals against decisions made by other courts (the family court, county court, or High Court) will be heard in accordance with existing legislation, which is set out at Section 46(9).

Before determining an appeal in relation to a DAPO, the court must hear from the chief officer of police, if they wish to be heard:

a) Where the DAPO was made on application by a chief officer of police, that chief officer;

b) The chief officer from the police force area where the perpetrator resides, or where they believe the perpetrator is or is intending to come to, **even if they did not originally apply for the DAPO**.

These provisions – specifically Sections 46(5) and 47(1) – mean that, where they wish to do so, the police are still able to appeal a decision to vary or discharge a DAPO, or to be heard in respect of an appeal relating to a DAPO, even where they did not originally apply for that DAPO. This allows the police to put forward relevant evidence or intelligence which they may have regarding the level of risk posed to the victim by the perpetrator or the nature of their abusive behaviour, even where the original DAPO was obtained via a different route or the police have not previously been involved in the case.

Section 47(4) sets out what may happen as the result of a successful appeal. This includes the court confirming, varying or revoking any part of the decision which was appealed against, or referring the matter back to the lower court and directing it to reconsider its decision.

How DAPOs fit into existing order landscape

DAPO brings together the strongest elements from existing protective orders into a single new order. For example, in comparison to DVPOs, DAPOs are not time-limited to a maximum of 28 days and the breach is a criminal offence. In comparison to NMOs, DAPOs carry a wider range of conditions that can be imposed. DAPOs incorporate some features that are more commonly found in the criminal space, such as electronic tagging, mandating attendance on behaviour change programmes and mandatory notification of perpetrator's name and address to the police, this notification currently applying for certain sex offences, and is part of the SPO. The table below shows how DAPOs compare to existing orders in a summary format:

	Jurisdictions where available	Who can apply / make an order	Conditions that can be imposed	Duration	Breach
DVPOs	Magistrates' (civil proceedings)	police	Restrictions and prohibitions	Maximum 28 days	Civil
ROs	Magistrates' or Crown Court (criminal proceedings)	CPS (usually working with the police), court of its own initiative	Restrictions and prohibitions	No specific limit	Criminal offence
Civil injunctions	County court or the High Court	Victim	Restrictions and prohibitions	No specific limit	Criminal offence
SPOs	Magistrates' (civil proceedings)	Police	Restrictions and prohibitions Positive requirements Mandatory notification	No specific limit	Criminal offence
NMOs/OOs	Family	Victim	Restrictions and prohibitions Some positive obligations in relation to property (OOs)	No specific limit	NMOs – criminal offence, OOs – Civil

DAPOs	**Family** (standalone and within other ongoing proceedings – family court or the Family division of the High Court) **Civil** - county court within other ongoing proceedings) **Magistrates'** (civil proceedings, standalone or following a DAPN) **Magistrates' and Crown Court** (in ongoing criminal proceedings or breach of DAPO)	Victim and, 3rd parties with leave, in the family court Police in the Magistrates' Court of own motion in family, civil and criminal proceedings On application by person to be protected within ongoing family and civil (county) proceedings	Restrictions and prohibitions Positive requirements Electronic monitoring Mandatory notification of name and address	No specific limit	Criminal offence

Detailed comparison of DAPOs with Non-Molestation Orders and Occupation orders

While NMOs are not being repealed for the time being, it is our intention that there will be a gradual switch from these orders to DAPOs.

There are a number of relatively subtle differences between NMOs and Occupation Orders and DAPOs. Some of these are already set out above, in relation to multiple application routes to a DAPO and conditions that can be imposed, but others are more specific, as set out below.

Children

The primary difference is about how children can be protected. NMOs allow for children to be directly protected in two ways – children under 16 can bring applications in their own right with leave of the court, and adult applicants can include 'relevant children' in their application.

DAPOs can only protect a person who is aged 16 or over, under section 32(2) DA Act. Anybody under 16 cannot be directly protected by a DAPO, but the court is obliged to take into account the welfare of any child whose interests it considers relevant to the making of the order, under section 33(1)(a). This child does not have

to be personally connected to the perpetrator. This means that children can be protected by a DAPO indirectly, via protection that is granted to the applicant, for example if the perpetrator is banned from coming near the victim's home and the child lives with the victim, they will benefit from that protection.

Section 3 of the DA Act provides that any child who witnesses domestic abuse is to be treated as a victim of domestic abuse. As a DAPO can only directly protect a person who is aged 16 or over, this means that a child aged 16 or over can apply for a DAPO to protect themselves from this kind of abuse, provided they are related to the person being abused or the perpetrator.

If it is necessary to directly protect a child, an applicant will have to apply for another court order – this may be a contact order/residence/prohibited steps order under section 8 of the Children Act 1989, or in some cases it may still be more appropriate to obtain a NMO.

However, section 52 of the DA Act makes provision for the court to protect children as well as adult victims at the same time in certain proceedings. **Subsection (1)** inserts a reference to Part 3 of the DA Act into section 8(4) of the Children Act 1989. By doing so, the DA Act amends the Children Act 1989 to provide that proceedings under Part 3 of the DA Act are "family proceedings" for the purposes of the Children Act 1989. The effect of this amendment is to enable a judge (sitting in the family court or Family Division of the High Court) hearing an application to make or vary a DAPO to make an interim care order, or exercise other powers available to the court under the Children Act 1989, in the same set of proceedings. This enhances the court's ability to protect children who are exposed to domestic abuse at the point of dealing with such abuse, and without requiring the issue of separate applications and fresh proceedings (as would otherwise be the case). **Subsection (2)** inserts a reference to Part 3 of the DA Act into section 63(2) of the Family Law Act 1996. By doing so, the DA Act amends the definition of "family proceedings" for the purposes of Part 4 of the Family Law Act 1996 to include within the definition proceedings under Part 3 of the DA Act. The effect of this amendment is to enable a judge (sitting in the family court or Family Division of the High Court) hearing an application to make or vary a DAPO to make an occupation order or NMO, or a forced marriage protection order in the same set of proceedings.

Finally, under section 31(2) of the DA Act, the Family Division of the High Court or the family court of their own initiative may make a domestic abuse protection order in any family proceedings to which both the perpetrator and the person for whose protection the order would be made are parties. This enables a family court to make a DAPO during ongoing proceedings (for example children proceedings) where, in the course of such proceedings, the court becomes aware of the need to protect a person from domestic abuse. Under section 28(7) of the DA Act, a victim can also apply for a DAPO within any such ongoing family proceedings.

Definition of domestic abuse

In comparison to DVPOs and NMOs, DAPO relies on a much wider definition of domestic abuse, which includes all forms of abuse, as set out under section 1 of the DA Act.

Definition of 'personally connected' compared to 'associated person'

Section 2 of the DA Act definition of 'personally connected' is very similar to the Family Law Act 1996 definition of 'associated person'. The main difference is that it is no longer necessary to prove there has been a relationship of 'significant duration' nor is there a requirement that the parties have ever lived together, provided that the relationship has been 'an intimate personal relationship'. Unrelated borders or lodgers are not part of the DA Act's definition either.

DAPOs and Occupation Orders

DAPOs may include conditions relating to a property or a person's access to a property where the court considers those conditions necessary to protect the victim from domestic abuse or the risk of domestic abuse.

However, DAPOs do not replicate all the provisions available under an Occupation Order. Occupation Orders contain specific powers relating to occupation of the family home and can regulate property and occupation rights under the Family Law Act 1996.

Use of undertakings

DAPO proceedings do not specifically provide for undertakings as an alternative to a DAPO in the way that NMO proceedings do.

DAPOs were designed to provide a consistent and enforceable framework for victim protection. Where the statutory test for making a DAPO is met and the court considers an order necessary, it must decide whether to make the order rather than accepting an undertaking from the perpetrator.

Summary table of NMO Vs DAPO comparison

	NMOs / OOs	DAPOs
Definition of abuse	'Molestation' has been broadly interpreted in case law and can include: - Acts and threats of violence - Conduct regarded as such a degree of	Statutory definition of domestic abuse: physical or sexual abuse, violent or threatening behaviour, controlling or coercive behaviour, economic abuse, and psychological, emotional or other abuse (Section 1 DA Act)

	harassment that the intervention of the court is required	
Who can apply	Victim of any age (but a child under 16 needs leave of the court)	Victim aged 16 or over only Any third party (organisation or individual) with leave of the court -section 28(2)(d) DA Act
Who can be protected	Victim who is "associated" (as defined in s.62 Family Law Act 1996) with the perpetrator together with any relevant children (as defined in the same section).	Victim aged 16 and over only -section 32(2) who is 'personally connected' (as defined - section 2 DA Act) to the perpetrator
Who can they be made against	A person of any age	A person aged 18 and over
Other conditions	Restrictions and prohibitions	Restrictions and prohibitions ***plus*** • A mandatory requirement for the person subject to a DAPO to notify the police of their name, any aliases, and their home address and any changes to • those (s.41 DA Act) • Positive requirements (e.g. attendance on a course) • Electronic monitoring to monitor compliance with requirements