

**MAGISTRATES COURT OF WESTERN AUSTRALIA
FACT SHEET 38**

VIOLENCE RESTRAINING ORDER

This fact sheet explains how you can apply for a Violence Restraining Order.

What is a Violence Restraining Order?

A Violence Restraining Order is an order made by the Court to restrain a person (known as the **respondent** or when an order is made, the **person bound**) from either committing an act of abuse, breaching the peace, causing fear, damaging property or intimidating another person (known as the **person seeking to be protected**).

A Violence Restraining Order (VRO) is made when an act of abuse has been, or is feared will be, committed

You can choose to have the first hearing in the absence of the respondent

**Option 1
First hearing without
the respondent**

You must lodge an application form (available from any court registry or online by visiting www.magistratescourt.wa.gov.au) and ask to have the first hearing in the absence of the respondent.

The application will be heard in a 'closed court' meaning the public will not have access to the court.

You are entitled to have an approved support person with you in court during the application hearing. However, the approved support person cannot be a witness in, or a party to, the proceedings.

You will be asked to give verbal evidence or provide an affidavit to the Court.

If an order is granted it is an interim Violence Restraining Order.

The Court will prepare the interim order and the police will serve it on the respondent. The interim order only comes into force when it is served.

The respondent has 21 days after being served with the interim order to either lodge a consent or objection to the order.

If the respondent consents (or does nothing within 21 days after being served) the interim order becomes a final order and both parties will be notified by mail.

**Option 2
First hearing with the
respondent present**

If the respondent lodges an objection, the Court will fix a hearing date. You will be notified of this date by mail. The interim order continues to be in force until this hearing is completed.

You must attend the hearing, as in your absence the Court may dismiss the application and any interim order will cease to be in force.

If the respondent attends the hearing and continues to object to your application, it may be heard forthwith or adjourned to the next available restraining order trial date.

If the respondent is notified and does not attend the hearing, the Court may conduct the final order hearing in the absence of the respondent.

If a final Violence Restraining Order is made and the respondent is in court when the order is made, the order is deemed to have been served. Otherwise, the order will be delivered to the police for service on the respondent and comes into force when it is served. In the meantime, the interim order continues.

The address of the person seeking to be protected will remain confidential.

You can choose to have the first hearing in the presence of the respondent.

You must lodge an application form and ask to have the first hearing in the presence of the respondent.

The Court will fix a mention hearing (usually in about four weeks to allow time for service on the respondent). You will be given a copy of the application with the hearing date shown on it.

The Court will issue a summons to the respondent, which will be delivered to the police for service.

You must attend the hearing as the Court may dismiss your application if you do not.

If the respondent attends the mention hearing and does not agree to the application, it will be adjourned to the next available restraining order trial date.

If the respondent is served with the summons but does not attend the mention hearing, the Court may hear your application in the absence of the respondent.

If a final Violence Restraining Order is made, it will be delivered to the police for service on the respondent and comes into force when it is served.

A Violence Restraining Order remains in force for the period stated in the order or, if no time is stated, for two

Violence Restraining Order last?

years from when it came into force.

Change of address

All parties must inform the Court of any change of address. This is because notification of hearing dates may be posted to the parties.

Addresses of the parties will remain confidential.

Cancellation or variation of orders

If circumstances change, you can make an application to cancel or vary the order made by the Court.

If you make an application to cancel or vary a restraining order the Court will fix a hearing date (usually in about four weeks). The application can be heard in the absence of the bound person or a summons will be sent to the person bound to attend.

If the person bound by the order makes an application to cancel or vary a restraining order, a leave hearing to seek permission to proceed will be conducted in your absence. If the person bound is successful a summons will be sent to you to attend court. It is important that you attend court when required as the order may be changed if you do not attend and have your say.

This is a guide only. The content is subject to change. If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.