

**MAGISTRATES COURT OF WESTERN AUSTRALIA
FACT SHEET 39**

MISCONDUCT RESTRAINING ORDER

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

What is Misconduct Restraining Order?

A Misconduct 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 breaching the peace, causing fear, damaging property or intimidating another person (known as the **person seeking to be protected**).

A Misconduct Restraining Order may be issued when a person behaves in an intimidating or offensive manner, which may lead to a breach of the peace or damage to property. A Misconduct Restraining Order only applies to people who are not in a domestic relationship.

How to apply for a Misconduct Restraining Order

You need to apply to a registry of the Magistrates Court and pay a fee. The application form can be obtained from any court registry or online by visiting www.magistratescourt.wa.gov.au.

If the respondent is a child, the application must be made to the Children's Court.

The hearing

The court will fix a date for a mention hearing that allows time for service by the police on the respondent.

You will be given a copy of the application with the hearing date shown on it.

You must attend the hearing as the application may be dismissed if you do not.

If the respondent attends and agrees with the application the Court will make an order.

If the respondent attends the hearing and does not agree to the application, a future trial date will be allocated.

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

If a Misconduct Restraining Order is made it will be delivered to the police for service on the respondent.

How long does a restraining order last?

The order does not come into effect until it is served.

A Misconduct Restraining Order remains in force for the period stated in the order, or, if no specific time is stated in the order, for one year from when it was served.

Costs

A court may make such orders as to costs as it considers appropriate.

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 an order the Court will fix a hearing date (usually in about four weeks) and a summons will be sent to the person bound by the order.

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 respondent 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.