



Magistrates Court of Western Australia Civil Jurisdiction

Fact Sheet 49 – Family Violence Restraining Order

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

What is a Family Violence Restraining Order?

A Family Violence Restraining Order (FVRO) 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 family violence, exposing a child to family violence or behaving in a manner that could reasonably be expected to cause a person seeking the order (known as the **person seeking to be protected** or **protected person** when an order is made), to fear that family violence will be committed against them.

You can apply for an FVRO against someone if you are, or have been, in a **family relationship** with the respondent. The definition of family relationship is a relationship between two people who are, or were, one of the following:

- Married;
- De facto;
- Related (e.g. siblings, children, parents, grandparents and step-family relationships);
- Who have, or have had an intimate or other personal relationship, with each other; and

- The former spouse or former de facto partner of the other person's current spouse or current de facto partner.

An FVRO is made when an act of **family violence** has been, or is feared will be, committed. Family violence is not just physical violence or threats of violence, it can also include forms of financial, emotional and psychological abuse, as well as any other behaviour that coerces or controls the person or causes the person to be fearful.

Option 1

First Hearing without the Respondent

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

You must lodge an application form (forms are 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. An application may also be made on your behalf online - visit <https://www.victimsofcrime.wa.gov.au> for further information, including a Frequently Asked Questions Page.

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

If an order is granted it is an interim FVRO.

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. If the respondent lodges an objection, the Court will fix a hearing date and notify you of this date. 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 if you do not 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 FVRO 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 served 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 unless the Court is advised by a party that their address is known to the other party.

Option 2

First Hearing with Respondent present

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 of a summons 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 FVRO is made, it will be delivered to the police for service on the respondent and comes into force when it is served.

Additional circumstances where orders may be made

An FVRO may be made by the Court or upon request by a party where the respondent has been convicted of certain violent offences within the Criminal Code for which you are the victim. An application may be heard in the absence of the respondent and if the Court is satisfied an order should be made, the Court can make a final FVRO. The order will take effect when it is served on the respondent.

How long does an FVRO last?

An FVRO remains in force for the period stated in the order or, if no duration is specified, for two years from when it came into force.

Change of address

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

Addresses of the parties will remain confidential unless the Court is advised by a party that their address is known to the other party.

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, if required a summons will be served on the person bound to attend.

If you are applying to change the order, including to extend the duration of the order, the summons must be served on the person bound before the order expires, otherwise a new application for a restraining order will have to be made.

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 served on you to attend court. It is important that you attend court when required as the order may be changed or cancelled 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.