

Restraining Order Application to Vary or Cancel

Number	
Jurisdiction	<input type="checkbox"/> Magistrates Court of WA <input type="checkbox"/> Children's Court of WA
Location	

Person Applying to Vary or Cancel	Family Name
	Other Names
	Address Street Postcode
	Phone Numbers Work Home Mobile
	Are you <input type="checkbox"/> the person bound by the order <input type="checkbox"/> the parent or guardian of a child protected by the order <input type="checkbox"/> a police officer <input type="checkbox"/> the legal guardian of the person protected by the order <input type="checkbox"/> the person protected by the order

Restraining Order	Type of Order <input type="checkbox"/> Family Violence Restraining Order <input type="checkbox"/> Violence Restraining Order <input type="checkbox"/> Misconduct Restraining Order
	Date Order was made Restraining Order No.
	Person who is bound by the order
	Person who is protected by the order

Grounds for Leave to Continue this Application <i>(Only fill this in if the application is being made by the person bound by the order)</i>	If you are the person bound by the restraining order, on what grounds do you seek leave to continue the application?
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Variation or Cancellation Please tick <u>one</u> box only	Do you want the order to be cancelled and a replacement order to be made? Duration of order: An order made under this option will remain in force for a period of 2 years from the date of service of the replacement order if no other period is specified. <input type="checkbox"/> Yes
	Do you want an additional order, to be read with the original order, which states the variation? Duration of order: Unless specified, an order made under this option <u>will not</u> vary the duration of the original order. <input type="checkbox"/> Yes
	Do you want the order to be cancelled without any further order being made? Duration of order: An order cancelled under this option ceases to be in force at the conclusion of the hearing at which it is cancelled. <input type="checkbox"/> Yes

Variation Sought	What are the specific changes are you seeking?
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Grounds for Variation or Cancellation	Why do you want the restraining order varied or cancelled?
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If you are the protected person	Do you want this application to cancel the restraining order heard in the absence of the person bound by the order? <input type="checkbox"/> Yes <input type="checkbox"/> No
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Signature	Signature of Applicant
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Hearing (to be filled in by the court)	Court Date Time
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Notification	I certify that on/...../..... atam/pm at I notified the person applying to vary or cancel of the hearing date.	Signature of Clerk
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IMPORTANT INFORMATION

For Application to vary or cancel a restraining order

IMPORTANT INFORMATION FOR THE APPLICANT

Application by the person protected by the restraining order

If you are the person protected by the restraining order (or someone acting on behalf of that person) and you have applied to vary or cancel the order, you must attend a hearing on the date set out on the front of this application. The court will summons the person who is bound by the order who should also attend. At that hearing the court will decide whether or not to vary or cancel the restraining order.

If you do not attend the hearing, your application may be dismissed.

Application by the person who is bound by the restraining order

If you are the person who is bound by the restraining order and you have applied to vary or cancel a restraining order, you must attend a hearing on the date set out on the front of this application. The person protected by the restraining order will not attend this hearing. At this hearing you will have the opportunity to satisfy the court that you should be granted leave to continue the application. To do this you will need to satisfy the court that one of the following applies:

- (i) you had a reasonable cause not to attend a prior hearing where the restraining order was made (this does not apply in respect of a hearing where you were not present because the person protected by the order chose to have the matter heard in your absence under section 26 of the *Restraining Orders Act 1997*);
- (ii) there is evidence to support a claim that a person protected by the order has persistently invited or encouraged you to breach the order, or by his or her actions has persistently attempted to cause you to breach the order;
- (iii) there has been a substantial change in the relevant circumstances since the order was made;
or
- (iv) if this application is made to vary or cancel an interim order, there is evidence to support a claim that the restraints imposed by the order are causing you unnecessary hardship.

If you do not attend the hearing, your application may be dismissed.

Your application to vary or cancel the restraining order will be dismissed if you do not satisfy the court that one of the grounds set out above applies.

If the court is satisfied that one of the grounds set out above applies to you then the court will set a date for a further hearing and will summons the person protected by the order to attend. At that hearing the court will decide whether or not to vary or cancel the restraining order.

If you do not attend the hearing, your application may be dismissed.

Application to extend duration of order

If this application is to vary the restraining order by extending the duration of the order, then, despite anything else in the *Restraining Orders Act 1997*, **THE ORDER WILL NOT EXPIRE** before the application is determined if the person bound by the order has been given a copy of this application.

APPLICANTS COPY