

Violence restraining orders – information



This information sheet may assist you if you want to know more about violence restraining orders including how to apply for one.

If you are applying for the order you are called “the applicant” or the “person seeking to be protected”.

The person who you want the order against is called “the respondent” or if a restraining order is made, the “person who is bound”.

If you are a respondent to a restraining order application see the Legal Aid WA information sheet: [Responding to a restraining order](#).

What is a violence restraining order?

A violence restraining order (VRO) is designed to stop threats, property damage, violence, intimidating behaviour and emotional abuse in the future. It is an order of the court. It tells the offender to stay away from you and/or to stop behaving in certain ways towards you. The order can be worded to suit your situation.

There are two types of VROs:

- a VRO against a person you are in a family or domestic relationship with, and
- a VRO against a person you are not in a family or domestic relationship with.

There are two other types of restraining orders:

- misconduct restraining orders (MROs), and
- police orders.

The **Legal Aid WA information sheet: Misconduct restraining orders** has more information on MROs.

What is a police order?

Police may make an on the spot VRO called a “police order” in situations of family and domestic violence.

The police order may be made for up to 72 hours. A 72 hour order lapses if it is not served within 24 hours. If you want an ongoing VRO you will have to apply to the court yourself or ask the police whether they can apply for you.

Who can apply for a violence restraining order?

An application can be made by:

- any person seeking to be protected, or their guardian, if they have one
- the parent or guardian of a child or a child welfare officer (eg, a Department for Child Protection and Family Support case manager) for a child or young person under 18 years of age, or
- a police officer for any child or adult.

How can I get a VRO?

If you are applying for the order you are called the **applicant** or the **person seeking to be protected**. The person you want the order against is called the **respondent**. If the order is made they are the **person bound**.

An application for a VRO can be made:

- In person to the Children's Court if the respondent is a child or young person under 18.
- In person to the Magistrates Court if both the applicant and the respondent are adults.
- In person to the Magistrates Court or the Children's Court of WA if the person seeking to be protected is a child or young person under 18, against an adult respondent.
- Through a police officer who may apply for you by telephone. They usually only do this

where doing it yourself is either not practical or the situation is urgent.

The court may also extend an order to cover a person named in the order in addition to the person protected by the order, eg a parent who seeks to have their child covered by their order.

If a person is convicted of certain violent offences in a criminal court, that court can automatically make a lifelong violence restraining order against an adult or a child unless the victim does not want it.

Ask at your nearest courthouse for the application form or, if there is no courthouse in your area, ask at the nearest police station. The application form can also be downloaded from the Magistrates Court of WA website.

Note: A restraining order cannot be made against a child less than 10 years of age.

What do I have to show to get a VRO?

To get a VRO you must be able to show the court that the respondent:

- has committed an act of abuse and is likely again to commit an act of abuse against you, or
- makes you reasonably fear they will commit an act of abuse against you

and the court thinks it is appropriate in the circumstances to make a restraining order.

A child in a family and domestic relationship with the respondent can also apply for a VRO. The court may also choose to extend an order for a person protected in circumstances of family and domestic violence so that it also covers a child who is likely to be “exposed” to an act of abuse. “Exposed” means to see or hear an act of abuse or to see physical injuries resulting from an act of abuse.

See the **Legal Aid WA information sheet: Violence restraining orders – court process** for more information.

If possible get legal advice before you make your application. You can contact **Legal Aid WA’s Infoline** on **1300 650 579** for information and referral.

What is an act of abuse?

An act of abuse includes:

- any assault whether or not it causes an injury
- any act that causes an injury
- kidnapping
- holding another person against their will
- stalking
- threats to do any of the above.

If the respondent believes they are in a family or domestic relationship with you, even if they are not, then the following would also be acts of personal violence:

- damage to your property
- injuring or killing your animals
- behaving in an ongoing way that is frightening, offensive or emotionally abusive towards you.

If you are in a family or domestic relationship all of the above acts are acts of abuse. When an act of abuse happens in a family and domestic relationship, it is described as family and domestic violence.

What is family and domestic violence?

Family and domestic violence includes emotional, physical, sexual and psychological abuse. If your partner, ex-partner or a family member hurts, threatens or humiliates you, it is family and domestic violence.

The law states that an act of family and domestic violence includes assaults, injuries, threats, stalking, damaging property, hurting animals or pets, and acting in an ongoing intimidating, offensive or emotionally abusive manner.

Physical violence, stalking and threats of violence are crimes.

Am I in a family or domestic relationship?

You are in a family or domestic relationship with someone if that other person is your:

- spouse or ex-spouse
- de facto or ex-de facto
- girlfriend/boyfriend or ex-girlfriend/ex-boyfriend
- child, step-child or grandchild

- parent, step-parent or grandparent
- your sibling or step-sibling
- relative or former relative.

If you are not sure whether you are in a family or domestic relationship with the person you want a restraining order against, seek legal advice.

What conditions can be imposed in a VRO?

A VRO can have conditions which stop the person bound from doing certain things such as:

- being on or near your home or place of work
- being on or near a certain place
- coming within a certain distance of you
- contacting or trying to contact you in any way, including texting, ringing, emailing or writing—even through other people
- contacting you in certain circumstances or in a particular way, for example, only by texting to make arrangements for contact with your children
- stopping you from using personal property you need
- behaving in certain ways
- being in possession of firearms, ammunition or a firearms licence.

A VRO may also inform the person bound/respondent that certain behaviour and activities are unlawful, that is, they may break a criminal law.

Normally a VRO prevents the respondent from having or getting a gun or a licence for a gun. Also, if a respondent already has a gun and/or a gun licence, they must give it up to the police.

If the court is not going to order that the respondent must give up their gun they should tell you.

Is a VRO a criminal charge?

A VRO itself is not a criminal charge. Notice of a VRO does not go on the person bound's criminal record.

However, if a person bound by a VRO breaches that order, they may be charged with the criminal offence of breaching a violence restraining order.

A conviction for breach of a VRO or a police order will go on their criminal record.

Breaches of a VRO or a police order can result in fines of up to \$6,000 or imprisonment for up to two years or both.

What is a breach of a VRO or police order?

A police order or VRO will prevent the person bound from doing certain things.

You should read the order carefully to know what behaviour is restricted.

If the person bound does something that the police order or VRO says they can't do, they are "breaching" the order.

For example, if a police order or VRO says the person bound is not allowed to communicate with you, the person bound must not:

- visit you
- call you on the phone
- send SMS or text messages to you
- send emails to you
- send letters to you
- send presents to you
- send messages to you, even through friends, family or your children.

You should report any breaches of a police order or a VRO to the police.

How does a VRO affect children spending time with either parent?

A VRO can be made for a child as the person protected or a VRO for an adult as the person protected can be extended by the court to protect a child or children. Read the restraining order carefully as the court may include conditions about what contact the person bound by the order can have with their children.

What if there are family court orders in place regarding my children?

If the court making the restraining order does not have the power to adjust a family court order the court cannot make an order that conflicts with the family court order. The court that grants the

violence restraining order (domestic and family violence) can in some circumstances change or cancel any parenting orders made by a family court. You should obtain legal advice about your particular situation.

How does a VRO affect access to property?

A VRO will usually mean the person bound **cannot** go to where you live to get their property. If they do they may breach the VRO.

The court may make an order that removes the person bound from where they normally live. This can happen even if the person bound is the owner of that property. If this happens the court must make an order about how the person bound can get their personal property. Usually the order will state that the person bound can go back to the house on one occasion only, and in the presence of a police officer, to collect personal items.

If it is a condition of the order, the person bound may recover property in accordance with the procedures set out in the *Restraining Order Regulations 1997* (WA) and in the presence of a police officer at a time and date convenient to the person protected. The police will try to contact you and arrange a time convenient to you for the person bound to collect their property in the presence of a police officer.

What if I want property back from the person bound?

You should not initiate contact if it is prohibited under the VRO. If, as the person protected, you have moved out of the place where you normally live and still have property in the family home, you may ask the court to include a condition on the VRO saying you can go back to that house to get your personal property in the presence of a police officer.

If an interim VRO has already been made and the court has not made an order allowing you to collect your property, you can apply to the court for a variation of the VRO to include such an order.

A VRO is not a court order about who owns the property. You may need to get advice from a family lawyer about how to get a family court order about property settlement.

For more information about property settlement see the **Legal Aid WA webpages: Information about the law – Dividing property – married couples** and **Information about the law – Dividing property – de facto couples**.

How can I get the person bound's property back to them?

You should not initiate contact if it is prohibited under the VRO. The return of property may be covered by a condition of the VRO. You can contact the police and arrange for the goods to be given back to the person bound.

If you were in a relationship don't throw away the property as it may form part of your property settlement. If this applies to you get legal advice.

For other situations where you are required to take steps before you can dispose of goods left with you see the **Legal Aid WA webpage: Information about the law – Abandoned goods**.

What help can the police give me if there is family and domestic violence?

For information about how the police may be able to help see under the heading above **What is a police order?**

If family violence has led to the offender being charged with a criminal offence and appearing in court, they may plead guilty and have their matters finalised on the day. If you or your children still require protection after that day, you may apply for a VRO as indicated above under the heading **How can I get a VRO?**

If the offender pleads not guilty or has to come back to court again, the police can ask for protective bail conditions to remain in place until the court matters are finalised.

You may apply for a VRO to be issued at any time you experience family violence, regardless of whether the offender has been charged. This may provide extra protection for you and your children if the police cannot assist you.

You can contact the **Police Victim Support officer** at your nearest police station for more assistance. Please note not all stations have a Police Victim Support officer. If you are not happy with the police response you can contact the

Police Victim Support Coordinator for your district.

What if I have been injured as a result of family violence?

If you have been injured, get medical help immediately. If necessary, the Crisis Care Unit may be able to help with transport. Tell a doctor what happened and remember to take a note of the date and the doctor's name and address.

If possible, get someone to take photographs of your injuries and get them to sign and date them. Anyone can take photographs of the injuries, provided that the person is prepared to go to court with you if necessary to confirm that they took the photographs. Keep any evidence of assault such as torn clothing.

If the police are involved, ask them to collect evidence and arrange for photographs to be taken. Ask the police for an Incident Report Number.

Am I eligible for criminal injuries compensation?

For information about criminal injuries compensation, see the **Legal Aid WA information sheet: Compensation for victims of crime**.

Am I eligible for assistance if I am on a visa?

If you are on a temporary visa, you may need legal advice about family violence and immigration issues. See the **Legal Aid WA webpage: Information about the law – Immigration status and family violence**.

Where can I get more information?

- Contact the general support 24-hours **Crisis Care Unit** (Department for Child Protection and Family Support) on **(08) 9223 1111** or **1800 199 008** for callers outside the metropolitan area.
- Contact **Legal Aid WA's Infoline** on **1300 650 579** between 8.30am and 4.30pm Monday to Friday for information and referral, or to be sent a copy of an information sheet. You can also pick up a copy from your nearest Legal Aid WA office.

Where can I get more information?

- The following **Legal Aid WA information sheets** contain more information about restraining orders for applicants and persons protected:
 - Undertakings (in VRO and MRO proceedings)
 - Representing yourself as an applicant in a family and domestic VRO final hearing
 - After a restraining order is made
 - Restraining orders – summoning witnesses. This information sheet is only made available after legal advice.

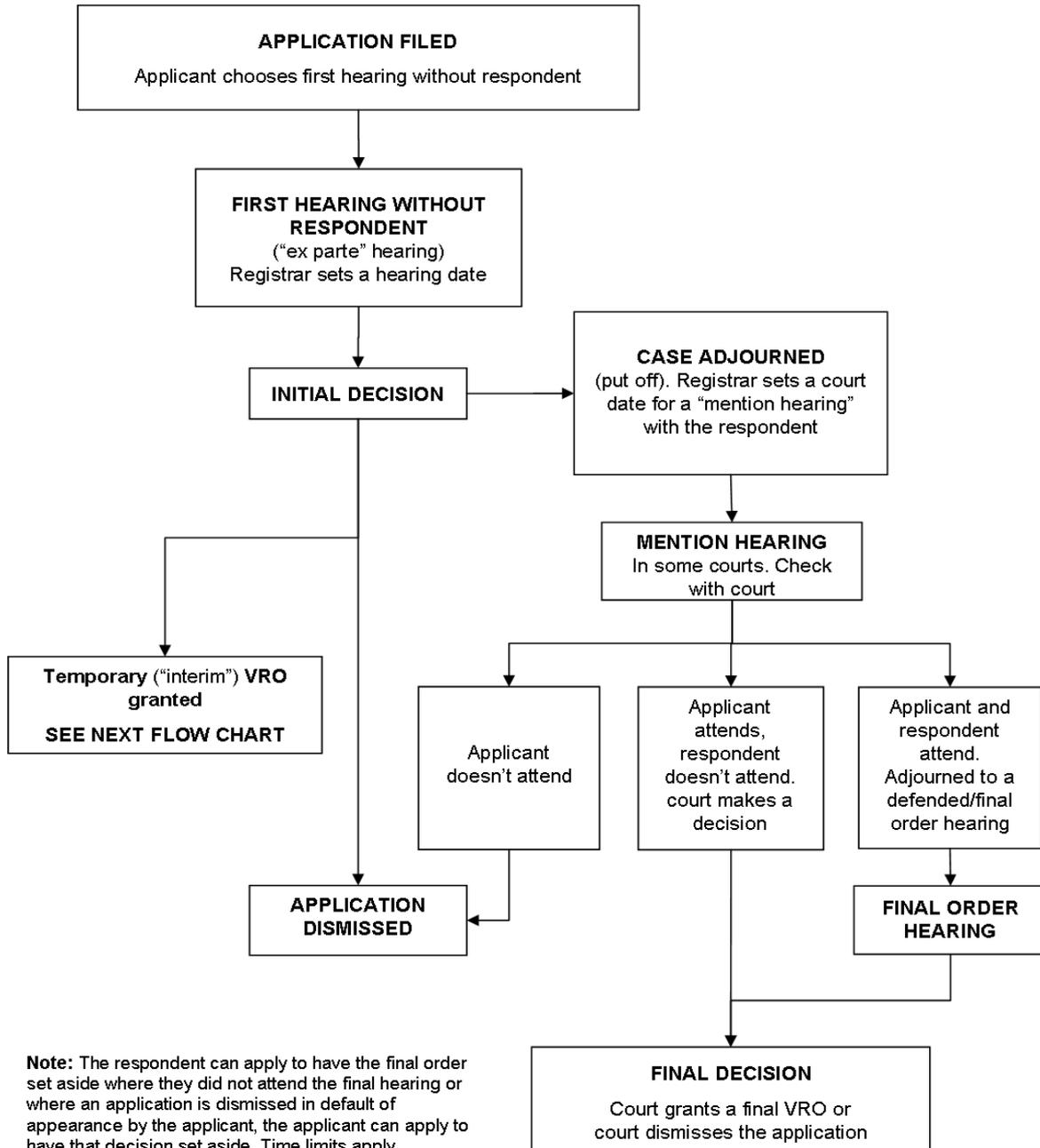
These information sheets should be used with legal advice where possible.

- If you are at risk of family and domestic violence and want tips for staying safe, see the **Legal Aid WA information sheet: About your safety**.
- The **Family Violence Prevention Legal Service (FVPLS)**, **Aboriginal Family Law Services (AFLS)** and **Marninwarntikura Family Violence Prevention Unit** offer legal and counselling services for victims of family violence and/or sexual assault who are Aboriginal or Torres Strait Islander peoples, or whose partner or children are Aboriginal or Torres Strait Island peoples. Contact:
 - **Perth FVPLS (Djinda Services)** on **(08) 6164 0650**.
 - **AFLS** on **(08) 9355 1502** or **1800 469 246** (freecall) or go to its website: <http://www.aflls.org.au/contact/> for the contact details of other AFLS offices in regional areas.
 - **Albany FVPLS** on **(08) 9842 7751**.
 - **Marninwarntikura Family Violence Prevention Unit** on **(08) 9191 5284** or **9191 5417**.
- Police support is available from your local police station on **131 444**.
- Go to the [Magistrates Court of WA](#) website or any registry to get copies of any forms needed.
- Men can contact the 24 hour **Men's Domestic Violence Helpline** on **(08) 9221 1199** or freecall **1800 000 599**.

Flow charts of the court process

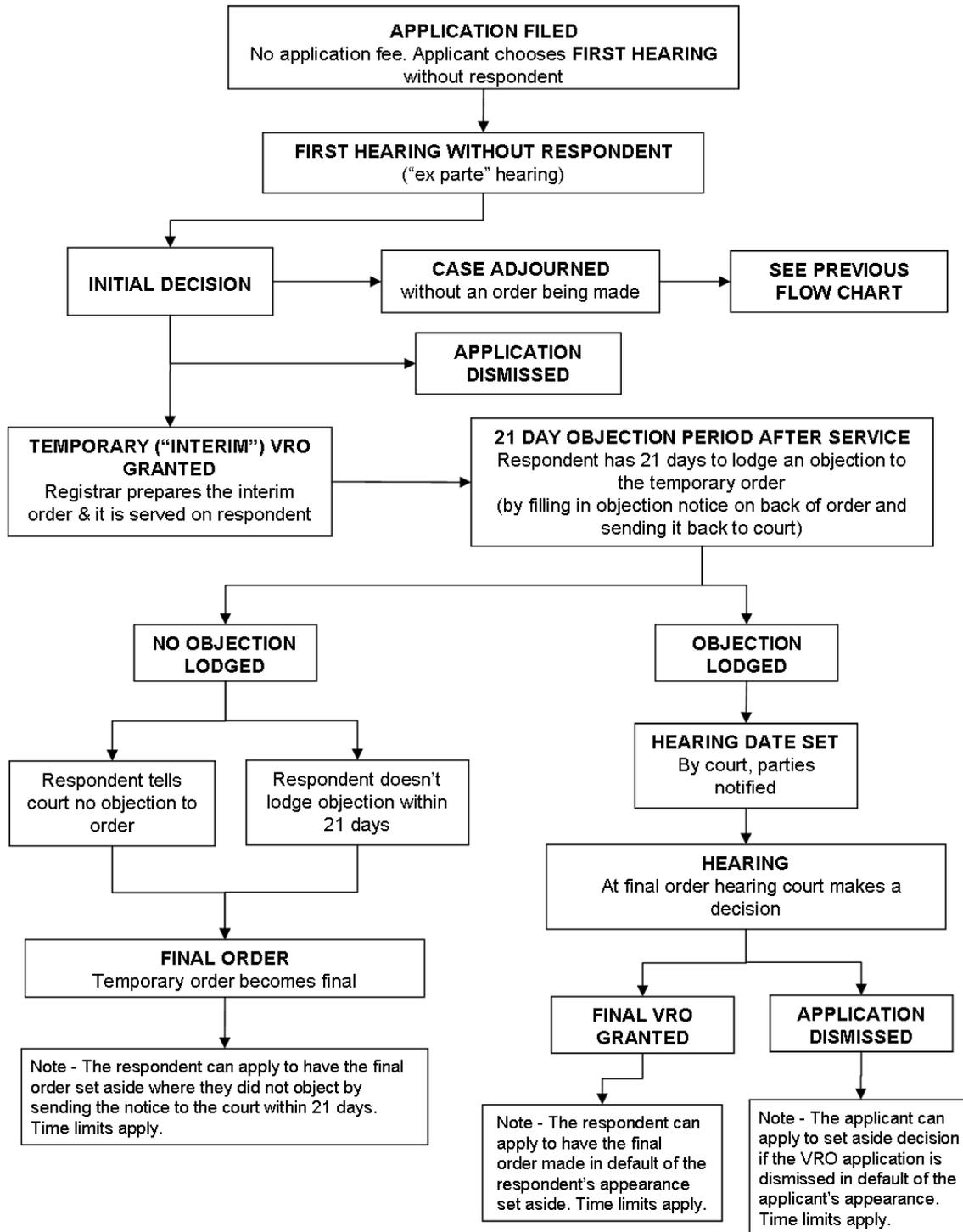
1. Violence restraining order

Procedure (no interim order made)



2. Violence restraining order

Procedure (interim order made)



Legal Aid WA Offices

TELEPHONE INFOLINE: 1300 650 579 (General Enquiries)

Infoline open Monday to Friday 9.00 am to 4.00 pm

(Australian Western Standard Time) except public holidays

Translating and Interpreting Service 131 450

National Relay Service (for hearing and speech impaired) 133 677

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7th Floor, Bunbury Tower, 61 Victoria Street, Bunbury, WA 6230

(08) 9721 2277

Great Southern Regional Office

Unit 3, 43-47 Duke Street, Albany, WA 6330

(08) 9892 9700

Goldfields Regional Office

Suite 3, 120 Egan Street, Kalgoorlie, WA 6430

(08) 9025 1300

Midwest & Gascoyne Regional Office

Unit 8, The Boardwalk, 273 Foreshore Drive, Geraldton, WA 6530

(08) 9921 0200

Pilbara Regional Office

28 Throssell Road, South Hedland, WA 6722

(08) 9172 3733

West Kimberley Regional Office

Upper Level, Woody's Arcade, 15-17 Dampier Terrace, Broome, WA 6725

(08) 9195 5888

East Kimberley Regional Office

98 Konkerberry Drive, Kununurra, WA 6743

(08) 9166 5800

Indian Ocean Office

Administration Building, 20 Jalan Pantai

Christmas Island, Indian Ocean, WA 6798

(08) 9164 7529

This information contains a summary of the law and is correct at the date of publication. It is not legal advice. You should always seek legal advice about your individual situation. Any services referred to which are not operated by Legal Aid Western Australia are not endorsed or approved by Legal Aid Western Australia.

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