

# Applying for a Family Violence Restraining Order (FVRO) - A Fact Sheet

## How do I start the process to apply for an FVRO?

You start the process by lodging an application form available in any [Magistrates Court registry](#) or in limited circumstances an application can be made in the Family Court too. An approved user can assist you with an online application. In some circumstances an application can be made in the Children's Court too. Get legal advice.

Refer to our fact sheet on eLodgment of court documents.

## Will the other party be present when I come before the magistrate?

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

## Will there be other people present in court when I give evidence?

Your application will be heard in a 'closed court', meaning the public will not be allowed to attend the court.

## Can I bring a support person?

Yes you can, but the support person cannot be a witness in, or a party to, the proceedings.

## Can someone assist me with completing the forms?

In most Magistrates Courts there is a Family Violence Service available and the staff there may assist you to complete the form. They are not court staff. Make enquiries at the Magistrates Court counter about where you can find the Family Violence Service.

## I heard that you can make an online application for an FVRO. How does that work?

From 4 May 2020 an approved user can lodge an online application for an FVRO. You can apply for an FVRO online too. Refer to our fact sheet on eLodgment of court documents.

## Who is an approved user?

The following are approved users:

- Solicitors;
- Suitably skilled staff from Legal Aid Western Australia;
- Aboriginal Family Law Services;
- Aboriginal Legal Service; and
- Community Legal Centres.

## Will the approved user lodging my application be my lawyer?

Approved users are not considered your legal representative. They assist with lodging your application only.

## How does the court process start?

You are the Protected Person or the Applicant and the other party is the Bound Person or the Respondent. After filing the application you have to give verbal evidence and/or provide an affidavit to the Court.

## Will the magistrate ask me questions?

If necessary the magistrate may ask you some questions.

## What evidence do I provide?

You need to convince the Court that you fear for your safety from the person against whom you are applying for an order and that without the order your safety is at risk. You can start by giving evidence of the latest incident of family violence and then continue with evidence of past incidents of family violence to show that the latest incident is not a one off incident.

If the Court is convinced that there is an urgent need for the order to be granted, an interim FVRO will be granted.

**Need Advice?** Call Citizens Advice Bureau on **(08) 9221 5711**, or visit [www.cabwa.com.au](http://www.cabwa.com.au)



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## Can I have an order to cover the children too?

Yes when you give evidence of how you fear for your safety, you can also give evidence about the fear you have for the safety of the children.

## What will happen after I have given evidence?

If the Court is convinced that your safety is at risk and that you need an FVRO to protect yourself, the Court will prepare an interim FVRO and the police will serve it on the other party.

If the Court believes that it needs to hear from the other party, then no interim FVRO will be made and the Court will summon both you and the other party to attend Court on another day.

Another outcome is that the Court may dismiss your application if the Court has not been provided with adequate evidence to satisfy it that your safety is at risk.

## What happens if an interim order is made after I have given evidence?

The Court will send the interim FVRO to the police who will serve it on the other party. The interim FVRO comes into force (i.e. you are protected) only when it is served on the other party.

## What happens then?

The other party has 21 days after being served with the interim order to consent or object to the interim FVRO. If the Respondent consents (or does nothing within 21 days after being served) the interim FVRO becomes a final FVRO. If the other party lodges an objection, the Court will fix a hearing date.

## Until the hearing date will I be covered by the order?

Yes, the interim FVRO continues to be in force until this hearing is completed.

## What if the other party breaches the terms of the FVRO?

You must report the matter to the police immediately.

## What if I do not attend the final order hearing date?

If you as the Applicant do not attend the final hearing, in your absence the Court may dismiss the interim FVRO.

If the Respondent is notified and does not attend the hearing, the Court may conduct the final FVRO hearing in the absence of the other party.

If a final FVRO is made and the Respondent is in court when the FVRO is made, the order is deemed to have been served on them.

If the Respondent is not in Court when the order is made, the FVRO will be delivered to the police for service on the Respondent and comes into force when it is served.

## What is an undertaking?

An undertaking is a promise by the Respondent not to do things to make you fear for your safety. If both you and the other party want to end the FVRO case without having any more court hearings, an undertaking can be signed to that effect. Both of you must agree to the undertaking and it has to be signed before a magistrate gives a decision about whether to make or not make a final order.

**Giving** an undertaking to the Court does not mean that the other party agrees that they have done anything wrong.

If both of you sign an undertaking the interim FVRO is dismissed.

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## **What happens if a person breaks an undertaking?**

Breaching an undertaking is not itself a criminal offence, but it may be the basis for making a fresh application for an FVRO.

## **What is a conduct agreement order?**

When both you and the other party attend court and the other party agrees to an FVRO made without a trial a Conduct Agreement Order is granted. By agreeing to the Conduct Agreement order the other party is not agreeing that family violence has occurred. The Conduct Agreement Order can include all the restraints and conditions that can be included in an FVRO.

## **What happens if the other party breaches a Conduct Agreement Order?**

It is an offence to breach a Conduct Agreement Order. If a person breaches the Conduct Agreement Order they may be arrested and charged with the offence of breaching an FVRO if there is enough evidence.

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