

FACTSHEET 14A

Applying for protection orders – information for applicants

You may apply to the Magistrates Court for a Domestic Violence Order, Personal Protection Order or Personal Protection (Workplace) Order against someone who has committed, or is likely to commit a domestic or personal violence offence against you.

As the person applying for the order you are known as the “applicant”. The person you are seeking the order against is known as the “respondent”.

How do I apply?

Applications for protection orders are made at the ACT Magistrates Court.

To apply for a protection order, you will need to complete documents that are available at the court including:

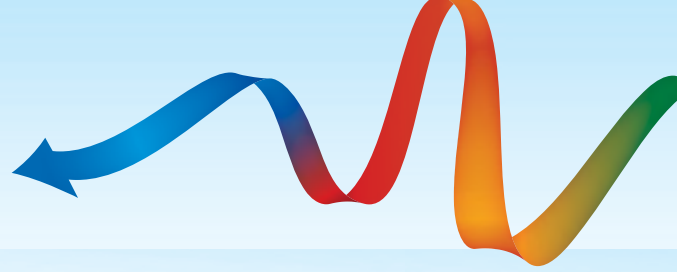
- an application outlining what conditions you would like the court to consider to keep you safe as well as the details of the incidents which have led you to seek a protection order.
- a supporting affidavit.
- a form containing your details and information that will assist police to locate the respondent to your application – this form is confidential and will not be released to the respondent.

Once you have completed the paperwork, take your application to the Magistrates Court. Your application will be given a date to come back to court within 2-10 days. In that time the police will attempt to serve the respondent with a copy of the application and a notice (called a notice of proceedings) advising them of the date and time they must come to court.

If you are under 18 years of age and unless you are applying for a Domestic Violence Order a litigation guardian must make the application for a protection order and attend court with you. A litigation guardian is a person over 18 who can represent you in the proceedings, for example your mother or father. If you do not have a parent who is able to be appointed as your litigation guardian, you should contact the Public Advocate. The matter cannot proceed unless the litigation guardian is present.

What if my application is urgent?

If your application is urgent, you can apply for an interim (temporary) order that will stay in place until you return to court at a later date. An application for an interim order will be heard by the court that day. You will be required to give evidence. If an interim order is made, it is not enforceable (does not start) until the police serve it on the respondent. If you are applying for an interim order you should attend court and complete the necessary paperwork. If your paperwork is with the court by 11.30am (Monday to Friday) your application for an interim order will be heard that day. If you filed your paperwork after that time, it may be heard the next day.



The court has made an interim order – what happens next?

A copy of the interim order along with a copy of the application and notice of proceedings will be given to the police to serve on the respondent. As soon as the respondent is served, the interim order takes effect.

After your interim order has been granted the court will send you a notice of proceedings containing a date to attend court for a return conference. This conference will be listed within 4-8 weeks of your interim order being granted. You should advise the court if you are unavailable during this period. A deputy registrar will conduct the conference. You will not be in the same room as the respondent.

What happens if an interim order is not made?

Where an interim order is not granted, your matter will be listed to come back to court within 14 days for a conference. A copy of the application and a notice of proceedings will be served on the respondent.

When will documents be served on the respondent?

Police will attempt service as soon as practicable providing you have provided sufficient details about the respondent, for example:

- their name;
- date of birth and/or age;
- place of residence;
- work address (if known);
- phone numbers (if known); and
- If an incident was reported to police, the police job reference number, the officer's name and station.

If the respondent lives interstate, it may take longer to serve them.

What if I don't know the respondent's name?

The court cannot make a protection order if you are unable to sufficiently identify the respondent. Legal advice should be obtained before seeking to apply for a protection order if you are unable to identify the person against whom you want the order made.

Legal advice

This document is designed to assist you to understand the procedures relating to applying for a protection order. It is not exhaustive and is not intended to be a substitute for legal advice. If you are unsure of how to proceed you are encouraged to seek legal advice.

Legal Aid (ACT) has an office at the court and may be able to assist you with your application.

More information including a dictionary of legal terms is available at
www.victimsandjustice.act.gov.au