

Protection Orders

Applying For a Protection Order:

- An official court form needs to be filled out.
- A sworn statement about why a Protection Order is required needs to accompany this. (An affidavit)
- This paperwork is presented to the judge (usually the same day) at Family Court. At the same time Furniture, Occupancy, or Tenancy Orders can be applied for.
- Applicant - the individual who applies for the Protection Order
- Respondent - the person named as the person using the abuse

In case of emergency or urgency a Temporary Protection Order is granted immediately and 'without notice'. This means the Protection Order is in effect and the respondent has not yet been notified.

If a Temporary Protection Order is granted the order is typed up and copies are made. A copy will be given to the applicant, a copy is sent to the Applicant's nearest Police station, and a copy is served on the respondent by a Police Officer.

If a Temporary Protection Order is made the respondent must hand over any firearms to the police within 24 hours. Their firearms licence is also suspended.

A Temporary Protection Order lasts a maximum of three months. If the respondent does not defend the order it will automatically become a Final Protection Order until it is officially discharged. If an Order is made Final the respondent's firearms license is automatically revoked and all firearms must be handed in to the Police.

In other circumstances the Order will be made 'on notice', which means that both parties will have an opportunity to be heard by the Court. If this happens the respondent is given a short period of time to file a written defence. If a defence is filed the Court will then hear both sides and make a decision.

If the application is heard 'on notice' and goes to court the applicant will be advised of a hearing date. If a Final Protection Order is made copies are given to the applicant, the respondent, and to the applicant's nearest Police station. Once a Protection Order is final it will remain in effect until it is officially discharged.

Conditions of the Protection Order

Non-violence conditions:

- These conditions apply whether or not the respondent and applicant are living together or apart.
- The respondent must not:
 - physically, psychologically, or sexually abuse or threaten anyone protected by the Order (which can include children)
 - damage or threaten to damage the protected person's property
 - encourage anyone else to physically, sexually, or psychologically abuse or threaten anyone protected by the Order.

Non-contact conditions:

These apply when the respondent and applicant are living apart. The respondent must not:

- go to applicant's home, workplace, or onto applicant's property without the applicant's express consent
- intimidate or harass the applicant or any children staying with applicant
- hang around the applicant's neighbourhood or workplace
- follow the applicant
- try and stop the applicant or any children living with the applicant from coming and going
- phone, fax, write, email, text, or in any way contact the applicant
- encourage others to contact the applicant on their behalf

In most cases the respondent will be required to attend a programme related to family violence. It is a breach of the Protection Order not to attend the programme unless the respondent is excused by the programme director.

Penalties

If the respondent breaches any of the Order's conditions they can be arrested immediately.

The maximum penalty for breaching a Protection Order is six months in prison or a \$5,000 fine. This penalty can be increased to two years in prison if the person has committed three offences and two of those offences were committed within a three-year period.

Useful Information

- A Protection Order is applied for through the Family Court. Any breaches of the Protection Order are dealt with in a Criminal Court.
- An applicant can apply to the court to have a Final Protection Order discharged at any time.

Information sheet: Protection Orders

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- If a Protection Order is granted, the applicant and their children can access free approved programmes through agencies such as Aviva to support them in dealing with their situation.
- The applicant can suspend the non-contact conditions if they want to continue seeing the respondent. The applicant can withdraw this consent at any time, simply by advising the respondent that the non-contact conditions apply and the conditions are re-instated automatically. The non-violence conditions apply regardless.
- An Occupation or Property Order allows the applicant to stay in their house and forces the respondent to move.
- A Furniture Order allows the applicant to take furniture from their home in order to help them set up in a new home.

Children

When a parent applies for a Protection Order, children living in the same household are also covered by the Order. When this is the case, a Parenting Order will be granted by the Courts.

By law both parents can apply for care of the children. If there is a risk that one parent will take the children away or harm them then sole custody can be asked for.

The respondent will be able to visit the children after the Court's grant a Parenting or Contact Order.

Special conditions can be added to the Protection Order that cover what happens when contact is granted – e.g. the process picking up and dropping off children.