



LEGAL AID
WESTERN AUSTRALIA

EXCLUSIVE OCCUPATION ORDERS KIT



Disclaimer

This publication contains general information only and is intended as a general guide about the law.

You should not rely on this information as legal advice. We recommend that you talk to a lawyer about your situation if you need advice.

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Who is this kit for?

The Exclusive Occupation Orders kit is for people who have separated, are going through property settlement, and want to get a court order to remove the other person from the home.

Usually people come to an agreement about who remains in the home, however in some circumstances there is no agreement and the person who wishes to remain in the home can apply to the court for an order for exclusive occupation of the home.

It is important to get specific legal advice about your situation if you are considering applying for an exclusive occupation order. A lawyer will explain your rights and responsibilities and advise you on whether an exclusive occupation order is the right step for you. See the Family Court of WA's [Legal Advice](#) page and Legal Aid WA's [Get Legal Help](#) page.

Key words and legal terms

- **Applicant:** the person who is asking the court to make the order.
- **Court:** refers to the Family Court of Western Australia which has the power to make decisions about property settlement for married and de facto couples.
- **Filing documents:** uploading your signed and completed documents on the eCourts portal so they are received by the court.
- **Injunction:** a court order that compels a party to either do something or stop doing something. Injunctions are used to prevent harm, enforce legal rights and maintain the status quo during legal proceedings.
- **Interim order:** means a court order made in the middle of proceedings; not a final court order.
- **Property:** also referred to as an 'asset'; includes real estate, money in bank accounts, shares, cash, cryptocurrency and digital assets, superannuation, companies, trusts, partnerships, personal effects and furniture.
- **Property settlement:** the act of reaching agreement on how to divide property after separation, or the act of asking a court to make a decision on how to divide property after separation.
- **Respondent:** the person who is served with the application and responds.
- **Service of court documents:** giving a copy of your court documents to a nominated server, who gives the documents to the other party by way of "service".

What power does the court have?

The court has the power to grant:

- an injunction preventing a person from entering or remaining in a home
- an order giving one person the exclusive right to occupy a home.

Both orders are known as “exclusive occupation orders”. An exclusive occupation order is an interim order that provides temporary relief to the applicant by ordering the respondent to vacate the former family home.

Getting an exclusive occupation order does not mean you will ultimately retain the home and vice versa; a person who is enjoined from remaining in the former family home may end up retaining the home as part of the final property settlement.

It is important to get legal advice about how to obtain exclusive occupation orders and your entitlement to property division in general.

When can I apply for an exclusive occupation order?

You can apply for an exclusive occupation order if:

- You were married or were in a de facto relationship, have separated and are working out how to divide your property.
- You both continue to live under one roof and you want the other person to move out or you have moved out of the home but want to move back in.
- You have tried to negotiate with your ex-partner about who remains in the house and you cannot agree or you do not feel safe negotiating with your ex-partner about this issue.
- There is a valid reason for you to occupy the home to the exclusion of your ex-partner, in line the court’s approach to these matters.

Are there time limits to apply?

If you were married, and you have been divorced, you need to start a property case (including applying for an exclusive occupation order) within 1 year of the date of divorce.

If you were married and are not divorced, there are no time limits.

If you were in a de facto relationship, you need to start a property case within 2 years of the date of separation.

In rare cases, the court may allow you to start a property case outside these time limits, if you can show that you or your child would suffer hardship. It is important to get specific legal advice about this situation.

What are my other options?

You may wish to have your ex-partner removed from the home due to family violence concerns. In some circumstances you can obtain a 72 hour police order or an interim Family Violence Restraining Order (“FVRO”) which prevents your ex-partner from returning to the former family home. This usually gives temporary relief and you may seek longer term (though still interim) relief by seeking exclusive occupation orders from the court. See Legal Aid WA’s infosheet ‘[Family violence restraining orders](#)’.

When are you not likely to get an exclusive occupation order?

The court will not grant an exclusive occupation order where:

- There is a normal amount of tension, discomfort or awkwardness from sharing a home after separation.
- It is merely more convenient and peaceful for one person to have the home to themselves.
- The court suspects one person wants the order as a ‘tactical weapon’ in ongoing property settlement proceedings

What approach does the court take?

The court has the power to make such order or grant such injunction as it considers proper. There is an overarching requirement that the order be just and equitable.

An injunction that prohibits a person from living in their own home will only be granted in restricted and exceptional circumstances. The court decides whether or not to grant injunctions depending on the merit of each case.

The court looks at the following:

- If the parties have children:
 - Who has the primary care of the children and generally continues to reside in the family home?
 - What spend time arrangements are in place for the children and how does an exclusive occupation order assist or hinder those arrangements?

- What are the needs of the children and would an exclusive occupation order in favour of one parent serve their best interests?
- Would the children otherwise be housed in unsuitable accommodation?
- What conduct of the parties justifies the respondent being excluded from the home?
- What financial means or resources does each party have to find alternative accommodation?
- What hardship would each party or the children suffer if the order was granted?
- Who has met the loan repayments and outgoings for the former family home to date?
- Are there allegations of abuse or family violence or other risk factors or has one party taken out a Family Violence Restraining Order?
- Is it reasonable or sensible or practical for the parties to live in the same house?
- Each party's and the children's physical and mental health.
- Each party's education and employment and how it affects their earning capacity and ability to pay rent or purchase another property.

Factors for de facto couples

There are additional factors a de facto party will need to meet when applying for property injunctions and property settlement in general:

- There needs to be a connection to Western Australia, being:
 - either you or your ex-partner must reside in WA on the day the application to court is made; and
 - you must both have resided in WA for at least one third of the duration of your relationship OR you must have made a 'substantial contribution' to the property of the relationship in WA.
- The parties must meet the following requirements, namely that:
 - they lived in a de facto relationship for at least 2 years, or
 - if they lived in a de facto relationship for less than 2 years:
 - there is a child of the de facto relationship and failure to make orders would result in serious injustice to the party caring for the child, or
 - the applicant made a 'substantial contribution' to the relationship and a failure to make the order would result in serious injustice to them.

These factors should be addressed in any affidavit in support of an application made to the court.

Step 1: before filing an application

If you would like to start a property settlement case, you must first make a genuine effort to resolve the dispute. This includes exchanging full and frank disclosure, negotiating by making offers and counteroffers of settlement (preferably in writing), and attempting family dispute resolution (“FDR”) with your ex-partner. These steps are known as ‘pre-action procedures’.

Note: If you have concerns about family violence and fear for your safety if you have to negotiate with the other party, you may be exempt from ‘pre-action procedures’ and may make a direct application to the court. You will still be required to provide your financial disclosure documents during proceedings.

Writing a negotiation letter

Where there is a dispute as to who should remain in the former family home, it is often best to write to the other party first and attempt to resolve the problem, if it is safe to do so.

The negotiation letter should:

- state the reasons why you wish to have exclusive occupation of the home, in line with what factors the court considers valid
- provide a requested date by which to vacate the home
- request a return of keys/remotes and request that no items be removed from the home unless agreed between the parties
- state that if no response is received within the requested timeframe, or there is no agreement, you will file a court application seeking an exclusive occupation order and injunction without further notice
- be sent by email and registered post, signed, dated and a copy retained for later court use if necessary.

You can send this letter yourself or you can pay a lawyer to prepare and send it for you.

If you have completed the pre-action procedures and there is no resolution, the next step can be making an application to court.

Step 2: preparing and filing the application

When there are no existing Family Court proceedings

If there are no existing court proceedings you need to file the following documents.

1. Form 1 Initiating Application

See the Family Court of WA's [Form 1 Initiating Application](#).

The exclusive occupation order would be included as part of your 'Interim or procedural orders sought' in the Form 1 Initiating Application. [Examples of how to write your orders sought](#) are provided at page 12.

2. Affidavit

See the Family Court of WA's [Affidavit – General](#) or [Case Information Affidavit \(PPP500\)](#) if the matter meets the guidelines for a [PPP500 case](#) (that is, if your case involves total net property excluding superannuation of \$500,000, or less, and there are no entities that might require expert investigation such as companies or trusts, and you are not seeking parenting orders). See what to write in your [affidavit](#) on page 13.

3. Financial Statement

See the Family Court of WA's [Form 13 Financial Statement](#) or [Financial Statement \(PPP500\)](#) if the matter meets the guidelines for a [PPP500 case](#).

4. Undertaking

See the Family Court of WA's [Undertaking as to damages](#) and the [example](#) at page 17.

5. Cover letter

See the Family Court of WA's [cover letter](#) template. If you are seeking an urgent court listing you will need to prepare and file a cover letter to court, stating which documents you are seeking to file, and brief information in dot points to justify the urgency of the application.

When there are current Family Court proceedings

If there are current court proceedings, you need to file the following documents.

1. Form 2 Application in a Case

See the Family Court of WA's [Form 2 Application in a Case](#). [Examples of how to write your orders](#) sought are provided at page 12.

2. Affidavit

See the Family Court of WA's [Affidavit – General](#) and [what to write](#) on page 13.

3. Financial Statement

See the Family Court of WA's [Form 13 Financial Statement](#) and consider filing an updated version if your financial circumstances have changed since you last filed this document.

4. Undertaking

See the Family Court of WA's [Undertaking as to damages](#) and the [example](#) at page 17.

5. Certificate of Conferral

See the Family Court of WA's [Certificate of Conferral](#). This form is used when a property case has started, to certify that the parties have conferred on a without prejudice basis to try and resolve the dispute before filing an application.

6. Cover letter

See the Family Court of WA's [cover letter](#) template. If you are seeking an urgent court listing you will need to prepare and file a cover letter to court, stating which documents you are seeking to file, and brief information in dot points to justify the urgency of the application.

Additional documents

Some other documents you may need are:

- a copy of your marriage certificate if you were married
- your Centrelink CRN number (if you have a Commonwealth Concession Card). You will need this when you are lodging your documents on the eCourts Portal of WA if you are going to ask for a filing fee exemption
- [Fee Exemption – General](#) or [Fee Exemption- Financial Hardship](#) if you don't have a Commonwealth Concession Card and want to apply for a fee exemption.

Writing your Form 1 or Form 2 application

The below orders are usually sought in the 'interim or procedural orders sought' section of the Form 1 or Form 2. You do not have to use these example orders; you may wish to use alternative phrasing or an example given by your lawyer.

Example interim orders

Exclusive Occupancy Order

1. Until further order and within 14 days, the respondent shall vacate the property known as and situated at [address of property] (the property) and from that date, the applicant shall be entitled to occupy the property to the exclusion of the respondent.
2. Until and on vacating the property pursuant to order 1, the respondent is to maintain the property in good order and condition.
3. Until and on vacating the property pursuant to order 1, the respondent shall be, and is, restrained from removing, or from causing or permitting the removal of any item from the property, except for [his/her] personal clothing and effects.
4. On vacating the property, the respondent be and is restrained from again entering the property without the written consent of the applicant.

Injunction

5. The respondent be restrained and an injunction be granted restraining [him/her], [his/her] agents or any third party acting on [his/her] behalf from accessing, entering or attending on or within the perimeter of [address of property] (the property) without the prior written consent of the applicant.

Additional order if required:

6. Within 14 days the respondent do all acts and things and sign all documents necessary to, at [his/her] expense and to the extent not already complied with:
 - a. deliver up to the applicant or [his/her] nominee, all keys, garage or other remote controls, and alarm codes for the property; and
 - b. remove only the items it is agreed in writing that [he/she] is to retain from the property.

Example final orders

If you are filing a Form 1 Initiating Application you also need to state what final orders you are seeking about property division.

If you are unsure what type of orders you want to ask for you can seek the following final order, "The Applicant have leave to particularise their final orders at a later stage." The court will ask you later on in proceedings to file an Amended Form 1 Initiating Application setting out in detail the property settlement orders you are seeking.

Writing your Affidavit

Your Affidavit will need to cover information about:

1. The history of your relationship.
2. Names and dates of birth of any children of the relationship or children from other relationships.
3. For de facto relationships, detail that:
 - a. At least one party resides in Western Australia on the day the application is made; and
 - b. Either one of these situations applies:
 - i. You lived in a de facto relationship for at least 2 years; or
 - ii. You lived in a de facto relationship for less than 2 years but:
 1. There is a child of the relationship and failure to make orders would result in serious injustice to the party caring for the child; or
 2. The applicant has made substantial financial, non-financial or homemaker/parent contributions and failing to make orders would result in serious injustice; and
 - c. There is a connection to Western Australia being:
 - i. Both parties lived in Western Australia for at least one third of the length of the relationship; or
 - ii. Substantial financial, non-financial or homemaker/parent contributions have been made by you or the other party while residing in Western Australia.
4. Details of why you are seeking the exclusive occupation order, and the harm that would be caused if the injunction was not granted. Attach the Certificate of Title as an annexure.
 - a. For annexures, state at the end of the relevant paragraph “Annexed and marked with the letter “A” is a copy of the Certificate of Title obtained on [date]”.
 - b. Write “A” and subsequent letters on the top right of each annexure page and attach them to the end of the affidavit.
 - c. A maximum of 5 documents can be annexed.
5. Your and the other party’s finances at the start of the relationship including:
 - a. employment status and income,
 - b. if either of you owned property and how much it was worth,
 - c. if either of you had debts and how much was owed.
6. Your and the other party’s finances during the relationship including:

- a. employment status and income,
 - b. if either of you owned property and how much it was worth,
 - c. if either of you had debts and how much was owed,
 - d. any lump sum received such as inheritances, gifts or payouts.
7. Details of real estate owned by either or both of you during the relationship including:
- a. the address of property and the purchase price,
 - b. the sale price of the property if sold, and date of sale,
 - c. the amount of net sale proceeds if sold, and how those funds were used,
 - d. mortgage amount when bought and current mortgage amount if still owing,
 - e. whether the property is still owned and if so its value,
 - f. how the mortgage was paid,
 - g. who maintained and/or renovated the property.
8. Your children: who was the primary carer? How was the children's care usually divided between you?
9. You and the other party's finances after separation including:
- a. Who moved out of the former family home?
 - b. Who pays the mortgage and who pays rent?
 - c. What property has been bought and sold since separation?
 - d. Who drives which car?
 - e. Who is responsible for which debt?
10. Details of any family violence experienced by a party including:
- a. The effect of family violence on a party's ability to make contributions to the relationship.
 - b. The effect of family violence on any current or future needs of a party.
 - c. The effect of family violence on any spousal maintenance sought by a party.
 - d. The effect of any intentional or reckless wastage caused by a party.
11. Your and the other party's current and future needs including:
- a. age, and mental and physical health,
 - b. income, property and financial resources of each party,
 - c. the need to provide a home for dependent children,

- d. access to government benefits or pension or allowance,
- e. care of children and dependents,
- f. a reasonable standard of living,
- g. new partners and other factors.

12. A table of the known assets and liabilities owned jointly and by each party. You can use this example below:

Description	Owner	Value
ASSETS		
Family home		\$
Other real estate		\$
Motor vehicles		\$
Home contents		\$
Bank accounts		\$
Bank accounts		\$
Bank accounts		\$
Shares/cryptocurrency		\$
Superannuation		\$
Business		\$
<u>TOTAL ASSETS</u>		\$

Description	Owner	Value
LIABILITIES		
Mortgage on family home		\$
Other mortgage		\$
Credit cards		\$
Personal/car loans		\$
Tax debts		\$
Student loans		\$
Other		\$
<u>TOTAL LIABILITIES</u>		\$
<u>NET ASSETS</u>		\$

Writing the Undertaking as to Damages

While not mandatory, it is likely you will be required to file an Undertaking which is a promise to the court with the same force and effect as an order of the court. It is a promise to compensate the other party for any damages caused by the injunction if it is later found the injunction should not have been ordered. If you are not prepared to give an Undertaking this will not prevent the court from granting an injunction, but you should get legal advice about this situation.

The wording of the Undertaking is:

“I undertake:

(a) to submit to such order (if any) as the Court may consider to be just for the payment of compensation, (to be assessed by the Court or as it may direct), to any person, (whether or not that person is a party), affected by the operation of the order or undertaking or any continuation (with or without variation) of the order or undertaking; and

(b) to pay the compensation referred to in (a) to the person affected by the operation of the order or undertaking.”

Filing your application

Register for an [eCourts Portal](#) online account. See the Family Court of WA's [Using eCourts Portal](#) page for more information about how you can register your account.

Scan each page of your application and supporting documents in PDF format. Save the documents as separate files.

To file a **Form 1 Initiating Application** on the eCourts Portal, use the following steps:

1. Login to your account.
2. Click on the link to “Family Court of WA” under the Assisted Lodgement tab.
3. Under “Lodge an Application”, click “Financial” and click “no” to the question “Are parties in agreement with the Orders sought?”
4. Click “Yes” to “Are you seeking Interim Orders with the application?”
5. Click through to subsequent steps and attach documents when prompted. Click “Confirm and Lodge” as the last step.

To file a **Form 2 Application in a Case** on the eCourts Portal, use the following steps:

1. Login to your account.
2. Go to “My Current Matters”, select “Lodge” on the right-hand side.
3. Under “Please select the type of document” type “Form 2 Application in a Case – Parenting and/or Financial”. Select “Assisted Lodgement” then click next.
4. Click through to subsequent steps and attach documents when prompted. Click “Confirm and Lodge” as the last step.

You will need to pay the applicable [filing fee](#) at the time of filing your application. Have your credit or debit card details ready, or your Centrelink CRN if seeking a Fee Exemption – General, or the Fee Exemption – Financial Hardship form.

Step 3: Serving the application on the respondent

The usual requirements for service apply. If the application is filed in a Form 1 Initiating Application, special service is required. If the application is filed in a Form 2 Application in a Case, ordinary service is acceptable.

Service of Form 1 – special service by hand (preferred)

Service by hand involves giving the documents to a server, who gives the documents to the other party and completes an affidavit as proof of service. A server can be a family member or friend over 18 years, or a professional process server who charges fees for their service

Make sure to check the provisions of any Family Violence Restraining Order which may be in place between you and the other party, even if you are using a third party to give the documents to the other party.

The documents to be served on the other party include:

- your court application (such as the Form 1 application, affidavit and financial statement)
- brochures such as [Marriage, Families and Separation](#), and [Priority Property Pools under \\$500,000 cases](#) (if applicable)
- an [Acknowledgment of Service](#) (Form 6) with a written request that the other party sign it and return it to you as soon as practicable, as well as a stamped self-addressed envelope
- an [Affidavit of Service](#) (Form 7) signed by the server.

If the other party has a lawyer, ask them if they will accept service of the documents for that party. If they agree, you can serve the lawyer who will sign the Acknowledgement of Service (Form 6). You do not need to complete an Affidavit of Service.

Getting the lawyer's agreement is important, because a lawyer may have given the other party legal advice, but that doesn't mean they will be representing them throughout the proceedings. The documents will not be considered properly served if you send them to a lawyer and that lawyer doesn't accept service.

Service of Form 1 – special service by post or electronic communication

Service by post or electronic communication (email) involves sending the documents to the other party, who signs and returns an Acknowledgment of Service.

You should only attempt service by post or electronic communication if you are confident the other party will sign and return the Acknowledgment of Service to you, and subject to the provisions of any Family Violence Restraining Order which may be in place between the parties.

Without this, the court cannot be sure the other party has received the documents. If you attempt service by post or electronic communication and do not receive the signed Acknowledgment of Service, you may need to arrange service by hand.

If serving by **post**, the documents to include are:

- your application (such as Form 1 application, affidavit and financial statement)
- brochures such as [Marriage, Families and Separation](#), and [Priority Property Pools under \\$500,000 cases](#) (if applicable)
- an [Acknowledgment of Service](#) (Form 6) with a written request that the other party sign it and return it to you as soon as practicable, as well as a stamped self-addressed envelope
- an [Affidavit of Service](#) (Form 7) signed by the server.

If serving **electronically**, the documents to include are:

- your application (such as Form 1 application, affidavit and financial statement)
- brochures such as [Marriage, Families and Separation](#), and [Priority Property Pools under \\$500,000 cases](#) (if applicable)
- an [Acknowledgment of Service](#) (Form 6) with a written request that the other party sign it and return it to you as soon as practicable
- a cover sheet stating the sender's name, address and email, the name of the person to be served, a statement as follows: "I enclose by way of service..."
- an [Affidavit of Service](#) (Form 7) signed by the server.

If a lawyer representing the person agrees, in writing, to accept service of the document, you can send it to the lawyer. The lawyer should return a signed Acknowledgment of Service (Form 6).

Service of Form 2 – ordinary service

If the respondent has given an **address for service**, you can serve documents by:

- putting the documents in a sealed envelope addressed to the person and delivering them or posting them to the address given for service, or
- sending the documents to a fax number or email address provided in the address for service.

If the respondent has **not given an address for service**, you can serve documents by:

- putting the documents in a sealed envelope addressed to the person and delivering them or posting them to the person's last known address or place of business, or
- handing the documents to the person.

If the respondent has a **lawyer**, you can serve documents by:

- checking if the lawyer representing the person agrees, in writing, to accept service of the document, and
- sending the documents by post or email to the lawyer.

Step 4: the court hearing

First hearing – directions hearing

Prior to the first hearing, the parties should attempt negotiations and, if no agreement has been reached on the day of the hearing, the parties or their lawyers should again attempt some final negotiations prior to appearing before the Judicial Officer. If unrepresented, a party can seek the assistance of the duty lawyer at court. If there are no duty lawyers available, the unrepresented party should be prepared to negotiate directly with the other party or their lawyer.

If there is an agreement, the parties should advise the court officer as soon as possible that a Minute of Interim Consent Orders is being prepared and signed. A Minute of Interim Consent Orders is a written agreement made between the parties. It can be handwritten or typed and must be signed by the parties. Once you have a signed copy of the Minute you should make a copy for each party and prepare to hand up the signed original to the Judicial Officer when the matter is called.

If there is no agreement, the Judicial Officer will address each party in the court room and ask questions to clarify facts. If the respondent has not filed documents, it is likely they will be given an opportunity and timeframe to do so.

The matter will likely be programmed to a further directions hearing or an interim hearing at the court's next available date. The court will make procedural orders such as the exchange of disclosure documents if the parties have not yet complied with 'pre-action procedures'.

Second hearing – interim hearing

At the subsequent hearing, if there are responding documents filed, the Judicial Officer will likely listen to submissions from the parties as to what they are seeking and the grounds for such and make a decision about exclusive occupation on an interim basis.

If there are no responding documents filed but there is proof the respondent has been properly served, the Judicial Officer may still make a decision about exclusive occupation on an interim basis, particularly if the respondent is present in court. The balance of the matter otherwise remains programmed towards further dispute resolution or trial.

What if the respondent doesn't attend the hearing?

If a respondent fails to attend the first hearing, the court will check whether they were properly served and if there is a valid affidavit of service on file. If the court is satisfied that service has occurred, it is unlikely that the order will be made in the respondent's absence. The matter is likely to be programmed to a further directions hearing or to an interim hearing.

If the respondent fails to attend the subsequent hearing, it is more likely that the court will make the orders sought.

Step 5: after the court hearing

If the court grants you the interim exclusive occupation order and injunction, the next step is to download the order from the eCourts portal under 'My Current Matters'. It may take up to 7 days for the order to appear.

If the respondent is not present at court, write to them immediately after the hearing to state you have an injunction, and attach the order if it is available. If you do not yet have the order, write to the respondent and clearly state what the injunction stops them from doing.

Responding to an application

The respondent could oppose an application for an exclusion occupation order by submitting that:

- It is unnecessary or unduly burdensome.
- It is possible for the parties to co-exist under one roof.
- They have no alternative accommodation or means to secure alternative accommodation.
- They deny the conduct alleged by the applicant.
- There is no proper legal reason for exclusive occupancy.

Responding documents

If the applicant has filed a Form 1 Initiating Application, the responding documents required are:

1. A [Form 1A Response to Initiating Application](#)
2. [Affidavit](#) in support or [Case Information Affidavit \(PPP500\)](#)
3. [Form 13 Financial Statement](#) or [Financial Statement \(PPP500\)](#)
4. [Cover letter](#).

If the applicant has filed a Form 2 Application in a Case, the responding documents required are:

1. A [Form 2A Response to Application in a Case](#)
2. [Affidavit](#) in support
3. [Certificate of Conferral](#)
4. Consider seeking leave to file, and filing, an amended [Form 13 Financial Statement](#) if the respondent's financial situation has changed significantly since first filed
5. [Cover letter](#).

Although not required, it is good practice to include a cover letter to court, stating which documents you are seeking to file.

Responding documents need to be filed and served 7 days before the hearing date. If the application has been listed on short notice, responding documents should be filed at least 2 working days before the hearing date, if possible.

Enforcement when injunction is breached

When the court makes orders, all parties need to follow them. Otherwise, the court can impose penalties. The parties should:

- take all reasonable steps to follow the order, or
- seek legal advice if they can't follow the order, or the order becomes impossible to follow.

If you think the respondent is breaching the injunction order, you can make an enforcement application to the court. The court can enforce an order to make a person comply with the order or vary an order to make sure everyone can comply with it in the future.

A person breaches an order if they deliberately don't comply with it or make no reasonable attempts to comply with it. They also breach an order if they help someone else to avoid complying with it or prevent someone else complying with it.

The court may take such action as it thinks appropriate to punish the respondent for not obeying an injunction, known as a 'contravention'. The penalties include:

- Requiring a person to enter into a good behaviour bond. Breaching the bond can result in a fine or other penalty being imposed.
- Imposing a fine.
- Imposing a sentence of imprisonment (if the contravention was intentional or fraudulent).

In the most serious cases, a court can punish a person for contempt by sentencing them to prison or fine or both.

Enforcement documents

An applicant seeking enforcement of an injunction is required to file:

1. A [Form 2 Application in a Case](#), and select 'enforcement hearing – financial obligation' in Part C
2. [Affidavit – General](#)
3. [Certificate of Conferral](#)
4. [Cover letter](#) to court.

A respondent who is responding to an enforcement application is required to:

1. Attend court on the court date and answer questions from the Judicial Officer about why they have not complied with orders.
2. Produce all documents requested by the applicant.
3. File a [Form 13 Financial Statement](#) at least 7 days before the court date.

Help with lodging your application

The self-serve kiosk is available at the Family Court of WA for you to prepare, scan and upload your court documents through the [eCourts Portal](#) of Western Australia. Access to the public kiosk computers is available on weekdays from 8:30am to 4.00pm.

In the kiosk, you can:

- register an account on the eCourts Portal of Western Australia
- prepare documents
- scan and upload documents to the eCourts Portal
- have documents witnessed by a Justice of the Peace
- be referred to the Legal Aid duty lawyer.

You are responsible for making sure all your paperwork is in order. Family Court staff can help you with filing your documents on eCourts and information about the processing of your application, but **they cannot give you legal advice**. Call the Family Court customer service line on (08) 9224 8222 for information.

Signing and witnessing

Who can witness your signature

You must sign the court documents in front of a Justice of the Peace, notary public or lawyer.

There is a Justice of the Peace in Perth city at:

- The Family Court of WA registry Monday-Friday 9:30am to 1:00pm.
- Citizen's Advice Bureau Perth Office at 25 Barrack St Monday-Friday 9:30am to 3:30pm.
- City of Perth Library, 573 Hay Street, Perth, Sunday 12.30pm to 2.30pm.
- Perth State Library, Perth Cultural Centre, 25 Francis Street, Perth, Monday 11.00am to 2.00pm.

The Department of Justice has a list of [Document Witnessing Centres](#) where you can find a Justice of the Peace in your local area.

Remember to take photo ID such as a driver's license or passport so your identity can be confirmed.

How can Legal Aid WA help?

Legal Aid WA can give limited legal advice and assistance in relation to Property Injunctions. Note: in most circumstances Legal Aid WA does not assist with preparation of documents relating to property settlement. You may be eligible for a grant of legal aid in limited circumstances.

To find out what assistance we can give you, call the Legal Aid WA Infoline on 1300 650 579 Monday to Friday, 9.00am to 4.00pm. First Nations callers can phone Legal Yarn on 1800 319 803 to access a culturally safe telephone information service for Aboriginal and Torres Strait Islander People; staffed by mob, for mob.

We have a duty lawyer service called Family Advocacy and Support Services (FASS) located at the Family Court of WA in Perth, which provides legal advice and social support services to people affected by family violence. The duty lawyer service is a free drop-in service (no appointment required) available Monday to Friday, 9.00am to 4.00pm which can help with urgent family law problems.

FASS is also available when the Family Court is on circuit in Broome, Kalgoorlie, Geraldton, Bunbury and Albany.

See more at Legal Aid WA's [Get Legal Help](#) page.

Checklist of documents to be filed

New court proceedings

- [Form 1 Initiating Application](#)
- [Affidavit – General](#) or [Case Information Affidavit \(PPP500\)](#)
- [Form 13 Financial Statement](#) or [Financial Statement \(PPP500\)](#)
- [Undertaking as to damages](#)
- [Cover letter](#)
- [Fee Exemption – General](#) or [Fee Exemption- Financial Hardship](#) (if needed)
- Form 7 [Affidavit of Service](#) (signed by server)
- Form 6 [Acknowledgment of Service](#) (signed by respondent or their lawyer)
- Brochures: [Marriage, Families and Separation](#), and [Priority Property Pools under \\$500,000 cases](#) (if applicable)

Responding to new court proceedings

- [Form 1A Response to Initiating Application](#)
- [Affidavit – General](#) or [Case Information Affidavit \(PPP500\)](#)
- [Form 13 Financial Statement](#) or [Financial Statement \(PPP500\)](#)
- [Cover letter](#)
- [Fee Exemption – General](#) or [Fee Exemption- Financial Hardship](#) (if needed)
- Form 7 [Affidavit of Service](#) (signed by server)
- Form 6 [Acknowledgment of Service](#) (signed by applicant or their lawyer)


Ongoing court proceedings

- [Form 2 Application in a Case](#)
- [Affidavit – General](#)
- [Form 13 Financial Statement](#) (if needed)
- [Undertaking as to damages](#)
- [Certificate of Conferral](#)
- [Cover letter](#)
- [Fee Exemption – General](#) or [Fee Exemption- Financial Hardship](#) (if needed)
- Form 7 [Affidavit of Service](#) (signed by server)
- Form 6 [Acknowledgment of Service](#) (signed by respondent or their lawyer)


Responding to ongoing court proceedings

- [Form 2A Response to Application in a Case](#)
- [Affidavit – General](#)
- [Form 13 Financial Statement](#) (if needed)
- [Certificate of Conferral](#)
- [Cover letter](#)
- [Fee Exemption – General](#) or [Fee Exemption- Financial Hardship](#) (if needed)
- Form 7 [Affidavit of Service](#) (signed by server)
- Form 6 [Acknowledgment of Service](#) (signed by respondent or their lawyer)

LEGAL AID WA CONTACTS

 **Infoline:** 1300 650 579

Interpreting and relay services to help you contact us:

 **Legal Yarn:** 1800 319 803 (for First Nations callers)

 **Translating & Interpreting Service:** 131 450

 **Website/InfoChat:** www.legalaid.wa.gov.au

 **National Relay Service:** 133 677

Perth office

32 St Georges Terrace,
PERTH WA 6000
1300 650 579
(08) 9261 6222

Great Southern Office

Unit 3, 43 – 47 Dukie Street,
ALBANY WA 6330
(08) 9892 9700

Southwest Office

7th Floor, Bunbury Tower,
61 Victoria Street,
BUNBURY WA 6230
(08) 9721 2277

Midwest & Gascoyne Office

Unit 8, The Boardwalk,
273 Foreshore Drive
GERALDTON WA 6530
(08) 9921 0200

Goldfields Office

Suite 3, 120 Egan Street,
KALGOORLIE WA 6430
(08) 9025 1300

Pilbara Office

28 Throssell Road,
SOUTH HEDLAND WA 6722
(08) 9172 3733

West Kimberley Office

Upper Level, Woody's Arcade,
15 – 17 Dampier Terrace
BROOME WA 6725
(08) 9195 5888

East Kimberley 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

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