

Violence restraining orders – information

This information sheet may help you if you are thinking of applying for a violence restraining order (VRO) to stop a person committing acts of personal violence against you.

If you are or have been in a family relationship with the person, see instead the Legal Aid WA infosheet: *Family violence restraining orders – information*.

If you want to apply for a VRO in the Children’s Court to protect a child from personal violence or you are a respondent to this sort of application, see the videos and fact sheets on the Legal Aid WA website.

For information on another type of restraining order that stops other unacceptable behaviour, see the Legal Aid WA infosheet: *Misconduct restraining orders – information*.

If you are a respondent to a restraining order application, see the Legal Aid WA infosheet: *Responding to a restraining order*.

Terms used

If you are applying for the order, you are called “the applicant” or the “person seeking to be protected”. If a restraining order is made, you are the “person 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”.

What is a violence restraining order?

A violence restraining order (VRO) is a court order designed to stop future acts of personal violence by one person against another person they are *not and have not been* in a family relationship with.

It tells the person to stay away from the other person and/or to stop behaving in certain ways towards you. The order can be worded to suit your situation.

If you have a family-related VRO made before 1 July 2017, you can apply to vary the VRO to a family violence restraining order.

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

What is personal violence?

Personal violence means one of the following acts that a person commits against another person they are *not* in a family relationship with:

- assaulting or causing injury
- kidnapping
- depriving the liberty of the person
- threatening to do any of the above
- stalking.

Even if the person gets someone else to do these sorts of things against the person to be protected, they will be taken to have committed personal violence.

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
- a child welfare officer for a child or young person under 18 years of age (for example, a Department of Communities, Child Protection case manager), or
- a police officer, for any child or adult (usually where it is not practical for the child or adult to make the application themselves, or it is urgent, the application may be by telephone).

How can I get a VRO?

If possible, get legal advice before you make your application.

An application for a VRO can be made:

- To the Children's Court if the respondent is a child or young person under 18.
- To the Magistrates Court if both the applicant and the respondent are adults.
- To the Magistrates Court or the Children's Court if the person seeking to be protected is a child or young person under 18, against an adult respondent.

In some circumstances the court may also extend an order to cover a person named in the order in addition to the person protected by the order, for example, a parent who seeks to have their child protected under the parent's order.

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.

You can apply in person or by making an online application through an approved legal service provider. To find an approved legal service provider visit the [Magistrates Court of WA](#) website. Your local [community legal centre](#) may also be able to assist you but please note some can only help with family violence restraining orders. You can also

contact Legal Aid WA's Infoline for information and referral.

See the Legal Aid WA info sheet: *Restraining orders – court procedure* for more information.

Other ways to get a VRO

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

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 personal violence and is likely in the future to commit personal violence against you, or
- you have reasonable grounds to apprehend they will commit personal violence against you.

The court also has to think it is appropriate in the circumstances to make a VRO and be satisfied you are not and have not been in a family relationship with the respondent.

The meaning of being in a family relationship is very broad and covers current and former spouses, partners, siblings, children, parents, grandparents and step-family relationships, as well as other relatives and members of intimate or family-type relationships. It also covers the former spouse or de facto partner of the person to be protected's current spouse or de facto partner.

What conditions can be included 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
- stalking you
- stopping you from using personal property you need
- getting another person to do any of the things above to you
- being in possession of firearms, explosives or ammunition
- holding a firearms or explosives licence.

A VRO may also inform the 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 firearm, or holding a licence for a firearm. Also, if a respondent already has a firearm or a firearm licence, they must give them up to the police if the VRO prohibits them from having them.

There are certain situations where the court may allow a respondent to have a firearm or firearm licence. If the court is not going to order that the respondent must give up their firearm, they should tell you. You can ask for reasonable conditions about the possession of firearm items.

The court must also consider whether to include a restraint on the respondent being in possession of any explosives or having or getting an explosives licence.

What is a breach of a VRO?

A 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 VRO says they can't do, they are 'breaching' the order.

For example, if a 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 or family.

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

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

Breaches of a VRO can result in fines of up to \$10,000 or imprisonment for up to 2 years or both.

How long does a VRO last?

An interim VRO stays in force until it is cancelled, dismissed or becomes final.

Unless varied or cancelled, a final VRO against an adult usually lasts for 2 years, and up to 6 months against a child or young person. You can ask for an order against an adult to be longer if you prove it is necessary, or it can be shorter.

Criminal courts can also make lifelong VROs in some circumstances.

How does a VRO affect access to the person bound's property?

A VRO may have conditions that mean the person bound cannot go to where they live (for example, in a shared house context) and/or work (if the VRO is between work colleagues) 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 or work, for example, if the person protected works with them. 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/workplace on one occasion only, and in the presence of a police officer, to collect essential 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 with the person bound if it is prohibited under the VRO. If, as the person protected, you have moved out of the place where you previously lived or have changed workplaces and still have property you want to get back, you may ask the court to include a condition on the VRO saying you can go

back to that house or workplace 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.

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.

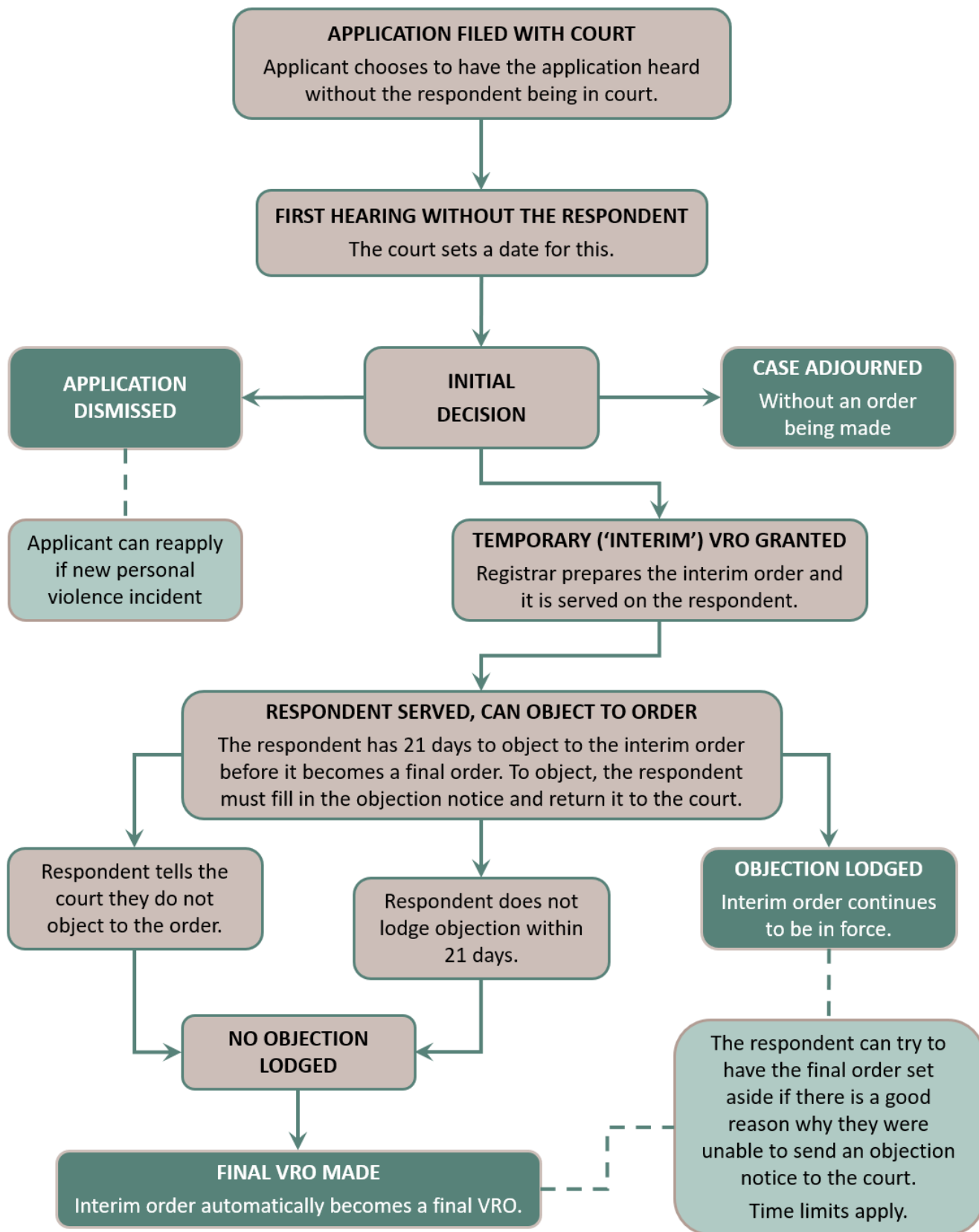
For other situations where you are required to take steps before you can dispose of goods left with you, see the Legal Aid WA webpage: *Abandoned goods* or the Legal Aid WA infosheet: *Disposal of uncollected goods*.

Where can I get more information?

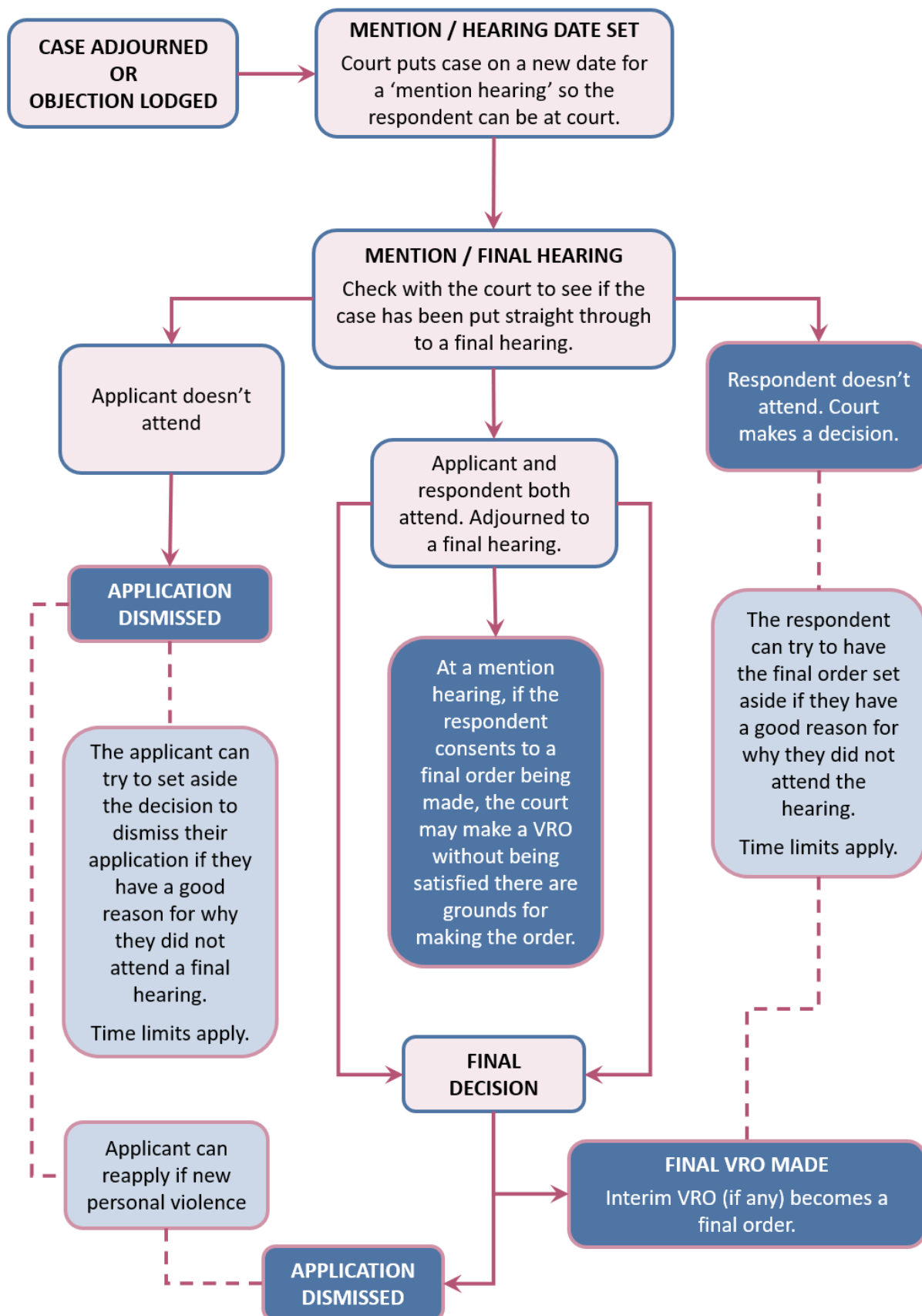
- Contact Legal Aid WA's Infoline or Legal Yarn (for First Nations callers) for information and referral, or to be sent a copy of infosheets or fact sheets on restraining orders that may assist. You can also pick up a copy from your nearest Legal Aid WA office. Contact details are set out on the last page of this infosheet.
- 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.

Flowcharts of the court process for VROs


Violence restraining order application heard in the absence of the respondent




Violence restraining order – adjourned/contested application



LEGAL AID WA CONTACTS

 **Infoline:** 1300 650 579

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

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

Interpreting and relay services to help you contact us:

 **Translating & Interpreting Service:** 131 450

 **National Relay Service:** 133 677

Perth office

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

Goldfields Office

Suite 3, 120 Egan Street,
KALGOORLIE WA 6530
(08) 9025 1300

Midwest & Gascoyne Office

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

East Kimberley Office

98 Konkerberry Drive,
KUNUNURRA WA 6743
(08) 9166 5800

West Kimberley Office

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

Southwest Office

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

Great Southern Office

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

Pilbara Office

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

Indian Ocean Office

Administration Building,
20 Jalan Pantai,
Christmas Island,
INDIAN OCEAN WA 6798
(08) 9164 7529

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CMS: 137986v3