



About Family Violence and Protection Orders



MINISTRY OF
JUSTICE

Tāhū o te Ture

Family Violence and Protection Orders

If you or your children experience family violence, you can apply for a Protection Order. This is a legal document to stop the person who was violent hurting you or contacting you.

If you feel you're in danger now, call Police on 111.

What's family violence?

Family violence is violence that happens within families/whānau or close personal relationships. Family violence can be hurting someone physically. It can also be hurting someone emotionally, psychologically, financially and/or sexually.

It can be a one-off incident, or a pattern of behaviour and actions that may seem small on their own but are used to scare and control someone over time. Family violence and domestic violence are the same.

Family violence happens in a range of different family and personal relationships, and the types of violence can be different. For example, using force or threats to control someone (coercive control) is a common type of violence in partner relationships.

For more information, visit
justice.govt.nz/family-violence

Where can it happen?

Family violence can happen in any close or family relationship, whether the person is living with you or not. For example:

- Partners:
 - married
 - de facto (living together)
 - civil union
 - same sex
 - ex-partners
- people related by blood:
 - parents
 - children
 - siblings
 - aunties and uncles
 - grandparents
- people related through marriage, civil union, de facto relationships or adoption
- members of the same family/whānau or other culturally recognised family group
- flatmates or other people who live in the same house or flat
- people dating or in close personal relationships who don't live together
- people in care-carer relationships if it's also a close personal relationship.

How does a Protection Order work?

The person who applies for a Protection Order is called the applicant (you). The Protection Order will protect you and your children from the person who has been violent (called the respondent). This includes any children not born yet and can include children who don't live with you.

You and the respondent can be living together or not.

A Protection Order has two main conditions the respondent must follow – don't use violence and don't contact the person/people protected by the Order.

A Protection Order might contain special conditions related to your circumstances, such as when and where the respondent can have contact with your children.

It's an offence if the respondent breaks the rules of the Order.

You can also ask for the Protection Order to protect other people, such as your new partner or your mother.

The Order can also include associates of the respondent to stop them being violent to you and anyone else covered by the Order.

The respondent will usually be directed to attend a non-violence programme.

How long does a Protection Order last?

If you apply for a Protection Order 'without notice', this means the respondent is not told about the application. You can apply without notice if you fear for your immediate safety and a delay in getting a Protection Order might put you or your children in danger. You may be given a temporary Protection Order, which lasts for three months, for your protection while a decision is made about a final Order.

During those three months, the respondent can ask the court to cancel the temporary Order. The court will set a hearing date to listen to both sides. At the hearing, the Judge will either cancel the temporary Protection Order or make it final.

If the respondent doesn't go to court and tell the Judge they don't agree with it during those three months, the Order becomes a final Protection Order. A final Protection Order is permanent, unless either you or the respondent asks to have it cancelled (discharged) and the Judge agrees. The Judge must be sure that you and any children covered by the Order will be safe from the respondent.

What is an 'on notice' Protection Order?

If your application for a Protection Order is 'on notice' the court will tell the respondent about your application and you'll both go to court to talk to the Judge about whether there should be an Order. The Judge will decide whether to issue a Protection Order or not.

Who can apply for a Protection Order?

You can apply for a Protection Order if you're in, or have been in, a close personal or family relationship with a person being violent to you.

Anyone aged 16 or over may apply for a Protection Order.

How do I apply for a Protection Order?

It's free to apply for a Protection Order. You need to file an application with the nearest Family Court.

You may find it helpful to get a lawyer or your local Community Law Centre to help you fill out the application form and write your affidavit (your statement that says why you need a Protection Order).

You can get the application form, and guidance on how to complete it, from your local Family Court or from the Ministry of Justice website.

LEGAL AID

If you need a lawyer and can't afford one, you may be able to get legal aid. This is where the government pays some of or all your lawyer's bills. You may have to pay back some of or all the money, but costs related to Protection Orders don't have to be repaid.

What are the rules of a Protection Order?

The Protection Order sets out rules (conditions) that the violent person must not break (breach). If the respondent does break them, they can be arrested and charged with a criminal offence and could go to prison.

You should contact Police if your Protection Order is breached.

NO-VIOLENCE CONDITIONS

Every Protection Order contains conditions that stop the respondent being violent to you. The respondent must not:

- be violent in any way to you or your children. This includes physical, sexual or psychological abuse (threats, intimidation, stalking, harassment) and financial abuse such as stopping your access to money
- hang around where you go regularly, for example, where you work or study or in your neighbourhood
- threaten to hurt you or your children physically or sexually
- damage or threaten to damage your property
- encourage anyone else to abuse or threaten you or your children.

NO-CONTACT CONDITIONS

The respondent must not:

- go to your home or workplace or onto your property unless you say they can
- phone, text, email, send letters or digital messages on social media (like Facebook) or contact you any other way.

If you want to have contact with the respondent in any of these ways, you must say it's OK in writing – by email, letter, text or social media.

You can change your mind and stop contact at any time. You don't need to do it in writing, you can just tell the respondent to leave or to stop contacting you.

The no-contact conditions don't apply if you agree to live with the respondent.

EXCEPTIONS

The respondent can contact you if:

- there's an emergency
- contact is allowed by a court order or written agreement about the day-to-day care of your children
- your Protection Order has special conditions allowing contact
- you need to attend a family group conference, restorative justice conference, settlement conference under the Care of Children Act or any court proceedings.

WEAPONS ARE BANNED

When a temporary Protection Order is made, the respondent must give the Police any firearms licence they hold and any weapons they have. Weapons means any firearm, airgun, pistol, restricted weapon, ammunition or explosive.

If the Protection Order is made final, the respondent's firearms licence will be cancelled.

Can I stay in my house?

Other court orders can be issued so that you and your children can stay where you're currently living or where you want to live.

Property Orders say who can live in a particular house or flat, and who can keep the furniture and appliances such as beds and fridges. The furniture covered by the Property Order will be listed in the Order. You can apply to the Family Court for a Property Order. You will need to have a Protection Order or be applying for a Protection Order at the same time.

- An Occupation Order says you can stay in the house or flat where you're currently living or where you want to live, and that is owned by you and/or the respondent. It stops the respondent from living there.
- A Tenancy Order says that the respondent is no longer the tenant of the house they've been renting with you. You can continue living there but the respondent can't.

If you have an Occupation or Tenancy Order, the respondent must leave the property. If they don't leave, they may be arrested for breaching the Protection Order.

If you want to stay in the house or flat you used to share with the respondent, you can also apply to the Family Court for an Ancillary Furniture Order, so you can keep the furniture and appliances in the house or flat.

If you want to move out, you can apply for a Furniture Order, so you can take all or some of the furniture and appliances to your new home. It doesn't make any difference whether you or the respondent owns the furniture.

What about the children?

The Protection Order protects any children aged under 18 who usually or regularly live with you. This includes children born after the Order is granted.

You can ask for any children not living with you to be covered by the Protection Order.

If you have children, you might want to consider applying for a Parenting Order. This sets out who has day-to-day care of your children. Either you or the respondent can apply to the Family Court for a Parenting Order.

A Judge needs to be sure that the children will be safe with the respondent before allowing contact. They may say contact has to be supervised by another adult and when it can happen. Judges can add conditions to the Parenting Order to keep children safe during handover of the children between you and the respondent.

What support is available?

SAFETY PROGRAMMES

You and your children can go to family violence safety programmes. The programmes are free and are coordinated by the Family Court.

The programmes will help you to keep safe from family violence and build up your confidence.

You can ask to go on a safety programme at any time while a Protection Order is in place. You can do this through your lawyer or by contacting the Family Court.

Your children can also attend a safety programme to help them understand the effects of any violence they've seen or experienced.

NON-VIOLENCE PROGRAMMES

Most respondents to a Protection Order will be directed by the court to go to a non-violence programme. Information about where and when the programme is will be on the Order.

The programme will teach the respondent about:

- family violence and how it affects people
- learning skills for living without violence.

Non-violence programmes are free of charge.

It is a criminal offence if the respondent doesn't attend or finish a non-violence programme if they've been ordered to complete one.

Electoral Roll

If you have a Protection Order, you can arrange to keep your personal details private on the electoral roll if you are worried about your safety.

This will mean your personal details aren't published, so no-one will be able to look up your address. Your details can only be viewed by the Registrar of Electors.

To apply, visit elections.org.nz or phone 0800 367656.

What's a Police Safety Order?

A Police Safety Order (PSO) may be issued by Police when they attend a family violence incident. The PSO means the person being violent must leave the home temporarily, even if they own the property and live there. Police don't need the consent of the victim to issue a PSO.

The PSO can last up to 10 days. This allows time for both the protected person and the person bound by the PSO to get help.

If the person bound by the PSO doesn't keep the rules, Police may charge them, and they may have to go to court.

The NZ Police website has more information at police.govt.nz

Where can I go to get help or advice?

Family Court: 0800 224 733 or justice.govt.nz/family/about

Find a lawyer: lawsociety.org.nz

Free legal advice: communitylaw.org.nz

Legal Aid: justice.govt.nz/get-legal-aid

Are you OK: 0800 456 450 or areyouok.org.nz

Shine: 0508 744 633 or 2shine.org.nz

Women's Refuge: 0800 733 843 or womensrefuge.org.nz

Shakti: 0800 742 584 or shakti-international.org/shakti-nz

Safe to Talk: 0800 044 334 or safetotalk.nz

Victims Information: 0800 650 654 or victimsinfo.govt.nz

Citizens Advice Bureau: 0800 367 222 or cab.org.nz

Family Services Directory: familyservices.govt.nz

Police: 111 in an emergency, or phone 105 or visit your local Police station.

For more information, contact the Ministry of Justice
justice.govt.nz/family-violence or 0800 268 787



MINISTRY OF
JUSTICE
Tāhū o te Ture