

# Restraining Order Application to Vary or Cancel

Number

Jurisdiction

- 
- Magistrates Court of WA
- 
- 
- Children's Court of WA

Location

## Person Applying to Vary or Cancel

Family Name

Other Names

Address Street

Postcode

Phone Numbers

Work

Home

Mobile

- Are you  the person bound by the order  the parent or guardian of a child protected by the order  
 a police officer  the legal guardian of the person protected by the order  
 the person protected by the order

## Restraining Order

- Type of Order  Family Violence Restraining Order  
 Violence Restraining Order  
 Misconduct Restraining Order

Date Order was made

Restraining Order No.

Person who is bound by the order

Person who is protected by the order

## Grounds for Leave to Continue this Application

(Only fill this in if the application is being made by the person bound by the order)

If you are the person bound by the restraining order, on what grounds do you seek leave to continue the application?

## Variation or Cancellation

Please tick one box only

Do you want the order to be cancelled and a replacement order to be made?

Duration of order: An order made under this option will remain in force for a period of 2 years from the date of service of the replacement order if no other period is specified.

 Yes

Do you want an additional order, to be read with the original order, which states the variation?

Duration of order: Unless specified, an order made under this option will not vary the duration of the original order.

 Yes

Do you want the order to be cancelled without any further order being made?

Duration of order: An order cancelled under this option ceases to be in force at the conclusion of the hearing at which it is cancelled.

 Yes

## Variation Sought

What are the specific changes are you seeking?

## Grounds for Variation or Cancellation

Why do you want the restraining order varied or cancelled?

## If you are the protected person

Do you want this application to cancel the restraining order heard in the absence of the person bound by the order?

 Yes No

## Signature

Signature of Applicant

## Hearing (to be filled in by the court)

Court

Date

Time

## Notification

I certify that on ...../...../..... at .....am/pm at ..... I notified the person applying to vary or cancel of the hearing date.

Signature of Clerk



# IMPORTANT INFORMATION

For Application to vary or cancel a restraining order

## IMPORTANT INFORMATION FOR THE APPLICANT

### Application by the person protected by the restraining order

If you are the person protected by the restraining order (or someone acting on behalf of that person) and you have applied to vary or cancel the order, you must attend a hearing on the date set out on the front of this application. The court will summons the person who is bound by the order who should also attend. At that hearing the court will decide whether or not to vary or cancel the restraining order.

**If you do not** attend the hearing, your application may be dismissed.

### Application by the person who is bound by the restraining order

If you are the person who is bound by the restraining order and you have applied to vary or cancel a restraining order, you must attend a hearing on the date set out on the front of this application. The person protected by the restraining order will not attend this hearing. At this hearing you will have the opportunity to satisfy the court that you should be granted leave to continue the application. To do this you will need to satisfy the court that one of the following applies:

- (i) you had a reasonable cause not to attend a prior hearing where the restraining order was made (this does not apply in respect of a hearing where you were not present because the person protected by the order chose to have the matter heard in your absence under section 26 of the *Restraining Orders Act 1997*);
- (ii) there is evidence to support a claim that a person protected by the order has persistently invited or encouraged you to breach the order, or by his or her actions has persistently attempted to cause you to breach the order;
- (iii) there has been a substantial change in the relevant circumstances since the order was made;  
or
- (iv) if this application is made to vary or cancel an interim order, there is evidence to support a claim that the restraints imposed by the order are causing you unnecessary hardship.

**If you do not** attend the hearing, your application may be dismissed.

Your application to vary or cancel the restraining order will be dismissed if you do not satisfy the court that one of the grounds set out above applies.

If the court is satisfied that one of the grounds set out above applies to you then the court will set a date for a further hearing and will summons the person protected by the order to attend. At that hearing the court will decide whether or not to vary or cancel the restraining order.

**If you do not** attend the hearing, your application may be dismissed.

### Application to extend duration of order

If this application is to vary the restraining order by extending the duration of the order, then, despite anything else in the *Restraining Orders Act 1997*, **THE ORDER WILL NOT EXPIRE** before the application is determined if the person bound by the order has been given a copy of this application.

APPLICANTS COPY