

Restraint orders – how to respond

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

Someone who has a restraint order placed on them should understand the order and what they should do if they want to respond to the order.

What is the purpose of a restraint order?

A restraint order is a court order that tells someone they will be charged if they do certain things. It acts as a strong warning to stop someone doing something that is harmful to another person.

For example, you can be ordered to:

- not contact a person
- not enter a certain place (e.g. someone's home or workplace)
- not come within a certain distance of a certain place
- not have any firearms
- not behave in certain ways towards a person (e.g. threaten, assault or stalk them)
- anything else that a court believes is reasonable.

What should I do if I have been served with an application for a restraint order?

If you have been served with an application for a restraint order it is important that you do not ignore it.

Look at the application and consider these questions.

- Why is the person making the application?
- Do I agree with what is in the application?
- What will the effect be if the order is made?
- When is the application going to be heard in court?

What if I disagree with the allegations in the application?

If you do not attend court to dispute the application, it is possible that the order can be made without you being there.

Talk to a lawyer if you don't agree or understand what the application for a restraint order says. A lawyer can help you understand the application, and help you prepare a response or support you to go to court if that's what you choose to do.

When will a Magistrate make a restraint order?

A Magistrate will only make an order if they are satisfied that you have damaged someone's property, assaulted somebody or behaved in a provocative or threatening manner and that you are likely to repeat that behaviour if they do not make a restraint order.

What if I agree with the application?

If you agree with the details in the application, you can tell the Magistrate that you don't disagree with it. The Magistrate can then make an order without the need for a hearing to take place.

What are the penalties if I breach the order?

It is a crime to do something that a restraint order says you should not do. You may receive a fine, prison sentence or other punishment if you do this. It is very important that you follow the order.

Does a restraint order appear on my criminal record?

Your criminal record will not show that there is a restraint order made against you. If you do something that the order says you should not do, you may receive a conviction for this, which will then appear on your criminal record.

Can I apply for a restraint order as well?

You can apply for a restraint order against another person, even if they have their own application against you.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.