

Restraint orders

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.

Restraint orders act as a strong warning to stop someone doing something that is harmful to another person.

What is 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.

Restraint orders act similarly to family violence orders (FVOs). The key difference is that FVOs can only be made for someone against another person if they are married, divorced, in a de facto relationship or separated from them. Restraint orders can be made against other family members, neighbours, or others.

What can a restraint order stop?

A restraint order can warn someone from doing various things. For example, a person can be ordered to:

- not contact you
- not enter a certain place
- not come within a certain distance of a certain place
- not have any firearms
- not stalk you
- not threaten, assault or abuse you.

Can I apply for a restraint order?

You can make an application for a restraint order if you or your property have been affected by someone else's behaviour in certain ways.

You can apply to the court for an order if you are the person affected or if a child is affected and you are their parent or guardian.

How can I apply for a restraint order?

You can apply for a restraint order at the Magistrates Court by filling out an application and filing it with the court. [The application is available on the Magistrates Court website.](#)

You must file the restraint order application at the Magistrates Court registry, and they will then tell you when and where your application will be decided. There is a cost associated with filing the application.

What happens when I file an application?

When you apply, you will be given a date for the matter to be heard in court. You will then have to give a copy of the application to the person you want to be stopped from doing things. This is called 'service' and gives that person the chance to respond to what you have said in your application. It also makes them aware that they need to attend court if they wish to oppose the application.

If it is too dangerous or you are afraid to serve the documents on the other person you can ask that Tasmania Police do this or hire a process server. Process servers are people who deliver court documents to people for a fee. The Magistrates Court registry will be able to provide you with a list of process servers.

What happens when I go to court?

The person you are trying to get an order against will be given the opportunity to tell the court whether they agree to the order or not. If they agree to the order, it can be made by the Magistrate. If they don't agree, you will be required to prove to the Magistrate that the behaviour you are complaining of occurred and that unless the order is granted, is likely to occur again.

If you are considering making an application for a restraint order, you should speak to a lawyer because if your application is not successful, you may need to pay for any cost that the person responding to your application has to pay (e.g. if they have to hire a lawyer or an expert).

What happens if the Magistrate makes the order?

If a Magistrate makes the order, it will start as soon as it is served on the other person. It will then be a criminal offence for someone to do any of the things that the order says they can't.

What happens if the Magistrate doesn't make the order?

If the Magistrate refuses to make the restraint order, you may need to pay for any cost that the other person has had to pay to resolve the matter, e.g. the cost of their lawyer. We recommend you speak to a lawyer to discuss your options prior to making an application for a restraint order.

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.