

GUIDELINES:

COMPLETING PROTECTION ORDER APPLICATION FORMS

THE FAMILY COURT

THIS GUIDE IS PART OF A SUITE OF DOCUMENTS

It should be read together with the following pamphlets available on the Family Court Website or from your local Family Court:

- Applying for a Protection Order ([Courts 008](#))
- Introduction to the Domestic Violence Act ([Courts 001](#))
- Free Domestic Violence Support Programmes ([Courts 009](#))



New Zealand Government

WHAT IS A PROTECTION ORDER?

A protection order is an order made by the Family Court to protect people from domestic violence.

The Court can make a protection order if it is satisfied that:

- there has been domestic violence, and
- the order is needed to protect you or your children, or both, from the person who has been violent.

There are ways a protection order can be enforced if the respondent breaches (disobeys) the order.

WHO CAN APPLY FOR A PROTECTION ORDER?

You can apply for a protection order if you are now, or used to be, in a domestic relationship with a person who is being violent towards you. Domestic relationship covers many different types of relationships, including:

- married couples
- de facto couples
- gay and lesbian couples
- couples in civil unions
- girlfriends and boyfriends
- parents and children
- members of the same family or whanau
- flatmates or other people who live in the same house or flat
- people in close personal relationships, whether or not they live in the same house or flat.

WHAT DOES THE LAW MEAN BY “DOMESTIC VIOLENCE”

Under the Domestic Violence Act, “domestic violence” includes physical abuse, sexual abuse and psychological abuse. Physical abuse can be punching, slapping or kicking. Sexual abuse is any kind of sexual contact you don’t agree to. Psychological abuse includes being threatened, harassed, scared or intimidated. Examples of this could be your partner stalking you, smashing up your property to scare you, or stopping you seeing your friends as a way of having power over you. It’s also psychological abuse to allow a child to see or hear domestic violence.

WHAT DO “APPLICANT” AND “RESPONDENT” MEAN?

You, the person applying for the protection order, are called the applicant.

The respondent is the person who has been violent and who you want the protection order against.

If the respondent has encouraged some other person to be violent towards you, the Family Court can make the protection order against that other person as well. The other person is then called an associated respondent.

DO I NEED A LAWYER?

You will need to fill out an application form when you apply for a protection order. You can fill out the application yourself, however it’s a good idea to get a lawyer to help you do this.

A lawyer can help you understand what information you need to include in your application to show the judge why you need a protection order and how urgent your situation is.

It may be especially beneficial to seek legal advice when a defence has been filed against your application for a protection order as you will be required to appear in Court.

If you can’t afford a lawyer you may be able to get legal aid. This is where the Government pays some or all of the lawyer’s bills. The decision to grant legal aid depends on your financial circumstances and the type of case it is. In some special circumstances you can still get legal aid even if you exceed the financial limits. If you are financially eligible it is unlikely that your application for legal aid for a protection order will be refused.

You can get more information about legal aid by:

- contacting the local Legal Services Agency office (see the blue Government pages in the front of the phonebook)
- visiting the Legal Services Agency website at www.lsa.govt.nz, or
- seeing a lawyer who does legal aid work and discussing legal aid with them.

WHAT DOCUMENTS DO I NEED TO INCLUDE IN MY APPLICATION?

You must complete the following documents, and include them with your application:

- Information Sheet (G7)
- Application Form (DV3)
- Affidavit Form (DV4)
- Form DV5 (if you want to keep your address secret)
- Form DV6 (information for Police about weapons)

You can get these forms from the Family Court website (www.justice.govt.nz/family) or from any Family Court.

Contact details for Family Courts are in the blue Government pages at the front of the phone book, or through the following website link: www.justice.govt.nz/family/contact.

Court staff can provide you with information about Court forms and processes, but they cannot give you legal advice.

The website forms are interactive and can be filled in (but not submitted) online. If you are filling the forms out by hand, please make sure your writing is neat and easy to read.

If the Judge makes a protection order, a copy of the information sheet, application form and affidavit will be given to the respondent. These documents are given to the respondent when they are being served with the protection order.

If you need to keep your address secret from the respondent, you should not write your address on any of the application documents and make sure you complete a Notice of Residential Address and Request for Confidentiality Form (DV 5).

WHAT HAPPENS AFTER I MAKE MY APPLICATION TO THE COURT?

If you have made a “without notice” application, your application papers will be referred to a Family Court Judge who will read through what you have written and decide whether or not you meet the grounds for a temporary protection order to be made. A without notice application is one where the respondent isn’t told that you’ve applied for the order until after a decision is made and a temporary order may be made straight away (usually on the same day).

If a temporary protection order is made then the respondent will be given a copy of the order along with a copy of the application documents.

If the respondent doesn't do anything to defend (oppose) the temporary order it will automatically become a final order after three months.

If the Judge decides not to make a temporary order and says that your application must proceed on notice then the respondent will be given a copy of the application documents and they will have a chance to oppose your application before the Judge makes a final decision.

If you have made an "on notice" application, the documents (including a copy of your affidavit) will be given straight to the respondent who will have a chance to oppose the application before a Judge considers your application.

If the respondent opposes the order you will need to appear in Court. For more information about appearing in Court please refer to the "Applying for a Protection Order" pamphlet 008. This is available on the Family Court website and from your local Family Court.

You should discuss with Court staff the time by which an application should be filed with the Court to guarantee it being dealt with on the same day.

MORE INFORMATION

Applying for a protection order can be a stressful time and it is recommended that you get support.

For more information about the protection order process and where you can go to get support, please refer to the "Applying for a Protection Order" pamphlet 008. This is available on the Family Court website and from your local Family Court.

INFORMATION SHEET (G7)

This is general information that must accompany most Family Court applications.

Read the form and complete it by writing or typing your details in

The original version of this form should be on yellow paper but will not be rejected if it is submitted on white paper.

At the bottom of the sheet you are asked to say who is filing the applications. If you have a lawyer this should be their name. If not, you need to put your own name here.

If you don't know where the respondent lives you should give the best (usually the most recent) address that you have. If the Court doesn't have the current address, the order won't be served and will run out if it is not given to the respondent within three months. Any information you have about the whereabouts of the respondent should be given to the Court immediately.

You should also give the names and details of any children who are affected by the protection order.

Your **address for service** is an address where the Court can send documents to you. If you have a lawyer, you can use their address as your address for service.

If you don't have a lawyer and you want to keep your home address secret from the respondent, you'll need to give the Court another address to where documents can be sent to you. This could be the address of a friend or family member. If you want your address kept secret, don't write your home address on the form.

APPLICATION FOR PROTECTION ORDER/PROPERTY ORDERS (DV3)

PAGE 1

Read this page and either complete it by writing or typing your details in.

You need to say if you are applying for the protection order with or without notice. A without notice protection order can be made straight away (usually on the same day) and the respondent isn't told that you've applied for the order until after it is made. It is also called a temporary protection order.

The Court will make a temporary protection order only if the Judge is satisfied that you or your children may be at risk of harm or undue hardship if the Court doesn't deal with your application straight away.

If the respondent doesn't do anything to defend (oppose) the temporary order it will automatically become a final order after three months.

Remember that your **address for service** is an address where the Court can send documents to you. The respondent will be able to see it so if you do not want the respondent to know where you are living you need to make sure that this address is not your home address. If you have a lawyer, you can use their address as your address for service or you could give the address of a friend or family member.

PAGE 2

This is the application for a protection order.

You need to say if you need the order made with or without notice and who the respondent is.

You can also name any other person who needs to be protected by the order, like children over 17, or a new partner or flatmate – if they are also at risk from the respondent or associated respondent. A protection order will automatically protect any child under 17 who usually or regularly lives with you and they do not need to be named here. If you want the order to cover someone else other than your children, you will need written consent from each of those people. Attach their consent to your application.

If there is an associated respondent, some other person who the respondent has encouraged to be violent towards you, you need to name them here.

PAGE 3

If you want to make any special conditions (for example when the respondent can have contact with the children) you need to put them in here.

PAGE 4

When a protection order is made the respondent must hand in any firearms or other weapons, and their firearms licence, to the Police.

If you do not want this to be a condition of the protection order you can say so here. If you want to modify this condition you can specify what you would like.

This request may only be made if the protection order is on notice.

If you or your children would like to attend a free support programme you can request this here. Support programmes are designed to help you move forward and keep safe. They give you information about the protection order, and about domestic violence and its effects.

Note: the respondent will automatically be referred to a programme unless there is some good reason why they shouldn't, so you don't need to put their details here.

Programmes for **children** can help them understand and deal with violence and the effects that violence has on them and their family.

PAGE 5

An **occupation order** gives you the right to live in the house or flat where you are now living, if you or the respondent own the place. The order stops the respondent from living there without your agreement.

A **tenancy order** says you can live in a house or flat that you and the respondent have been renting together, and stops the respondent from living there.

Again, you need to say if this is needed with or without notice.

You need to give the full address of the house. If you only need to stay in the house for a specific period of time you can say how long you would like the order to last.

If you want any conditions on the occupation order, you need to put them in here.

PAGE 6

If you want to stay in the home you are currently living in you can apply for an **ancillary furniture order** to let you use the furniture in the home.

Again, you need to say if this is needed with or without notice.

If you want to apply for an ancillary furniture order you need to give the address of the house here.

You may not want to keep all of the furniture, you can list the furniture that you want to keep here.

If you only need the furniture for a specific period of time you can say how long you would like the order to last.

If you want any conditions on the ancillary furniture order, you need to put them in here.

PAGE 7

If you want to move out of the house, you can apply for a **furniture order** to let you take the furniture, or some of it, to your new home.

Again, you need to say if this is needed with or without notice.

If you want to apply for an furniture order, you need to give the address of the house here.

You may not want to keep all of the furniture, you can list the furniture that you want to keep here.

If you only need the furniture for a specific period of time you can say how long you would like the order to last.

If you want any conditions on the furniture order, you need to put them in here.

PAGE 8

You need to write in the date of the affidavit (DV4) that you are filing in support of your application.

You need to tell the Family Court if you've ever been granted a protection order or any other order under the Domestic Violence Act, or a non-molestation order or non-violence order under an earlier Act.

Attach a copy of the other order to your application if possible. A record of the order will be on your previous Court file and you can ask the Court to provide you with a copy.

You will need to sign and date the application on this page.

PAGE 9 If you have a lawyer, they will complete this part. You should talk with your lawyer before completing the forms.

If the application is made on notice, the Registrar of the Court will set a date and time for a hearing to be held. They will let you know when it is.

PAGE 10 There are some notes on this page that you should read when completing this form.

AFFIDAVIT (DV4)

An affidavit is the evidence to support your application for the protection order. The affidavit must be sworn (signed) by you in front of a lawyer (not your own lawyer) or a Court Registrar.

PAGE 1 Read this page and complete it by writing or typing your details in.

You need to say if you are applying for the protection order with or without notice. A without notice protection order can be made straight away (usually on the same day) and the respondent isn't told that you've applied for the order until after it is made. It is also called a temporary protection order.

The Court will make a temporary protection order only if the Judge is satisfied that you or your children may be at risk of harm or undue hardship if the Court doesn't deal with your application straight away.

If the respondent doesn't do anything to defend (oppose) the temporary order it will automatically become a final order after three months.

Remember that your **address for service** is an address where the Court can send documents to you. The respondent will be able to see it so if you do not want the respondent to know where you are living you need to make sure that this address is not your home address. If you have a lawyer, you can use their address as your address for service or you could give the address of a friend or family member.

Question 1 You will always be the applicant in these proceedings

Question 2 This is the name of the respondent

Question 3 You should say here what type of relationship you have, or have had in the past, with the respondent. A **domestic relationship** covers many different types of relationships, including:

- married couples;
- de facto couples;
- couples in civil unions;
- boyfriends and girlfriends;
- parents and children;
- members of the same family or whanau;
- flatmates or other people who live in the same house or flat;
- people in close personal relationships, whether or not they live in the same house or flat.

You should also say how long you have been in the relationship for.

Question 4 This is a brief history of the domestic violence, with all the relevant circumstances and details – for example:

- How long you have been in the relationship for;
- When the violence started;
- Whether children have been exposed to the violence and if so, for how long;
- Why are you applying for the order;
- Any contact with the Police and visits to the doctor or hospital because of the violence;
- Any other injuries you have received (whether or not you went to the Police, doctor or hospital);
- An outline of the current situation or the most recent incident of abuse;
- Whether you have tried to leave the relationship before;
- An outline of any behaviour that forms part of a pattern or behaviour from which protection is needed – this should be factual information rather than emotional. You need to outline what's been done and said (actions).

Remember that domestic violence may be **physical** (like punching, slapping and kicking), **sexual** (any sexual contact that you don't agree to) or **psychological** abuse (like threatening, harassing, scaring or intimidating you or your children).

Question 5 The question is about firearms and other weapons. When a protection order is made the respondent must hand in any firearms or other weapons, and their firearms licence, to the Police.

You need to choose the option that relates to your situation.

Question 6 A protection order may contain special conditions to deal with your particular case, like when and where the respondent is allowed to have contact with your children.

If you requested any special conditions in the application form, then you need to say who they will protect (this may be you) and why they are needed.

Question 7 The order can also be made to protect other people who you name here – like children over 17, your parents, siblings, support person or your new partner – if they are also at risk from the respondent or associated respondent.

A protection order will automatically protect any child under 17 who usually or regularly lives with you and they do not need to be named here.

Question 8 You should say here what type of relationship the other person has, or has had in the past, with the respondent.

You should also say how long the other person has been in a relationship with the respondent for.

Question 9 This is a brief history of the domestic violence towards other people you have named that you want protected by the order.

Question 10 You need to say why the respondent's behaviour is related to the additional protected person's relationship with you.

Question 11 You need to say here why it is necessary that the additional protected person needs to be protected by the protection order

Question 12 You need to confirm that the additional protected person agrees to be named on the protection order or why they are not able to consent. You should attach written consent if possible.

Question 13 If the respondent has encouraged some other person to be violent towards you, the Family Court can make the protection order against that other person as well. The other person is then called an **associated respondent**. You need to name the associated respondent here and show how the respondent is encouraging or has encouraged the associated respondent's behaviour.

Question 14 You need to explain how the associated respondent has behaved violently. You should include:

- any contact with the Police and visits to the doctor or hospital because of the violence;
- an outline of the current situation or the most recent incident of abuse;
- an outline of any behaviour that forms part of a pattern or behaviour from which protection is needed;
- Remember that domestic violence may be **physical, sexual or psychological** abuse.

Question 15 The question is about firearms and other weapons. The associated respondent must also hand in any firearms or other weapons, and their firearms licence, to the Police when a protection order is made.

You need to choose the option that relates to your situation.

Question 16 If you need protection straight away you can apply for a "without notice" protection order which means that the respondent isn't told that you've applied for the order until after it is made. It is also called a temporary protection order.

The Court can usually make a temporary protection order on the same day that you apply for it. The judge will probably not need to see you in Court and will make a decision based on your application.

The Court will make a temporary protection order only if the Judge is satisfied that you or your children may be at risk of harm or undue hardship if the Court doesn't deal with your application straight away.

If the respondent doesn't do anything to defend (oppose) the temporary order it will automatically become a final order after three months. If you need a temporary order you need to say this here, you also need to say why you need the order to be made straight away.

Question 17 An **occupation order** gives you the right to live in the house or flat where you are now living, if you or the respondent own the place. The order stops the respondent from living there without your agreement.

Here you need to give the full address of the house and explain why you have a legal interest in it if you and/or the respondent do not own it.

Question 18 Here you need to say why you need the occupation order.

The Court can make an occupation order if it is satisfied that the order is needed to protect you or that it's in the best interests of the children.

Question 19 If anyone else will be affected by the occupation order you need to say who they are, their addresses and why they will be affected.

Question 20 A **tenancy order** says you can live in a house or flat that you and the respondent have been renting together, and stops the respondent from living there.

Here you need to give the full address of the house.

Question 21 Here you need to say why you need the tenancy order.

The Court can make a tenancy order if it is satisfied that the order is needed to protect you or that it's in the best interests of the children.

Question 22 If anyone else will be affected by the occupation order you need to say who they are, their addresses and why they will be affected.

Question 23 If you want to stay in the home you are currently living in you can apply for an **ancillary furniture order** to let you use the furniture in the home.

If you want to apply for an ancillary furniture order you need to give the address of the house here.

Question 24 Here you need to say how long you and the respondent have lived at this house together.

If you are not living there at the moment but are planning to move back in you need to indicate your intention to return.

Question 25 If anyone else will be affected by the ancillary furniture order you need to say who they are, their addresses and why they will be affected.

Question 26 If you want to move out of the house, you can apply for a **furniture order** to let you take the furniture, or some of it, to your new home.

Question 27 You need to give the address of the house that you and the respondent live or have lived in.

Question 28 This confirms that you are not going to continue living in the home (i.e. you want to move and take the furniture with you.)

Question 29 Tick this box if there are any children who live or have lived in the house with you.

Question 30 Here you need to say why you need to take the furniture with you.

Question 31 If anyone else will be affected by the furniture order you need to say who they are, their addresses and why they will be affected.

Question 32 Here you can apply for these orders to be made without notice, this is where the respondent isn't told that you've applied for the order until after it is made.

You can apply for the order to be made without notice if:

- the respondent has used domestic violence against you or your children
 - the delay caused by proceeding on notice would or might expose you to more violence.
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PAGE 18 If there is anything else that you think it is important for the Judge to know you need to write it here.

You then need to sign and date the affidavit form in front of the Registrar at the Court, another solicitor (not your own) or a Justice of the Peace.

PAGE 19 There are some notes on this page that you should read when completing this form.

FORM DV5

(if you want to keep your address secret)

If you need to keep your address secret from the respondent, you should complete a Notice of Residential Address and Request for Confidentiality Form (DV 5).

The Family Court will then make sure the respondent can't find out your address from the Court file or other Court documents. You should not write your address on any of the other application documents.

You can also ask the Court or your lawyer about keeping your address or other details on public documents secret from the respondent – for example, your details on the Electoral Roll or your motor vehicle registration.

You need to read the form carefully and complete it by writing or typing your details in.

Remember that your **address for service** is an address where the Court can send documents to you. The respondent will be able to see it so if you do not want the respondent to know where you are living you need to make sure that this address is not your home address. If you have a lawyer, you can use their address as your address for service or you could give the address of a friend or family member.

You need to sign and date the bottom of the form.

FORM DV6 (information for police about weapons)

This form is given to the police and is about firearms and other weapons. The respondent (and associated respondent) must hand in any firearms or other weapons, and their firearms licence, to the Police when a protection order is made.

PAGE ONE On this page you need to complete your personal details and those of the respondent (and associated respondent if applicable).

Question 1 Answer if the respondent has a firearms licence. You can choose to answer “yes”, “no” or “don’t know”.

Question 2 If there is an associated respondent, answer if they have a firearms licence. You can choose to answer “yes”, “no” or “don’t know”.

Question 3 This asks if the respondent has access to any weapons. A weapon may be a firearm or another weapon. You can choose to answer “yes”, “no” or “don’t know”.

Question 4 Answer this question if there is an associated respondent. This asks if the associated respondent has access to any weapons. A weapon may be a firearm or another weapon. You can choose to answer “yes”, “no” or “don’t know”.

Question 5 If you know how many weapons the respondent or associated respondent has access to you need to write it here. If you are unsure you can say that you don’t know.

Question 6 Here you can say what types of weapons the respondent or associated respondent has access to. This may include any firearm, airgun, pistol, restricted weapon, ammunition or explosive. If you are unsure you can say that you don’t know.

Question 7 Here you can say where the respondent or associated respondent keeps the weapons. If you are unsure you can say that you don’t know.

Question 8 If the respondent or associated respondent has access to someone else’s weapons (e.g. a relative’s or friends) you can give the name and address of that person.

You need to sign and date the form.
