

# A Guide to Applying for a Protection Order



# *A Guide to Applying for a Protection Order*

## **Whitireia Community Law Centre Trust Incorporated**

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Revised in 2005 to incorporate changes in the law brought about by the Care of Children Act 2004.

# *A Guide to Applying for a Protection Order*

## **Introduction**

Under the **Domestic Violence Act 1995**, any person can apply to the Family Court for a protection order, if that person (or a child of his or her family) has been the victim of domestic violence from someone they have (or had) a domestic relationship with. The phrases “domestic violence” and “domestic relationship” have been given wide meaning under the Domestic Violence Act.

This resource booklet uses a sample case study example to demonstrate how someone can apply for a protection order, as well as for property orders and a parenting order, where these are necessary to protect them or their family from domestic violence. The booklet contains simple forms with examples filled in by the applicant, to demonstrate how to complete the documents necessary to bring an application to the court. It is designed for people who are not eligible for legal aid but cannot afford to pay a lawyer and feel confident enough to start and carry on legal proceedings in the Family Court themselves.

There are serious consequences in terms of contact with and day-to-day care of children that result from the granting of a protection order. It is therefore advisable to talk to a lawyer or someone at a community law centre before proceeding with an application to the Family Court.

In some cases the respondent will oppose a protection order being made and the proceedings may result in a hearing. In these cases it is also advisable to have legal representation.

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# Case Study

## Mary's protection order application

Fred and Mary Jones have been married for twelve years. They live with their child Megan at 8 Pember Place, Porirua in a rented house. Over the period of their relationship Fred has shouted at and hit Mary on a number of occasions after he had been drinking. Lately things have been getting worse. Fred came home last night and argued with Mary. During the argument he punched her, giving her a black eye, a cut lip and a bruised chin. He did this in front of Megan. Fred only gives Mary \$200 a week for housekeeping and other bills. She has to tell him what she spends it on and if she can't make ends meet he abuses her. The argument last night was about money. Once when Mary said she had had enough of his abuse and was going to leave, Fred told her that if she did she would never see Megan again. On another occasion when Mary had said she was leaving, Fred told her he would kill himself.



Mary's brother, Joe, has offered to help. He tells Mary to get a **protection order** from the Family Court. Fred dislikes Joe and if he finds out he has helped Mary, she is afraid he will hurt Joe. Mary decides to get a protection order but is afraid that Fred will take Megan away, to get back at her. Megan is twelve years old.

# SECTION ONE

## Protection orders - The law



A person **who is or has been in a domestic relationship with another person** can apply to the Family Court for a protection order against that person.

The person applying for the protection order is the **applicant**. The person the application is made against is the **respondent**.

For the Court to grant a protection order, three things need to be proved:

1. There is (or was) a **"domestic relationship"** between the applicant and respondent; **and**
2. The respondent has used **"domestic violence"** against the applicant, or a child of the applicant's family; **and**
3. A protection order is necessary to protect the applicant and/or that child.

A **"domestic relationship"** includes:

- marriage, civil union, de facto and same sex partnerships,
- family relationships (includes in-laws, de facto in-laws and a culturally recognised family group),
- those who ordinarily share a household and
- those in a close personal relationship (not necessarily a sexual relationship).

(Note: People who occupy the same house as landlord and tenant, or employer and employee, are not in a domestic relationship just because of that fact).

**"Domestic violence"** is violence used within a domestic relationship. The definition of violence in the Act is wide. It includes;

- physical abuse

- sexual abuse (including any unwanted sexual contact)
- psychological abuse (this abuse includes intimidation, harassment, threat or damage to property).

A person also psychologically abuses a child if that person causes or allows a child to see or hear the physical, sexual, or psychological abuse of a person with whom that child has a domestic relationship. An obvious example of this is where one parent hits the other in front of their child or children.

Where the court makes a protection order, **the order automatically protects any child of the applicant's family** (i.e. a child under 17 who normally or regularly lives with the applicant). The child does not have to be the applicant's child, or the respondent's child.

## 1. APPLICATIONS: WITH OR WITHOUT NOTICE

Applications for protection orders can be made either with, or without, notice to the respondent.

**"With notice"** (or "on notice") means that the Court tells the respondent that an application has been filed, and gives the respondent copies of those documents. The respondent then has a chance to file their own papers and appear before the Judge to oppose the order being made.

**"Without notice"** means a protection order is made by the Judge without the respondent being aware of the application, or having a chance to oppose it. They are then served with a temporary protection order, at which stage they can choose to oppose the protection order being made final.

To have a protection order made **without notice**, you must show that giving notice might cause harm or undue hardship to the applicant, or a child of their family. For example, the respondent might become violent if they knew the applicant was applying for a protection order.

When a protection order is granted without notice it is called a **temporary** protection order. After 3 months the order automatically becomes a **final** protection order if it has been served on the respondent **and** the respondent takes no action to oppose a final order.

## 2. AFTER THE PROTECTION ORDER IS MADE

Once a protection order has been made (whether temporary or final), the respondent's behaviour and contact with the applicant (and any children covered by the order) is governed by the conditions of the protection order.

There are standard conditions of every protection order – they include non-violence conditions and non-contact conditions. There may also be special conditions that deal with an individual’s situation.

**Non-violence conditions** apply to every case.

The respondent must not:

- physically or sexually abuse the applicant or the applicant’s children, or threaten to do so
- damage, or threaten to damage, property belonging to the applicant
- psychologically abuse the applicant - including intimidation and harassment or threatening to do so
- encourage any other person to physically, sexually or psychologically abuse the applicant or the applicant’s children, or threaten to do so.

**Non-contact conditions** apply UNLESS the applicant expressly agrees to the respondent living in the same house.

The respondent must not:

- watch, loiter near or prevent access to/from the applicant’s house, workplace or any other place the applicant visits often
- follow the applicant about or stop or accost the applicant in any place
- enter or remain on any land or building occupied by the applicant without the applicant’s express consent
- make any contact with the applicant (including phone, fax, email, text and mail).

The non-contact conditions mean the respondent cannot contact the applicant UNLESS:

- this is reasonably necessary in an emergency or
- if permitted by a parenting order or written parenting agreement or
- it is permitted by a special condition of the protection order or
- the respondent is attending a family group conference convened under the Children, Young Persons and Their Families Act 1989.

If the applicant and the respondent are living in the same house with the express consent of the applicant, these non-contact conditions are suspended. **However, the applicant is able to withdraw consent for contact (or living together in the same house) at any time just by saying so and then these non-contact provisions will apply in addition to the standard conditions. This may mean that the respondent should have back-up accommodation should the need arise.**

Protection orders also include a condition that the respondent must hand in any firearms licence and weapons to the police.

When the court makes a protection order, it must also (unless it considers there is good reason not to do so) order the respondent to attend a non-violence programme.

**If an order is made, a voluntary non-violence programme for applicants and children is available free (see Section Three – Keeping Safe).**

Copies of **protection orders** are given to the police, whose job it is to enforce them.

### 3. PROPERTY ORDERS

Under the Domestic Violence Act a person can also apply for one or more of the following **property orders**;

- **Occupation order** – entitles the applicant to be the sole occupant of the owned family home.
- **Tenancy order** – entitles the applicant to be the sole tenant of a rented home.
- **Ancillary furniture order** – entitles the applicant to use furniture and household effects in the home that had been occupied by the couple.
- **Furniture order** – entitles the applicant to take furniture and household effects to another house.

The court can make a property order if it is satisfied that this is necessary for the protection of the applicant, or in the best interests of a child of the applicant's family.

### 4. PARENTING ORDERS

The Care of Children Act 2004 changed much of the language used in relation to parenting arrangements. Custody is now called day-to-day care, and access is now called contact. A parenting order is the new name for what used to be called custody and access orders.

Generally, the parents of a child will be joint **guardians** of the child. There are some instances where a father is not automatically a guardian of a child. In other instances the Court will appoint extra guardians for a child e.g. grandparents who are in the position of bringing the child up.

A guardian's responsibilities to a child include:

- Providing **day to day** care for the child e.g. a safe and secure home, loving care and attention, proper arrangements for school.
- Contributing to the child's **development** as a person. This means that the guardians will help children learn about their family, their culture and religion, and encourage the child to develop as an individual.
- Help make the big decisions in a child's life e.g. where they live, where they go to school, major medical treatment, any changes to their name.

Wherever possible the guardians should agree on decisions relating to the child. However, where there is an application for a protection order before the court it is acknowledged that there may not be agreement on who has **day to day** care of the child as there may be safety issues that must be dealt with first. This is why it is often advisable to apply for a **parenting order** at the same time as the protection order.

**A parenting order** (made by a judge in the Family Court) says who is responsible for the day-to-day care of a child, and who may have contact with a child (supervised or non-supervised). Where there is no parenting order in respect of a child, the child's parents generally have equal rights to the day-to-day care of that child.

Where an application is made for a protection order, the Family Court may also make an order about the day-to-day care of children and contact with them – even when no specific application has been made.

The Family Court is always concerned about the safety of children. When an application for a protection order is made, and a parenting order is also being considered, the court will normally require any contact between the respondent and the child to be supervised where it is satisfied that physical or sexual abuse has been used against the applicant or a child of the family. This means that the contact with the child will be supervised by another person – either an organisation that provides that service, or a person chosen by the Court, like a relative or friend of the family. This ensures that while matters are being sorted out in court, the child is protected from any further risk of violence.

If the applicant and respondent are married or in a de facto relationship (or were), and there are children involved, it is usually appropriate to apply for a parenting order at the same time as a protection order. In these situations who has the day-to-day care of a child sometimes becomes an issue between parents, and it is sensible to have this matter (and any contact issues) resolved at the same time.

**Note:** If the applicant fears that the respondent might react to a protection order by removing the child to another part of the country, or overseas, the legal issues are more complicated. **People in this situation are advised to seek help from a lawyer to assist in obtaining an order preventing removal of the child.**

## Applying the law to Mary's case



Mary is in a domestic relationship with Fred as they are married and have a child together.

Fred has used domestic violence against Mary as he has hit and punched her (physical abuse) and yelled at her, threatened to take their child and kill himself (psychological abuse). He has also psychologically abused Megan by hitting Mary in her presence.

A protection order is clearly needed to protect both Mary and Megan and a court will make such an order in the above circumstances.

Mary decides to apply for a protection order without notice as well as for a parenting order providing for her to have day-to-day care of Megan. She also wants to stay in their rented home as Megan is doing well at the local school. She will also need to apply for property orders.

If Mary is granted a parenting order providing for day-to-day care of Megan, Megan will live with Mary, and Mary will be responsible for Megan's everyday things – like making sure she is safe, warm and properly fed, and goes to school. Mary should apply without notice for a parenting order when she applies for the protection order. This means that Mary is asking the Family Court to grant her day-to-day care of Megan, without notifying Fred that she has made the application.

The Court may grant an interim parenting order which would set out what involvement both Mary and Fred would have with Megan while a more thorough investigation takes place as to a more long-term arrangement for the parenting of Megan.

In the meantime, Mary and Fred will be directed to attend counselling (arranged by the court) to try and agree on parenting arrangements. This counselling is free. **Because this is a domestic violence situation Mary and Fred will meet with the counsellor separately.**

If after counselling Mary and Fred cannot agree about parenting arrangements, a Family Court judge can direct them to attend a mediation conference if there are no safety concerns for the applicant and they consent. This is chaired by a judge (or in some areas

a trained professional) who acts as a mediator. The aim of mediation is to reach an agreement that is in the welfare and best interests of the child. Parents can bring lawyers to the conference if they wish but the parents will be encouraged to do most of the talking.

If Mary and Fred still do not agree on parenting arrangements and the judge thinks that further counselling and mediation would be unlikely to succeed, then there will be a defended hearing in the Family Court. The court will then have to decide on the parenting arrangements for Megan. **The primary consideration will be what is in the welfare and best interests of the child, Megan.**

In these circumstances, a lawyer would normally be appointed by the court to represent Megan's interests (called a lawyer for the child). This lawyer would then explain the court process to Megan and make sure that any views she has on the situation are communicated to the court.

This resource booklet contains samples of the documents needed to make these applications. They are:

1. An application for a protection order and property orders.
2. An application for a parenting order.
3. An affidavit in support of Mary's applications (Mary's sworn evidence).
4. An information sheet for the police.
5. An information sheet for the court.

Once completed, these documents need to be filed in the local FAMILY COURT.  
**Filing at the court is free.**

## SECTION TWO

### Completing the forms

When Mary applies for a protection order and a parenting order there are a number of forms she must complete and take to the Family Court

1. An application for a protection order (and any property orders)
2. An application for a parenting order
3. An affidavit/affirmation in support of each order sought
4. An information sheet for the court
5. An information sheet for the police (protection order).

In this section there are examples of how Mary fills out each of these documents. There are blank documents at the back of the book that can be used for making an application for a protection order and/or a parenting order. It is noted that the blank forms at the back of the book contain a “front page” for the applications and affidavit. These front pages are not shown in this section (for reasons of space), but rather an abbreviated form of the front page is shown as part of the document.

### 1. APPLICATION FOR PROTECTION & PROPERTY ORDERS

Mary is applying for a protection order because she is in a domestic relationship with Fred, he has used domestic violence against her, and she needs the protection of a court order. Mary is going to make the application without notice to Fred because she is concerned that both Megan and herself will be at risk of further violence if Fred finds out what she is doing.

Mary thinks it will be in Megan’s best interests to remain in the rented home where they live. Remaining in the home will provide stability for Megan in a time that could be rather unsettled and it is close to Megan’s school. Because Fred and Mary are renting this house, the order Mary wants is called a Tenancy Order, and if it is granted it means that she will have the right to be the sole occupant of the house. Mary will also need to apply for an ancillary furniture order to make sure that she has the right to use the furniture in the house.

The application below shows how the forms at the back of this resource can be completed. An explanation of how Mary completes the form is also provided by referring to the numbers in brackets, e.g. **(1)**, and the associated explanations.

#### **(1) Court Details**

Mary fills in the location of the nearest Family Court.

#### **(2) FP No.**

The court will complete this number when the documents are filed. This reference will be used on any further court documents dealing with this matter.

**(3) Applicant Details**

Mary writes her full name, address and occupation.

**(4) Respondent Details**

Mary writes Fred's full name, address and occupation.

**Without Notice Application for Protection Order and Property Orders**  
 Domestic Violence Act 1995, sections 7, 13,14, 52, 56 , 62, 66  
 Domestic Violence Rules 1996, 14, 15(1)

In the Family Court at **Porirua** (1) FP..... (2))

BETWEEN: **Mary Jones, Mother**

Of **8 Pember Place, Porirua** (3)  
Applicant

AND: **Fred Jones, Bulder**

Of **8 Pember Place, Porirua** (4)  
Respondent

I, **Mary Jones**, apply **without notice** for a protection order, for myself and my **child Megan Jones** against Fred Jones, the respondent. (5)

I also seek a direction that the protection order apply for the benefit of my brother Joe McDonald. (6)

I apply without notice for a **tenancy order** granting me occupation of the tenancy at 8 Pember Place Porirua. (7)

I apply without notice for an **ancillary furniture order** granting me the possession and use of all the furniture and household effects at 8 Pember Place Porirua. (8)

I rely on the **affidavit** dated 3 June 2005 filed in support of this application. (9)

Previous Proceedings between the parties (10) None

**Mary Jones** 3/6/2005 (11)  
Applicant Date

Date of Hearing (to be completed by registrar) (12)

I appoint \_\_\_\_\_ at \_\_\_\_\_ am (p.m.) at the Family Court at \_\_\_\_\_ for the hearing of these applications.

**(5) Without notice**

In this case Mary is applying for the protection order without notice to Fred, as she believes he will take action against her or Megan if he finds out about the application. This means that Fred will not be told that Mary has applied for the order until after it has been granted by the court.

**Note:** A protection order will automatically protect Mary's child Megan but the judge still wants to see the names of any children here.

**(6) Request for protection of specified person**

Mary can write the name of anyone with whom she is in a domestic relationship with that she wishes the protection order to cover. Mary must get a **signed letter from Joe** saying he consents to the protection order applying to him and attach it to her affidavit (see page 17).

For example;

"A"

*To the Registrar  
Porirua Family Court*

*Dear Sir/Madam,*

*My sister Mary Jones is applying for a protection order against my brother-in-law Fred Jones. I consent to being included in this protection order.*

*Yours Sincerely  
Joe McDonald            02/06/2001*

**(7) Application for tenancy order**

A tenancy order gives a person the right to live in a house that is rented by them and their partner. Mary and Fred rent the house where they live. Mary would like to continue living in that house so she writes down the address here.

**(8) Application for ancillary furniture order**

Mary wants to keep all of the furniture and household goods that the couple owns so she writes down the address of the house where the furniture is kept.

**(9) Affidavit in support**

Mary fills out the date of the affidavit supporting this application.

**(10) Previous proceedings**

If Fred and Mary have been to the Family Court before in a related matter Mary should write down which court it was and where it was. In this case they had not been to court before.

(11) Mary signs and dates this application.

(12) Date of hearing

This is for the court to fill out where the application is to be heard on notice.

## 2. APPLICATION FOR A PARENTING ORDER

Mary is applying for a parenting order granting her day-to-day care of Megan. She is concerned that if she does not make such an application, Fred will carry out his threat to take Megan away. Mary will also make this application without notice to Fred. Mary is concerned to provide Megan with a safe and stable environment. As Mary has been the primary caregiver to Megan, she seeks this situation to be formalised in a court order.

In an application for a parenting order, Mary, the applicant, is required to address whether and how the order should provide for any other person (e.g. Fred) to have either day-to-day care or contact with Megan. In the circumstances, Mary can see that Megan would benefit from contact with Fred, but that her safety would be protected by this contact being supervised.

The over-riding principle for the court in determining issues for a parenting order is the welfare and best interests of the child – in this case what arrangements are in the welfare and best interests of Megan. The child should be able to express to the court what their views on the matters are. Often a lawyer for the child is appointed and can communicate these views to the court.

In some circumstances there may well be issues with how contact with Megan can occur without Fred meeting with Mary at the pick up and drop off point. This is why Mary has asked that the supervised contact occur at a place where she can drop Megan off before Fred arrives and pick Megan up after he leaves. Sometimes the court will include special conditions in the order to provide for the dropping off and picking up of child(ren) from contact sessions.

## Without Notice Application for Parenting Order

In the Family Court at Porirua

FP.....

BETWEEN: Mary Jones, Mother  
Of 8 Pember Place, Porirua  
**Applicant**  
AND: Fred Jones, Builder  
Of 8 Pember Place, Porirua  
**Respondent (1)**

I, Mary Jones of 8 Pember Place Porirua, **apply without notice for a parenting order in respect of the following child: (2)**

<u>Full name of the child</u>	<u>Date of Birth</u>
Megan Jones	22/05/1989

This application is made on the grounds that:

1. I am the mother of the child and the respondent is the father of the child. **(3)**
2. I am an eligible person for the purpose of section 47 of the Care of Children Act 2004 (the Act).
3. The child is under the age of 16 years.
4. Such an order is in the best interests of the child and will promote her welfare.
5. I propose that the order provide for me to have the role of providing day-to-day care for the child in accordance with the following arrangements: **(4)**

<u>Name of the Child</u>	<u>Proposed day-to-day care</u>
Megan Jones	That I will have complete day-to-day care of Megan.

6. As required by section 49 of the Act; I consider that the order should provide for the respondent to have contact with the child: **(5)**  
Proposed contact with the child  
That the respondent will have supervised contact with the child every Saturday afternoon between 1pm and 5pm. That this contact should be supervised by *Contact Specialists*, 10 Pember House, Porirua. **(6)**
7. I make this application without notice, as the delay that would be caused by proceeding on notice might entail risk to both my personal safety and the child's personal safety. **(7)**
8. I rely on the content of the **affidavit** dated 03/06/2001 filed in support of this application. **(8)**

**Mary Jones**  
Signature of **Applicant**

3/6/2005  
Date **(9)**

The application for a parenting order shows how the form at the back of this resource can be completed. An explanation of how Mary completes the form is also provided by referring to the numbers in brackets, e.g. (1), and the associated explanations.

(1) Court and party details. These details are the same as on the other applications.

(2) Mary writes that she is applying for a parenting order and gives Megan's details. This information shows that Megan is under 16. This is important because the court will not grant a parenting order in relation to a child 16 years or older unless there are special circumstances.

(3) Mary states her relationship to Megan, this is to satisfy the Court that she is a person that can make an application for a parenting order (an eligible person). Note: Generally, only the father, mother, step-parent, or a guardian of a child can make an application for a parenting order. Other people can only apply for a parenting order with special permission of the court.

(4) Mary needs to explain to the Court what her proposal is for her own involvement in the care of Megan.

(5) Mary has to state to the Court what involvement (if any) she thinks Fred should have in relation to parenting arrangements for Megan.

(6) Mary must explain to the Court what her proposal is for Fred's involvement in the care of Megan.

(7) A parenting order will only be granted without notice to the respondent if a delay could cause serious injury or undue hardship, or it could risk the personal safety of the applicant or any child of the applicant's family.

(8) This is Mary's formal written evidence

(9) Mary signs and dates the application.

### **3. AFFIDAVIT IN SUPPORT OF APPLICATIONS**

Mary will need to complete an affidavit (evidence sworn on the bible) or an affirmation (evidence affirmed as true and correct) to support the applications she has made to the court.

This written statement must be sworn or affirmed in front of a Justice of the Peace, a lawyer or a registrar of the court. (JP's can be found in the yellow pages and do not charge for this service)

The potential penalty for making a false affidavit/affirmation is found in s.110 of the Crimes Act 1961 which provides for a period of imprisonment of up to five years. **It is therefore extremely important that details in the statement are true and accurate.**

An affidavit can be made using the following example;

<b>Affidavit in Support of Protection and Parenting Orders</b> Domestic Violence Act 1995, rule 21 Domestic Violence Rules 1996	
In the Family Court at <b>Porirua</b>	FP.....
<b>BETWEEN:</b> <b><u>Mary Jones, Mother</u></b>	
Of <b><u>8 Pember Place, Porirua</u></b> <b>Applicant</b>	
<b>AND:</b> <b><u>Fred Jones, Bulder</u></b>	
Of <b><u>8 Pember Place, Porirua</u></b> <b>Respondent</b>	(1)
 I, <b>Mary Jones</b> , mother, of 8 Pember Place Porirua swear: (2)	
<b>Protection Order</b>	
1. I am the applicant in these proceedings.	
2. I have been in a domestic relationship with Fred Jones the respondent.	
<b>MJo / <u>  G  G  </u></b>	

3. The nature of my domestic relationship with the respondent is I have been married to the respondent for twelve years and he is the father of my daughter Megan. **(3)**

4. Last Friday Fred came home from work and was angry because his dinner wasn't cooked. This was because I had no money for food. He then shouted at me and punched me several times in the face. The punch gave me a black eye, a cut lip and a bruised chin. **(4)**

5. Megan was in the room and she saw what happened and started crying.

6. Fred has hit me on previous occasions. He often shouts at me and calls me a useless bitch.

7. If I tell Fred I don't want to have sex with him he tells me he will give me a hiding so I do it to keep him happy.

8. Fred gives me \$200 a week to buy food and clothes. I have to tell him what I spend it on and if I can't make ends met he shouts at me.

9. In the past when I have threatened to leave, Fred said if I did he would kill himself. He also said if I left he would take Megan.

10. To my knowledge Fred does not have a firearms licence or a gun. **(5)**

11. I also request that my brother, Joe McDonald be protected by this order. Fred has threatened to beat up Joe in the past when he has helped me. Joe has helped me with this application so it is necessary for his protection that this order also apply to him. Joe consents to this protection order applying to him. (Attached and marked "A" is a letter of consent signed by Joe. **(6)**

12. If Fred finds out I have applied for this protection order I am afraid he will hurt me. **(7)**

13. I am applying for a tenancy order to live at 8 Pember Place as it is close to Megan's school and all her friends. My mother also lives near by and she helps me look after Megan. **(8)**

14. I am applying for an Ancillary Furniture Order and wish to keep the furniture and household effects at 8 Pember Place Porirua. I am afraid Fred will damage the furniture if he finds out I want to take it. I lived with Fred at that address for two years. **(9)**

### **Parenting Order (10)**

15. Megan has witnessed Fred shouting at me and hitting me in the past and I am afraid of the effect this will have upon her. I am also afraid Fred may harm Megan in some way.

16. If Fred finds out I am applying for a protection order I am also sure he will try and carry out his threats to take Megan.

17. If Megan could not live with me it would cause her considerable distress as she has not been apart from me for more than two nights in the past.

18. I would like Fred to be able to have supervised contact with Megan. **(11)**

**MJo / G G**

## Without Notice Applications

19. The application for these orders is made without notice to Fred because he has physically abused me and any delay might expose me to physical abuse. He has threatened to take Megan away from me and kill himself if I ever leave him.

Signature      **Mary Jones**

Sworn at Porirua this 3<sup>rd</sup>  
Day of June 2005

Before me:      G Geks  
J.P. Porirua (12)

## A guide to affidavit in support of applications

### (1) Personal details

These details are the same as on the application.

### (2) Swearing to the affidavit

Swearing to an affidavit means you are stating that the contents are true and correct, and signing it in front of a solicitor, JP or court registrar.

### (3) Domestic relationship

Mary must state the type of domestic relationship with Fred.

### (4) Facts in support of application for protection order

For the court to grant a protection order, Fred must have used domestic violence against Mary. It is very important that Mary writes as much detail about the abuse as she can so the judge can see that it is necessary to grant the order.

Clauses 4 - 9 outline the types of domestic violence Fred used against Mary or Megan. Details should include:

- As much as possible about the most recent incident of abuse.
- Any injuries sustained because of the respondent.
- Any injuries to children because of the respondent.
- Any times the police have been involved because of the respondent's conduct. Write down what happened and include the dates when it happened.
- Any times the applicant or their children have been to the doctor because of the respondent's behaviour. Write down what happened and if possible include the dates when it happened.

- How many times the respondent used violence on the applicant or the applicant's children and what happened on the worst of those occasions.
- Any times a child has witnessed the violence.
- Any times the respondent threatened the applicant (e.g. where she didn't want to have sex).
- Any behaviour that forms part of a pattern of behaviour from which protection is needed.
- Whether the respondent controls the applicant (e.g. their finances, how they spend money or who they are or are not allowed to visit or have contact with).
- Any verbal abuse (e.g. any name-calling or shouting). What does the respondent say?
- Any times the respondent has threatened to hurt or kill themselves, the applicant or their children.
- How the applicant thinks the respondent will react when told of the protection order. What does the applicant think he will do?
- Who the children usually live with.
- If the respondent has any criminal convictions.

#### **(5) Weapons**

Does Fred have a firearms licence or access to any weapons? If Mary is unsure she should write "don't know".

Note: "Weapon" means firearm, airgun, pistol, restricted weapon, ammunition or explosive.

#### **(6) Facts relating to other person to be protected by protection order**

In order for Joe Brown (Mary's brother) to be protected, Mary and Joe must be in a domestic relationship. Mary writes:

- Joe's full name and nature of her domestic relationship him.
- Details of the abuse Fred has been giving to Joe.
- That Fred's behaviour is due to her relationship with Joe and that it is necessary for Joe's protection that the protection order also apply to him.
- She must also state that Joe consents to the order applying to him and attach a letter signed by Joe saying that he consents to the order applying to him.

#### **(7) Facts in support of application for protection order "without notice"**

Mary is making the application for this protection order without notice to Fred. This means that Fred will not find out Mary has applied for the order until after it has been granted by the court. To do this there must be a risk of harm or undue hardship to Mary or Megan. Mary explains what the harm or hardship may be.

#### **(8) Application for tenancy order**

Mary writes down why this order is necessary for the protection of herself or is in the best interests of Megan. She must also show how she is going to pay the rent or keep up the mortgage if the house is owned by the couple.

Note: If Mary was applying for an occupation order she would write that down with the same information. If any other people have an interest in the house, for example other people that live at the house, she writes down their names, addresses and what their interest is.

### **(9) Application for ancillary furniture order**

Mary writes down the address of the house where the furniture is kept, how long she lived in the house with Fred and the names of any other people have an interest in the furniture. (For example other people that live at the house).

#### Note

(i) If Mary only wants to keep some of the furniture or household effects she writes down what she wants to keep.

(ii) If Mary is granted a protection order and wants to live in a new house (that is not the one she was living in with the Fred) she applies for a furniture order and states why the furniture is reasonably required to equip the new house she is living in.

### **(10) Facts in support of parenting order.**

Mary has already established that she is Megan's mother and Fred is Megan's father. This shows the Court that she is eligible to make an application for a parenting order. Mary must also show why it is in Megan's welfare and best interests to stay with Mary.

### **(11) Facts in support of parenting order "without notice"**

Mary must show that the delay that would be caused by giving Fred notice of the application for a parenting order would or might entail, serious injury or undue hardship, or risk to the personal safety of herself or Megan. This will include such things as past violence, concerns about Fred's reaction to the protection order and the safety of children.

### **(12) Contact**

Mary writes down what type of contact (if any) she would like Fred to have with Megan.

### **(13) Witness**

Mary has used a local Justice of the Peace to take her affidavit. A lawyer or a court registrar can also do this job. All pages must be initialed by both Mary and the witness.

Mary needs to ensure that all relevant facts are placed before the court even if they are detrimental to her position (e.g. instances where she may also have been violent or abusive). This ensures that the court has a complete picture of the relationship and can make a balanced assessment when deciding whether or not to grant an order.

## 4. INFORMATION FOR THE POLICE AND THE COURT

### Information sheet for the police

When Mary applies for a protection order she must also fill in an information sheet for police. This sheet is so the police know about any weapons that Fred may have access to. Note: "Weapon" means firearm, airgun, pistol, restricted weapon, ammunition or explosive. Mary should answer the questions by writing either "yes", "no" or if she is unsure "don't know".

#### Information for Police Where Application Made for Protection Order

##### Applicant

Name: **Mary Jones**

Address: **8 Pember Place Porirua**

Phone Numbers: Home: **123 4567**

Work:

##### Respondent

Name: **Fred Jones**

Address: **8 Pember Place Porirua**

Occupation: **Bulder**

Name and address of employer: **Bob's Builders, 10 Downing Street, Porirua**

Phone Numbers: Home: **123 4567**

Work: **987 6543**

Date of Birth: **02/03/1962**

Age: **39**

##### Information about firearms licence and weapons

1. Does the respondent have a firearms licence? - **No**

2. Does the respondent have access to a weapon?

At home: **no**

At work: **no**

Through sporting interests: **no**

Through a relative or friend: **no**

If you answered yes to any of those questions then answer the following questions

3. How many weapons does the respondent have access to?

4. What types of weapons does the respondent have access to?

5. Where are the weapons kept?

6. If the respondent has access to a relative or friend's weapons, give the name and address of those people.

Signature **Mary Jones**

Date 3/6/2005

**Information for the Family Court**

The form below is designed to give the court information it requires to process the applications. Mary attaches it to the back of her applications. At the top of the form Mary writes the names of the applications she has filed.

Note: If Mary wants to keep her address confidential she must still provide an address for service. This could be a post office box number or a friend’s address.

**Information Sheet to Accompany Certain Applications –  
(Including Certain Applications Made Without Notice)**

In the Family Court at: **Porirua** FP No.....

**This information sheet accompanies applications for the following order(s):**

1. <b>Protection Order</b>	4. <b>Ancillary Furniture Order</b>
2. <b>Parenting Order</b>	5.
3. <b>Tenancy Order</b>	6.

**Applicant’s full name: Mary Jones**  
Occupation: **Mother**  
Date of Birth: **01/06/1967** Age at date of application: **38**  
Gender: **Female**  
Ethnic group: [*please mark the space or spaces which apply*]

<input checked="" type="checkbox"/> New Zealand European	<input type="checkbox"/> Tongan
<input type="checkbox"/> Maori	<input type="checkbox"/> Niuean
<input type="checkbox"/> Samoan	<input type="checkbox"/> Chinese
<input type="checkbox"/> Cook Island Maori	<input type="checkbox"/> Indian
<input type="checkbox"/> Other [ <i>Dutch, Japanese, Tokelauan, etc</i> ]	

Please state:.....  
Interpreter required: **No** If yes, specify language: **N/A**

Home address: **8 Pember Place, Porirua**  
Work address:  
Contact telephone number(s): Home: **123 4567** Work:  
Country of residence: **New Zealand**  
Relationship of applicant to any children affected by the application [*if none, write "none" on line 1*]:  
Full name of child Relationship of applicant to child  
**Megan Jones** **Mother**

**Full name of other party: Fred Jones**  
Relationship, if any, to the applicant: **Husband**  
Occupation: **Builder**  
Age at date of application (if known): **39**  
Gender: **Male**  
Ethnic group: [*please mark the space or spaces which apply*]

<input checked="" type="checkbox"/> New Zealand European	<input type="checkbox"/> Tongan
<input type="checkbox"/> Maori	<input type="checkbox"/> Niuean
<input type="checkbox"/> Samoan	<input type="checkbox"/> Chinese
<input type="checkbox"/> Cook Island Maori	<input type="checkbox"/> Indian
<input type="checkbox"/> Other [ <i>Dutch, Japanese, Tokelauan, etc</i> ]	

Please state:.....  
Interpreter required: **No** If yes, specify language: **N/A**



Home address: **8 Pember Place, Porirua**

Work address: **10 Downing St, Porirua**

Contact telephone number(s):

Home: **123 4567**

Work: **987 6543**

Country of residence: **New Zealand**

Relationship of respondent to any children affected by the application [*if none, write "none" on line 1*]:

Full name of child

Relationship of respondent to child

**Megan Jones**

**Father**

***Complete this section if the applicant and respondent are married to or in a civil union or de facto relationship with each other, even if currently separated:***

Date of marriage or civil union: **12/04/1988**

Place of marriage or civil union: **Porirua**

**Children affected by the application** (if none, write "none" on line 1).

*Name of person with whom each child is living at the time of application, and the relationship (if any) of that person to the child.*

*Full name of each child*

*Date of birth*

**Megan Jones**

**22/05/1989**

**Mary Jones, Mother**

The accompanying applications are filed by: **Mary Jones**

Whose address for service is at: **8 Pember Place, Porirua**

**Previous Applications** : [*give the file numbers of any previous applications between the parties and the Courts where they were filed*].

For Court use:

**Date Stamp:**

# SECTION THREE

## Keeping safe

### 1. KEEPING AN ADDRESS CONFIDENTIAL

If Mary wanted to leave the family home to avoid any possible contact with Fred, and does not want Fred to know where she is staying, she can request that her new address and phone number be kept confidential. To do this, she must fill in a "Notice of Residential Address and Request for Confidentiality" form as detailed below. **This means Mary is able to leave her address and phone number off the applications and the affidavit.**

She must put her address and phone number on the information sheet for police and the information sheet for the court, but they will not give these details out.

The form should be completed as follows.

<b>Notice of Residential Address and Request for Confidentiality</b> Domestic Violence Act 1995 Domestic Violence Rules 1996, rule 22	
In the Family Court at <b>Porirua</b>	FP.....
BETWEEN: <u><b>Mary Jones, Mother</b></u>	
Of <u><b>8 Pember Place, Porirua</b></u> <b>Applicant</b>	
AND: <u><b>Fred Jones, Builder</b></u>	
Of <u><b>8 Pember Place, Porirua</b></u> <b>Respondent</b>	
I, Mary Jones, am applying for a protection order against Fred Jones, the respondent.	
My residential address is 51 Charlie Street Paraparaumu.	
My contact phone number(s) are:	
Home: <b>234 5678</b>	Work:
I request that my residential address and telephone numbers be kept confidential from the respondent.	
I have provided an address for service on the information sheet accompanying this application. ("Information Sheet to Accompany Certain Applications- Including Certain Applications made Without Notice").	
Signature <u><b>Mary Jones</b></u>	Date <u><b>3/6/2005</b></u>

## **2. KEEPING YOUR TELEPHONE NUMBER CONFIDENTIAL**

An applicant can contact their telephone provider and ask for a new “unlisted” number. Sometimes the telephone provider may use its discretion to waive the standard charge for changing a telephone number in cases of domestic violence.

## **3. REMOVING NAMES FROM PUBLIC REGISTERS**

After the protection order is made the applicant can apply to have their name and address details removed from public registers such as the electoral roll, the vehicle registration register, the rating and valuation rolls and the District Land register.

The applicant will need to apply to the agency that administers the register and provide evidence of the fact that a protection order has been made. Any dispute over whether the information should be removed can be referred to the Privacy Commissioner.

## **4. TELLING PEOPLE ABOUT THE PROTECTION ORDER**

It may be wise for the applicant to tell relevant people about the protection order, such as the principal of their child’s school, as well as neighbours and those in the workplace.

## **5. COURSES FOR APPLICANTS**

There are free support programmes for adults and children with a protection order. Up to three years after the protection order has been granted, the applicant can apply for a free programme for themselves or their children. These free programmes are run by trained professionals approved by the Family Court. They are free, safe and confidential. They look into how to keep safe and build self-esteem and confidence. They will also help to understand the effects of violence on the applicant and any children. Application forms are available at the Family Court, in the pamphlet “Domestic Violence – Free Protection Order Support Programmes” (COURTS009) which can also be found on the Ministry of Justice website [www.justice.govt.nz/family/fcpubs/brochures.html](http://www.justice.govt.nz/family/fcpubs/brochures.html) .

## SECTION FOUR

### Things Mary needs to know about the orders

#### 1 . HOW LONG WILL THE PROTECTION ORDER LAST?

A temporary protection order automatically becomes a final order after it has been in place for 3 months provided it has not been successfully defended within that time. Orders made “on notice” become final at the time they are made by the court.

If Fred does not defend the order then at the end of 3 months it will become permanent and can only be removed by application to the court. **It is possible for parties to continue to live together with a protection order in place.**

If Fred does decides to defend the order there will be a court hearing to decide if the order should become final. If a defence is filed Mary will receive notification of it. **If this happens it would be highly advisable to seek help from a lawyer**

#### 2. PLACES TO GET HELP

The Family Court guide “**Domestic Violence**” (COURTS001) is very helpful and should be read in conjunction with this booklet. It gives more details about protection orders, including a list of community organisations that can help. It also provides advice on applying for the order, the family court, and what to do if the abuse doesn’t stop. It can be obtained from the courts, and community organisations such as Citizens Advice Bureaux, Law Centres, and Women’s Refuges. It is also available on the Ministry of Justice website [www.justice.govt.nz/family](http://www.justice.govt.nz/family).

Often there will be a need to apply for financial assistance with Work and Income. This should be done as soon as possible. It is often helpful to have the advice or assistance of a benefit advocate. Citizens Advice Bureaux, Community Law Centres and Women’s Refuges should be able to assist in this respect also.

#### 3. COSTS AND LEGAL AID

There is no cost when filing an application for a protection order. This resource booklet is to assist people who are not eligible for legal aid but cannot afford to pay a lawyer.

Those on welfare or very low incomes will be eligible for legal aid, and can engage a lawyer to represent them. A lawyer will be able to advise people about eligibility for legal aid.

Applicants should be aware that if they are not on legal aid, the respondent can apply to have their legal costs paid by the applicant. This might be considered by the court in a vexatious case (deliberate and a nuisance), or where the evidence from the applicant is extremely weak. A costs order is always at the discretion of the judge.

#### 4. WHERE TO TAKE THE APPLICATIONS

Once the applicant has filled in the forms, they should be taken to the Family Court. Urgent “without notice” applications are normally considered by a judge on the day they are filed provided this is done within the time required for processing (usually before 3:30pm).

Sometimes the judge may ask to see the applicant first. The Family Court has an informal atmosphere and the staff are there to help.

**It is important that the applicant be able to be contacted after the documents have been filed with the court** in case the judge wants to see the applicant or the court needs to inform the applicant that the applications will be heard on notice.

Once the order has been made an agent of the court will visit the respondent and give them a copy of the protection order. They will explain what it means and what will happen if they breach the order. **The order is only effective as against the respondent once it has been served on them.**

**A copy of the order is also given to the police.** If the respondent tries to make contact or offer violence to the applicant after the order has been served on them, the police will arrest and charge them with a breach of protection order.

The attached blank forms can be completed and lodged with the Family Court to begin proceedings for a protection order. If you are unsure about how to complete these forms then you should contact your Citizens Advice Bureau or Community Law Centre.

**If you are not confident enough to represent yourself in Court and you need a protection order, you should contact Women's Refuge or a lawyer to ask for help with your application.**

#### 5. WHAT IF A “WITHOUT NOTICE” ORDER IS NOT GRANTED?

Where an affidavit does not disclose serious risk of harm to the applicant or a child of the applicant if notice is given to the respondent, the Family Court will normally order that the application be put “on notice”. This means that the respondent will learn of the application and will have an opportunity to seek legal advice, get legal representation and attend the hearing at which the granting of the order will be considered.

**An applicant should seriously consider getting legal representation in these circumstances.**

IN THE FAMILY COURT  
HELD AT .....

No:.....

.....  
.....  
.....  
*[full name, address and occupation of applicant]*  
**Applicant**

.....  
.....  
.....  
*[full name, address and occupation of respondent(s)]*  
**Respondent(s)**

WITHOUT NOTICE APPLICATION  
FOR PROTECTION ORDER AND  
PROPERTY ORDER  
(Domestic Violence Act 1995, sections 7, 13, 14, 52, 56, 62,  
66)  
Dated:                      day of                      200

---

This document is filed by .....  
The address for service is.....  
.....

I,....., apply without notice for a protection order against ....., the respondent.

I also apply for the following orders:

.....

This application is made on the grounds:

1. that the respondent has used domestic violence against me and
2. that we are/have been in a domestic relationship.

I rely on the content of the affidavit dated ..... filed in support of this application.

Previous proceedings between the parties are:

.....

.....  
**Signature of Applicant**

.....  
Dated:

**Date of hearing**

I appoint ..... at..... a.m./p.m. at the Family Court at ..... for the hearing of this application.

.....  
Registrar

.....  
Date

IN THE FAMILY COURT  
HELD AT .....

No:.....

.....  
.....  
.....

*[full name, address and occupation of applicant]*

**Applicant**

.....  
.....  
.....

*[full name, address and occupation of respondent(s)]*

**Respondent(s)**

<p>WITHOUT NOTICE APPLICATION FOR PARENTING ORDER (Care of Children Act 2004, sections 48, 49) Dated:                      day of                      200</p>
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---

This document is filed by.....  
The address for service is.....  
.....

I,....., apply without notice for a parenting order in respect of the following child(ren):

<i>Full name(s) of child(ren)</i>	<i>Date(s) of birth</i>

This application is made on the grounds that:

1. I am the..... and the respondent is the.....of the child(ren).
2. I am an eligible person for the purpose of section 47 of the Care of Children Act 2004 (the Act).
3. The child(ren) is/are under the age of 16 years.
4. Such an order is in the best interests of the child(ren) and will promote their welfare.
5. I propose that the order provide for me to have the role of providing day-to-day care for, and/or contact with, the child(ren) in accordance with the following arrangements: [*specify arrangements for each child separately*]

<i>Name of Child</i>	<i>Proposed day-to-day care and contact</i> [ <i>specify the proposed times for you to have the role of providing day-to-day care for, and/or contact with the child(ren)</i> ]:

6. **As required by section 49 of the Act**, I do/do not consider that the order should provide for persons other than myself to have the role of providing day-to-day care for, and/or contact with, the child(ren):

<p><b>Name of other person and relationship to the child(ren) or applicant:</b></p>	<p><b>Proposed day-to-day care and/or contact:</b> <i>[specify how you propose that the other person(s) will have the role of providing day-to-day care for, and/or contact with, the child(ren), including proposed times].</i></p>

7. This application is made without notice because the delay that would be caused by proceeding on notice would or might entail risk to the personal safety of the applicant or any child of the applicant's family.

8. I rely on the content of the affidavit/affirmation dated..... filed in support of this application.

.....  
*Signature of applicant(s)*

*Date:*

**To:** The Registrar, Family Court at \_\_\_\_\_, **and**

**To:** the above named Respondent.

**The Registrar must complete the following appointment for hearing if an appearance is necessary or required.**

*Date of hearing*

I appoint .....at.....am/pm at the Family Court at..... for the hearing of this application.

Registrar

Date

IN THE FAMILY COURT

HELD AT .....

No:.....

.....  
.....  
.....

*[full name, address and occupation of applicant]*

**Applicant**

.....  
.....  
.....

*[full name, address and occupation of respondent(s)]*

**Respondent(s)**

AFFIDAVIT OF APPLICANT IN SUPPORT OF  
WITHOUT NOTICE APPLICATIONS  
FOR PROTECTION ORDER,  
PROPERTY ORDER, AND  
PARENTING ORDER

Dated:                      day of                      200

---

This document is filed by.....

The address for service is.....

.....





**Without Notice Applications**

8. The application for these orders is made **without notice** to the respondent because...

---

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---

---

---

---

---

---

---

---

Sworn at )  
This day of )  
200 ) .....  
(Applicant's signature)

Before me:

.....  
( J.P./ Solicitor/ Registrar)

**Information for Police Where Application Made for Protection Order**

FP.....

**Applicant**

Name: \_\_\_\_\_

Address:  
\_\_\_\_\_

Phone Numbers: Home: \_\_\_\_\_ Work: \_\_\_\_\_

**Respondent**

Name: \_\_\_\_\_

Address:  
\_\_\_\_\_

Occupation: \_\_\_\_\_

Name and address of employer:  
\_\_\_\_\_

Phone Numbers: Home: \_\_\_\_\_ Work: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_

**Information about firearms licence and weapons**

1. Does the respondent have a firearms licence?
2. Does the respondent have access to a weapon?  
At home:  
At work:  
Through sporting interests:  
Through a relative or friend:

*If you answered yes to any of those questions then answer the following questions:*

3. How many weapons does the respondent have access to?
4. What types of weapons does the respondent have access to?
5. Where are the weapons kept?
6. If the respondent has access to a relative or friend's weapons, give the name and address of those people.

---

Signature \_\_\_\_\_ Date: \_\_\_\_\_

**Information Sheet to Accompany Certain Applications –  
(Including Certain Applications Made Without Notice)**

In the Family Court at:

FP No.....

**This information sheet accompanies applications for the following order(s):**

- |    |    |
|----|----|
| 1. | 4. |
| 2. | 5. |
| 3. | 6. |

**Applicants full name:** \_\_\_\_\_

Occupation:

Date of Birth:

Age at date of application:

Gender:

Ethnic group: [*please mark the space or spaces which apply*]

- |   |                                  |
|---|----------------------------------|
| <input type="checkbox"/> New Zealand European                             | <input type="checkbox"/> Tongan  |
| <input type="checkbox"/> Maori  | <input type="checkbox"/> Niuean  |
| <input type="checkbox"/> Samoan   | <input type="checkbox"/> Chinese |
| <input type="checkbox"/> Cook Island Maori                                | <input type="checkbox"/> Indian  |
| <input type="checkbox"/> Other [ <i>Dutch, Japanese, Tokelauan, etc</i> ] |                                  |

Please state:.....

Interpreter required: Yes/No

If yes, specify language:

Home address:

Work address:

Contact telephone number(s): Home:

Work:

Country of residence:

Relationship of applicant to any children affected by the application

[*if none, write "none" on line 1*]:

Full name of child

Relationship of applicant to child

**Full name of other party:** \_\_\_\_\_

Relationship, if any, to the applicant:

Occupation:

Age at date of application (if known):

Gender:

Ethnic group: [*please mark the space or spaces which apply*]



**Notice of Residential Address and Request for Confidentiality**

Domestic Violence Act 1995  
Domestic Violence Rules 1996, rule 22

In the Family Court at

FP.....

BETWEEN: \_\_\_\_\_

of \_\_\_\_\_

**Applicant**

AND: \_\_\_\_\_

of \_\_\_\_\_

**Respondent**

I, \_\_\_\_\_, am applying  
for a protection order against \_\_\_\_\_,  
the respondent.

My residential address is \_\_\_\_\_

My contact phone number(s) are:

Home: \_\_\_\_\_ Work: \_\_\_\_\_

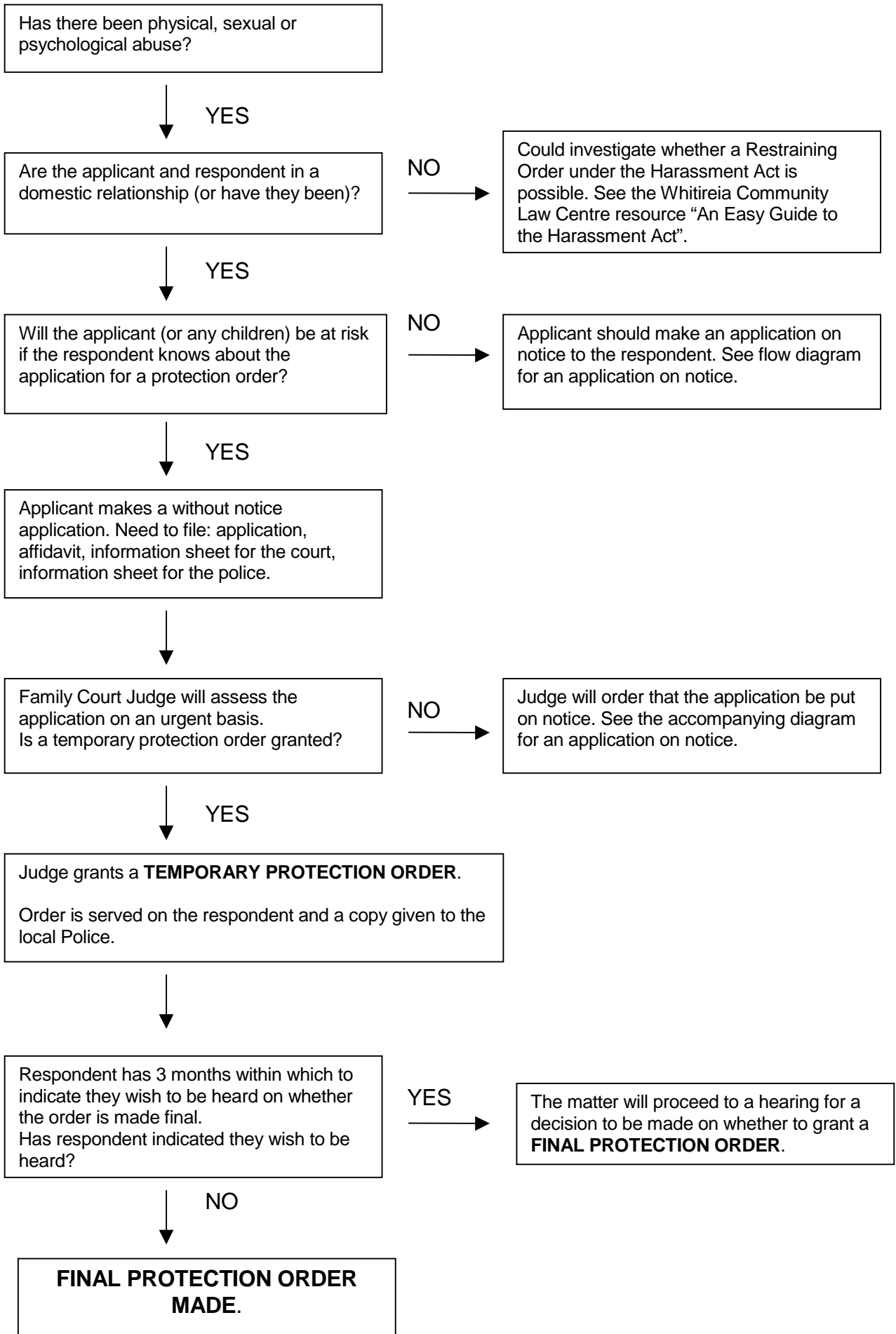
I request that my residential address and telephone numbers be kept  
confidential from the respondent.

I have provided an address for service on the information sheet accompanying  
this application  
("Information Sheet to Accompany Certain Applications").

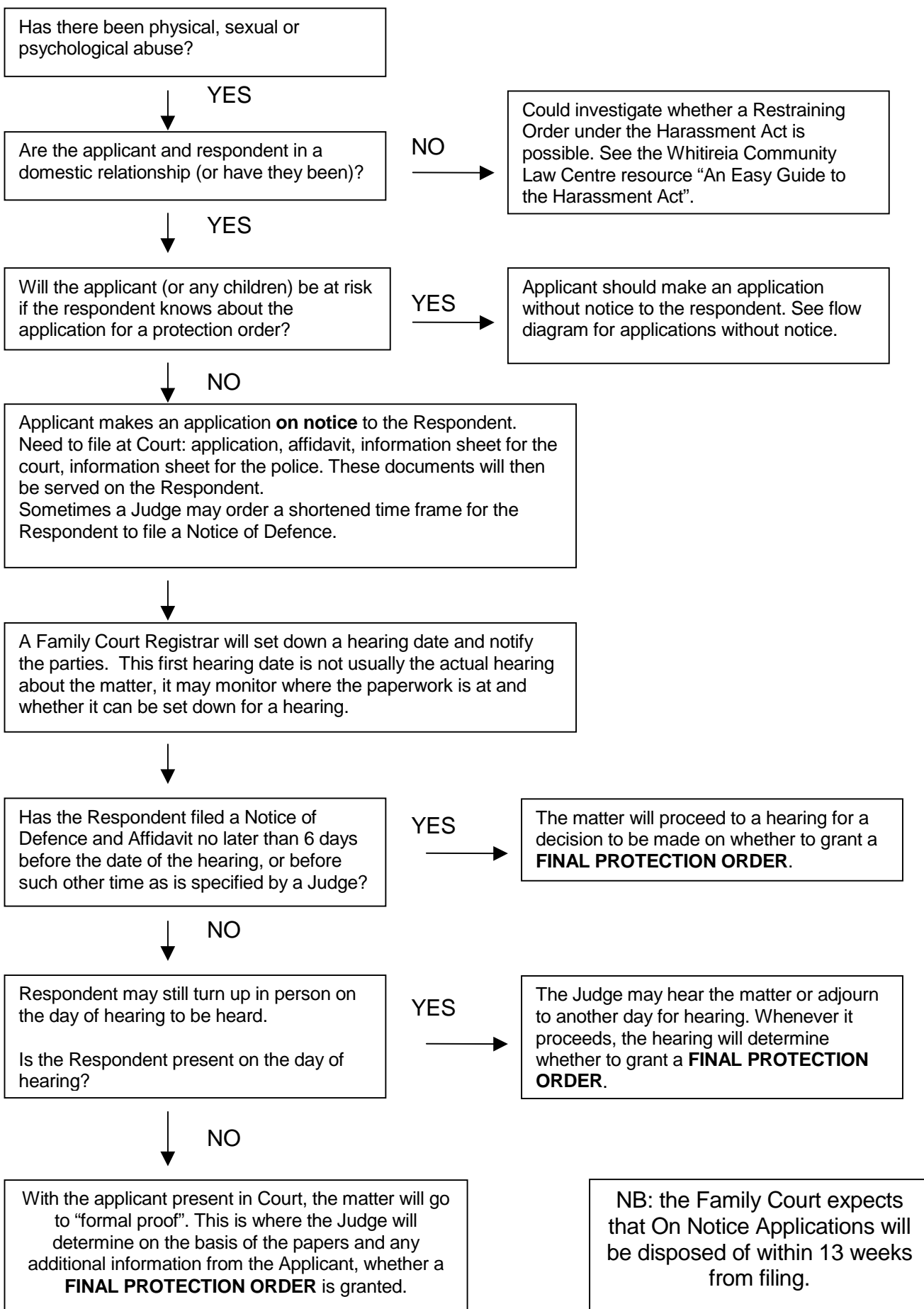
Signature \_\_\_\_\_

Date:

# APPLICATIONS WITHOUT NOTICE



# APPLICATIONS ON NOTICE



## A GLOSSARY OF TERMS

### Address for Service

The Court requires an address for each party where it can send or deliver correspondence and documents relating to the proceedings. If someone is represented by a lawyer, then usually the lawyer's office is the address for service.

### Affidavit

Written evidence that is sworn as true and correct on the Bible in front of a Justice of the Peace, lawyer or a registrar of the court.

### Affirmation

Written evidence that is affirmed as true and correct in front of a Justice of the Peace, lawyer or a registrar of the court.

### Applicant

The person who is applying for the Order.

### Domestic Relationship (Domestic Violence Act 1995)

Includes marriage, civil unions, de facto and same sex partnerships, family relationships (includes in-laws, de facto in-laws and culturally recognised family groups), those who ordinarily share a household and those in a close personal relationship.

### Domestic Violence (as per Domestic Violence Act 1995)

Violence used within a domestic relationship. The definition of violence in the Act includes;

- physical abuse
- sexual abuse (including any unwanted sexual contact)
- psychological abuse (this abuse includes intimidation, harassment, threat or damage to property).

### Ex Parte

These are the Latin words that mean without notice to the other party. In this guide we have used the phrase "without notice" but sometimes court documents contain the phrase "ex parte" instead.

### Respondent

The person who is responding to the application.



If you **fear domestic violence** and need the protection of a court order, this booklet may be of some help to you.

**This booklet is a “self help” resource targeted at those people** who do not have the money to pay a lawyer and do not qualify for legal aid.

It **provides a guide** to making an application to the Family Court for a protection order and a plan that will assist an applicant present the application to the Court.

It will **assist those** individuals **who feel they have the confidence** to complete the documentation and speak for themselves in court if necessary.

**If you are unsure** whether you qualify for legal aid or feel that you do not have the confidence to bring an application personally, you are advised to **seek help from a lawyer** before proceeding.

This resource also includes information on applying for a **parenting order**. This area of law is complicated and people are **strongly advised to get competent legal advice** before proceeding with an application for a parenting order.