

LEGAL ADVICE

How to Apply for a Protection Order (Part 1)

1. Visit the Magistrates' Court nearest to where you or the respondent (abuser) reside, study, work, or conduct business or are employed; or where the domestic violence occurred.
2. Bring the following documents:
 - Your personal details: ID, address, contact number, and employment details.
 - The abuser's details: Their name, home address, and work address.
3. Complete the Application for a Domestic Violence Protection Order (Form 6). Ask the clerk of the court for help if needed.
4. Submit a sworn affidavit (statement) detailing your experience. Include as much information as possible about the history and types of abuse you've faced. You may add supporting affidavits by persons who have knowledge of the matter (if any).

What Happens Next?

- The clerk of the court will submit your application and documents to the Magistrate.
- The Magistrate must as soon as reasonably possible consider the application and decide based on the evidence provided and the application before the court.

If the court is satisfied that based on the evidence that there is prima facie (based on first impression) evidence that:

- a. The respondent is committing or has committed an act of domestic violence, **AND**
- b. You may suffer undue hardship if a Protection Order is not issued immediately, the court must issue an Interim Protection Order with a return date for the respondent to explain why the protection order must not be issued. An Interim Protection Order is temporary and not the final order.

If the court does not issue an Interim Protection Order, the court must direct the clerk to issue a notice on the respondent to appear in court on the return date to explain why the protection order must not be granted.

This means:

- You and the respondent must return to court for the Magistrate to decide on a Protection Order.
- A Notice to Show Cause is a notice requiring the respondent to provide reasons why a Protection Order should not be granted. It is not a court order and therefore does not provide legal protection.

Interim Protection Order

- An Interim Protection Order is a temporary order served on the respondent (abuser), instructing them to stop the abuse. It is served along with the application, and a record of any evidence brought with the application.
- The clerk of the court must notify you once the Interim Protection Order is granted.

What happens next?

- After the order is served on the respondent by SAPS or the court, you must return to court on the return date listed on the order for the magistrate to decide on a final Protection Order.
- While temporary, the Interim Protection Order still protects you by law until the matter is finalised.

A SAPS member may be ordered by the court to serve an interim or final protection order.

Section 15(4) of National Instructions provides for:

- Interim protection orders to be served within 24 hours.
- Final protection orders to be served within 48 hours.

Need Legal advice?

If you're unsure whether you're experiencing domestic violence, reach out to us for free legal advice:

WhatsApp: 079 421 8197

Email: info@wlce.co.za

Office: 021 424 5660

Stay tuned for **Part 2** of the Protection Order procedure which we'll share next week.

Have other legal topics you'd like us to cover? **Send us a DM!**