



Ministry of Justice

U heeft een huisverbod... Wat nu?

# You are under a temporary restraining order... What now?

Practical information for people who have been  
given a temporary restraining order

## About this leaflet

You have just received a temporary restraining order. The police have given you this leaflet and in it you will find an explanation of what the temporary restraining order means for you and what you can do from now on. You will find information about the rules you must keep to, about the help that is available to you and about what you can do if you do not agree with the temporary restraining order imposed on you.

## What is domestic violence?

Violence is unlawful, as is violence in the home. The police have the task of protecting victims of violence and helping to stop the violence. Domestic violence harms everyone, and almost never stops by itself, so help is needed. The temporary restraining order is a measure that can help to stop domestic violence and also make sure that everyone is offered help.

Domestic violence can be:

- *Physical violence* (for example, hitting, kicking, throwing down the stairs, pulling hair etc.)
- *Sexual violence* (for example forcing someone into sexual acts, rape, assault, incest etc.)
- *Psychological violence* (for example, threats, confining someone, humiliation, verbal abuse, harassment, forcing someone to keep quiet by threatening them, etc.)

Domestic violence can take many forms, such as violence against a(n ex-) partner, child abuse or abuse of the elderly.

## What is a temporary restraining order?

Sometimes there may well be a threat within a household, but there are insufficient legal grounds for the police to arrest someone immediately. In order to stop the threat and to arrange help, the police (officially the mayor) can impose a temporary restraining order. This can happen if someone in the home poses a threat at that moment in time to the safety of the partner, children or others in the household. If violence is strongly suspected, a temporary restraining order can be imposed in order to avoid further escalation. By ordering the person who perpetrates the violent behaviour away from the home and banning them from returning for a certain period, further problems can be avoided. This also creates a 'cooling-off' period. During this period any help that is needed can be arranged, for the family remaining behind as well as for those ordered out of the home.

## Who decides that you must leave your home?

The mayor is responsible for the decision as to whether someone receives a temporary restraining order and must leave their home. In practice the mayor will usually let the police (Assistant Public Prosecutor) arrange it. He/She will have spoken to your partner, children or other members of the household and has subsequently decided that there is evidence of a threatening situation. The temporary restraining order is thus imposed on behalf of the mayor.

## What does a temporary restraining order entail?

You have just received a temporary restraining order. This means that you now may not return to your home or come within the vicinity of your home for ten days. This applies too if you are the owner, tenant or the principal occupier of the dwelling. The temporary restraining order also prevents you

from contacting your children. You may not in any way during the ten days of the temporary restraining order make contact with your partner or other members of your household. If your partner or other members of your household, including children, make contact with you, you may not pursue it in any way. Any breach of this temporary restraining order, including the contact ban, means that you are committing a criminal offence.

In the accompanying letter it states:

- For what period and to what area the temporary restraining order applies
- With whom you may not have contact

It may be the case that help is already in process and therefore contact between you and e.g. your partner is necessary. In that case, the organisation that is assisting you will arrange for that contact to take place in the presence and under supervision of a social worker.

## Leaving your home; where can you go and what may you take with you?

The temporary restraining order entails that you must leave your home immediately and that you must hand your house keys in to the police. The police will ask you for an address and/or telephone number where you can be reached during the next few days. You can also give this to your municipality within twenty-four hours. You will probably manage to find a temporary place to stay by yourself. In some municipalities there are regulations for emergency measures if it is necessary. The police can give you more information about this. You may only take the essential items you need for daily living out of the home with you. This will probably include some money, personal papers, clothes, medicines and things you need for work, for example.

## What happens if you are in breach of a temporary restraining order?

If you do not leave the home, you are effectively not accepting the temporary restraining order and that is an offence. If you go back to the home or make contact in any way with your partner, children or other members of the household within those ten days, you are also in breach of the temporary restraining order and are liable to punishment. But also if your partner or your child, for example, makes contact with you or asks you to come back, you are still liable if you do not keep to the temporary restraining order. The mayor or the magistrate decides if and when the temporary restraining order is to be withdrawn or lifted, not you, your partner or other members of your household. The police will check whether you adhere to the temporary restraining order.

## The temporary restraining order and arrest by the police

You can also have a temporary restraining order imposed if you have been arrested by the police for domestic violence. If you are released by the police after questioning/detention, it may be the case that your behaviour still poses a threat to your partner, children or other members of your household. In this case, the same rules apply as when a temporary restraining order is imposed without arrest.

## Children and domestic violence

Children have the right to live in a safe environment. Domestic violence does not form part of this and it is always harmful to children, whether they are mistreated or abused themselves or they experience it within their own family. It is a great misconception that children do not notice what goes on in their home. The following are a few of the effects domestic violence can

have on children who grow up with it:

- They run a greater risk of later becoming a perpetrator or victim of domestic violence
- They often experience behavioural problems and difficulty with concentration and learning
- They often experience other problems with sleep and eating disorders, depression and anxiety
- They are more likely to play truant and run away from home.

## Children and the temporary restraining order

The children at home are probably quite terrified by the situation but it is still important to remember that children are often loyal to both parents and the temporary restraining order is also very drastic for them. It is important that children understand that there must be a period of peace for everyone and that help is coming. They will probably be quite worried and therefore it is explained to the children that you have not abandoned them, but that you may not have any contact with them by order of the police but you are getting help.

## A temporary restraining order in cases of maltreatment of children

If the police have imposed a temporary restraining order, it is intended to stop (the threat of) violence and to create a peaceful period and this is also very important for the children in the family. A temporary restraining order can be imposed not only in cases of violence against adults but also in cases of (the threat of) maltreatment of children. The police will then first consult the Child Abuse Counselling and Reporting Centre (AMK). If you have received a temporary restraining order in connection with (the threat of) maltreatment of children, the AMK/Youth Care Agency will contact you/your family to offer any help.

## What will happen during and after the first ten days?

In the coming ten days, arrangements for any necessary help will begin. It may be the case that during these ten days, there may no longer be a danger of domestic violence and that you have accepted help and are cooperating in helping other members of your household. The mayor can withdraw the temporary restraining order and you may return home. The mayor can also decide to extend the temporary restraining order to a maximum of four weeks if there is still a danger of domestic violence or you thwart or hinder any help to your family.

## What sort of help can you get?

The police will notify social workers immediately that you have a temporary restraining order. The help which offered to you is meant to stop the violence or avoid it further and you can get support on how to deal with your emotions and anger in other ways and not to use violence any more. You and your partner and any children/members of your household can also be guided in making choices about your (collective) future. This moment is a chance to tackle the problems in your family or relationship, which is also in the interests of any children. It is therefore important that you are available for any assistance and that you give the police a telephone number and/or address. You will be contacted as soon as possible, within one working day at the latest (by phone, a visit or a letter) by a social worker, who will discuss with you how you can go on from here, what you want to do and what help you may need. Accepting this help does not necessarily mean that your relationship or contact with your family has to be broken off for good. The social worker can work together with you and other members of your family to identify what is needed to improve relations and, in the case of both partners being willing, how to save the relationship, but without any violence or threat. You can, of course, also contact a social worker yourself and information on how to do this is available on the supplementary sheet which came with the decision issued to you.

## What if you do not agree?

If you do not agree with the temporary restraining order, you can go to the magistrate. In the supplement with your decision it states how you can appeal. You must write a letter to the magistrate explaining why you do not agree with the decision. In order to present your appeal against the temporary restraining order to the magistrate at short notice, you can request a provisional ruling. This is a fast-track procedure offered by the courts and the magistrate must decide within three days of your request whether the temporary restraining order has been rightly imposed. If the magistrate agrees with you, the temporary restraining order will be lifted. In his/her decision, the magistrate can take into consideration that have accepted the help which was offered to you after the temporary restraining order and that you are not hindering any help to members of your household.

## If you want a lawyer

If you want to ask the magistrate for a provisional decision, you can get help from a lawyer for this purpose at no cost. You must then let the mayor or the police (Assistant Public Prosecutor) know about this. They will make sure that you get a lawyer within twenty-four hours of informing them. It is therefore important that you give a telephone number or address so that you can be contacted about a lawyer or any assistance. The help of a lawyer is not necessarily required in order to appeal against a temporary restraining order.

# Where can you find more information and help?

## **Region-specific information about domestic violence and assistance:**

- Police: 0900-8844
- Help to victims in the Netherlands: 0900-0101 (or via the police)
- Advice and Support Office for Domestic Violence: your nearest branch, see the phonebook or [www.huiselijkgeweld.nl](http://www.huiselijkgeweld.nl) or [www.steunpunthuiselijkgeweld.nl](http://www.steunpunthuiselijkgeweld.nl) or call: 0900 126 26 26 (5 cent per minute)

## **General information about domestic violence: [www. huiselijkgeweld.nl](http://www.huiselijkgeweld.nl)**

In case of (threatening) maltreatment of children: Child Abuse Counselling and Reporting Centre: 0900-1231230 [www.amk-nederland.nl](http://www.amk-nederland.nl)

## **General information about launching an appeal**

See the leaflet: 'Challenging and appealing against a decision by the authorities' - Ministry of Justice [www.justitie.nl](http://www.justitie.nl)

## **Information about how the courts are organised**

The Netherlands is divided into 19 districts, each with its own principal city. The courts are established in these principal cities. You can find addresses and telephone numbers in the phonebook or on the Internet, at [www.rechtspraak.nl](http://www.rechtspraak.nl) You must send your notice of appeal to the court in your district.

## **Information about the Legal Aid Councils: [www.rvr.nl](http://www.rvr.nl) (information available about legal aid and about the Legal Desk)**

Information about legal aid/the Legal Desk Anyone who has a legal issue is entitled to go to one of the thirty Legal Desks in the country. The Legal Desk gives advice and information and can, if necessary, refer you to a lawyer: [www.hetjl.nl](http://www.hetjl.nl) or call 0900-8020

