



Ministry of Justice

Achterblijven na een huisverbod...

Someone in your family or household has received a temporary restraining order...

Practical information for people whose partner or
other household member has received a
temporary restraining order

About this leaflet

The police have given you this leaflet because your partner or other member of the family has received a temporary restraining order. This leaflet explains what the temporary restraining order means for you and what you can do now. You will find information about what you can do yourself to maintain safety and peace in the home and how you can get help with this. You will also find information about what you can do if you do not agree with the imposed temporary restraining order.

What is domestic violence?

Violence is unlawful, as is violence in the home. The police have the task of protecting the victims of violence and helping to stop it. Domestic violence is harmful for 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 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 partner, children or other household members. 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 violence 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, help can be arranged for you and your family members, but also for those ordered out of the home.

Who decides that someone must leave the 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. This official will have spoken with your partner, children or other family members and subsequently decided that there is evidence of a threatening situation. The temporary restraining order is thus imposed on behalf of the mayor.

What does the temporary restraining order mean for you?

Your partner or a member of your family has just received a temporary restraining order and this means that you have some breathing space and time to arrange help, and also to consider what you want to do now.

For your partner it means that he/she* may not return to the home or come within the vicinity of the home *for the next ten days*. This also applies if he is the owner, tenant or principal occupier of the house. He may also *not make contact in any way* with you or other members of your household during those ten days. This therefore means a ban from the home and from contact, including the children. In the letter (order) which he/she received from the police, it states: For what period and to what area the temporary restraining order applies

- The persons with whom the person in question may not have contact

It may be the case that help has been arranged and contact between you and e.g. your partner is necessary for this purpose. The organisation that is assisting you will arrange for that contact to take place in the presence and under supervision of a social worker.

* *The person in question can be an adult man or woman; where 'he' is stated in this leaflet, it can also be read as 'she'.*

Leaving the home; where will he go and what may he take with him?

The temporary restraining order entails that your partner or family member must leave the home immediately and hand his/her keys to the police. The police will ask him for an address and/or telephone number where he can be reached in the coming period. In some municipalities there are emergency measures in place for those ordered out of the home, if that is necessary. Your partner or family member may only take the essential items necessary for daily living out of the home. This will probably include some money, personal papers, clothes, medicines and things needed for work, for example.

What if the temporary restraining order is breached?

If the person in question does not leave the home, that is an offence. If he also returns to the home or makes contact with you, your family members or other members of your household within the ten days, he may be arrested. But also if you or your child, for example, makes contact with the person in question or asks him to come back, he is still liable if he does not keep to the temporary restraining order. If your partner or family member does not comply with the temporary restraining order, for example because he contacts you, you must inform the police immediately. The mayor or the magistrate decides if and when the temporary restraining order is to be withdrawn or lifted, not the person in question, you or other members of your household.

The temporary restraining order and arrest by the police

Your partner or family member can also receive a temporary restraining order if he is arrested by the police for domestic violence. If he is released by the police after questioning/detention, it may be the case that his behaviour still poses a threat to you, the 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 are probably very frightened by the behaviour of your partner or member of your family 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. You can explain to the children that it is better for everyone that there is now some respite and that help is coming. They will probably be quite worried so explain that your partner is also getting help. Tell them that he is not abandoning them, but that he may not have any contact with them by order of the police.

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. They also need specific support and help. 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. The threatening situation affecting your child has also influenced the relationship that you have with the child as a parent. You can get help to build up a safe contact with your child or with the child you care for (jointly).

What happens during and after the first ten days?

The police will notify social workers immediately that your partner has a temporary restraining order. A social worker will call you within one working day to discuss what you want to do now, but if you are not in a position to wait for that, the police can call an emergency social services provider for you. You will then receive help straight away. In the coming ten days, arrangements for any necessary help will begin. It may be the case that during these ten days that there is no longer a danger of domestic violence and you both accept the help offered to you. The mayor can then withdraw the temporary restraining order and your partner or family member 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. Information about this is available from the social services and the police.

What sort of help can you get?

You might now feel anxious or angry. Perhaps you are worried about the consequences of this temporary restraining order or you are unsure about what will happen now. Or maybe you feel relieved that a period of respite has been created. You might want help to put a complete stop to the violence and to save your relationship, or maybe you want to break off the relationship or file for divorce, and take steps towards this. Domestic violence can have different effects and there is often more than one side to the story, but the violence and the threat must stop, in any case, and you will get help in this. The help is meant to stop the violence or avoid it

altogether. You and your partner and any children/members of your household can also receive guidance in making choices about your future together. This moment is a chance to tackle the problems in your family or relationship, which is also in the interests of any children that are in your household. You can also contact the regional Advice and Support Office for Domestic Violence in your local area (see the information in the back of this leaflet).

What if the person under the restraining order (and/or you yourself) does not agree with it?

The person who has received the temporary restraining order can go to the magistrate if he does not agree with the temporary restraining order imposed on him and he can then ask the magistrate for a provisional ruling. This is a fast-track procedure and this means that he can request the magistrate to decide whether the temporary restraining order has been rightly imposed within three working days of this request being submitted. If the magistrate rules that the order has been wrongly imposed, the person in question may return home. In making his/her decision, the magistrate can take into consideration that the person in question has accepted the help which was offered to him after the temporary restraining order and that he is not hindering any help to you or any members of your household, such as children. If you yourself do not agree with the imposed temporary restraining order, you can also make an appeal to the magistrate. You can call upon a lawyer for help in doing this, and you will find information about this in the back of this leaflet.

What can you do yourself to have a temporary restraining order extended?

You can also decide yourself, or possibly together with a (legal) assistance provider, to request an extension of the temporary restraining order during the first ten days. The mayor will then consider whether there is still a

danger of domestic violence and he will obtain this information from social services and the police. If there a threat of domestic violence still exists, the mayor can extend the temporary restraining order for up to four weeks. You can also begin other legal proceedings yourself however. You will often need a lawyer for this. If you have decided, for example, that you want to divorce your partner, you can ask the magistrate in the meantime if you may remain in your home on a temporary basis for the duration of the legal proceedings. This is also called a provisional ruling. Your request will be considered by the magistrate within three weeks at the latest after submitting it. You can also request a street- or contact ban of a longer duration from the magistrate.

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 or www.steunpunthuiselijkgeweld.nl or call: 0900 126 26 26 (5 cent per minute)

General information about domestic violence

www.huiselijkgeweld.nl

In case of (threatening) maltreatment of children: Child Abuse Counselling and Reporting Centre: 0900-1231230, 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

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 You must send your notice of appeal to the court in your district.

Information about the Legal Aid Councils

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 or call 0900-8020

