



Peace and Good Behaviour Orders in Queensland

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If a person is threatening someone else or their property, the threatened person may have a basis to ask the court to take action to protect them from the threatening behaviour. The threatened person can make an application for Peace and Good Behaviour Orders (“PGBO”).

What is a Peace and Good Behaviour Order?

A Peace and Good Behaviour Order can be put in place to protect a person’s right to peace and quiet, undisturbed by threats to their wellbeing or quality of life by someone else.

A person applying for an order is referred to as “the complainant” and the person the order is made against is referred to as “the defendant”. The police can also make an application on behalf of the complainant.

The court can order that the defendant “keep the peace” and be of good behaviour towards another person for a specified time. It can also order that the defendant stop any activity or action that threatens harm to a person, a person’s property or those under a person’s care.

Who can a PGBO be made against?

A PGBO can be applied for if threats are being made toward a person or a person’s property from:

- a person they live with (a housemate);

- a person they work with (a workmate);
- a person they live next to (a neighbour); or
- anyone else.

However, if the person who is making threats includes one of the following people, it may be more appropriate for the person being threatened to consider applying for a Domestic Violence Protection Order:

- A person they are or were in an intimate personal relationship with (e.g. someone they dated);
- A person they are or were in a spousal relationship with (e.g. their wife or husband, or de facto partner);
- A person they are or were in a family relationship with either by blood or marriage (e.g. a sister-in-law, brother or a parent); or
- A person they are or were in an informal care relationship with (e.g. someone who is not paid but who they depend upon due to their disability, impairment or illness).

How can I get a Peace and Good Behaviour Order?

To apply for an order, a person must file a complaint and summons in the Magistrates Court, which outlines details about the threats made against them. It is important that in doing so, they are eligible to apply for a PGBO (as outlined in the above section).

These documents must then be signed and sworn before a Justice of the Peace (“JP”).

If the JP determines that the person has reasonable grounds to fear the defendant, they can issue a summons directing the defendant to appear before the Magistrates Court at a certain location, date and time; or issue a warrant to bring them before a Magistrates Court.

The original complaint and summons must then be filed with the Magistrates Court closest to where the defendant lives, or where the threat or incident took place. The relevant filing fee must also be paid when lodging the complaint with the court.

The complainant and summons then need to be served on the defendant. The police may be able to serve the document on the other party on your behalf. If they are unable to assist, you will be required to engage a court bailiff or a process server to serve the summons. This may incur a further fee.

What does a person have to prove for the court to make a PGBO?

The *Peace and Good Behaviour Act* sets out the requirements which must be satisfied to make a complaint and upon which the court may make a PGBO. The person applying for a PGBO will be required to prove:

- the defendant has threatened to assault or do bodily injury to them or any person under their care or charge;
- the defendant has threatened to procure any other person to assault or do bodily injury to them or any person under their care or charge;

- the defendant has threatened to destroy or damage their property; or
- the defendant has threatened to procure any other person to destroy or damage their property; and
- that they are in fear of the defendant.

So, a PGBO can only be made if the court is satisfied that there have been threat/s made to a person or their property, or there has been intentional conduct which would cause them to fear destruction or damage to their property.

A successful application will be one where there is a real and genuine threat of harm against a person's physical wellbeing or property. The person will need to demonstrate that the threat of harm is recent and/or contemporaneous and they believe it will continue or reoccur in the future. It will be up to the applicant to prove in court that what they are saying is true.

Case law makes it clear that such orders are not intended to be used to address circumstances of isolated, minor disagreements between parties. Rather, they are orders designed to address serious, ongoing misbehaviour which causes fear of future harm or damage.

In the alternative, the complaint could be that the intentional conduct of the defendant directed at the person has caused them to fear that the defendant will destroy or damage their property.

What orders can the court make?

If the court is satisfied of the complaint, it will usually make an order that the defendant to keep the peace and be of good behaviour. A PGB Order can also include any other condition the court thinks necessary in the circumstances.

These can include an order that the defendant is prohibited from:

- threatening the person;
- contacting the person;
- attending their residence or workplace;
- damaging their property; or
- arranging for anyone else to do any of the above.

How long does a PGBO operate for?

If the court decides to make a PGBO, it will also decide how long the order should be in effect. Usually, PGBO's are made for 1 – 2 years.

What happens if the defendant doesn't abide by the order?

If an order is made and the defendant does not adhere to the order, their actions may constitute a breach of the PGBO.

This then becomes a police matter and they may be charged criminally with a breach. There are penalties associated with breaching a PGBO. They include a maximum 1-year imprisonment or a fine of up to \$13,055.00 (*current as at January 2020 but subject to change*).

What happens if the court declines to make a PGBO?

If the court declines to make a PGBO, there will be no order in place against the defendant.

Further, the court may consider it appropriate to order costs against the applicant if it is satisfied that they caused an unnecessary delay to the matter, ignored the directions of the court or filed the application vexatiously or maliciously.

Similarly, costs can be ordered against the defendant. This is one of the reasons why it is very important to obtain legal advice about applying for a PGBO.

Alternative options

In particular cases, it may be appropriate to consider alternatives to applying for a PGBO.

Some of the following could be considered.

- Making a police complaint. This may be appropriate if the incident is a one-off, or if the conduct complained about satisfies the elements of a criminal charge, as a PGBO is a civil matter. The offence of stalking could be considered as an alternative.
- If the person feels safe to do so, talking to or writing to the other person about the problem and making suggestions to resolve it without using the court.
- Going to mediation. The court may refer the matter to mediation if both the applicant and the defendant agree. However, mediation may not be appropriate where the person feels threatened or has a genuine fear of the defendant.

[We can assist with both applying for a Peace and Good Behaviour Order or defending against one.](#)

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