

This Q&A is part of the Knowledge to Advocate resource and expands on the material in the Knowledge to Advocate video. The following are the questions most commonly asked by regional stakeholders about the intersection with family law.

What impact can a family law parenting order have on a family violence intervention order (IVO)?

- The interaction between parenting orders and IVOs is quite complex.
- When considering an IVO application, magistrates from the Magistrates' Court will consider any current parenting orders or agreements in place.
- An IVO will usually include a condition that allows the respondent to do anything that is permitted by a parenting order or a written agreement (such as a parenting plan). This operates as an exception to the other conditions on the IVO, so that the respondent can continue to do the things the parenting order or written agreement allows them to do, as long as they don't commit family violence in the process.

If there is no family law parenting order, how does an IVO impact on the respondent's contact with children?

- If the IVO says the respondent cannot communicate with, or come near, an affected family member (AFM) who is their child, or if it says they cannot live at the same address as the child, the respondent's contact with the child is limited. If the IVO prevents all contact and has no exceptions, the respondent may not be allowed to speak to or see their child at all.

- An IVO can allow any child contact restrictions in the order to be overridden if the parents agree in writing (e.g. via a parenting plan, text or email). In these cases there is usually also a provision for mediation, contact via a mediator or a lawyer, or sometimes limited communication between parents (usually in writing only) to facilitate contact with children. The respondent must not commit family violence during any of these processes.

What can the AFM do if the IVO allows for existing family law parenting orders, but contact with the respondent is unsafe?

- Family law parenting orders are serious and there can be penalties for contravening them. If complying with parenting orders would put a child at risk, the AFM can urgently apply to the Magistrates' Court for an IVO which temporarily amends or suspends the parenting orders to ensure the safety of a child. The AFM will then need to apply for a change to the parenting orders in the family law courts if the safety concerns are ongoing. Workers should encourage the AFM to seek legal advice.

Thanks to Franky Bain, Senior Community Lawyer, Fitzroy Legal Service; Marissa Johnpillai, Family Violence Lawyer, West Heidelberg Community Legal Centre; and Ella Crotty, Senior Lawyer, Family Law and Family Violence, Fitzroy Legal Service for their contributions to this Q&A. *The Family Violence Protection Act 2008* has informed the content.

KNOWLEDGE TO ADVOCATE:

A resource for workers supporting victim survivors of family violence through the legal system www.nifvs.org.au



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