

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 family violence intervention orders.

What is the difference between a family violence safety notice (FVSN) and a family violence intervention order (IVO)?

A FVSN can be issued by police when they attend a family violence incident. In effect, an FVSN is the application for an IVO and leads to a court hearing. In practice, most FVSNs are automatically made into an interim IVO or possibly a full IVO (based on police evidence) at the first court hearing. The FVSN is only valid until it comes to court.

What kinds of conditions are included in an IVO?

- The court can include any conditions on an IVO that it considers 'necessary' or 'desirable' in the circumstances. This gives the court the flexibility to tailor an IVO to the specifics of the case before it.
- In practice, most IVO conditions are chosen from a pre-defined list which also appears on IVO application forms. These include conditions that the respondent must not:
 - » commit family violence against the affected family member(s) (AFMs) (this is a standard inclusion)
 - » intentionally damage the AFM's property or threaten to do so
 - » attempt to locate or follow the AFM or put them under surveillance
 - » publish material on the internet about the AFM
 - » contact or communicate with the AFM by any means

- » approach or remain within a specified distance of the AFM
- » go or remain within a specified distance of the place(s) the AFM lives, works or studies
- » get another person to do anything the respondent must not do.

How can workers assist AFMs in completing an IVO application?

- Workers can assist AFMs in an IVO application by encouraging them to highlight how family violence is a risk to their safety. When making a decision about whether to grant an IVO, magistrates focus on information relating to safety so this information must be clear.
- When it comes to listing previous incidents of family violence in the application, it is better to start with the most serious incident rather than completing incidents in date order. It is also important to include the most recent incident to highlight the ongoing nature of the family violence. Avoid including any incidents that don't focus on the issue of safety.
- When giving examples of instances of family violence, include as much detail as possible (e.g. number of times, what exactly happened, when it happened). Avoid broad emotional statements without specifics (e.g. he abuses me).
- It is useful to encourage AFMs to keep a diary of incidents as this can aid their memory and strengthen the IVO application.

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How can IVOs protect children?

- IVOs protect the person or people named on the order as AFMs. Children can be included on their mother's order.
- Magistrates will enquire about any children who may have been affected by the family violence and may make orders protecting them if needed.
- IVOs do not determine the parenting arrangements for a child, although they can impact parenting arrangements. For example, the IVO may prevent a respondent from living, spending time or communicating with a child; however these conditions can be overridden by a family law parenting order.
- Many IVOs have exceptions to the conditions on the order to enable contact with children where there is a written agreement in place (e.g. an agreement via text or email or a written parenting plan).
- An IVO that protects a child can be applied for by the police, a parent of the child, or a person authorised by a parent of the child. In limited circumstances, children over the age of 14 years can apply for an IVO for themselves.

Also refer to the 'Intersections with Family Law' Q&A.

What happens if an IVO isn't able to be served on the respondent?

- An IVO, whether it is an interim or final IVO, only becomes effective once it is served on the respondent. Normally this is done by the police or a court staff member giving a copy of the order directly to the respondent.

If the respondent is in court when the magistrate makes the order, the IVO is considered served.

- Where the IVO cannot be personally served on the respondent, the police will provide information to the magistrate about measures they've taken to serve the IVO. Sometimes a magistrate will adjourn the hearing if the respondent hasn't been served. If at the next hearing the order has not yet been served, an order for a *substituted service* may be made by the magistrate, which allows for the order to be served by another method (e.g. to a respondent's workplace).

What does it mean for the AFM if the respondent is also granted an IVO against the AFM?

- *Cross-application* is the term used where both the respondent and the AFM apply for orders against each other.
- The court will want to hear both applications at the same time if possible, to streamline the process and to ensure that any orders made are compatible with each other.
- The rules for a cross-application are the same as for a single order – the person named as the respondent must comply with all the conditions on the order. If AFMs breach the IVO taken out against them in a cross-application, then they could be subject to criminal charges.
- Respondents to an IVO sometimes use a cross-application as a strategy to embarrass, frustrate or harass the AFM. This is an abuse of the court process and an application can be made to have the cross-application struck out as vexatious or frivolous.

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How does the AFM know if an IVO has been served?

- If the respondent was not at court on the day the order was made, the police will serve the order on the respondent, usually within a day or two. The police will not necessarily notify the AFM when service has taken place.
- An AFM can call the police or the court to confirm that an IVO has been served.

What happens when an IVO expires?

- Most IVOs are for a specified period, often for 12 months. They can be made for shorter or longer periods, including an indefinite order that does not have an expiry date.
- When the IVO expires, the respondent is no longer required to comply with it from midnight on the date it expires.
- If an IVO is due to expire and there is still a risk of violence, it is best to apply to extend the IVO. This can only be done before the IVO expires, and ideally should be done a few weeks before expiry. The court can extend the IVO on the same conditions or on different conditions.

What can be done if Victoria Police are not taking breaches of IVOs seriously?

- Breaching an IVO – even in a minor way – is a criminal offence and a police report should always be made if a respondent breaches an IVO. The police should respond and take action, although they have discretion about whether or not to charge the respondent, and they may not have enough evidence to do so in a particular case.

Also refer to 'What is the process to provide feedback or make a complaint about police response?' in the 'Victoria Police Response' Q&A.

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