

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 Magistrates' Court.

How can workers liaise with the court to maximise an affected family member's (AFM's) safety?

- Once an AFM is notified of the hearing date for an intervention order (IVO), contact can be made with the registrar at the Magistrates' Court to discuss significant safety concerns and arrangements which need to be considered before or during the AFM's attendance at court.
- If it is unsafe for the AFM to attend court due to threats or other safety issues, alternative options can be considered such as a remote witness facility (via video). This is determined by each court and can be arranged through either the court or Victoria Police. If there are serious risks associated with the AFM getting into the court building, security arrangements can be considered by the court.
- When the AFM arrives at court for a hearing, other concerns regarding security and safety can be discussed with the registrar.
- A support person can provide support in the waiting room by sitting with the AFM and requesting additional safety measures if required.

What happens when AFMs attend the Magistrates' Court for a hearing?

- Before going to court, it is useful for workers to advise AFMs that it is best not to bring children. Encourage AFMs to bring food and drink as it is possible they may be required to be at court all day and there may not be a café on the premises. Encourage them to bring evidence,

paperwork, a book or magazine and a support person. A worker can attend court with an AFM, as a support person.

- On arriving at court, AFMs will have to walk through airport-type security. They will then need to present to the family violence registry to let the registrar know they have arrived. AFMs can speak to the registrar about duty lawyers and other supports that can increase their safety.
- The Magistrates' Court website offers further information about what can be expected when attending a family violence hearing.

How can workers ensure an interpreter is available for a court hearing?

- Once an AFM is notified of their hearing date, contact should be made with the family violence registry at the relevant Magistrates' Court as soon as possible to ensure an interpreter can be secured. It is important to follow up any telephone conversations with court staff via email to confirm the details of the original request. Most courts have an email address for the family violence registry.
- If an interpreter is unable to be booked for a court attendance, a telephone interpreter can be arranged by court staff.
- Interpreters often work half-day blocks, which means one interpreter may be with the AFM in the morning for all the preparation work, but it may be a different interpreter for the actual hearing.

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What do the different types of court hearings mean? (i.e. mentions, directions hearing, contested hearing)

- A *mention hearing* is the first date on which a matter is listed before the court. The matter may not get finalised that day, but if there is enough evidence of family violence the magistrate may, at a minimum, grant an interim IVO. If the respondent contests the IVO application, the magistrate will not hear their arguments at the mention hearing.
- If the respondent contests the IVO application, it will need to go back to court for a *directions hearing*. At this hearing, AFMs will need to advise the court of their needs and intentions, including if they need an interpreter for the contested hearing; whether they will be calling any witnesses; and whether they will have a lawyer.
- The *contested hearing* is the final hearing, when the magistrate hears all the evidence from both sides, including witnesses, and AFMs will be asked to provide more details. A date might not be set for a contested hearing until the lawyers have gathered all the evidence.

What happens if the respondent doesn't attend court and the matter keeps being adjourned?

- There are many reasons a respondent may not attend court, for example if the police have been unable to serve the order.
- If an order has been applied for, and/or an interim order is in place, and the respondent has been served but does not attend a subsequent

court hearing, then the court can make a final order in their absence. It is ultimately a decision of the magistrate to finalise the matter based on submissions made to the court. The final order will then need to be served on the respondent.

Also refer to 'What happens if an IVO isn't able to be served on the respondent?' in the 'Family Violence Intervention Orders' Q&A.

What can workers do to support an AFM if the respondent's violence escalates after court hearings or when an IVO is served?

- If a respondent has been served an IVO and the violence escalates, the respondent is then in breach of the IVO and could be arrested. Even if the police do not have enough evidence at that stage to arrest the respondent, a worker can still encourage an AFM to make a complaint, as repeated breaches demonstrate a series of incidents and behaviour. If safe to do so, an AFM can gather evidence of breaches by taking photos of any breaches and writing down details of the incident, including the time, date and place.
- In collaboration with the AFM, a worker can consider if the conditions on the IVO still support the safety of the AFM:
 - » If the IVO application was originally a police application, the police should be informed if the conditions on the IVO need to be changed. Police can seek to apply to vary the IVO to change the conditions.
 - » Workers can support an AFM – where the AFM is the original applicant – to apply to vary the IVO conditions at the Magistrates' Court.

Thanks to Maree Foelz, Family Violence Partnerships Coordinator, Neighbourhood Justice Centre and Courtney Lucanto, Senior Family Violence Practice Coordinator, Magistrates' Court of Victoria for their contributions to this Q&A.

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