

CONDUCT AGREEMENT ORDER (CAO)

If you are the person to be protected by a family violence restraining order (FVRO) or the respondent, you might want to know about a conduct agreement order (CAO) as a way of getting to an agreement in an FVRO case. A CAO works in the same way as an FVRO.

What is a conduct agreement order?

A conduct agreement order (CAO) is the name given to an FVRO that has been made with the respondent saying they agree but without saying they did anything wrong.

A CAO can include all the rules that are included in an FVRO. If the respondent agrees to say yes to a final order, the usual practice is for them to agree to a CAO with rules agreed with the applicant. If a CAO is made, the case will not go to a final order hearing. Also, there will be no finding by the magistrate that there was family violence or a record of the respondent saying they did anything that might be called family violence.



The court may make the CAO without deciding there are grounds for making an FVRO, but with the same rules as an FVRO.

If the applicant does not agree with the respondent about how long the CAO goes for or the rules of the final CAO, the case can still go to a final order hearing for the court to decide whether to make an FVRO and if so, with what rules and how long for. There is no guarantee that the court will make a final FVRO at the hearing.

The CAO will be in force immediately if the respondent is in court when it is made. Otherwise, it will come into force when it is served on the respondent by the police, or later if this is stated on the order.

What is the difference between 'without admission' and a 'finding of family violence'?



'Without admission' means a party is not agreeing with any of the allegations made against them by the other party. This means the party does not agree that family violence occurred.

A 'finding of family violence' means a court has decided that family violence happened based on evidence given in court where there has been a chance to test that evidence, such as through cross-examination.

If the respondent agrees to a CAO, there is no finding by a court of family violence. The respondent does not say they did any of family violence that the applicant said they did in the FVRO application.

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Is a CAO an FVRO?

A CAO is the name given to the order made when a respondent consents to an FVRO on a without admission basis. It is taken to be an FVRO for the purposes of the *Restraining Orders Act 1997* (WA).

A CAO is **not** an undertaking because a CAO is a court order that is enforceable by the police and the courts.

Is a CAO a criminal charge?

A CAO is not a criminal charge. Notice of the order does not go on the respondent's criminal record.

Is a breach of a CAO a criminal offence?



Yes, it is an offence to breach a CAO. If the respondent doesn't follow the rules on the CAO (this is called breaching the CAO), they may be arrested by the police and charged with the offence of breaching an FVRO if there is enough evidence. If they are convicted, the maximum penalty for breaching the CAO is a fine of \$10,000 or imprisonment for 2 years or both. If they say they are guilty or a magistrate decides they breached the CAO, the breach will go on their criminal record.



Why is a CAO used?

There are many reasons why you might use a CAO to sort out an FVRO application. These include where you want to avoid:

- » admitting you did family violence as alleged in the FVRO application
- » a finding of family violence being made against you
- » giving evidence in a final order hearing
- » kids or other potential witnesses having to give evidence, whether for or against you
- » the financial costs and stress of more time at court or a hearing, or the risk of paying the applicant's legal costs, which might be a lot of money.



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How is a CAO made?

Duty lawyers can help to negotiate the rules on a CAO at some courts. The court will then make the CAO with the consent of the respondent.

The respondent and the applicant with the help of a registrar at court might agree to a CAO at an FVRO conference (sometimes called a shuttle conference).

The respondent might also tell the magistrate during their court case that they say yes to the CAO with rules agreed to by the applicant. If the respondent does this, the magistrate is allowed to make the CAO without the respondent having to sign any paperwork.



When can a CAO be made?



The law says a CAO can be made at any stage in a court case about an FVRO.

If the other party has a lawyer, you can contact them before the next court date to discuss the rules or conditions of a CAO.

What might a CAO say?

The conditions or rules included in a CAO might be very similar to the FVRO they replace. They can contain conditions outlining:

- » what the respondent is not allowed to do
- » what the respondent is allowed to do. This may include going to mediation or allowing contact to make arrangements for kids or deal with the parties' personal property.



A CAO can be worded to cover most situations.

It is good to get legal advice about the rules on your CAO.

Can a CAO be changed or cancelled?



Yes, the respondent or the person protected by the CAO are allowed to ask the court to change or cancel the CAO in the same way as an FVRO. They are not allowed to change or cancel the CAO by just talking to each other and agreeing to a change or to end the CAO. Only a magistrate can change or stop a CAO.