

LEGAL WORDS

FAMILY VIOLENCE

Affidavit

An affidavit is a court document. A person will write their story on the paper and sign their name. Then the magistrate will use that story to decide about something in court. When you sign your name on the affidavit, it means you promise the story is true. The law says you must only write the true story in an affidavit. If your lawyer helps you apply for an FVRO online, they will type your story into a form and ask you if the story is true. If you say it is true, this makes the form an affidavit.



Applicant

The person who asks a magistrate to make an FVRO.



Breach of undertaking

If you do not follow the rules you agreed to in the undertaking, you will not be charged with breaching that undertaking. If by breaking the rules in the undertaking you also break the law, the police might arrest and charge you. If you hurt someone, the police might charge you with assault.



If you don't follow the rules in the undertaking, the person protected might ask for another FVRO.

Breach of an FVRO

Breach means not to follow the rules of the FVRO. If the respondent doesn't follow the rules, it is a breach. If the protected person or someone else tells the police about the breach, the respondent might be charged.



The protected person can't breach an FVRO. Even if both the person protected and the respondent agree to break the rules, it is still a breach, and the respondent might get charged.

Cancelling an FVRO

The FVRO or CAO stays in place until the magistrate stops it, or it runs out. If you don't want the FVRO or CAO to keep going, you must ask the court to stop it.



If you are the person protected, you will have to tell the magistrate about why you want to stop the FVRO or CAO. If you are the respondent, you must go back to court. It is not easy to stop an FVRO or a CAO.

Children's Court

A court where a magistrate makes decisions about children. A magistrate is a type of judge.



The law gives a magistrate the power to decide about things like:

- » A child asking for an FVRO.
- » If a child has to follow an FVRO.
- » The punishment for a child who broke the law.
- » If a child needs protection to be safe.

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Conditions

These are the rules on an FVRO. The respondent must follow these rules or they will breach the FVRO.

Conference

This is a meeting at the court where the applicant and respondent will sit down and talk with the registrar about the FVRO.



They will be in separate rooms and will not see each other. Maybe the people are angry or upset. The registrar will help people talk in a good way to see if they can agree about what should happen with the FVRO.

This meeting is sometimes called a shuttle conference, or a mediation.

Family Court

A court that makes decisions about family problems. When mums and dads or other carers can't agree about looking after the children, they might go to this court to ask the magistrate or judge to decide. The magistrate or judge has the power to decide about things like where your children will live, who must look after your children, when your children will stay with mum, when your children will stay with dad, or when they will stay with another carer.



Conduct agreement order

This is the name given to an FVRO that the respondent agrees to without having to say that they did family violence. The respondent and the person agree on rules. Things like the respondent is to stay away from the person protected. A CAO can be made by a magistrate or a registrar if you go to a conference. The CAO will be the legal paper with the rules you must follow, the same as an FVRO.



If you break these rules, the police might arrest you and maybe the magistrate will punish you.

Court notice

This is a legal paper that says you must come to court on a day and time. It will tell you if you need to go for a conference or a final hearing. If you don't come to court, decisions might be made without you having a say or being able to tell your story. The FVRO might be stopped or made final. If you can't get to court, you must call and tell the court.



Family violence

Family violence is violent, threatening, scary, abusive or controlling behaviour to another family member. It includes financial, emotional, psychological and sexual abuse, fighting, shouting, choking, stalking, cyber stalking, and breaking or damaging things, or threatening to hurt or kill a family member's pet. Most acts or series of acts that make a family member, including kids, feel scared or fearful will be family violence.



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Family violence restraining order

A family violence restraining order (FVRO) tells someone not to hurt, threaten, control or scare another person in their family.



This order tells someone to follow rules like:

- » Stay away from another person, their home or workplace.
- » Find another place to live.
- » Don't let kids see and hear violence.
- » Don't damage property.

Final order hearing

This is the day when the magistrate decides about an FVRO. It is good to go to court so that you can tell your story. At the final order hearing (trial), the magistrate will listen to you, the respondent, their lawyer if they have one, your lawyer and witnesses. The magistrate might ask people questions about the family violence. Then the magistrate will think about granting a final FVRO. At the end of the hearing, the magistrate will make rules in the FVRO. The magistrate might say no FVRO is needed.



Final order

This is a legal paper called an order. The magistrate will write down rules like: stay away from another person, their home or workplace; find another place to live; don't let kids see and hear violence; and don't damage property.



A final order might last for a short time. It might last for a long time. The magistrate will say how long those rules will last for.

FVRO exceptions

There might be some things you can do that won't breach an FVRO. These are called exceptions. Read the rules on your FVRO carefully. Maybe you can talk by SMS or email. Maybe you can see each other to spend time with your kids. Maybe you have to leave the home if you are drinking. Talk to a lawyer or support worker to find out if you have any exceptions and to see what you can do.



FVRO service

After a magistrate makes an FVRO, police officers will go and give the FVRO papers to the respondent. This is called 'service'. Even if the respondent doesn't touch the papers, it can still be service. The respondent must follow all the FVRO rules starting from when they get those FVRO papers.



Interim order

This is a legal paper called an order. The magistrate will write down rules like:

- » stay away from another person, their home or workplace
- » find another place to live
- » don't let kids see and hear violence
- » don't damage property.



An 'interim order' only lasts until you go to a final order hearing or make an agreement.

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Magistrate

A person who has the power to decide legal problems in court. Sometimes the magistrate is called a judge. At court the magistrate will decide about an FVRO.



Magistrate's Court

A court where a magistrate decides about legal problems.

A magistrate is a type of judge.



The law gives a magistrate the power to decide about things like:

- » Family Violence Restraining Orders.
- » Punishment for a person that broke the law.

Mediation

Mediation is a special type of meeting where people talk together to try to sort out a problem. A person called a mediator helps people talk together in a respectful way, and helps people sort out the problem. Sometimes mediation meetings are called conferences or shuttle conferences.



Opt out

An FVRO applicant or respondent can say that they don't agree to go to a conference. If a person opts out of going to a conference (objects to going), the FVRO application will go to a final order hearing.

Get legal advice before you opt out.

Maybe both the applicant and respondent will want to go to a conference later. There are rules about how and when you can do this.



Mention

A mention is a short court hearing for the court to talk to everyone, to plan what should happen next. It is not a final hearing. You do not need to tell your story or bring witnesses. Maybe you need to speak to a lawyer. Maybe you need more time. Maybe you will need to come back on another day for a conference or final order hearing.



Police order

When police go to a house or a family because someone is violent or there is lots of arguing, the police might make a 'police order'. This police order might have rules that say that two people must stay away from each other for 1, 2 or 3 days. If you break the rules on the police order, you will make more trouble for yourself.



Person restrained

Another name for the respondent if an FVRO is made.



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Person protected

The person or people protected by the rules in the FVRO.



Respondent

The person who must follow the rules in the FVRO. Sometimes the respondent is called the person bound. Sometimes the respondent is called the person restrained.



Registrar

A person who is experienced in helping people sort out things about FVROs at court when there is a disagreement.



This person runs an FVRO conference.

The registrar is not a magistrate and does not decide who is right. The registrar does not take sides.

The registrar is allowed to make orders at a conference if the protected person and the respondent agree.

Undertaking

This is when two people agree about some things and write it down on paper. They agree to stay away from each other, not to hurt each other and they might agree about other things like seeing the kids. The magistrate will keep a copy of what they agree. This agreement is not enforceable by the court or the police.



Trial

Same as a final order hearing.

