

# Child Protection and Family Violence

This factsheet has been developed for community workers and support services to recognise common issues in these areas and where to seek support. The following are questions commonly asked by stakeholders about the intersection between Child Protection and the different legal systems

## If there has been a family violence IVO granted/varied/withdrawn in the Magistrates Court, how does this affect Child Protection involvement?

The Department have a government mandate to take legal action to address significant risks to children if they assess this is required.

They will always make their own final call on if they think the family, or individual members, are acting 'protectively' enough to address the concerns raised about risks to children.

So even if the Magistrates Court makes one ruling on an IVO, if the family continue to act contrary to what Child Protection would consider safe and protective, it could possibly result in the Department assessing the family haven't prioritised safety and determining legal intervention through the Children's Court may be required.

But, keep in mind, the Department won't generally act simply because some or all of their case plan and/or safety plan aren't being followed. It's a case by case thing, as it's dependent on the levels of risk and assessment of unacceptable harm.

## What impact can a family law parenting order have on Child Protection involvement?

If there are Family Law Court orders in place, Child Protection's powers to act on risk can become more limited in the 'voluntary' spaces they work in.

It's useful to know that police action can also be restricted when there are Family Law Court orders in place, even if a child is at risk. So, if a client is concerned their child is exposed to risk, it is still important to report to police in the first instance - but then your client should follow up by immediately calling Child Protection.

Because of the existence of the parenting orders, a first step might be for the Department to seek written permission from the parent of concern acknowledging that Child Protection are involved and confirming they will temporarily stop the contact with the child - which would otherwise be allowed under the Family Law Court order - for the period of any investigation.

Otherwise, the Department might try intervene by encouraging the protective parent to commence proceedings in the Family Court for a variation of the Parenting Order (and filing a Notice of Risk triggering the requirement of a Child Protection report) or if it comes to it might issue their own protective application in the Children's Court.

## What impact do Children's Court orders have on parenting arrangements?

When a child welfare order has been made through the Children's Court, it effectively acts as a roadblock on parents being able to seek their own arrangements (if they depart from the order).

In this situation, the Family Court are prevented from being able to make a Parenting Order for that child unless the Court has the consent of Child Protection. Otherwise they are restricted to making a Parenting Order which is only to take effect on the expiry of the Children's Court order.

## How do Child Protection assessments impact parenting arrangements?

While the Department make their own assessments, provide reports and have the power to apply for orders in the Children's Court, the decision to grant them or not, or how much weight to give the Department's views, will still ultimately sit with a judicial officer in a Court.

Which means the Department's assessments won't usually be determinative by themselves and families will normally have some opportunity to advocate for alternatives from the relevant decision makers.



# What can I do to help if Child Protection are involved?

If you believe a child or young person is in immediate danger, call the police on 000 (triple zero)

**It's useful for clients to always ask for a copy of a Child Protection safety plan in writing, both for their own knowledge and for future reference. Child Protection should provide this to your clients on request.**

You can assist your clients to collect their own supporting information – or provide some from your agency. Because the more evidence clients have of their own, the better chance they'll have at self-advocacy and addressing the Department's concerns

As soon as your client starts to become involved in any legal system – or as soon as there's any chance this might occur – **they should immediately get specialist legal advice from a lawyer in that area.**

**You can contact PCLC for free legal advice on (03) 9783 3600 or [pclc@pclc.org.au](mailto:pclc@pclc.org.au)**

**IFAS (Independent Family Advocacy and Support)** can provide additional non-legal help to families involved with Child Protection. They are familiar with the processes and can be contacted on 1800 849 200 or by email at [IFAScontact@vla.vic.gov.au](mailto:IFAScontact@vla.vic.gov.au)

