



**PARTIES TO THE PROCEEDING**

<b>1</b>	<p>Are the affected person and the respondent family members? If yes, either strike out the application or decide to continue to hear the matter as an application for a FVIO (see FVPA s176E) If no, <b>go to 2</b></p>
<b>2</b>	<p>Is the respondent present at court? If yes, <b>go to 4</b> If no, <b>go to 3</b></p>
<b>3</b>	<p>Has the respondent been served? If yes, <b>go to 4</b> If no, adjourn matter to enable further attempts at service (interim order continues (s43))</p>

**MEDIATION DIRECTION**

<b>4</b>	<p>Is it appropriate to give a mediation direction? (s26) If yes, adjourn proceeding to allow parties to attend mediation assessment or mediation If no, <b>go to 5</b></p>
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**FINAL ORDERS (CONSENT)**

<b>5</b>	<p>Are the parties consenting to a final order being made? (s64) If yes, Court must consider the matters listed on mandatory considerations checklist and can still elect to:</p> <ul style="list-style-type: none"> <li>• Conduct a hearing if in the interests of justice; or</li> <li>• Refuse to make order if the order may pose a risk to safety of a party or a child of the protected person or respondent (s64).</li> </ul> <p>If the Court is satisfied it is appropriate to make an order, <b>go to 6</b>. Otherwise <b>go to 7</b>. If the parties are not consenting to a final order, <b>go to 7</b>.</p>
<b>6</b>	<p>Is the respondent an adult or a child? <b>If adult</b>, final order can be made (after addressing mandatory considerations checklist) (s64) <b>If child</b>:</p> <ul style="list-style-type: none"> <li>• Court must be satisfied there are grounds for the order under s61 or ss80 or 83 (s64)</li> <li>• Order cannot be made for longer than 12 months (s78)</li> </ul> <p>Subject to these considerations final order can be made (after addressing mandatory considerations checklist). <b>Go to 13</b> to determine the conditions of the order.</p>



## INTERIM ORDER

7

Is there an interim order in place?

- If **yes**, it will continue until the hearing for a final order (s40). **Go to 10.**
- If **no**, but parties consent to an interim order being made (s35(2)), Court must still consider the matters listed on mandatory considerations checklist before fixing conditions of interim order. **Go to 9.**
- If **no**, but it may be appropriate to make an interim order on the court's own motion (s35(1)), **go to 8.**
- If **no**, and it is not appropriate to make an interim order, **go to 10.**

8

Are there grounds for an interim order being made? (s35(1))

Is it:

- necessary to ensure safety of the affected person or preserve property of the affected person; and
- appropriate to make the order in all the circumstances (court may consider mediation process) (s35(4))

If yes to both, **go to 9.**

If no to either, decline to make an order. **Go to 10.**

9

Determine conditions of order (ss66 – 67)

- Include any conditions necessary or desirable, including any of the conditions listed in s67
- Consider matters listed on mandatory considerations checklist

Then adjourn until hearing for final orders (s42) and ensure the hearing is listed as soon as practicable, with reasonable time for mediation (where applicable)

## FINAL ORDERS (CONTESTED)

10

Court must not make a contested final order on a mention date unless satisfied that:

- all the parties to the proceeding have had an opportunity to seek legal advice and legal representation; and
- all the parties to the proceeding consent to the hearing of the contested application on the mention date; and
- it is fair and just to all the parties to hear the application on the mention date (s44).

If court is satisfied, **go to 12.**

If court is not satisfied, **go to 11.**



## FINAL ORDERS (CONTESTED)

11

The court may also make a final order if satisfied the respondent has been served with a copy of the application for a personal safety intervention order and has not attended court on the mention date (s44(2)(b))

**Go to 12.**

12

Court may make a final order if satisfied on the balance of probabilities that:

- the respondent has —
  - committed prohibited behaviour against the affected person and—
    - is likely to continue to do so or do so again; and
    - the respondent's prohibited behaviour would cause a reasonable person to fear for his or her safety; or
  - stalked the affected person and is likely to continue to do so or do so again; and
- the respondent and the affected person are not family members; and
- it is appropriate in all the circumstances of the case to make a final order.

If court is satisfied, **go to 13.**

If court is not satisfied, decline to make the order.

13

Determine conditions of final order (s66 – 67)

- Include any conditions necessary or desirable, including any of the conditions listed in s67
- Consider matters listed on mandatory considerations checklist
- Consider duration of order (s77)
- If respondent is a child order cannot be made for longer than 12 months (s78).