

Mandatory Considerations Checklist

Family Violence Protection Act 2008

Last updated: 5 January 2011

Firearms or weapons	
A.	<p>Does the respondent have a firearms authority or weapons exemption or approval? s94</p> <p>If yes, may include condition suspending it. Go to B</p> <p>If no, go to B</p>
Exclusion from residence	
B.	<p>Is the respondent an adult or a child?</p> <p>If adult, go to C</p> <p>If child, go to D</p>
C.	<p>Consider all circumstances, including criteria in s82(2)</p> <ul style="list-style-type: none"> • If exclusion condition appropriate and protected person does not oppose, must exclude respondent – s82(4) • If respondent excluded, court must ask respondent for address – s85 <p>Go to E</p>
D.	<p>Consider all circumstances, including criteria in s82(2) PLUS criteria in s83(2)</p> <ul style="list-style-type: none"> • Can only exclude child if will have appropriate accommodation, care and supervision - s83(3),(4). • If exclusion order made: <ul style="list-style-type: none"> ○ Inform registrar (registrar must notify DHS) – s83(5) ○ Ask respondent for address – s85 <p>Go to E</p>
Children	
E.	<p>Is the protected person or respondent the parent of a child?</p> <p>If yes, go to F</p> <p>If no, go to H</p>
F.	<p>Are there <i>Family Law Act</i> or child protection orders in place regarding the child? s89</p> <p>Note response, then go to G</p>
G.	<p>Will or may it jeopardise the protected person's or child's safety for child to have contact with respondent? s91</p> <p>If yes, include condition prohibiting contact - s93 and then go to H</p> <p>If no AND there are no <i>Family Law Act</i> Orders in place, include conditions - s92:</p> <ul style="list-style-type: none"> • Requiring arrangements about children (including changeover) to be in writing; and • About how arrangements are to be negotiated <p>Then go to H</p>
H.	<p>If making a final order, are there any children who are family members of the AFM or the respondent who have been subjected to family violence by the respondent? - s77</p> <p>If yes, and this is likely to continue or occur again <i>may</i> include child on AFM's order (if protection needs same) or make separate final order for child. Go to I</p> <p>If no, go to I</p>
Addressing inconsistencies with other Orders	
I.	<p>If the order would be inconsistent with a Family Law Act Order, exercise powers under s68R of the <i>Family Law Act</i> to revive, vary, discharge or suspend the <i>Family Law Act</i> order to extent of inconsistency - s90. Go to J</p>
J.	<p>If the order may be inconsistent with a child protection order, inform registrar to notify DHS – s174</p>