



Legal referrals during Covid-19 for respondents

Disclaimer: This factsheet was current at October 2020. Please contact your local legal service for the most up to date information on changes to court processes during COVID-19. See [‘How do I refer my client to a legal service?’](#) to do this. You can also visit the [Magistrates’ Court of Victoria website](#).

ABOUT THIS FACT SHEET:

- Due to the COVID-19 coronavirus pandemic, court processes have changed. This includes changes to accessing legal services for court hearings.
- This information is to support you to make legal referrals for respondents (people accused of using family violence) regarding family violence intervention orders.
- This information is a guide only. It is important that you refer your client for early legal advice for their circumstances.
- If you are supporting an affected family member (person who has experienced family violence), please see our factsheet: ‘Information for family violence specialist services: legal referrals during Covid-19 for people who have experienced family violence’.

The police served my client with a family violence safety notice or a summons

It is important that your client get early legal advice if the police served them:

- a family violence safety notice and a date to go to court
- a summons to go to court for an application for an intervention order against them.

A lawyer can explain how the law works, what the court process is, and what the conditions (rules) in the family violence safety notice mean. They can also refer your client to a free duty lawyer service, for their court date. A duty lawyer can help your client by:

- giving them legal advice about their family violence intervention order case
- making sure their case still goes ahead on their court date
- talking to police and other services at the court, to help come to a safe outcome
- giving them legal advice about their rights and choices in other areas of law. This can help your client work out what options they might have regarding any children involved. This is particularly important if the police reported the family violence to child protection.

See [‘How do I refer my client to a legal service?’](#) and [‘Does my client have to go to court?’](#) below.

How can legal advice help my client?

A lawyer can talk to your client about:

- what the conditions (rules) in the intervention order mean
- what their options are for participating in their hearing

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- their options when responding to an intervention order application
- what will happen with parenting arrangements. This includes understanding child protection involvement or how an intervention order could impact on family law
- any crimes that the police might charge them with
- immigration, housing or tenancy issues, child support or other legal issues they have.

How do I refer my client to a legal service?

Before their court date

You can refer your client to:

- Victoria Legal Aid through VLA's [Legal Help line](#). There is an option when calling the Legal Help line for support workers. Hold the line when calling for details on which button to press.
- their [local community legal centre](#).
- a statewide specialist community legal centre. These are legal centres that respond to the cultural and/or diverse needs of a person's identity that intersect with a person's experience of family violence as a legal issue. Some specialist community legal centres that could help your client are:
[Victorian Aboriginal Legal Service](#)
[Youthlaw](#)

On their court date

With your client, you should contact the court immediately and ask them to refer your client to a duty lawyer service.

What happens after I refer my client to a legal service?

The legal service will need to get some information from your client to assess whether they are the right service to help. The legal service will ask your client:

- their full name, date of birth, contact number, court date and court location
- the full names and dates of birth of the affected family member and any children.

The legal service might need to call back your client to do this assessment. This phone call may come from a 'No Caller ID' number.

If the legal service cannot help, they will put your client in touch with a duty lawyer at another legal service who may be able to help.

You may already have a referral agreement between your organisation and a local legal service. Your follow up process may be different to what is described here. If you already have a referral agreement you can still follow it.

Does my client have to go to court?

All in person hearings at magistrates' courts across Victoria, will now be listed for hearing online, or by other remote means, such as over the phone.

If your client has an upcoming court date they should [contact the court](#) immediately. The court staff will assess the best way for your client to participate in their hearing, be it remote or in person.

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Court staff may try to contact people directly if they have not made contact themselves with the court, however this should not be relied upon. It is important to contact the court as early as possible so arrangements can be made to support your client's participation in their hearing.

All new family violence matters will be listed in the 'Online Magistrates' Court' rather than at the physical court. The Online Magistrates' Court is linked to the local physical court. Priority will be given to urgent matters including interim family violence intervention order applications and return of family violence safety notices.

If your client has an accessibility difficulty due to language, a disability, or another reason, they may be able to go to the physical court for their hearing. Your client must contact the [family violence registrar at the magistrate's court](#) before they go. The registrar will assess if it is necessary for your client to physically go to court. If the registrar decides your client does need to physically go to court, they will give your client a specific time to go. To maintain the court as a COVID-safe space your client will only be permitted entry at the specified time given.

Your client should still contact a lawyer before their court date. The duty lawyer will make sure their case will go ahead on the day. See ['How do I refer my client to a legal service?'](#)

Your client can still access other court services for their online hearing:

- A family violence respondent practitioner. These are specialist workers at court, who can provide support over the phone. Contact the local family violence registrar.
- A court network volunteer can also provide some support to your client over the phone. They can be contacted on 1800 571 239 between 9:00am and 4:00pm.

What if my client lives more than 5km from their court?

Going to court is an essential service. If police stop your client on the way to court, your client should show the police their court documents.

What if my client has any access requirements?

If your client requires an interpreter, you should contact the court before your client's court date. Confirm that the court have booked an interpreter. Check if the court knows if your client's hearing will be online.

The court will explain how your client can talk to the interpreter over the telephone.

If your client has any disability access requirements, you should make this known to the legal service at the time of referral. You should also contact the court before their court date. Confirm what is required for your client to receive legal advice and participate in their court hearing, and how any accessibility issues will be addressed.

What should my client do to participate in their hearing?

If your client has a court date relating to a family violence safety notice or an application for a family violence intervention order they should

- contact a legal service at least two days before their court date. The legal service will connect your client with a duty lawyer for their court date. The duty lawyer will help deal with their case on the day.
- contact the court as soon as possible, and no later than:

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- 10am the day before their court date if it is the first listing of the case,
- Three clear business days prior if it is a subsequent listing of the case.

If your client is not sure whether it is a first or subsequent listing, they should contact the court.

Contact with the court can be made by filing a [Notice of Address for Contact and Service](#) or by telephoning the relevant court.

The purpose of making contact early is so that the lawyer or court can determine:

- whether the matter is suitable for an online hearing, or whether it should be heard in person
- whether a person has a lawyer, and if a referral to a duty legal service is required
- if the matter is to go ahead online, the date and time for the hearing

If your client's case is being heard online or via telephone, on their court date, your client should contact the family violence registrar to confirm their online appearance. If they have spoken with a legal service before their court date, they should tell the court this.

The duty lawyer will be busy, and it might take all day for them to help your client with their case. Your client should have their phone with them all day if possible and keep their phone charged. If your client is worried that they haven't heard from the duty lawyer on their court day, they should contact the court.

What happens if my client doesn't want to participate at all?

If your client does not want to participate at court at all, they should still get legal advice. A lawyer can tell them what might happen if they do not participate, and what they should do after the court date. Police and court staff cannot provide legal advice.

From 12 October 2020 at regional court locations, and 9 November at metropolitan court locations, if your client does not participate in their court hearing, the magistrate can still make a final intervention order against them.

This means that the court can make conditions and a final order against your client, without their agreement. Breaking the conditions of a court order has criminal consequences. If your client is given a court order, they should seek legal advice to help them to understand the conditions as soon as possible.

How can my client find out what happened at court?

Your client can contact the police, magistrate's court or the duty lawyer that represented them.

What if my client has a criminal case as well?

If your client has a criminal case, they should contact a lawyer as soon as possible. The court has commenced hearing matters again and it is important for your client to prepare for their case as soon as possible.

Your client can request free help from Victoria Legal Aid for their criminal charges by completing Victoria Legal Aid's [Help Before Court](#) intake tool. You can share this link with your client or help your client by completing this tool for them. Please note that this intake tool only applies to criminal charges in the Magistrates' Court. Your client can also contact Victoria Legal Aid [by phone or online chat](#).

Can my client still see their children?

It will depend on the situation and the conditions in the family violence safety notice or intervention order. If your client has child protection involvement or bail conditions, these can also impact on whether they can see their children.

Your client should get legal advice on whether they can spend time with their children and other parenting issues. See [Get help with family violence](#) for more information.

Should my client still attend counselling or a men's behaviour change program?

Due to physical distancing requirements, the group work part of court mandated counselling order programs was suspended in March 2020.

However, men's behaviour change program and counselling service providers are still offering support to men over the phone or online.

Your client may have an intervention order that states that they must go to a men's behaviour change program or counselling. Your client should contact a service provider to ask if there are still ways, they can keep receiving support.

If your client is unsure about how to follow the conditions (rules) in their intervention order during the COVID-19 pandemic, they should get legal advice.

Is my client able to live with their partner?

It depends. Your client cannot live with their partner if:

- there is a family violence safety notice that says they must not go to their partner's home
- there is a family violence intervention order (interim or final) that says they must not go to their partner's home
- there are other orders such as bail or those applied for by Child Protection that says this cannot happen.

Your client must not contact their partner if the intervention order says they cannot. It is important that your client understands that they must follow the rules of the intervention order or safety notice. If they do not, that they are breaking the law. The police can then charge them with a crime.

If this affects your client's housing or financial obligations like their mortgage or rental payments, they should get legal advice.

Your client may be able to live with their partner if:

- they have not been served with a family violence intervention order or family violence safety notice

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- There is an intervention order or safety notice, but it does not say they must stay away from their partner's home.

If your client wants to change the conditions of an intervention order, they will need to apply for permission to change the order at their local magistrate's court. They should speak with a lawyer before doing this.

More information

Learn more about legal issues and [COVID-19 coronavirus](#)

Visit VLA's 'Find legal answers' page on [Family violence intervention orders](#)

Download or order VLA's free [Family violence and intervention order publications](#)

Where to get help

See [Get help for family violence](#) for details of legal and non-legal referral options.

The Federation of Community Legal Centres have developed a specific webpage of [community legal services providing family violence support](#) on their website.