

How do Magistrates Court Intervention Orders interact with Parenting Orders?

Intervention Orders (as known in South Australia), also previously known as 'Restraining Orders', exist to protect both children and adults from violence. Intervention Orders vary from full non-contact orders to safe contact orders and variations in between, which prevent the person named as the defendant/respondent from assaulting, threatening, harassing, or intimidating the protected person/applicant.

The Federal Circuit and Family Court of Australia ("the Court") does not make Intervention Orders. The Federal Circuit and Family Court of Australia is responsible for making **Parenting Orders** and each individual state is responsible for the making of Intervention Orders.

When a parenting matter is before the Federal Circuit and Family Court of Australia, it is important the Court is made aware of any family violence issues to ensure that the safety of any protected persons and the child's right to spend time with both parents is balanced accordingly.

Where a Parenting Order is made by the Federal Circuit and Family Court of Australia and it is inconsistent with an Intervention Order, the Court is required to provide reasons for their decision and pursuant to Section 68Q of the Family Law Act 1975. A Parenting Order of the kind referred to in

section 68R of the Family Law Act 1975 will always override an Intervention Order.

For example: If the Parenting Order states that the defendant/respondent is to collect the child from the protected person/applicant at a designated location, despite the Intervention Order stating that they are not to approach the protected person within 100 metres, the defendant/respondent will not be in breach of the Intervention Order.

However, pursuant to section 16(1) of the Intervention Orders (Protection of Abuse) Act 2009 the Magistrates Court may resolve the inconsistency by exercising its power to revive, vary, discharge, or suspend the Parenting Order under that section.

If the Magistrates Court wishes to change an Order made by the Federal Circuit and Family Court of Australia, such as a Parenting Order, Recovery Order, or injunction, it can only do so if it has evidence that was not presented to the court that made the original order. This does not apply to a parenting plan, undertaking or recognizance.

How can Andersons' help?

There is a lot to consider when **Intervention Orders** and Parenting Orders exist at the same time. If you would like more information you can contact today's blog writer **Kathryn Waters** or **contact our offices here.**