

Interim Hearing Checklist

Family Violence Protection Act 2008

Last updated: 18 October 2018

Family members	
1.	<p>Are the affected family member and respondent family members?¹</p> <p>If yes, go to 2</p> <p>If no, but there may be grounds for a personal safety intervention order, refer to registrar to re-issue application</p>
Test for interim order	
2.	<p>Is an interim order necessary? s 53</p> <p>An interim order is necessary if</p> <ul style="list-style-type: none"> • The order is necessary to ensure safety² of AFM, preserve property of AFM or protect a child pending final hearing, or • The parties have consented to or not opposed the making of an interim order, or • A family violence safety notice has been issued and there are no circumstances that would justify discontinuing the protection of the person until a final decision about the application. <p>Note answer and go to 3</p>
Protection of children	
3.	<p>Has the respondent committed family violence against any children of the AFM or respondent? s 52A</p> <p>If yes, and an interim order for the AFM is necessary, go to 4</p> <p>If yes, and an interim order for the AFM is not necessary, go to 5</p> <p>If no, adjourn to mention date without an interim order</p>
4.	<p>The court must either include the child on the interim order or make a separate interim order with the child as the protected person unless satisfied that it is not necessary to do so to protect the child or ensure the safety of the child pending a final decision about the application – s 53AA</p> <p>Then go to 6</p>
5.	<p>The court may make an interim order for the child as protected person on its own initiative if satisfied that the order is necessary to protect the child pending a final decision about the application – s 53AB</p> <p>Then go to 6</p>
Conditions on Interim Order	
6.	<p>Determine conditions of interim order ss80-81</p> <ul style="list-style-type: none"> • Give paramount consideration to safety of AFM and children • Include any conditions necessary or desirable, including any of the conditions listed in s 81 • Consider matters on mandatory considerations checklist <p>Then go to 7</p>
7.	<p>Give the parties a clear oral explanation of the order – ss 54, 54A</p> <p>Then go to 8</p>
8.	<p>Give the parties a written notice including the matters described in the oral explanation – ss 54, 54A</p>

¹ Note expanded definition of ‘family member’ in ss8-10 that includes ‘being like a family member’ – s 8(3) - and Aboriginal or Torres Strait Islander ‘relatives’ – s 10(1)(b).

² Note ‘safety means safety from family violence -s4. Note also the broad definition of ‘family violence’ in ss 5-7 that includes economic abuse, emotional and psychological abuse.