

Quiz

Legal Frameworks With Answers

AVERT
FAMILY VIOLENCE



**Collaborative Responses in
the Family Law System**



An Australian Government Initiative

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Legal Frameworks Quiz – With Answers

Purpose:

To provide the opportunity for participants to:

- Develop a basic understanding of family violence in relation to the law
- Share perceptions and understandings of family violence.

It is in no way intended to be used as a test but rather, as a way of facilitating conversation about participants' understanding of the issues.

Materials required:

- Legal Frameworks Quiz Without Answers* for each participant
- Legal Frameworks Quiz With Answers* for facilitator.

Process:

The Quiz is divided into three sections:

- Section A – True or False
- Section B – Short Answers
- Section C – Longer, more complex answers.

It may be useful for participants to undertake the quiz in groups of 2 or 3, which would encourage discussion of the various answers.

All questions, unless stated otherwise, relate to Australia, and the Australian family law system.

Facilitators may wish to select particular sections of the quiz that they feel are most relevant for their purposes or only a few questions from each section if they are time-limited but would prefer breadth of questions.



Section A – True or False?

1. In Australia there is no national legislation specifically targeting family and domestic violence.

Answer: True

2. There are eight separate and different state/territory legislative schemes which enable victims of family violence to obtain protection through the police and the courts.

Answer: True

3. State and Territory Protection Orders cannot be registered across borders within Australia.

Answer: False

4. Breaches of injunctions issued under the Commonwealth Family Law Act can be accompanied by arrest if the breach involves causing or threatening bodily harm, harassment, molesting or stalking.

Answer: True

5. Exposing children to family violence constitutes child abuse in some Australian states and territories.

Answer: True

6. The Family Law Act requires parents to inform the court of any relevant state or territory protection orders or child protection orders that are in place.

Answer: False



7. Under the Family Law Act, family dispute resolution must be considered before parties can apply to courts for family law determinations relating to children.

Answer: True

8. In Australia, there has been a strong reliance on criminal, legal responses to domestic violence rather than protection orders.

Answer: False

9. All matters discussed in Family Dispute Resolution must remain confidential.

Answer: False

10. Victim consent is necessary for a family violence criminal charge to be laid.

Answer: False (In all states and territories)

11. Perpetrator programs can be mandated as a sentencing option, probation and parole condition or included as a condition on a protection order, in some jurisdictions or courts.

Answer: True

12. Family violence in same sex relationships is not considered to be an offence under current Australian legislation.

Answer: False



Section B – short answers

13. The Family Law Act contains a presumption of equal shared parental responsibility. Is family violence a potential ground for rebutting the presumption?

Answer: No. The presumption is rebutted by evidence that it would not be in the best interests of the child to have equal shared parental responsibility (s 61DA(4))

14. In which state/s or territories is it mandatory to report family violence that is perpetrated against an *adult*, to the police?

Answer: NT

Supplementary question: what category of adult does this apply to?

Answer: All adults

15. Different states have their own requirements which mandate certain professionals to report risk of child abuse or neglect. Which states or territories place obligations to report on *the community generally?* (i.e. everyone).

Answer: Only the Northern Territory

16. Who is responsible for most protection order applications in most states and territories?

Answer: The police

17. Which staff members in the family law system are obliged to report to welfare authorities when they have reasonable grounds for suspecting a child has been abused or is at risk of abuse?

Answer: Registrars, FDR practitioners, family consultants, family counsellors, arbitrators and Independent Children's Lawyers

18. What are some of the names protection orders are called?

Possible answers:

- Domestic Violence Order*
- Apprehended Domestic Violence Order*
- Domestic Violence Restraining Order*



- Family Violence Order
- Police Family Violence Order
- Restraining Order
- Intervention Order
- Violence Restraining Orders (Domestic and Family Violence)

19. What is a Form 4? What does it require? When should it be used?

Answer: 'Form 4 Notice of Child Abuse or Family Violence' Applications. They are special provisions to alert the court to child abuse or family violence, which are lodged with the initial application for parenting orders.

20. What are ICLs, and what is their role?

Answer: Independent Children's Lawyers. These court-appointed lawyers act for children's interests, independently of their parents. They are often appointed where there are allegations of child abuse and family violence.

21. What is the role of Family Consultants?

Answer: These are usually court-appointed to provide the court with background information and opinions in relation to the family.



Section C – longer, more complex answers

22. What is the Magellan program and in what circumstances is it used?

Answer: Where there are allegations of serious physical abuse or sexual assault of a child, the Family Court processes matters through its Magellan case management program. This gives judges a tight rein on proceedings, fast-tracks decisions and provides children with an Independent Children's Lawyer (ICL).

*Note: ICLs can be appointed in many cases but are **always** appointed in Magellan.*

23. Give three reasons why protection orders may be ineffective

Possible answers:

- Co-existence of parenting orders that contradict the protection order conditions*
- Risk profile of perpetrators*
- Cultural factors which impact on access arrangements*
- Breaches are not always responded to seriously by police and courts*

24. It has been observed that some perpetrators of family violence use the law to continue abuse, thereby leading victims to feel re-victimised by the legal system. How, in practice, might this occur?

Answer:

- Repeated, protracted litigation used to control or exhaust a victim*
- Financial abuse through manipulation or withholding of child support*
- Undermining the credibility of the victim through accusations or false allegations of poor parenting.*

25. Give three common reasons why victims often do not report family violence to the police:

Possible answers:

- Regard it as a private family matter*



- Desire to hold relationship together*
- Fears of custodial sentencing for the perpetrator*
- Fear of repercussions for self or children*
- Traumatic stress*
- Negative experiences with criminal justice system*

In an Indigenous context, what additional reasons might there be?

Answers:

- Negative impacts of post colonial 'justice'*
- Higher prevalence of coexisting factors such as drug and alcohol abuse*
- Experience of heavy handed approaches to complex community trauma*
- Fear of custodial sentencing and deaths in custody*
- Fear of removal of children*

26. What is a 'primary aggressor' and why has this distinction been suggested as being potentially useful by some family violence professionals and policy makers?

Answer: Police consider the history of violence, seriousness of offence and the person who called police, in order to identify a 'primary aggressor'. Useful when victims may fight back and may then themselves become liable to arrest.

27. What are exclusion orders, what issue are they designed to address, and are they widely used?

Answer: These are special conditions on protection orders which enable victims to stay in their homes, whilst the perpetrator is removed - either for a short 'cooling off' period, or through a provision on a longer term order. Protection orders with these provisions are often known as 'exclusion' or 'ouster' orders. Allowed in all states and territories but not commonplace.



28. What is the Family Law Act's '68R' power, and why might courts consider using it?

Answer: '68R' provides state and territory courts with the power to amend family law orders while making or varying protection orders. This can help victims who are attempting to navigate both family courts and local courts to comply with parenting arrangements whilst managing their safety regarding family violence. For example: in relation to contact arrangements.