

Legal Aid ACT

stay here
STAY SAFE



Migration and family violence provisions

Legal Aid ACT

Legal Aid ACT helps people in the ACT with their legal problems. We provide free initial advice and assistance on criminal, family, and civil matters, and ongoing assistance to people who cannot afford a private lawyer or migration agent.

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Acknowledgements

Stay Here Stay Safe has been prepared by Legal Aid ACT with the contribution of PLAYFAIR Visa and Migration Services.

Disclaimer

This booklet is not a substitute for legal advice. While every effort has been made to ensure the information contained in this publication is accurate, changes to the law may result in the information becoming inaccurate and outdated. It is important to seek independent legal advice if you require assistance with a legal problem.

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Photos courtesy <https://unsplash.com/@amyjoyhumphries>



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Introduction

This booklet provides useful information on the family violence provisions contained within the *Migration Regulations 1994 (Cth)*.

It is designed to assist persons, who have experienced or are experiencing family violence, with their applications to access the provisions so they may remain in the country.

It is also a useful resource for case workers and community service providers who work with clients with migration and family violence concerns.

Background

Ordinarily, persons applying for permanent residency in Australia based on their relationship with a partner or spouse, must fulfill certain criteria. For example, they might have to show that they live with their partner or spouse, are in a genuine and continuing relationship, have a mutual commitment to a shared life, or are legally married under Australian law.

The Australian Government has introduced an exception to these requirements in the case of family violence. These exception provisions are contained in the *Migration Regulations 1994 (Cth)*.

Certain visa holders are able to continue their application for permanent residency, even if the relationship that forms the basis of their application has broken down. Importantly, family violence must have occurred for the provisions to apply. The visa applicant will be required to provide evidence of the family violence.

These provisions have been introduced to ensure visa applicants experiencing family violence are able to leave abusive relationships, without it harming their migration prospects.

Who do the provisions apply to?

For the family violence provisions to apply a person must:

1. Be on a certain class of temporary visa;
2. Have experienced or be experiencing family violence;
3. Be (or have been) in a genuine relationship with their partner or spouse at the time the violence occurred; and
4. Be able to show that the violence was committed by their partner or spouse.

You and your family may also have to meet other general visa requirements, including character requirements (for those aged 16 and over) and health requirements. For more information on these requirements visit <https://www.homeaffairs.gov.au/>

Visa classes

Two types of temporary visa holders are eligible to access the provisions. These are:

1. Family stream applicants including holders of:
 - Partner visas (subclasses 309/100, 820/801);
 - Dependent Child visas (subclass 445); and
 - Partners of primary applicants for Resolution of Status (subclass 851) visas, who lodged their application before 9 August 2008.
2. Skilled stream (business) applicants holding:
 - Distinguished Talent (subclass 858) visas.

Other temporary visa holders may also be eligible to use these family violence provisions, however as these visas have been closed to new applicants from 1 July 2009 they have not been listed.

For more information about the other classes of visa visit <https://www.homeaffairs.gov.au/about/corporate/information/fact-sheets>

Genuine relationship

The *Migration Regulations 1994* (Cth) prescribe a list of considerations that are relevant to determining whether a relationship is or was 'genuine'.

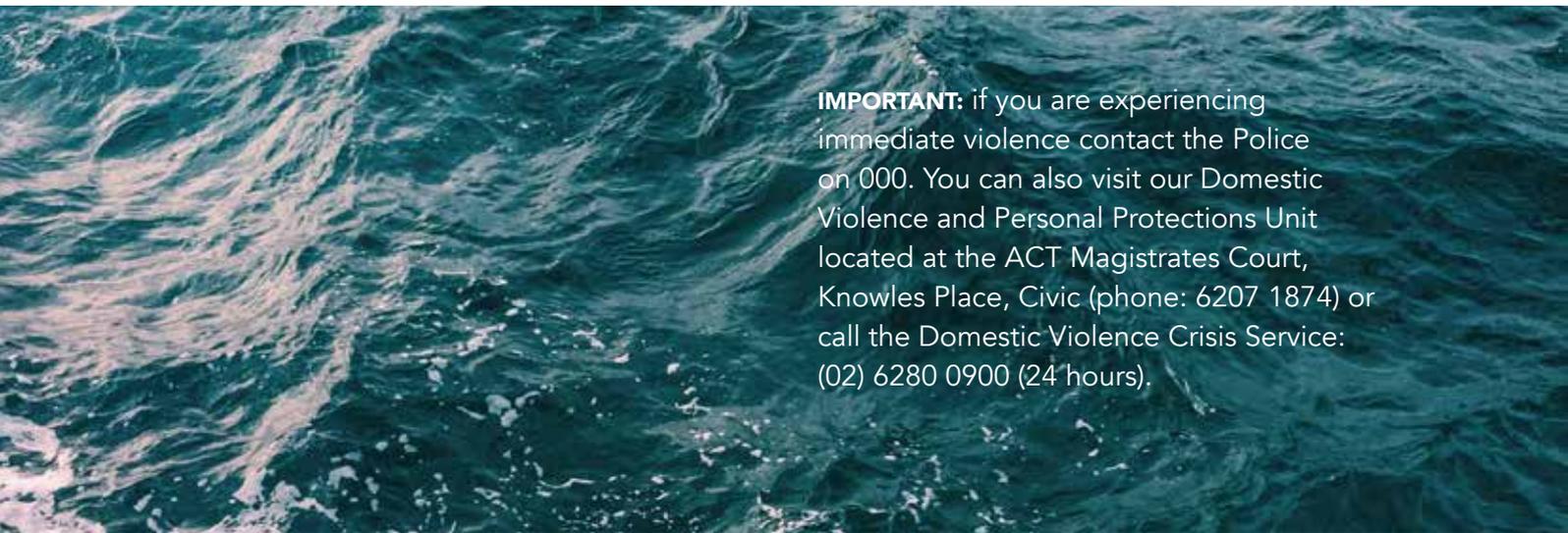
Factors that the Department will take into account include joint finances, shared living arrangements and responsibilities, joint participation in social activities, and other considerations such as the length of the relationship.

Examples of documents and other evidence that you might need to provide to the Department to prove that you are or have been in a genuine relationship include:

- Bank statements;
- Mortgage or lease (rental) documents;
- Household bills that have both partner's names on them;
- Mail or emails addressed to both partners;
- Joint invitations to parties, weddings and other events;
- Travel documents showing joint holidays; and
- Letters and phone statements that show you have been in contact if you've been apart for a period of time.

For a comprehensive list of the kinds of documents you may need to provide visit <https://www.homeaffairs.gov.au/visas/supporting/Pages/partner/Proof-that-your-relationship-genuine.aspx>

If you would like to see the legislative considerations visit <https://www.legislation.gov.au/Details/F2017C00582>



IMPORTANT: if you are experiencing immediate violence contact the Police on 000. You can also visit our Domestic Violence and Personal Protections Unit located at the ACT Magistrates Court, Knowles Place, Civic (phone: 6207 1874) or call the Domestic Violence Crisis Service: (02) 6280 0900 (24 hours).

Family violence

For the provisions to apply, an applicant must demonstrate that family violence has occurred. Importantly, the violence must have:

1. Been perpetrated by your partner or spouse; and
2. Have taken place while the relationship still existed.

What is family violence?

Relevant family violence is defined by the Regulations as:

- (a) *the alleged victim; or*
- (b) *a member of the family unit of the alleged victim; or*
- (c) *a member of the family unit of the alleged perpetrator;*
or
- (d) *the property of the alleged victim; or*
- (e) *the property of a member of the family unit of the alleged victim; or*
- (f) *the property of a member of the family unit of the alleged perpetrator;*

that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety.

Although not explicitly included in the Regulations, the Department of Home Affairs has indicated that this definition of 'relevant family violence is not limited to physical harm. It may also include other forms of abuse such as psychological and/or financial abuse, which is consistent with the above definition'. This broadly aligns with the wide definition of family violence in the *Family Violence Act 2016* (ACT).

Demonstrating family violence

There are two broad types of evidence an applicant can use to demonstrate family violence.

Judicial evidence

This includes:

- Any injunction/s granted against the applicants partner by a court under the *Family Law Act 1975* (Cth); or
- Other court orders, including restraining orders and family violence orders, made under State or Territory law to protect a person from violence by their partner; or
- Convictions or findings of guilt for an act or acts of violence committed by a person against their partner.

You will need to attach a copy of any court documents to your claim. It is very important to keep an extra copy of these documents in a safe place. If you have lost these documents you can apply to the court for new copies. You may be required to pay a small fee, and it is not guaranteed that the court will have a copy readily available on file.

If you wish to make an application for a family violence order, you can visit our Domestic Violence and Personal Protection Orders Unit located at the ACT Magistrates Court, Knowles Place Civic (phone: 6207 1874) or call our free helpline on 1300 654 314, 8:30am to 5.00pm Monday – Friday.

For more information on Family Violence Orders in the ACT, see the end of this resource.

If you do not have court documents or your application to the court is still in progress, you will have to use *non-judicial evidence* to support your claim.

Non-judicial evidence

This includes:

- A joint undertaking by the applicant and the perpetrator of family violence regarding the act/s of violence committed; or
- Evidence that the applicant has experienced family violence and that their partner committed that relevant family violence in the form of compulsory evidence.

Compulsory evidence

1. a statutory declaration; and
2. a minimum of two items of evidence from Table 1.

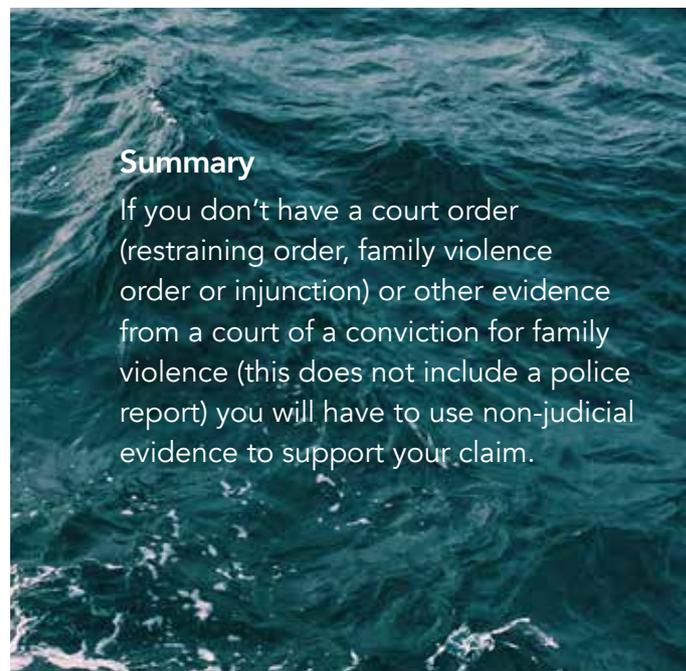
Table 1 is on page 15 of this resource.

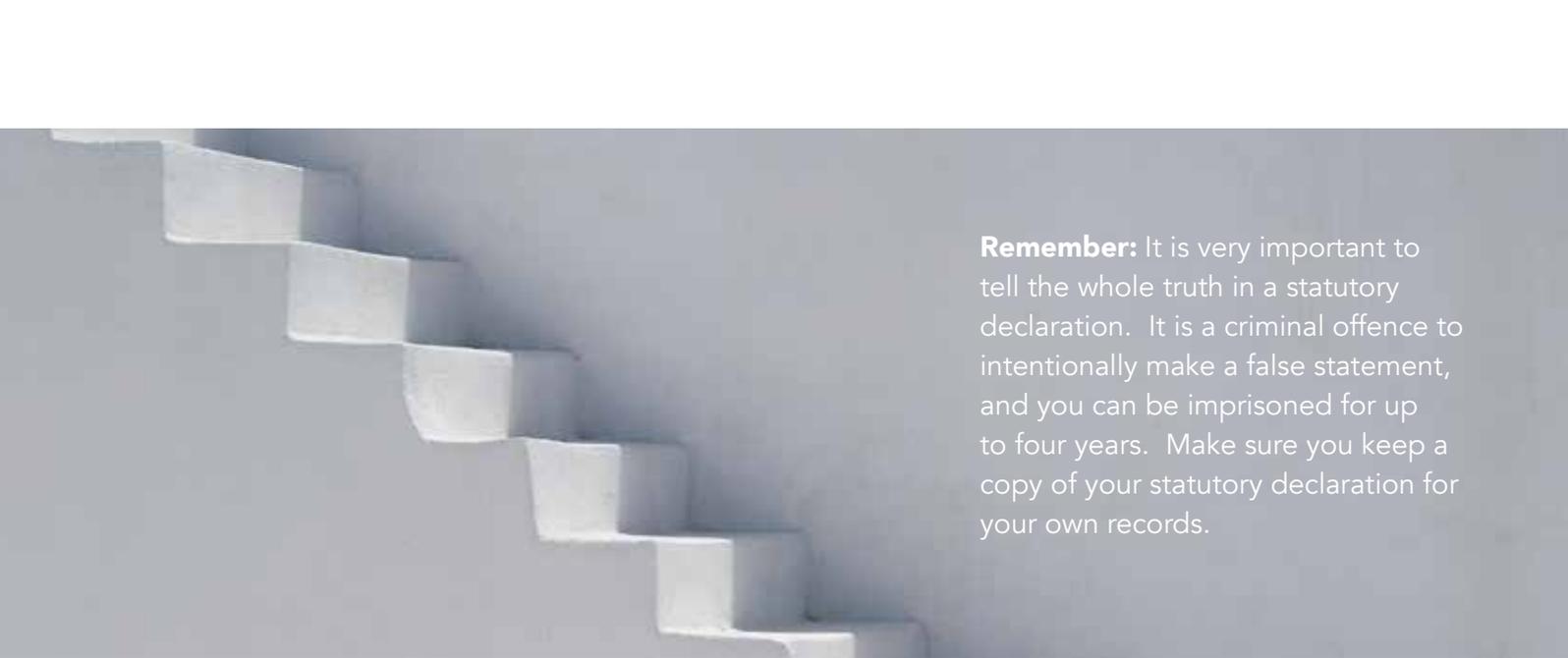
IMPORTANT: Two of the same items of evidence from Table 1 cannot be used as compulsory evidence. For example:

- 🗑️ 2 x Police Reports
- 🗑️ 1 x Police Report and 1 x Hospital report

Non-compulsory evidence

Any other evidence that is relevant, in addition to the minimum requirements outlined above, that may support the claim.





Remember: It is very important to tell the whole truth in a statutory declaration. It is a criminal offence to intentionally make a false statement, and you can be imprisoned for up to four years. Make sure you keep a copy of your statutory declaration for your own records.

Non-judicial evidence: Step by step guide

STEP 1 The statutory declaration

What do I need to do?

Every applicant seeking to use the family violence provisions needs to complete a statutory declaration. A statutory declaration is a binding, written document. You should use it to set out the facts of what has happened, including any specific incidences of family violence.

The next step is to sign and date the statutory declaration in front of an authorised witness. This witness will check the document and ask for proof of your identity, and then sign and stamp the statutory declaration. Examples of authorised witnesses include doctors, lawyers, or a Justice of the Peace.

For a complete list of authorised witnesses see Schedule 2 of the Statutory Declarations Regulations 1993 (Cth) or visit the Australian Government website: <https://www.ag.gov.au/Publications/Statutory-declarations/Pages/List-of-authorised-witnesses.aspx>

How do I do it?

The easiest way to complete a statutory declaration is to use the specialised forms provided on the Government website.

Most applicants will be able to use Form 1410. The form is available from <https://www.homeaffairs.gov.au/Forms/Documents/1410.pdf>

However, if you have already lodged a written claim of family violence before 24 November 2012 you will need to use Form 1040. This form is available from <https://www.homeaffairs.gov.au/Forms/Documents/1040.pdf>

STEP 2 Two other items of evidence

In addition to the statutory declaration you will also need to present two other items of evidence to support your claim. These can include police reports, medical reports, statutory declarations from psychologists, a letter from a domestic violence crisis centre or a women's refuge, and more. Where your children have been involved you can also provide letters from a school counsellor or school principle.

It is important to obtain these items of evidence early, and to make sure they comply with content and form requirements.

It is helpful for these items of evidence to include the following:

- the name of all parties involved, including the alleged victim and the person who has allegedly committed the relevant family violence;
- details of the relevant incident/s;
- a clear statement that in the qualified professional's opinion, relevant family violence has occurred;
- evidence, including injuries etc. that has been used to inform the professional's opinion; and
- details about their professional relationship with the alleged victim or members of their family unit and information about any services or support they have offered in relation to the alleged family violence.

For a complete list of items of evidence, and for a list of what these documents specifically need to include see Table 1 on page 15 of this resource.

STEP 3 Additional evidence

You may wish to include further items of evidence to support your claim. These are not required, but can help to show the extent and kind of family violence you or your family has suffered. Examples of this kind of evidence include:

- Text messages;
- Emails;
- Photographs; and
- Supporting statements.

You should attach these to your statutory declaration (from Step 1.) as 'annexures'. Make sure you include a brief description in the body of your declaration about what you are attaching.

Example:

"I received a text message from Mr Smith on 1 October 2016. A printout of that text message is annexed to this declaration and marked A".

You also need to ensure the Annexure clearly states that it is part of the statutory declaration. You can do this by adding the following statement to the bottom of the first page of each annexure:

This and the following [insert total number of pages in the annexure] pages is annexure [insert letter or number of annexure, for example A] referred to in the statutory declaration made by [insert the name of declarant] on [insert date declaration made].

It is important to make sure you follow these steps. If you don't, the decision maker may decide the declaration is invalid.

While you must meet the evidentiary requirements, submitting excessive evidence may complicate the process. Try to keep your claim clear, simple, and only add extra evidence that strongly supports your claim.



What happens next?

Submit your claim and all the attached documentation to the Department of Home Affairs. Once your claim has been received, the Minister is required to consider it.

If the minister is satisfied that family violence has occurred, the visa application will be evaluated. Provided all the other visa criteria are satisfied, it is likely the visa will be granted.

If the minister is not satisfied that family violence has occurred, the Minister must refer the application to an independent expert. That expert will make an assessment of whether family violence has occurred.

If the independent expert determines that family violence has occurred, the Minister must accept that opinion and proceed to consider the visa application on that basis. However, if the independent expert does not believe that family violence occurred, then the visa will not be granted.

The minister may also decide not to grant the visa on other grounds (even if the minister has accepted that family violence has occurred).

Lodging an appeal

If your visa application has been refused you can lodge an application for review of the decision with the Administrative Appeals Tribunal (AAT).

Time Limit

The letter from the Department that contains the notice of your decision will specify a time limit within which you can lodge an appeal. You must lodge your application within this time limit. The AAT does not have the power to grant you an extension.

Cost

Every applicant lodging an appeal must pay a fee of \$1,731.00.

If you cannot afford this, you can apply to the AAT to reduce it by 50%. You must provide evidence that payment of the fee has caused, or is likely to cause you, severe financial hardship.

To request a fee reduction, lodge Form M11 'Request for fee reduction' and attach your supporting evidence. This form is available from <http://www.aat.gov.au/migration-and-refugee-division/mrd-resources-1/forms>

Wait times

The time taken for the AAT's Migration and Refugee Division to review your case depends on a range of factors including:

- the type of case;
- the complexity of your case;
- how busy the AAT is with other cases; and
- the date the case was given to a division Member to conduct the review.

The average wait time for visa determination in the AAT is 287 days from the date of application lodgement.

Attending a hearing

The AAT may decide to conduct a hearing to review your case. It is important for you, as the applicant, to attend this hearing. The hearing will provide you with an opportunity to present arguments and evidence that support your visa claim.

The AAT will not always conduct a hearing, but if they do, they are obliged to invite you. Make sure your phone number and address is up to date so that the Tribunal can easily contact you.

What will the AAT do?

The AAT will review the decision made by the Minister to refuse your visa. It will look at all the evidence in the case, and may call extra people in to supply additional evidence.

The AAT will either:

- Agree with the original decision (refuse your visa);
- Change or vary the original decision;
- Disagree with the original decision (grant you a visa); or
- Refer the matter back to the Department for reconsideration.

What if the AAT agrees with the decision to refuse the visa?

You should immediately seek advice from a migration lawyer. There are limited situations in which an applicant can ask for a review of an AAT decision. One situation is where the Tribunal has made a mistake in applying the law. In that case, the applicant can refer the matter to the Federal Circuit Court.

Alternatively, the applicant can seek Ministerial intervention where they can provide compelling and compassionate reasons for intervention.

Legal Aid ACT may be able to help you with your migration matter, or refer you to an appropriate service. For more information call our free helpline on 1300 654 314, 8.30am to 5.00pm Monday – Friday.





IMPORTANT: If you are experiencing violence it is important to seek help. Contact the Police on **000**.

Frequently asked questions

My partner became violent only after I ended our relationship. Does that count?

No. The violence must have occurred during the course of the relationship.

What if I have experienced violence from another person?

For the provisions to apply, the family violence must have been committed by the applicant's partner or spouse.

This means that only violence committed by your partner or spouse is relevant to your application. An exception to this is if your partner or spouse committed family violence with the assistance of someone else. Including those details will be important, as it will help the Minister gain a full understanding of how the incident(s) occurred.

I need to write a statutory declaration but I don't know where to start. What do I do?

Trying to compose and gather all the evidence you need to support your claim can be overwhelming. A helpful tip is to

start by writing down a list of the times you remember that abuse occurred, and a rough outline of the facts in each case. If you can, record the approximate dates of the incidents, and the frequency with which they occurred. Try not to make broad or general statements but stick to specific incidents.

It is important that you write the statutory declaration yourself, since it is meant to be an accurate representation of your experience. You can seek assistance from a social worker who can read over your declaration and check for any spelling or grammatical errors. They may also be able to provide emotional support, and direct you to counselling services.

What if the support worker doesn't meet the regulatory standards?

Where a support worker is not a qualified professional for the purposes of the regulations, there are a number of ways they can still assist the client.

A support worker may:

- Assist the client in gathering their own evidence, including contacting other services on their behalf (with consent);
- Provide a support letter or other supporting document as extra information;
- Attend interviews with the client (by request).

However, it is critical that the client meets the necessary evidence requirements *as well*. No matter how much supporting material is provided, they must include two prescribed documents from separate classes.

What if the qualified professional lacks sufficient information?

If the qualified professional does not feel they have sufficient information to state that in their professional opinion, a person is a victim of relevant family violence, they should immediately inform the client so that the client can seek assistance elsewhere.

What if my partner was unfaithful?

Sometimes clients will allege infidelity on the part of their partner or spouse when seeking advice. Infidelity does not constitute relevant family violence for the purposes of access to the Provisions.

What if I re-enter the relationship with my partner?

The department should be immediately notified of the change in circumstances and, where applicable, any change in address.

The best way to do this is to complete Form 929 available from <https://www.homeaffairs.gov.au/Forms/Documents/929.pdf> or send the Department a letter.

If, on receipt of this information, the Department is satisfied that the relationship is 'genuine and ongoing' it may reissue or approve the continuation of a relevant temporary visa.



Where to get help

ACT Policing

Phone: 000 in an emergency or life threatening situation.

Website: www.police.act.gov.au/safety-and-security/family-violence

ACT Domestic Violence Crisis Service

DVCS is an inclusive service working with children, young people and adults who experience violence and/or controlling behaviours in their relationships.

Phone: 6280 0900 24 Hour Crisis Line

Website: www.dvcs.org.au

Australian Red Cross—Migration and Support Services

Address: Red Cross House, 3 Dann Close, Garran ACT 2605

Monday – Friday 9am to 5pm

Phone: (02) 6234 7695

Canberra Rape Crisis Centre

CRCC is available for any woman, man, young person or child who has experienced sexual violence in any of its forms recently or historically. CRCC also offer support for family and friends who are supporting a victim/survivor of sexual violence.

Phone: 6247 2525, 7am to 11pm

Website: www.crcc.org.au

Department of Home Affairs

For visa-related enquiries visit the department's website.

Phone: 131 881 Monday – Friday 8.30am to 4.30pm

Website: <https://www.homeaffairs.gov.au/>

Legal Aid ACT

For migration assistance phone our free Legal Aid Helpline

Phone: 1300 654 314, Monday – Friday 8.30am to 5.00pm

Email: migration@legalaidact.org.au

Migrant and Refugee Settlement Services

Address: Level 2, Theo Notaras Multicultural Centre, 180 London Circuit, Civic, ACT 2601.

Phone: (02) 6248 8577 Monday – Friday: 9.00am to 5.00pm

Email: mars@marss.org.au

National Sexual Assault, Domestic & Family Violence Counselling Service

Professional counselling and support 24 hours / 7 days a week.

Phone: 1800RESPECT (1800 737 732)

Website: <https://www.1800respect.org.au/>

Translating and Interpreting Service

Phone: 131 450, 24 hours / 7 days a week

Women's Legal Centre

Women's Legal Centre is a community legal centre for women in Canberra
Phone (From Canberra): 02 6257 449,
Phone (Outside Canberra): 1800 634 669
Monday – Friday 9.30am to 12.00 noon
Website: <http://womenslegalact.org/>

Helpful resources

Administrative Appeals Tribunal, Migration and Refugee Division

<http://www.aat.gov.au/migration-and-refugee-division>

Family Safety Pack in 46 languages

<https://www.dss.gov.au/family-safety-pack>

Migration Regulations 1994 (Cth)

<https://www.legislation.gov.au/Details/F2017C00582>

Statutory Declarations Act 1959 (Cth)

<https://www.legislation.gov.au/Details/C2004C00189>

Statutory Declarations Regulations 1993 (Cth)

<https://www.legislation.gov.au/Details/F2016C00590>

Case worker checklist

- ❑ Is my client on a relevant temporary visa?
- ❑ Is (or was) my client in a genuine relationship?
- ❑ Is my client alleging relevant family violence?
- ❑ Has that violence been perpetrated by the client's partner or spouse?
- ❑ Did the alleged violence occur during a genuine relationship?
- ❑ Has my client completed a Statutory Declaration form?
- ❑ Has my client attached and referenced any relevant evidence to that form?
- ❑ Has my client gathered two additional items of evidence from the prescribed list?
- ❑ Are those items of evidence from different classes?
- ❑ Is there any other relevant supporting information or evidence that should be attached?

Supporting evidence: Tips to meet the test

1. Make sure the document includes an opinion

Invalid: A simple description of evidence. For example, noting that injuries suffered are consistent with the client's allegations.

Valid: A description of the client's injuries accompanied by a professional opinion that relevant family violence has taken place.

2. Support that opinion with evidence

Invalid: A statement that, in the qualified professional's opinion, relevant family violence has occurred, or that the client's presentation is consistent with a history of family violence without supporting evidence.

Valid: A statement that, in the qualified professional's opinion, relevant family violence has occurred, or that the client's presentation is consistent with a history of family violence AND detailed evidence and observations are included which clearly show what the opinion is based on.

3. Use precise language

Invalid: Imprecise, vague or tentative language, which makes it unclear whether, in the qualified professional's opinion, relevant family violence has occurred.

For example:

"it appears that Ms Smith may have suffered trauma which could be the result of abuse by her partner".

Valid: The opinion is stated in strong terms, and uses decisive language.

For example:

"The x-rays, taken 1 December 2016, clearly indicate that Ms Smith suffered a broken arm as the result of blunt force trauma to her ulna and radius. It is my professional opinion, based on my interactions with the patient and the nature of the injuries she sustained, that she suffered family violence at the hand of her partner, Mr Smith on 1 December 2016."

Type of Professional	Necessary credentials	Documentation	Required Details
Registered medical practitioner or Registered nurse (within the meaning of section 3 of the Health Insurance Act 1973)	Interacts with applicant when performing professional duties associated with their role.	<ul style="list-style-type: none"> • medical report; or • hospital report; or • discharge summary; or • statutory declaration 	<ul style="list-style-type: none"> • identifies the alleged victim; and • details the physical injuries or treatment for mental health that is consistent with the claimed family violence
A police officer of a State or Territory or A police officer of the Australian Federal Police.	Must be an authorised officer.	<ul style="list-style-type: none"> • police report; or • record of assault; or • statutory declaration; or • witness statement that is made by someone other than the alleged victim to a police officer during the course of a police investigation. 	<ul style="list-style-type: none"> • identifies the alleged victim; and • identifies the alleged perpetrator; and • details an incident/s of family violence.
An officer of a child welfare authority, or A child protection authority of a State or Territory.	Must be an authorised officer.	<ul style="list-style-type: none"> • report; or • statutory declaration 	<ul style="list-style-type: none"> • details fears for the dependent child's safety due to family violence within the household; and • identifies the alleged perpetrator.
Staff member of a women's refuge, or staff member of a family/domestic violence crisis centre.	Employee must have interacted with the applicant in the course of performing the professional duties associated with their role.	<ul style="list-style-type: none"> • letter; or • assessment report (on the organisations letterhead). 	<ul style="list-style-type: none"> • states that the alleged victim has made a claim of family violence; and • states whether the alleged victim was subject to family violence; and • identifies the alleged perpetrator; and • details any evidence used to form the opinion.
A registered psychologist in a State or Territory	Must have treated the alleged victim or interacted with them in the course of performing the duties of a psychologist.	<ul style="list-style-type: none"> • Statutory declaration 	<ul style="list-style-type: none"> • states in their opinion the alleged victim was subject to family violence; and • details the reasons for the opinion; and • identifies the alleged perpetrator.
Social Worker	Must be a member of the Australian Association of Social Workers, or be eligible for membership (and state qualifications). Must have provided counselling or assistance to the alleged victim while performing the duties of a social worker.	<ul style="list-style-type: none"> • Statutory declaration 	<ul style="list-style-type: none"> • states in their opinion the alleged victim was subject to family violence; and • details the reasons for the opinion; and • identifies the alleged perpetrator.
A family consultant appointed under the Family Law Act 1975 or a family relationship counsellor who works at a Family Relationship Centre listed on the Australian Government Family Relationships website.	Family consultant must be employed by the Family Law Court of Australia, the Family Court of Western Australia, or the Federal Magistrates Court of Australia. If employed under the Family Law Act 1975, required to declare and provide documentary evidence.	<ul style="list-style-type: none"> • Statutory declaration 	<ul style="list-style-type: none"> • states that the alleged victim has been treated or counselled, by the family consultant or family relationship counsellor; and • states that in their opinion the alleged victim was subject to family violence; and • details the reasons for the opinion; and • identifies the alleged perpetrator.
School counsellor or school Principal.	Must have engaged with the applicant or applicant's child in their professional capacity.	<ul style="list-style-type: none"> • Statutory declaration; or • a letter on the school's letterhead 	<ul style="list-style-type: none"> • states that they have made, or been made aware of, observations that are consistent with the alleged victim's claims that they were subject to family violence; and • identifies the alleged perpetrator; and • provides details of those observations.

Family Violence Orders in the ACT

Family Violence Orders are orders made by the Court under the *Family Violence Act 2016* (ACT) to protect a person from family violence. Family violence is violence committed by a family member.

A family member is:

- A domestic partner or former domestic partner;
- An intimate partner or former intimate partner;
- A relative;
- A child of a domestic partner or former domestic partner; or
- A parent.

Family Violence Order

You can apply for a Family Violence Order if a family member has engaged in any of the following behaviour:

- Physical violence or abuse;
- Sexual violence or abuse;
- Emotional or psychological abuse;
- Economic abuse;
- Threatening behaviour; or
- Coercion or any other behaviour that controls or dominates the family member and causes the family member to fear for their safety and wellbeing or that of another person.

This includes if a child is exposed to any of the above behaviour or the effects of that behaviour.

The definition of family violence is very broad and is designed to include all sorts of behaviour that is about control and power imbalances. It includes things like:

- Sexually coercive behavior;
- Damaging property;
- Harming an animal;
- Stalking; or
- Deprivation of liberty.

Applying for a Family Violence Order

1. Complete an application form.
Application forms are available at the ACT Magistrates Court registry.
2. Lodge the application with the ACT Magistrates Court between 9.00am and 11.30am Monday to Friday.

Applications will only be accepted during these hours. After-hours orders will be made only if there is a risk of violence to a person and the order is immediately necessary to ensure safety or prevent substantial damage to property.

After the application is made, the Court will set a date for a return conference (usually within 2–10 days).

Both you and the other person must attend court, but you do not have to see the other person if you do not wish to. The conference will identify whether the matter can be resolved by agreement between you and the other person.

Interim Orders

The Court can make an interim order where it is necessary to protect a person or their property. Usually interim orders are only made when applying for a final order, but there are exceptions to this.

Orders

Final Family Violence Orders can last up to two years. If a person has an order against them, it does not mean they have committed a criminal offence. However, if they breach any of the order conditions, they can be arrested and charged by police with a criminal offence.

Assistance

For advice, information and assistance with the application, talk with a lawyer at the Legal Aid Family Violence and Personal Protection Orders Unit at the Magistrates Court.

Phone to make an appointment: 1300 654 314, or drop into the Magistrates Court, Knowles Place, Canberra.

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Migration and family violence provisions