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Attorney-General's Department

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Inquiry into the Family Law Amendment (Federal Family Violence Orders) Bill 2021

**Attorney-General's Department supplementary
submission to the Senate Legal and Constitutional
Affairs Legislation Committee**

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1. Introduction

The Attorney-General's Department (the department) provides this supplementary submission to the Senate Legal and Constitutional Affairs Legislation Committee (the Committee) to support its inquiry into the Family Law Amendment (Federal Family Violence Orders) Bill 2021 (the Bill). This submission is designed to respond to evidence given by witnesses to the Committee at its public hearing on 14 July 2021, and to supplement evidence given by the department at that public hearing and in its submission of 17 June 2021.

This supplementary submission seeks to address the following issues raised in submissions and evidence before the Committee:

- the Federal Family Violence Order (FFVO) framework in practice, including the application process for a FFVO and how an application may proceed before a listed family law court
- the interaction between FFVO applications and state and territory family violence order systems
- service and enforcement of the orders, including provisioning to the National Police Reference System (NPRS), the recognition of the orders under the National Domestic Violence Order Scheme (NDVOS), and role of states and territories in enforcing the orders
- the proposal to implement the scheme through a time-limited trial in selected registries, evaluating the impact before legislating to make changes on a permanent basis.

The department recognises that measures to support the implementation of the Bill are critical to ensure that the new FFVO scheme can operate effectively, with work on implementation arrangements being advanced separately and concurrently to the Bill. A commencement timing up to 12 months after Royal Assent of the relevant Bill measures is designed to allow for the rollout of these implementation measures, including allowing amendments to state and territory legislation to allow the orders to be enforced under the NDVOS. The FFVO scheme will be monitored once it is in operation, including with respect to its delivery against the policy objectives, and any further resourcing and training needs.

The department thanks the Committee for considering this submission. The department would be happy to provide any further information to the Committee to respond to issues raised by submitters if required.

2. FFVO framework in practice

FFVOs would be available to persons who have a family law matter before a listed family law court,¹ and who do not wish to navigate a separate state or territory system to obtain criminally-enforceable protection.

The Bill is designed to provide the family law courts with flexibility in respect of how FFVO matters proceed in practice. This takes into account the new area of work and new cases FFVOs would entail, as well as major existing work being undertaken by the federal family law courts to transform case management pathways generally as a result of the commencement of the Federal Circuit and Family Court of Australia on 1 September 2021 pursuant to the *Federal Circuit and Family Court of Australia Act 2021*. The flexibility is intended to allow the courts to be able to monitor the new jurisdiction and implement and modify appropriate case management processes as required.

Applying for FFVOs

Availability of orders

The Bill allows listed courts to make two new kinds of criminally-enforceable orders for protection from family violence – FFVOs in relation to children, and FFVOs in relation to parties to a marriage. FFVOs in relation to children apply equally to married and de facto persons. FFVOs in relation to parties to a marriage are not available to de facto persons, noting the Commonwealth’s limited constitutional powers to legislate in respect of all de facto relationships. State and territory family violence orders will remain the primary form of protection for de facto (and married) couples.

The Bill enables a FFVO to be applied for and made at any time during the relevant family law proceeding.

Initiating application

FFVOs would be available to a discrete sub set of people who are already before the family law courts.

Standalone applications for FFVOs would not be available, except in cases where a person seeks to have their existing personal protection injunction revoked or varied and replaced with a FFVO. Otherwise, FFVOs could be sought either upon the commencement of proceedings under Part VII of the *Family Law Act 1975* (the Act) (relating to children) or proceedings for an order or injunction arising out of the marital relationship, or once proceedings have commenced. To commence family law proceedings, a person must file an Initiating Application. A person would be able to apply for a

¹ Pursuant to item 2 of the Bill, a ‘listed court’ is proposed to include the federal family law courts, the Family Court of Western Australia, and the Magistrates Court of Western Australia constituted by a Family Law Magistrate of Western Australia, sitting at any place in Western Australia.

FFVO through this same Initiating Application form. If proceedings have commenced and the person wishes to seek a FFVO, an Amended Initiating Application form would be filed.

The court would also be able to make a FFVO on its own motion, without a FFVO application having been made in the form of an Initiating Application. It is anticipated this may occur after a judicial officer has heard evidence at trial relating to the initial family law matter, particularly in the case of self-represented litigants. The family law courts have significant experience in working with litigants with limited legal backgrounds, and are well placed to identify persons who may be in need of a FFVO, but due perhaps to inexperience or trauma, have not applied for one.

Filing fees

The filing of an Initiating Application attracts a filing fee under the *Family Law (Fees) Regulation 2012* (the Regulations). A FFVO application made as part of the same Initiating Application as the initial family law matter would not attract a separate filing fee.

The Regulations prescribe various fee exemptions which may be applicable to some persons:

- certain categories of people are exempt as a matter of law from paying certain fees, this includes those who are in receipt of a grant of legal aid (section 2.04)
- a Registrar or authorised officer of the court has discretion to exempt a person from paying a fee in circumstances where this would 'cause financial hardship' (section 2.05). This is based on an assessment of the individual's income, day-to-day living expenses, liabilities and assets.

Section 2.10 also provides for the deferral of payment of fees in certain circumstances including urgency and having regard to the financial circumstances of the person.

Disposal of matters before the court

Listings before the court

The family law courts have the discretion to implement appropriate case management processes. As part of the 2021-22 Budget, the Federal Government announced \$60.8 million in funding (over four years) to support the federal family law courts to fundamentally reform and optimise their case management pathways as a result of the commencement of the Federal Circuit and Family Court of Australia on 1 September 2021. Major reconfiguration work is currently underway by the federal family law courts. This is expected to affect how matters will be run in that court. This includes an increase in the number of Senior Registrars and Registrars. This funding will support the engagement of 25.4 additional registrars.

For a FFVO sought concurrently with the commencement of the family law proceedings the matter would generally next be listed for a directions hearing, the timing of which would be dependent on the court's triaging of applications, judicial resourcing and availability.

The next stages of the application for a FFVO beyond the first directions hearing will depend on the circumstances of the case. It will be at the discretion of the court as to how the matter should best proceed. For example, there may be further directions hearings or the matter could be listed for hearing, with directions made as to the filing of evidence.

It is anticipated that most FFVO applications would be contested by the respondent. If a party were to challenge the evidence being put before the court that would primarily be by way of cross-examination of the other party and of witnesses at a hearing. How quickly a final hearing could occur would depend on the time needed to serve the application, material to be filed by the parties and other evidence to be gathered.

Determinations of fact

The ability of the courts to make an early finding of fact about family violence for a FFVO would be dependent on the circumstances of the case and whether there is sufficient evidence before the court to allow it to make such a finding.

There are two separate limbs to the test for the issue of a FFVO. The first limb of the test requires the court to be satisfied on the balance of probabilities that the protected person has been subjected to (or in the case of a child, subjected or exposed to) family violence. This would require evidence to be put before the court to allow it to make a finding, on the balance of probabilities, that family violence has occurred. It is anticipated that in practice such a finding would only be able to be made after a hearing has occurred.

The second limb of the statutory test for the issue of a FFVO requires the court to be satisfied on the balance of probabilities that there are reasonable grounds to suspect that the protected person is likely to be subjected to (or in the case of a child, subjected or exposed to) family violence. This does not require the court to make a finding that family violence has occurred.

The second limb of the test is capable of being met at an earlier stage of the proceedings, subject to the evidence before the court and circumstances of the case. This means it may be possible for the court to make an order without a contested hearing. However, this would depend on whether the respondent wishes to defend the making of the order and challenge the evidence via cross-examination.

Identification of family violence

A significant proportion of the matters the family law courts deal with involve allegations of family violence. Judges routinely deal with matters involving allegations of family violence and make determinations based on the evidence available in the context of parenting and financial proceedings. The courts are well placed to consider FFVO applications, weigh and assess the evidence, and make a determination.

The Bill requires the court to consider a number of matters before it can make a FFVO.

In addition to the statutory test, the court would need to take into account as the primary consideration the safety and welfare of the child, or the safety and welfare of the protected person, including the need to protect the person from being subjected to family violence. The court would also be required to take into account, as relevant, a number of other matters relevant to the applicant's protection needs.

Outside of the Bill, a number of other measures are designed to support the courts in the identification of family violence and victims, including:

- funding committed by the Government as part of the 2020-21 Budget to develop on-line training modules on FFVOs, including for the listed courts
- work underway to enhance access to information through finalisation of the *National Strategic Framework for Information Sharing between the Family Law and Family Violence and Child Protection Systems*
- conducting a pilot of a significantly enhanced approach to identifying and managing family safety risk in the family law courts ('the Lighthouse Project')
- co-funding with the states and territories measures to improve the family safety competency of judicial officers, such as the development and maintenance of a National Domestic and Family Violence Bench Book and the delivery of the Family Violence in the Court training program
- engagement of the Safe & Together Institute by the Family Court and Federal Circuit Court to deliver an additional training program on family violence in the context of family law disputes, for family consultants, registrars and judicial officers.

Interaction with the initial family law matter

How FFVO proceedings will be conducted with the Part VII family law proceeding (relating to children) or matrimonial cause proceeding will depend on the circumstances of the case. It will be at the discretion of the court about how it should best be handled and whether the matters should be heard contemporaneously or separately.

There is no impediment under the Bill to the matters being heard contemporaneously. It may be that in a number of matters the hearing of a FFVO application and the initial family law matter together would better achieve an objective of reducing court events and costs for parties. This approach would be consistent with the 'one judge, one family model' and recommendation 1 of the Australian and New South Wales Law Reform Commissions' 2010 report *Family Violence – A National Legal Response*.

Similarly, it will be at the discretion of the court as to how the initial family law matter should proceed if a FFVO is made early in the proceedings based on a finding that family violence has occurred.

The role of Registrars in the FFVO framework and any potential delegation of functions is also being considered by the courts.

Role of the Independent Children's Lawyer (ICL)

An ICL is an independent legal representative appointed by legal aid commissions at the request of the court, parties, or other relevant person, to advise the court as to what is in the child's best interest (section 68L of the Act). Their role includes obtaining information and evidence to assist them form an independent view as to, and act in proceedings according to, what is in the child's best interest (section 68LA).

The Bill would allow ICLs to apply to the court for a FFVO in relation to a child. The policy objective behind this is to provide an option for ICLs to apply for an order to protect a child in circumstances where the ICL believes that this is an appropriate course of action and in the child's best interests. This may include situations in which the dynamics of power and control in a violent relationship have affected a party's willingness or ability to apply for a FFVO to protect a child. The ability of ICLs to apply for a FFVO that lists a child as a protected person is consistent with their ICL duties concerning the child's welfare and best interests, and applying for an FFVO would be at their discretion, subject to other evidence and considerations.

ICLs routinely make submissions to the court recommending the adoption of a particular course of action that the ICL identifies is in the best interests of the child (section 68LA(3)). These recommendations may not always accord with one of the parties' views, and may lead to claims of lack of impartiality.

The practical implications of an ICL applying for a FFVO may be that the court may list both a parent and child as protected persons on the same order. This may create a perception that the ICL is not independent and is biased against the person to whom the order is directed. The consequences of the respondent's perception of ICL partiality towards the protected parent may exacerbate conflict. The ICL may be required to engage in a contested hearing on the FFVO application alone should the Respondent elect to contest the FFVO application, and/or defend themselves against allegations of lack of impartiality after making an FFVO application. However, ICLs routinely make submissions to the court recommending the adoption of a particular course of action that the ICL identifies is in the best interests of the child (section 68LA(3)). These recommendations may not always accord with one of the parties' views, and may lead to claims of lack of impartiality. ICLs are well versed at making independent judgments and managing competing interests as part of their role.

ICLs are trained under the National Training Program which includes a module on Family and Domestic Violence. There would be a role for the funded FFVO training and awareness raising packages to include detail about the role of the ICL in the FFVO scheme, and in monitoring the application of the provisions once the scheme commences operation.

Application of rules of evidence

In child-related proceedings under Part VII of the Act, most provisions of the *Evidence Act 1995* do not apply except for those set out in section 69ZT(1) (for example, the court's control over

questioning of witnesses and improper questions) or unless the court decides otherwise (section 69ZT). The rules of evidence do apply to property proceedings unless parties consent to them being disposed of.

On this basis, it is not necessary for the Bill to specifically refer to the application of the rules of evidence as the ordinary provisions apply.

Consent orders

The Bill does not specifically provide for the court to make FFVOs by consent without admissions. This is also currently the case in relation to personal protection injunctions, where neither the Family Law Act, the *Family Law Regulations 1984* nor *Family Law Rules 2004* contain specific provisions for such injunctions to be made on the basis of consent without admissions. However, the department understands that courts have made personal protection injunctions on a 'without admissions' basis previously. The family courts also have broad powers to make orders in relation to matters for which they have jurisdiction. This includes, for example, under sections 44 and 140 of the *Federal Circuit and Family Court of Australia Act 2021*, where both Divisions of the Federal Circuit and Family Court of Australia will have the power to make orders of such kinds as the Court considers appropriate.

Consistent with evidence given to the Committee, it is anticipated that interest in consent orders in the context of family law proceedings may be low, noting the criminal and other consequences for breaching a FFVO.

Obtaining copies or providing an explanation of the order

The court would not be permitted to cause a copy of the FFVO to be made available to the child, or explained to the child, unless the court is satisfied that it is in the child's best interests to receive the order or explanation. This makes the child's best interests central.

It may be inappropriate for the court to cause a copy of the order to be made available or explained where the person protected is a child. Very young children covered by the order are unlikely to understand the explanation. For older children, it may not be in their best interests, and indeed may be distressing, to be exposed to parental controversy via a copy or explanation of a FFVO.

Where the court is not satisfied that it is in the child's best interests to receive a copy or explanation of the order, there would be alternative options available. The court would be permitted to cause a copy of the order to be made available to an ICL representing the child's interests. The court would also be permitted to cause a copy or an explanation of the order to be given to another person that the court considers appropriate, such as a parent or guardian of the child.

Final order framework

The Bill is a product of extensive collaborative efforts of the National Personal Protection Injunction Working Group (the Working Group), comprising senior officials from Commonwealth and state and

territory police, justice and courts. The Working Group agreed that a FFVO should only be made as a final order.

The starting point in designing the FFVO framework was the family law personal protection injunction framework, consistent with the recommendations to criminalise those injunctions. It is noted that personal protection injunctions under sections 68B and 114 are often made on a short-term basis by the family law courts to address immediate risk issues, however the Act does not set out a separate lower test for the issue of the injunction on this basis.

The policy objective of a final FFVO framework includes to minimise exposure to court processes by reducing the need for applicants to attend the listed court in relation to an interim protection order, and also to obtain a final protection order. The department is aware that personal and financial implications may arise for multiple court events. If a party's initial family law matter were resolved at an early stage, it would be expected that the person protected under an 'interim FFVO' would need to return to the court for a final FFVO, litigating the same issues in dispute.

The FFVO framework is intended to operate alongside and complement the state and territory family violence order schemes. State and territory courts would continue to be the primary forum for the issue of family violence protection orders, including interim orders. This reflects the position of expert reports and Commissions that considered state and territory courts should remain the primary jurisdiction for obtaining a protection order, particularly given the role of police in those courts, and the wider range of persons who may be protected by state and territory family violence legislation. State and territory police and courts remain best placed to support individuals who are seeking urgent protection from family violence.

The Bill would also provide that, as an alternative to a person applying for a FFVO, a listed court could make such an order on its own motion. It is anticipated this may be commonly used where the court identifies persons who may be in need of a FFVO following hearing evidence at a contested hearing between the parties, but have not applied for one. The Bill would also impose an active obligation on the court to consider if a FFVO should be made in proceedings under Part VII in relation to a child, if the Notice of Child Abuse, Family Violence or Risk alleges there has been, or is a risk of (if proceedings are delayed), abuse or family violence to the child by one of the parties. In practice, this obligation may mean the court is called to consider a FFVO at an early stage of the initial family law proceedings. The courts may also become aware of potential risks of family violence through other initiatives such as the pilot of the co-location of child protection and policing officials within family law courts to improve information sharing, and 'the Lighthouse Project'. This may support the court's capacity to make orders on its own motion.

It is also worth noting that the Bill would allow the listed court to vary, revoke or suspend a FFVO (including one made early in proceedings), on its own motion or on application, where it is appropriate in the circumstances and there is a change in circumstances or new material is brought

before the court. The ability for the courts to continue making personal protection injunctions will also be preserved.

However, the implications of a final FFVO framework are recognised and have been considered, including the timeframes within which protection could be available under the scheme. A final FFVO would be subject to usual procedural fairness and due process requirements, including the opportunity to cross examine witnesses, which would have implications on the opportunity for the courts to be able to hear and determine a FFVO application at an early stage without workload impacts.

3. Interaction between FFVOs and state and territory orders

States and territories have a comprehensive range of interim and final family violence protection orders. The FFVO framework is intended to operate alongside and complement, rather than replicate, the existing state and territory protection order systems, by providing a stronger protection framework at the federal level for those before the family courts.

FFVOs would be available to those who have a family law matter before a listed family law court, and who do not wish to navigate a separate state or territory system to obtain criminally-enforceable protection. The best system in which to get protection will depend on the circumstances of the case, including the stage at which the family law proceedings are up to, noting family safety risks may arise or become evident at the time of final hearings relating to the parenting or financial proceedings.

State and territory police and courts remain best placed to support individuals who do not have current family law proceedings on foot, or who are seeking urgent protection from family violence even if they have current family law proceedings on foot.

Features of Bill to manage the interaction with state and territory orders

The Bill has been designed with deliberate features to manage interaction with state and territory orders as appropriate. The Bill would restrict a person from applying for a FFVO, and a court from making a FFVO, where there is a state or territory family violence order in force between the same parties. The federal family law court would be required to search the National Police Reference System (NPRS) before making a FFVO. The Bill also provides state and territory courts with a power to revoke or suspend a FFVO in proceedings for a family violence order, to avoid inconsistent orders.

However, circumstances may arise where parties have both a FFVO, and a state or territory family violence order in place at the same time. This may include situations where the FFVO is obtained first. It may also include situations in which a court does not comply with the requirement not to make a FFVO where there is a state or territory family violence order in place. Such a failure would

not invalidate such a FFVO. In these circumstances, provided that the family violence order and the FFVO could operate concurrently, both orders would be valid and enforceable. However, a state or territory family violence order would be invalid to the extent of any direct inconsistency with a FFVO.

There would be a direct inconsistency if it would not be possible to comply with a condition of the family violence order without breaching a condition of the FFVO, or vice versa. Where some of the terms of a family violence order are directly inconsistent with the terms of a FFVO, but other terms are not directly inconsistent, the family violence order would continue to be valid to the extent that it is not inconsistent. The conditions of the family violence order that are not inconsistent with the FFVO would remain enforceable.

Abuse of process

It is anticipated that it would be an unlikely scenario that a person would bring forward spurious family law proceedings for the ulterior purpose of bringing a FFVO application. It is noted it would already be possible for parties to family law proceedings to bring a 'cross-type' application for a personal protection injunction.

FFVOs would be available to a discrete subset of people who are already before the family law courts seeking protection.

Family violence is a key focus of the family law courts, who have experience and training programs in the identification of family violence.

The courts also have extensive case management powers, including a broad power to summarily dismiss proceedings or applications that the court considers to be frivolous, vexatious or an abuse of process. The court is also able to make vexatious proceedings orders where a person has frequently instituted or conducted vexatious proceedings, to restrain them from initiating further litigation.

There is always the potential for malicious persons to seek to abuse processes, particularly where there are different systems at play. The Bill does not create a vulnerability in this respect, instead, the Bill includes a number of deliberate measures designed to manage interactions between the orders in the different systems. It is not appropriate that new tools and initiatives that support victims are withheld on this basis.

To support state and territory police in their FFVO enforcement roles, the Commonwealth is funding development of a training module for police about the new orders, including how they would interact with state and territory orders.

4. Other implementation matters

A commencement of up to 12 months after Royal Assent of the relevant Bill measures is designed to allow for the amendment of state and territory legislation and the implementation of information

sharing and other mechanisms to support enforcement of the new orders. The Working Group continues to finalise the draft amendments to the NDVOS model laws for adoption by states and territories, and to ensure that information sharing and other mechanisms to support enforcement will be in place ahead of commencement.

The National Police Reference System (NPRS)

Notification of the making of a FFVO (once enforceable) will be made to the Australian Federal Police (AFP) to cause them to provision the terms of the order to the Australian Criminal Intelligence Commission's (ACIC) NPRS.

The department notes during the public hearing on 14 July 2021 the Chair asked: *'So every single order made by the Federal Circuit and Family Court will be on that database?'*²

By way of clarification to evidence provided by the department in answer to this question at the hearing, the department advises that the updating of NPRS records will not result in the NPRS holding a copy of the FFVO itself, but rather provide a reference to the order and hold order metadata details such as order status, expiry date, conditions, court of issue, respondent and the names of persons protected by the order. FFVOs will be issued in a prescribed form to facilitate this process. Police can contact the record holding authority to obtain the full particulars of the record, in the same way that police access family violence orders in other jurisdictions currently.

As outlined in the department's submission to the Committee on 17 June 2021:

- Funding has been allocated for the development of an automated system by the AFP, which would provision the FFVOs using the NPRS, and enable state and territory police to access information about the orders. It is scheduled for completion before the commencement of the Bill.
- The family law courts will also be provided with read-only access to the NPRS to ensure that there is no state or territory family violence order in force for the protection of the protected person and directed against the person against whom the FFVO would be directed.

Recognition of the orders under the National Domestic Violence Order Scheme (NDVOS)

As outlined in the department's submission to the Committee on 17 June 2021:

- Amendments to the NDVOS model legislation will be enacted by states and territories to allow the orders to be enforced under the NDVOS scheme.
- Recognising FFVOs on the NDVOS means that the orders will be enforced by state and territory police and courts in the same way as other family violence orders issued under the laws of that state or territory.

² See page 36 of the draft Proof Committee *Hansard*, Senate Legal and Constitutional Affairs Legislation Committee, Family Law Amendment (Federal Family Violence Orders) Bill 2021 (Wednesday, 14 July 2021).

While the Bill provides an ability for the AFP to enforce a breach using Commonwealth enforcement powers, it is anticipated this would rarely occur in practice. Under the NDVOS, a breach of a FFVO will be prosecuted as a local offence by state and territory authorities.

The NDVOS is currently underpinned by an information-sharing solution (the Interim Order Reference Solution now referred to as the Court Portal) that leverages the NPRS. The secure web-based Court Portal enables domestic violence orders in the NPRS to be shared between police and local courts across Australia.

Consistent with the original COAG vision for the NDVOS, all jurisdictions are considering options for delivering a comprehensive information sharing system to underpin the NDVOS, including a longer-term solution being developed by the ACIC.

Serving FFVOs

The Working Group has agreed in principle a service protocol that will be prescribed in regulations.

The arrangements will prioritise the timely, correct, safe and efficient service of FFVOs, so that their protections can effectively commence. They also allow flexible decision-making to take account of the circumstances of a particular matter.

The Working Group is continuing to work through arrangements for the operationalisation of the service protocol, as outlined in the department's submission to the Committee on 17 June 2021.

Training for state and territory police, state and territory courts and federal courts

The department has commenced preliminary content planning for the funded online training modules that will be provided to state and territory police, state and territory courts and federal courts. The police module will assist police to understand the nature and scope of the orders, how they are to be enforced, and how they interact with state and territory family violence orders.

Following passage of legislation to establish FFVOs, the department intends to consult with relevant stakeholders and procure an expert to build the training modules.

Suggestion for implementing FFVOs on a trial basis

Evidence provided to the Committee suggested implementing the FFVO framework through a trial in one or two selected registries, or for a limited time period. The department has significant concerns with the risk for complexity and confusion that this approach would present, its implications for delaying the availability of the framework to all who may need it, and challenges for implementation of the scheme.

The FFVO framework is designed to be implemented as a national scheme. Amendments to the Family Law Act would establish the new protection broadly, and, consistent with efforts to ensure

protection of vulnerable persons wherever they are located in Australia, FFVOs would be enforced nation-wide under the NDVOS.

All information sharing and other mechanisms to support FFVOs will need to be implemented nation-wide, regardless of whether the orders will only operate in a few select registries, specifically:

- as the FFVOs will be treated as a local order in the state or territory in which the breach occurs, local police and courts in every state and territory will require training on management of these cases
- information sharing and service arrangements will need to be in place to enable effective enforcement, including under the NPRS with efforts by the AFP and ACIC and court staff, and the service protocol agreed by the Working Group
- awareness raising campaigns for the public and key stakeholders will still require broad circulation.

Amendments to the NDVOS model legislation will need to be enacted by states and territories to allow the orders to be enforced. This will need to occur in each state and territory, as breaches will be prosecuted in the state or territory in which the breach occurs (which may be different to the state where the order was made). Online training for state and territory courts will also need to occur.

Trialling the scheme in selected registries may create confusion for potential applicants in non-trial locations as to whether and how they can apply, whether the new protections are available in particular registries, and confusion for those protected under personal protection injunctions as to whether they are criminally enforceable. It may also risk registry 'shopping', where applicants may seek to commence their family law proceedings in a particular registry where the orders are available. This would present resourcing and workload challenges for trial locations, and also make it difficult to monitor and make an accurate assessment of the usage of the new framework.

Determining appropriate registries to trial the new FFVO framework would further delay implementing the reform, which responds to expert reports and Commissions from as early as 2010.

The Government will closely monitor the FFVO scheme once it commences operation, both in terms of its delivery against the stated policy objectives and in terms of its broader implementation and resourcing implications.