# Family Violence worksheet – Respondent (Guideline 8.2)

*Refer to* [*guideline 8.2 - respondents*](https://www.handbook.vla.vic.gov.au/guideline-8-family-violence-intervention-order-cases#82-%E2%80%93-respondents) *and the* [*notes on guideline 8.2*](https://www.handbook.vla.vic.gov.au/notes-guideline-82-respondents) *in Victoria Legal Aid’s (VLA) Handbook for Lawyers.*

**Client Name:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**VLA Ref No:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Under guideline 8.2, VLA may make a grant of legal assistance to a person responding to the making of a family violence intervention order and the following applies:*

To satisfy guideline 8.2, the following criterion must be satisfied:

## Criterion A

the respondent is aged under 18 years

**OR**

## Criterion B

the order would deprive the respondent of an important right (for example, it would exclude the respondent from their home)

**OR**

## Criterion C

the respondent is in custody as a result of the alleged family violence.

**OR**

## Criterion D

the respondent is a woman misidentified by police as the predominant aggressor of family violence.

**OR**

## Criterion E

the respondent is a lesbian, gay, bisexual, transgender, intersex, queer or other sexually or gender diverse person (LGBTIQ+) person and has been misidentified by police as the predominant aggressor of family violence.

**AND**

## Criterion F

### ‘More likely than not to succeed in contesting the application in the terms sought by the applicant’

The term, ‘*more likely than not to succeed’* means:

1. a careful and experienced lawyer must have formed the view that contesting the application is reasonable (meaning it would not be frivolous, vexatious or in bad faith) and;
2. the Respondent is more likely than not to succeed in contesting the making of family violence intervention order in the terms sought by the applicant:

The respondent is more likely than not to succeed in obtaining a family violence intervention order:

Yes – proceed to State Reasonableness Test

No – recommend refusal of aid

### State Reasonableness Test

To meet the [State Reasonableness Test](https://www.handbook.vla.vic.gov.au/state-reasonableness-test) the following requirements must be satisfied.

1. Consider the nature and extent of any benefit of a grant of legal assistance (measured against likely cost of case) and detriment from a refusal to grant legal assistance. Is there sufficient cost benefit?

Yes – proceed to ii.

No – recommend refusal of aid

1. The proceeding is likely to finalise in a manner favourable to the applicant applying for the grant of legal assistance:

Yes – recommend aid.

No – recommend refusal of aid

### Briefly detail how Criterion F is satisfied

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Documentary evidence must also be retained. Refer to [documentary requirements](#_Documentary_requirements).

### Documentary requirements

Simplified grants assessments process

Lawyers seeking a grant of legal assistance via the simplified grants assessment process should submit an application via ATLAS, only after ensuring that all the following documents are retained on file:

* the lawyer’s assessment of how the matter meets the relevant guideline.
* a copy of the application, complaint and interim orders
* lawyer’s assessment of the strengths and weaknesses of the response
* where assistance is recommended for a respondent woman or LGBTIQ+ person misidentified by police as the predominant aggressor of family violence, a file note confirming the client’s instructions and their willingness to provide that evidence at a contested hearing.
* where assistance is approved under the [state special circumstances guideline](https://www.handbook.vla.vic.gov.au/15-special-circumstances), evidence of the special circumstances must be retained on file.
* relevant proof of means.