



APPREHENDED VIOLENCE ORDERS

Glossary of terms used in this fact sheet

Terms we use	What do they mean
AVO	Apprehended Violence Order
ADVO	Apprehended Domestic Violence Order
APVO	Apprehended Personal Violence Order
PROTECTED PERSON	The person who fears for their safety and who is seeking the AVO
Defendant	The person you fear and against whom the AVO is sought to be made
Provisional Order	This is a temporary AVO order made by police until the first court mention date. They are usually made if the police fear for the Protected Person's safety during the period until the matter comes before a court. Provisional orders are enforceable (when served on the Defendant) with the conditions sought by police until the first court mention date. Provisional orders can be changed by the Protected Person at the first mention date.
Interim Order	A court can make an Interim AVO order if it cannot finalise the matter on the first court date, to ensure the Protected Person's safety until Final Orders are made. Interim Orders are enforceable (when served on the Defendant) until Final Orders are made.
Final Order	A Final AVO may be made either because: <ul style="list-style-type: none">• The Defendant has been served with the AVO documents but has not attended court on the first court mention date.• The Defendant has consented to the AVO being made.• A hearing has taken place and, based on the evidence, the court believes that an AVO should be made. A Final AVO will be made for a specified period of time, for example, six months, 12 months or two years.
Service	Police serve the Defendant by officially giving the Defendant a copy of the AVO application advising that they must attend court on a certain date. If an AVO order has been made (Provisional, Interim or Final), Police officially give the Defendant a copy of the AVO

What is an Apprehended Violence Order (AVO)?

An AVO is an order made by the Court against a person who makes you fear for your safety, to protect you from further violence, intimidation or harassment by that person. This person is referred to as the Defendant. The person needing protection is referred to as the Protected Person. An AVO can be customised to suit the Protected Person's circumstances to ensure the best possible protection.

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This information applies only in New South Wales.

Fact sheet updated April 2018.

There are two types of AVOs:

1. **Apprehended Domestic Violence Order (ADVO)**
An ADVO applies when the people involved are related or living together or in an intimate relationship. It can include members of the same and extended family, living in the same house, paid carers, and people living in the same residential facility. For Aboriginal or Torres Strait Islander persons, orders can be made where the people involved are part of the kin or extended family of the other person.
2. **Apprehended Personal Violence Order (APVO)**
An AVO applies where the people involved are not related or do not have a Domestic or intimate relationship. For example, they are neighbours or work colleagues.

How can I apply for an AVO?

There are two ways you can apply to get an AVO:

1. **The Police can apply for an AVO on behalf of the Protected Person when:**
 - You attend the Police station to report an incident of violence or after the police have attended an incident of domestic violence; or
 - If an offence against a child or young person has been, is being, or will be committed; or
 - If the order is for a person under the age of 16, only the police can apply for an AVO on their behalf. However, if an adult is seeking an AVO, children can be included in that AVO.
2. **Private applications**
 - You can attend the local court and speak with the court registrar to prepare and application on your behalf.
 - The Reasons for wanting an AVO should be considered carefully. If a court does not grant an AVO you may be ordered to pay the Defendant's legal costs.
 - If the Protected Person is a woman and needs assistance with an ADVO application, they can contact their local Women's Domestic Violence Court Advocacy Service (WDVCAS). The WDVCAS can assist by providing information on how to make an application. They may be able to make a referral for free legal advice and in some cases, have a lawyer represent you at court.
 - The Protected Person needs to provide the registrar the following information when applying for a private AVO:
 - Name and address of the person you want to be protected from;
 - What are the reasons you want the AVO;
 - What has happened that has made you fear for your safety;
 - Any history of violence;
 - The Protected Person may bring any supporting documents that demonstrated the violence. For example, medical reports and quotes for any damaged property

Do I need a lawyer?

In Police Applications:

If police make an ADVO application on behalf of a Protected Person, no lawyer is required. The Police Prosecutor will present your case to the court.

In Private Applications:

If a Protected Person has applied to the Local Court for an AVO they can represent themselves or have a lawyer represent them. It is preferable to have a lawyer represent you however. If you cannot afford a private lawyer, a community legal centre or legal aid may be able to assist.

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What conditions can be included in an AVO?

Every AVO has three standard conditions which will always be included. These conditions prohibit the following behaviour by the Defendant:

- Assaulting, molesting, harassing, threatening or interfering with the Protected Person;
- Intimidating the Protected Person;
- Stalking the Protected Person
- Anyone in a domestic relationship with the Protected Person is also protected by these conditions. This may include your children.

Additional conditions may be included in the AVO prohibiting the defendant from:

- Approaching the Protected Person;
- Approaching or entering places where the Protected Person may live, work or go to;
- Approaching the Protected Person, or places where the Protected Person may be, after drinking alcohol or taking illegal drugs;
- Damaging property; and/or
- Any other conditions as agreed by both parties or decided by the court.

Property Recovery Orders

A Property Recovery order allows the Protected Person or the Defendant to get personal property from a particular location. If you need this type of order, this should be done on the first court date. The court can order the police to attend with you when recovering the property, for everyone's safety.

What happens at court?

What happens at court depends upon the particular situation at the time:

If the Defendant has not been served

If the Defendant was not served with the AVO application before the first court date, your case will be adjourned to another date to allow a further opportunity for this. A court can make an Interim AVO for your protection in the meantime.

If the Defendant has been served but does not attend court

If the Defendant has been served with the AVO application but does not attend court and does not have a good reason for this, the court can make an order in their absence.

If the Defendant has been served and attends court

- A. The Defendant agrees to the AVO
 - The defendant can consent the AVO without admitting that what is in the application is true. This is called 'consenting without admission.'
 - If the Defendant chooses to consent, Final Orders can be made on the first court date
- B. The Defendant does not agree to the AVO
 - If the defendant attends court and disagrees with the AVO, the court will be adjourned (list the matter to a later date) for a hearing. Both the Protected Person and the Defendant need to attend that court date. The court can make an Interim AVO order for your protection in the meantime. If the Defendant does not agree with the Interim Order been made, the Protected Person may need to tell the magistrate why they need the order made.

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What happens if my AVO application goes to a hearing?

At the hearing, the court will listen to the evidence from all of the parties involved, including the Protected Person, Defendant, any witnesses and from the police if they are involved.

After hearing all of the evidence, a court will make an AVO order only if it is satisfied that:

- there are fears for your safety; and
- those fears are reasonable

What are the consequences of an AVO being made

An AVO is not a criminal conviction. The Defendant does not get a criminal record.

Police do keep details of the AVO on their database and will seize any firearms the Defendant may have.

If the Defendant has a firearms licence, it will be automatically cancelled for 10 years.

What happens if the defendant breaches an Apprehended Violence Order?

An AVO is breached when the Defendant acts or behaves in a way that is not allowed under the orders in the AVO. If the Defendant breaches a condition of the Order, they may be charged with a criminal offence. It is important that the Protected Person reports to the police if they feel that the defendant has disobeyed a condition of their AVO.

When a Defendant breaches the AVO there are a number of things the Protected Person can do to assist police to take action against the Defendant for the breach. For example:

- Keep a record of any breaches of the AVO. It is important to keep this no matter how small the incident as it may help the Protected Person build a pattern of ongoing abusive behaviour. The record should include:
 - The date and time the incident occurred;
 - What happened;
 - Was anyone present, you may ask them to keep a record of what happened;
 - What you did afterwards, for example did you call police, did you seek medical assistance, who did you speak to about the incident
- It is important to you keep any evidence of the breach, for example if there are voice or text messages, social media (you can then show police). If the Protected Person sought medical assistance keep any records, or any information received by the medical practitioner. Explain to the practitioner how the injuries were received;
- Report the breach to police. Show them any evidence including all your records. Report all incidents not matter how small or insignificant they are. officer you spoke with.

It is advisable to keep a copy of the AVO with you at all times.

Can the Defendant and Protected Person live together?

The Protected Person can live with the Defendant if the AVO only has the three standard conditions. The protected person can also live with the defendant if any additional conditions do not prevent the Defendant from living with, contacting or approaching the Protected Person.

What can I do if my AVO is about to run out

If you want to extend (lengthen) the period of the AVO, you can file an application in the local court. This must be done before the current AVO period ends.

Can I apply to change the conditions in an AVO?

If there is a change of circumstances, you can apply to the Local Court or the police to have the AVO changed or cancelled.

Only police can apply to change or cancel an AVO if children are named in it.

It is recommended to get legal advice if the Protected Person wants to apply to change or cancel an AVO.

http://www.lawaccess.nsw.gov.au/Pages/representing/lawassist_avo/lawassist_defendingavo_home/lawassist_defendingavo/lawassist_various_def.aspx

South West Sydney Legal Centre can assist you with any questions or concerns.

Free Phone Advice 9601 7777

Tuesdays: 12.30pm to 2.00pm

Tuesdays: 4.00pm to 6.00pm

Thursdays: 12.30pm to 2.00pm

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