

Got an AVO?

How to stick to your order

A pocket guide for Aboriginal and
Torres Strait Islander people

Legal Aid 
NEW SOUTH WALES

The information in this brochure applies to NSW laws only. This information is not legal advice. Please contact a lawyer for legal advice about your AVO.

Produced by the Legal Aid NSW Cooperative Legal Service Delivery (CLSD) Program.

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If you are deaf, or have a hearing or speech impairment, contact us through the National Relay Service (NRS).

www.accesshub.gov.au/about-the-nrs

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Terms

The person who the AVO is for is called the *protected person*. Throughout this booklet we refer to 'protected person' or 'ex', even though an AVO may be in place while there is an ongoing relationship.

WHAT IS AN AVO?

An AVO is an **Apprehended Violence Order**. It is a court order to protect a person from someone who may be violent towards them or cause them to fear for their safety. It may also be known as an Apprehended Domestic Violence Order (ADVO).

IMPORTANT INFORMATION

An AVO does **NOT** give you a criminal record. It is a civil matter, not a criminal offence. An AVO can become a criminal matter *if you breach the AVO conditions*.

If you breach the AVO and are charged with a criminal offence, it can result in a criminal record, fines of up to \$5,000 or gaol time.

AVO CONDITIONS

Every AVO has three mandatory conditions. These conditions state that you must not:

1. assault or threaten the protected person
2. stalk, harass or intimidate the protected person
3. intentionally or recklessly destroy or damage property of the protected person.

The court can also put other conditions in the AVO to stop you contacting the protected person and your children, going to the protected person's home or place of work or going near the protected person for up to 12 hours after drinking alcohol or taking illegal drugs.

You will need to check the AVO carefully to see what conditions apply to you.

TIPS FOR STICKING TO YOUR AVO

- 1 Get legal advice before going to court**
Always get legal advice or information before going to court about an AVO.
- 2 Attend your court hearing**
Even if you accept the conditions in the AVO, it's worth having your say in court.
If you do not agree with the conditions in the AVO you can tell the court why you don't agree.
- 3 Plan how you will stick to the AVO**
Planning how you will stick to the AVO is the most important way to succeed. Think about the challenges you will face and plan how you will deal with these challenges.

4 Understand the AVO

Make sure you understand how the AVO will affect your life now *and* in the future. This will give you a better chance of sticking to the AVO. For example, if you have kids, make sure you know how the AVO affects you seeing them. Find out if the AVO stops you from having a licence such as a gun or security licence or a Working with Children Check.

5 Only a court can change the AVO

Even if your ex agrees, you cannot change the AVO unless you go to court.

A list of useful services that may assist you can be found at the end of this booklet.



FREQUENTLY ASKED QUESTIONS

If you have an AVO, you might find yourself in one or more of the situations described in this booklet. These situations relate to:

- ▶ AVO rules and procedures
- ▶ communicating with the protected person
- ▶ how close you can be to the protected person
- ▶ contact with your children.

How you respond in these situations will help you avoid a breach of the AVO.

Not all the situations described in this guide will be relevant to you. You will need to check the AVO to see what situations apply to you.

Q1

My ex told me that if we both agree to do something that breaks the AVO, I won't get in trouble. I can't get in trouble for this, can I?

Yes, you can get into trouble. Do not do anything that the AVO says you can't do, even if your ex agrees to it. Only a court can change the AVO. No agreements between you and your ex can change it.

TIP: If the AVO does not allow you to contact your ex, but you need to talk about your kids, get legal advice about changing the AVO. If your ex contacts you first, do not respond, as your response will be a breach of the AVO.





Q2

My ex and the kids live on the same street as my nan & pop, but the AVO says that I can't be within 100 metres of my ex's place. I'm still allowed to go to my grandparents because they need me to come around. I won't be going to my ex's.

Do not go to your grandparents' place if the way to get there requires you to be within 100 metres of your ex's place. You will breach your AVO even if you don't go into your ex's place.

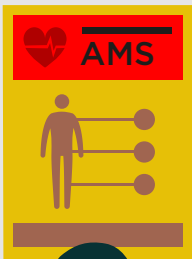
TIP: Find a different place to meet your grandparents or get legal advice about changing the AVO to reduce the number of metres you are restricted from your ex's place.

Q3

I need to be involved in my community and access Aboriginal services like the medical centre but I know that my ex uses the same services too. I don't like going to any other services and I don't think that I will ever run into my ex.

If the AVO doesn't say that you can't go to the medical centre, you can still go. If it says you can't contact your ex, you must do your best to avoid your ex if you see your ex there. Do not approach them and do not communicate with them in any way even through another person.

TIP: If you can't avoid your ex, you should leave the service and make another appointment by phone for a time where they are not there.





Q4

My ex doesn't have a car or a driver's licence but I do, so they need me sometimes to come over and take the kids to school and sport. My ex said that it was ok because they needed my help with the kids so I'm allowed to do it yeah?

No, you are not allowed to do it. Do not do anything that the AVO restricts you from doing, even if your ex agrees to it. Once the AVO is made, only a court can change it. No agreements between you and your ex can change the AVO.

TIP: Get legal advice about changing the AVO.

Q5

I've got another child who goes to the same school as my kids that I have with my ex. I need to go to school to pick my child up but sometimes my ex is there picking our kids up too. Am I breaching my AVO if I go to the school but don't speak to my ex, or if I speak to our kids and my ex doesn't see me?

If the AVO states that you can't go to the school, you must not go. You should arrange for someone else to pick up your child. If there is no



SCHOOL ZONE

condition in the AVO about the school but it says you can't contact your ex, you can still go to the school, but you must do your best to avoid your ex if you see them. Do not approach or communicate with them in any way even through another person.

TIP: If you can't possibly avoid your ex, you should arrange for someone else to pick up your child. It is a good idea to give your child's school a copy of the AVO so they know what's going on.



Q6

I know that I can't go near my ex or even speak to them but I really needed to tell them something important. I know their cousin so I called and asked the cousin to pass a message on for me. Is this OK?

No. Sending messages through your ex's cousin is a breach of the AVO, no matter how urgent the matter is. You can only contact your ex through a lawyer.

TIP: If the AVO does not let you contact your ex, you cannot contact them even via text message or Facebook.

Q7

I've got nowhere to stay, I'm homeless. There is an AVO against me from my mum and dad but I spoke to my sister/brother and they said I should just go back and sort it out with them if I need somewhere to stay. I've got nowhere else to go.

Do not go back home if the AVO restricts you from doing so. Even if you are homeless, your actions could still result in a breach of the AVO.

TIP: If you are homeless and need immediate accommodation, contact Link2Home on 1800 152 152.





Q8

One of the Elders in my community recently passed away and I need to attend Sorry Business but I'm pretty sure that my ex and their family will all be there too. Can I still go?

You can still go to Sorry Business as long as the AVO doesn't say on it that you can't go there. If the AVO says you can't contact your ex, you must do your best to avoid them. Do not approach them and do not communicate with them in any way even through another person. If they try to talk to you, you should leave.

TIP: If you can't avoid your ex there, you should not attend. It is your job to ensure you follow the AVO.

Q9

My cousin had an AVO out against me and I couldn't contact them. We ran into each other last week and sorted it all out and now we are solid. We've been hanging out again like we used to and they said that they would speak to the police and legal aid to get rid of the AVO soon.

Do not hang out with your cousin or contact them in any way before the AVO is changed or it ends. Only the court can change the AVO. No agreements between you and your cousin can change the AVO. Hanging out with your cousin will result in a breach of the AVO.

TIP: You and your cousin can each get legal advice from a lawyer about applying to change the AVO.





Q10

My kids are sick and my ex said that I can come over and help look after them because they can't do it all on their own. They asked for my help and I need to be there when my kids are sick.

Do not do anything that the AVO says you can't do, even if your ex agrees to it. Once the AVO is made, only the court can change it. No agreement between you and your ex can change the AVO. If the AVO says you can't go to your ex's house, you would be in breach of it if you go, even if the kids are sick.

TIP: Try and find someone else to help this time and get legal advice about changing the AVO so you and your ex can enter into a parenting plan about the kids.



IMPORTANT PHONE NUMBERS

An AVO can have a major impact on your life. It's important to have support through this process. These services may be useful.

1800RESPECT

1800RESPECT is a confidential counselling, information and support service for everyone impacted by domestic, family and sexual violence, including men.

Call **1800 737 732** or use the online chat at **www.1800respect.org.au**.



13YARN

13YARN is an Aboriginal and Torres Strait Islander crisis support line. Available 24/7. No shame, no judgement, safe place to yarn.

Call **13 92 76**

Thirrili

Thirrilli provide emotional and practical support to Aboriginal and Torres Strait Islander families and communities impacted by a loss from suicide.

Call **1800 805 801**

Alcohol and Drug Information Service (ADIS)

ADIS a free and confidential 24/7 counselling helpline for people in NSW with alcohol or drug problems.

Call **1800 250 015**

Suicide Call Back

Suicide Call Back Service is a free nationwide service providing 24/7 phone and online counselling to people affected by suicide.

Call **1300 659 467**

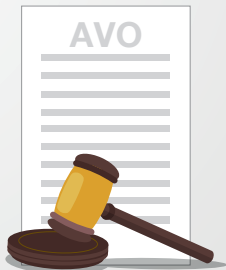
CONTACTING THE COURT



www.localcourt.nsw.gov.au

- ▶ Click on the button that says *Find a court*.
- ▶ Then use the alphabetical menu to find your Local Court.

Email is the best way to contact Local Courts for an adjournment. In your email tell the court why you can't attend and if you will accept or not accept the AVO on the next court date. Be aware that the court may decide to go ahead without you.



FREE LEGAL HELP

Aboriginal Legal Service (NSW/ACT)



1800 765 767 (criminal law)

1800 733 233 (care, safety and family law)

Women's Legal Service NSW - First Nations Women's Legal Contact Line



(02) 8745 6977 or 1800 639 784

Wirringa Baiya Aboriginal Women's Legal Centre



1800 686 587

Domestic Violence Unit, Legal Aid NSW



1800 979 529

LawAccess NSW



1300 888 529



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