

# Are you applying for an AVO?

Information for applicants  
and persons in need of  
protection



An apprehended violence order (AVO) is an order made by the court against a person who makes you fear for your safety.

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## What is an apprehended violence order (AVO)?

An **apprehended violence order (AVO)** is an order made by a court against a person who makes you fear for your safety, to protect you from further violence, intimidation or harassment. All AVOs say that the person you fear, called the defendant, must not assault, harass, threaten, stalk, or intimidate you. This includes sending you messages using text, email, or social media in order to make you fear for your safety, or harming or threatening to harm your pets. The defendant must follow the AVO.

There are two types of AVOs.

### 1. **Apprehended domestic violence order (ADVO)**

An ADVO is made where the people involved are related, living together or in an intimate relationship, or have previously been so. In the case of Aboriginal or Torres Strait Islander people, ADVOs can also be made where the people involved are part of the kin or extended family of the other person. ADVOs are also available to people who are or have been in a dependent care arrangement with another person, including an arrangement with a paid or unpaid carer. The ADVO is only available for the person being cared for, not the carer. People living in the same residential facility can also apply for an ADVO.

ADVOs are recognised in all Australian states and territories.

## **2. Apprehended personal violence order (APVO)**

An APVO is made where the people involved are not related and do not have a domestic relationship, for example, neighbours or workmates.

### **How do I apply for an AVO?**

If the police have fears for your safety after an incident, they can apply for a provisional (temporary) AVO for you. The police will keep you updated about the AVO and tell you when to come to court.

The police will serve (formally give) the defendant the AVO application. The AVO application will tell the defendant the date and time they must go to court.

You can also apply for an AVO yourself at the Local Court. This is called a private application. Legal Aid NSW may be able to help you with this.

An application for an APVO may be refused if the court believes the application is frivolous, vexatious or has no reasonable chance of success. If your APVO application is not serious or is deliberately made to cause trouble, the court may advise you to try mediation.

You should make a note of the court date given to you at the time you make the application.

## **Can I get immediate protection?**

Yes. There are two different types of temporary apprehended violence orders (AVOs) that can be made to protect a person until a court decides whether to make a final AVO.

1. A provisional AVO is an order applied for by a police officer and granted by a court or senior police officer. The police will apply for a provisional AVO when they believe that someone needs immediate protection.

A provisional AVO can be made at any time of day or night and if made, it comes into immediate effect the moment it is served on the person the order is against.

2. An interim AVO is an order made by the court either extending a provisional AVO or where the court agrees that it is necessary or appropriate for someone to have temporary protection.

## **Do I need a lawyer?**

As most applications for an AVO are made by the police, you may not need a lawyer. However if you want to make a private application for an ADVO, Legal Aid NSW can help you.

We can also help you liaise with the police and the court, organise an interpreter and support you before, during and after court.

Call the Legal Aid NSW Domestic Violence Unit (DVU) on **1800 979 529** or the Women's Domestic Violence Court Advocacy Service (WDVCAS) on **1800 938 227**.

## Can I get a lawyer to represent me in my case?

Yes. If you need a lawyer to represent you in court, or you need ongoing assistance, you can apply for a grant of legal aid. This is sometimes called 'getting legal aid'.

Not everyone can get legal aid. A lawyer can help you work out if you may be eligible and help you fill out the application form. Call the DVU on **1800 979 529**.

For more information, see our brochure ['Are you experiencing domestic and family violence?'](#)

## What happens when I go to court?

If the defendant has been served with the AVO application but does not come to court without a good reason, the court can make an AVO in their absence. Sometimes the police are not able to serve the defendant with the application by the time you first go to court.

If this happens, your case will be postponed to give the police more time to serve the defendant with the application.

You or the police can ask the court to make an interim AVO to protect you until the next court date. The magistrate may need to hear some evidence from you to make an interim AVO.

If the defendant does come to court, they can either consent (agree) or not consent (not agree) to the AVO.

Women's Domestic Violence Court Advocacy Services (WDVCASs) provide assistance at most Local Courts and can give you information before your court date.

Call **1800 WDV CAS** or **1800 938 227**.

The DVU can also give you information about what happens when you go to court for an AVO. Call **1800 979 529**.

## When will the court make the AVO?

The court can make an AVO if:

- the defendant consents (agrees) to an AVO being made, or
- after hearing evidence the magistrate is satisfied that there are fears for your safety and those fears are reasonable, or
- the defendant has been served with the AVO but does not show up at court.

## What are consent orders?

Consent orders are when the defendant agrees to the AVO being made without admitting they have done anything wrong. In this case, your AVO should be made that day.



## **What happens if the defendant does not consent to the AVO?**

If the defendant does not consent to the AVO, your case will be adjourned (postponed) for a hearing. The court may decide to make an interim AVO to protect you until the hearing.

A hearing is when the magistrate listens to the evidence and decides if an AVO should be made.

If your matter is adjourned for hearing, you may be told by the magistrate to give written statements to the court by a certain date. Your matter will usually be listed for another court date to see if both you and the defendant have done your statements. If the police applied for the AVO for you, they will be preparing the statements.

When both you and the defendant have given the court your written statements the matter should be listed for a hearing. It is important that you attend court for the hearing.

If you do not attend, the AVO application may be dismissed. If the defendant does not attend court, the AVO may be made without them.

## **What happens at a hearing?**

The hearing will be based on the evidence in the written statements provided, unless the court allows additional evidence or allows evidence to be given verbally. The police may also submit a video or audio recording taken

at the time of an incident as evidence. If this happens, the defendant or their lawyer may want to ask you more questions.

You present your case first. The defendant or their lawyer will then have the opportunity to ask you and your witnesses questions about your evidence.

The defendant then presents their case. You or your lawyer (or the police prosecutor in a police application) will be able to ask the defendant and their witnesses questions about their evidence.

It is up to the magistrate to decide if an AVO should be made.

You can talk to your local WDVCS if you need to give evidence. Call **1800 WDVCS (1800 938 227)**.

## What types of conditions can be put in an AVO?

If an AVO is made, three conditions will always be included. These conditions prohibit (stop) the defendant from:

- assaulting or threatening you
- stalking, harassing or intimidating you and
- intentionally or recklessly destroying or damaging any property, or harming an animal, that belongs to or is with you.

Anyone in a domestic relationship with you is also protected by these conditions. This may include children.

Extra conditions may be included in the AVO stopping the defendant from:

- approaching or contacting you
- going near where you may live, work or go
- approaching you, or being in their company, after drinking alcohol or taking illegal drugs
- trying to find you and
- any other conditions the court thinks are necessary for your safety and protection.

## **What is a property recovery order?**

If an AVO has been made, and you need to get your personal property, from the house where the defendant is living, the court can make a property recovery order at the same time as they make the AVO. This should be done on the first date you go to court. A property recovery order means either you or the defendant can get personal property from a home or other place. The court can order the police to go with the person getting property to keep everyone safe.

## **What are the consequences of an AVO being made?**

When an AVO is made, the defendant does not get a criminal conviction or a criminal record. The details of the AVO are kept on a police database.

If the defendant has any guns, the police

will take them. If the defendant has a gun licence, the licence is automatically cancelled for 10 years. If the AVO is cancelled, the defendant can get their gun licence back but only if they are considered to be a fit and proper person to have a gun licence.

There can also be consequences of an AVO for the defendant if they want to have a security licence or work with children.

## **What happens if the defendant breaches an AVO?**

An AVO is a court order. If the defendant does something that the AVO says they must not do, they may be charged with a criminal offence. This is called a breach of the AVO.

You should always keep a copy of your AVO with you. If you have children, think about also giving a copy of the AVO to their school. You should make a report to police if the defendant breaches any of the conditions listed on the AVO. For example, if your AVO says that the defendant must not contact you, but they call your mobile phone. This is a breach and you should report this to the police.

## **How long does an AVO last?**

The standard length for an AVO is two years. An APVO can last up to 12 months. The court can make an AVO for an unlimited time in some situations.



## Can I apply to change the conditions on an AVO?

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

This is called a variation. If you or one of the protected persons on the AVO is a child, the parent must get permission from the court to apply to vary the AVO.

## Can an AVO defendant get legal aid?

The person an AVO application is made against is called the defendant. A defendant in an ADVO application can only get a grant of legal aid if the defendant is also a victim of domestic violence or there are exceptional circumstances.

Exceptional circumstances include if the defendant is:

- an Aboriginal or Torres Strait Islander woman or
- at a 'special disadvantage' because of:
  - a psychiatric condition,
  - a developmental disability,
  - an intellectual impairment or
  - a physical disability.

For more information call LawAccess NSW on **1300 888 529**.

## What if I have an AVO and someone else applies for an AVO against me?

This is called a cross application. In these circumstances, you are also a defendant. Cross applications can be complicated and it is important that you get legal advice. Call LawAccess NSW on **1300 888 529**.

## What is a conflict of interest?

Sometimes a lawyer who works for Legal Aid NSW may not be able to represent you because the other party has been or is currently assisted by a Legal Aid NSW lawyer. This creates a conflict of interest.

A conflict of interest does not mean that you are not eligible for legal aid. If a Legal Aid NSW lawyer is unable to help you because of a conflict of interest, you will be referred to another lawyer who can help you.

## For more information and help

In an emergency, call the police on 000 or 112 from mobiles.

### Domestic Violence Unit

**1800 979 529**

A dedicated statewide service of Legal Aid NSW bringing together specialist domestic violence lawyers, social workers and financial counsellors.

### Family Advocacy and Support Services (FASS)

Help for families affected by family violence and who have a family law issue. They also have dedicated social support workers for women and for men.

### Social support for women:

**1800 11 FASS**

### Social support for men:

**1300 00 FASS**

### Law Access NSW

**1300 888 529**

Legal assistance and referral over the phone for applicants and defendants including assistance with applying for legal aid. Victims of domestic violence are prioritised customers for advice.

### Mensline

**1300 789 978**

Phone support and referral for male victims and perpetrators of domestic violence. 24 hours, 7 days. Visit [www.mensline.org.au](http://www.mensline.org.au).



## **Women's Domestic Violence Court Advocacy Services (WDVCAS)**

**1800 WDVCAS or 1800 938 227**

Information, court advocacy and referral for women in domestic violence situations and assistance with getting an ADVO.

## **Domestic and family violence hotline**

**1800 RESPECT or 1800 737 732**

Provides counselling, information and referrals. 24 hours, 7 days.

## **Victims Services**

**1800 633 063**

Support and assistance for victims of crime. Aboriginal contact line: **1800 019 123** (8am to 6pm, Monday to Friday).

## **Domestic Violence Duty Scheme (DVDS)**

DVDS duty lawyers can help you with ADVO matters, and provide advice and referrals for other legal issues such as family law, victims support or debt. Call the WDVCAS on **1800 938 227**.

## **Family Violence Law Help**

[www.familyviolencelaw.gov.au](http://www.familyviolencelaw.gov.au) is a website with easy-to-understand legal information about AVOs, family law and child protection. The information can be translated into different languages.

## Other resources

We have free publications about domestic and family violence. View or order online at: <https://www.legalaid.nsw.gov.au/publications/order-a-publication>.

### **Charmed and Dangerous**

This booklet explains the cycle of abuse and how to break free of controlling, abusive or violent relationships.

### **Are you experiencing domestic and family violence**

How Legal Aid NSW can help you if you are experience domestic and family violence.

### **Break your silence, stop the violence**

The Women's Domestic Violence Court Advocacy Service (WDVCAS) can help Aboriginal and Torres Strait Islander women apply for an AVO.

### **Are you experiencing violence or abuse? You can make it stop.**

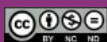
What you can do if you are an older person who is experiencing violence or abuse from a partner, family member, carer or someone in your residential facility.



This brochure is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on **1300 888 529**.

This publication is available in Arabic, Simplified Chinese, Spanish and Vietnamese.



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### Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am – 5pm) and ask for LawAccess NSW.

### Do you find it hard to hear or speak?



If you find it hard to hear or speak, call us through the National Relay Service (NRS) on **133 677** and ask for LawAccess NSW or visit: [www.relayservice.gov.au](http://www.relayservice.gov.au)

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