

Got an AVO?

How to stick to your order

A pocket guide

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 order.

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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.



If you are deaf, or have a hearing or speech impairment, contact us through the **National Relay Service NRS**. Ask for LawAccess NSW on **1300 888 529**.

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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 order conditions*.

If you breach the order 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 order carefully to see what conditions apply to you.

TIPS FOR STICKING TO YOUR ORDER

- 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 order, it's worth having your say in court.
If you do not agree with the conditions in the order you can tell the court why you don't agree.
- 3 Plan how you will stick to the order**
Planning how you will stick to the order 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 order**

Make sure you understand how the order will affect your life now *and* in the future. This will give you a better chance of sticking to the order. For example, if you have kids, make sure you know how the order affects you seeing them. Find out if the order 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 conditions of 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 order.

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

Q1

I got told if I don't turn up to court, the AVO won't be put in place. Is this right?

The AVO can be made without you going to court and having your say. If you do not go to court, you risk the order being made final. Always go to court so that you can have your say and understand the conditions of the order.

TIP

If you can't make it to your court date, you can arrange for a lawyer to go for you or ask for the matter to be adjourned to a later date. Page 30 tells you how you can contact your Local Court.

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 order on the next court date. Be aware that the court may decide to go ahead without you.





Q2

I have to drive past my ex's house to get to work because it's the quickest way to get there. Can I still drive this way?

Do not drive past your ex's house, even if it is the most direct way to your destination. For example, if the order says 'Do not come within 50 metres', you will breach your order by just driving past their house. If your order prevents you, do not drive past your ex's house.

TIP

Find a different way to go to work until the order is lifted. It's only a temporary arrangement while the order is in place.

Q3

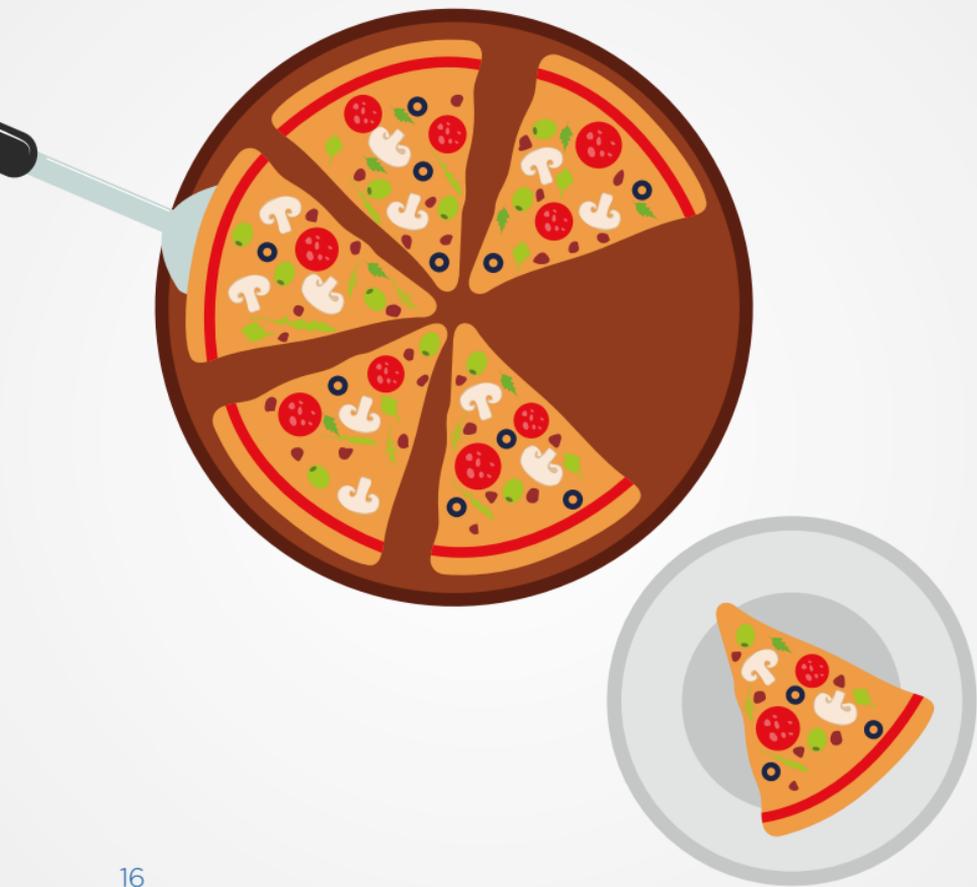
**My stuff is in the house and I need to get it.
Can I go over and pick it up?**

Do not go to the house as you could breach the order. You will need to get legal advice about how to pick up your belongings.

TIP

If you need to get your belongings from the house, apply for a *property order* **before** the order becomes final. If you are too late to apply for a *property order*, you will need to get advice from a lawyer.





Q4

I always go to my ex's house on a Friday night because it's family night. My ex said it was okay to come over. Can I go?

If you go to the house, even if your ex says you can, this could result in a breach of the order. You should not go to the house if the order says you must stay away from the house and your ex.

TIP

Start a new family tradition with your children while the order is in place. There are many activities you can do that don't involve being at your ex's house.

Q5

I have to call my ex to talk to the kids as they don't have their own phone. Can I call them?

If the order says you can't contact your ex, you must not call your ex to talk to the kids. This also includes Facebook or any other social media.

TIP

Get legal advice about how and when you can talk to your children. For example, it may be possible for you to give your kids a phone that you can call them on.





Q6

The order says I can't drink alcohol around my ex or be around them for 12 hours after I've finished drinking. What should I do?

If you have been drinking, do not go near your ex, because this will put you at risk of breaching the order.

TIP

If you have been out at the pub drinking and can't get home, plan to stay at a mate's place or with a family member. If you are allowed to be at your ex's house, do not start drinking, even if you are offered a drink.

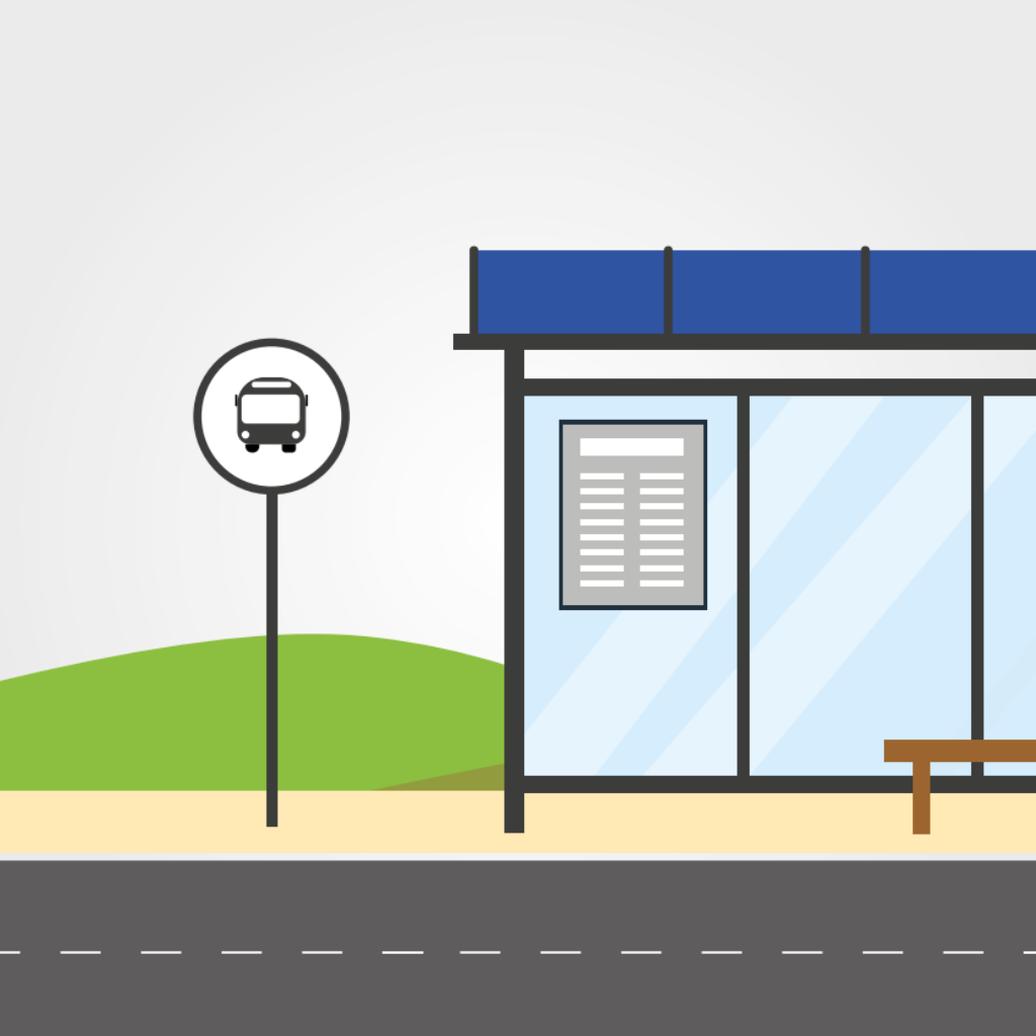
Q7

I need to take my mum to my ex's place so she can see her grandkids. Can I do this?

Don't drive anyone to your ex's place if your order says you can't go there. If you do, your actions will result in a breach of the order.

TIP

It is best for your mum to organise to see her grandchildren. The children can meet your mum in another location or you can organise a lift or public transport for her.





Q8

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

Once the order is made, the conditions cannot be changed without going back to court. No personal agreements between you and your ex can change the order.

TIP

Always find out from the court or your lawyer if you are unclear about the conditions of the order or if the order has been changed or lifted.

Q9

My ex asked me to pick the kids up from school. What should I do?

Don't do anything that could risk breaching the order. If your order says you are not allowed within a certain distance of your ex and you see them at the school, don't approach them. Leave the location. If you stay and talk to your ex, this will result in a breach of the order.



TIP

Know your order. Avoid being in places where your ex is present. If you see your ex, you should leave. Give your children's school a copy of the AVO so they are aware of your restrictions and give them details of someone else to contact if needed.

If your AVO allows you to communicate with your ex, tell them to make other arrangements, or call the school and tell them you can't pick the kids up and they will need to let your ex know.



Q10

My car has broken down. Can my ex pick the kids up from my place on the weekend?

If this will result in a breach of your order, your ex cannot come to your place to pick the kids up.

TIP

Think of another way for your children to travel to and from your place while your car is being fixed. Arrange for a friend or family member to give them a lift. You can also drop them at a family member's place for them to be picked up later so that you will not have contact with your ex.

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.

Lifeline	13 11 14
Aboriginal Legal Service (NSW/ACT)	
(criminal law)	1800 765 767
(care, safety and family law)	1800 733 233
Women's Legal Service NSW	1800 801 501
1800 RESPECT	1800 737 732
Family Relationship Advice Line	1800 050 321
Alcohol & Drug Information Service	1800 422 590
Suicide Call Back	1300 659 467

FREE LEGAL HELP

LawAccess NSW

LawAccess NSW is a free information service run by Legal Aid NSW. Anyone who has a problem in NSW can contact LawAccess NSW for legal help.

Click the chat with us icon at [**www.legalaid.nsw.gov.au**](http://www.legalaid.nsw.gov.au) or call **1300 888 529** 9am-5pm, Monday to Friday (excluding public holidays).

The 'My problem is about' section of the website has information about responding to an AVO.



[**www.legalaid.nsw.gov.au**](http://www.legalaid.nsw.gov.au)



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