

What is an AVO?

If you are a person in need of protection because your partner or ex-partner is violent, abusive or threatening towards you and/or your children, then an Apprehended Violence Order (AVO) may assist in protecting you from this person's behaviour.

An Apprehended Domestic Violence Order is a court order made by a magistrate under the *NSW Crimes Act 1900*. Its purpose is to protect you (and your children) from family violence.

The AVO protects you by ordering the abusive person not to do specific things. All AVOs will include Mandatory Orders:

1. a) The defendant must not assault, molest, harass, threaten or otherwise interfere with the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.
- b) The defendant must not engage in any other conduct that intimidates the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.
- c) The defendant must not stalk the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.

There are additional orders that can be made also including:

2. The defendant must not reside at the premises at which the protected person(s) may from time to time reside.
3. The defendant must not enter the premises at which the protected person(s) may from time to time reside or work.
4. The defendant must not go within of the premises at which the protected persons(s) may from time to time reside or work, other specified premises.
5. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the defendant's legal representative or as agreed in writing or as permitted by an order or directions under the Family Law Act 1975, for the purpose of counselling, conciliation, or mediation.
6. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the defendants legal representative or as authorised by a parenting order under the Family Law Act 1975 unless the parenting order has been varied, suspended or discharged under section 68R of the Family Law Act 1975.
7. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the defendants legal representative.
8. The defendant must surrender all firearms and related licences to Police.



9. The defendant must not approach the school or other premises at which the protected person (s) may from time to time attend for the purpose of education or child care or other specified premises.

10. The defendant must not approach the protected person(s) or any such premises or place at which the protected person(s) from time to time reside or work within twelve (12) hours of consuming intoxicating liquor or illicit drugs.

11. The defendant must not destroy or deliberately damage or interfere with the property of the protected person(s)

The abusive person is called the 'defendant' and you and/or your children may be listed as 'protected persons' on the AVO. The defendant must obey the Orders made by the Court.

There are two types of AVOs.

Apprehended Domestic Violence Orders or ADVOs

An Apprehended Domestic Violence Order (ADVO) is made where the people involved are related or have had a domestic or intimate relationship.

Apprehended Personal Violence Orders or APVOs.

An Apprehended Personal Violence Order or APVO is made where the people involved are not related and do not have any domestic or intimate relationship, for example, they are neighbours.

How can I get an AVO?

There are two ways to get an AVO.

Police

The police can apply to the court to get an AVO for you. This usually happens if there has been an incident and the police have charged the abusive person at the time of the incident. They do this on your behalf to protect you.

If the police have applied for an Apprehended Violence Order on your behalf (Police Applications), you do not need a lawyer as the Police Prosecutor will present the matter in court for you.

Private Application

If you decide you want to make a Private Application, you can go to a Local Court and explain to the Chamber Registrar why you want an Order. The Chamber Registrar legally must allow you to make an Application for an Apprehended Domestic Violence Order.

The application will then go before the court. It is a good idea to get a lawyer to represent you or you can represent yourself if you want to.

Legal aid is available in Apprehended Violence Order matters and this is a free service.

There is a Domestic Violence Duty Solicitor available in a number of Local Courts to represent Private Applicants for Apprehended Domestic Violence Orders. They will charge you if you do not have legal aid however if you do have legal aid then they are free.

These Duty Solicitors talk to the Magistrate in the court room about the case and ask the Magistrate to put the AVO in place for your protection. You will need to advise the solicitor of what you want and they negotiate this with the Magistrate for you if you do not represent yourself.

There is also the Women's Domestic Violence Court Advocacy Service, which is a free service available at some courts. They can help you apply for legal aid, sit with you while you wait and go into the court with you as a support person when the magistrate hears your case.

Women's Domestic Violence Court Advocacy Service

(02) 8745 6999 or 1800 810 784

If you are just thinking about what to do and want some information about Apprehended Violence Orders (AVOs) and other services -they can help you.

Women's Domestic Violence Court Advocacy Services can't provide legal advice. If you need legal advice, you should see a lawyer or contact Law Access NSW for a referral to a legal service in your area.

Law Access NSW

1300 888 529

You can ask a Magistrate for an Exclusion Order as part of an AVO.

An exclusion order is a condition of the AVO that stops the abusive person from staying at or entering the family home, regardless of their legal interest in the property.

Having an exclusion order allows you to end a situation of domestic violence, remain in your home and have the violent person not be allowed to return to the home.

Do I have to go to the court for the hearing?

Yes you will, as the magistrate may want to talk to you and ask questions about the events. This is not because the magistrate thinks you are wrong rather it is to get all the details from both people so the best decision can be made. Being in court gives you the opportunity to tell your story and to hear what the other person is saying about what happened.

Can my children be protected too?

Yes they can. If the police hold concerns for your safety they must include the children in an application.

If my ex wants to see the children and I have an AVO can he do that?

The important thing is the children's safety. If the children will be safe when they visit with him then it is best to sort out an agreement between you that will work. This can be done through the Family Law Court and is called a Parenting Plan.

If you don't agree with him seeing the children, then get legal advice. Contact your local Family Relationship Centre for more information (call 1800 050 321 for the number of your local service)

Is an AVO a criminal conviction?

The ADVO itself does not mean the abusive person has a criminal conviction. If the person has been violent towards you, they may be charged a criminal offence for this action.

Granting an ADVO does not mean the abusive person will have a criminal record or that they will go to gaol. However, if they breach the order, this is a crime and they will be charged with this offence. If this happens, they may end up with a criminal record or go to gaol.

This information was sourced from the Publications Unit of Legal Aid NSW. This information is also available online at: www.legalaid.nsw.gov.au/pubsonline

Police Support

Family violence and domestic violence are behaviours that are against the law and you can take action to stop it.

How the police can help?

If there is family violence call the police on '000'.

The police have the power to:

- Arrest the offender
- Search for and remove weapons – if you tell them the offender has a gun they must remove it
- Charge the offender with a criminal offence
- Apply for an apprehended domestic violence order on your behalf. This will protect you from the violent person.