

## APPREHENDED VIOLENCE ORDERS (AVO)

### Glossary of terms used in this fact sheet

Terms we use	What they mean
Apprehended Violence Order (AVO)	A written order by a Magistrate of the Local Court that restricts a violent person-from doing certain things.
Conditions	The list of actions or behaviour the defended is prevented from doing
Apprehended Domestic Violence Order (ADVO)	A type of AVO issued when the people involved in violent incidents are in an intimate relationship, are from the same family or live in the same home.
Apprehended Personal Violence Order (APVO)	This type of AVO is issued when the people involved in violent incidents are not related such as neighbours, friends, stalkers, people who work together.
Additional Orders	These are other optional conditions that can be included in an AVO.
Adjournment	The matter is postponed to a future date.
Applicant	The person who has applied to the court for an AVO
Breach	A breach of an AVO occurs when the violent person does not obey the conditions in the AVO.
Defendant	The person named in the AVO as the violent person. In this fact sheet it usually refers to a male person.
Hearing	An appearance at court where the details of the matter will be heard.
Interim Orders	Temporary orders made by a Magistrate that are in force until the next mention and/or hearing date.
Mandatory Orders	These are the standard conditions that are included on all AVOs.
Mention	A court appearance that is not a hearing. Usually the first court appearance.
Person in need of protection (PINOP)	A term for a victim of domestic violence. In this fact sheet it is used to refer to a female victim of DV
Protected Person	The person named in the AVO as being the person in need of protection from violence. There can be more than one protected person on an AVO.
Provisional Orders	Temporary Orders made by a Senior Police Officer that take effect immediately and last until the hearing date.
Serve	The Police give the defendant a copy of the AVO telling them they must attend court on a certain date.

**Please note:**

*Due to the high prevalence of men's violence against women and the relatively low level of women's violence against men, this fact sheet uses gendered language. We use the terms 'client' or 'PINOP' in this fact sheet to describe the female victim of violence and 'defendant' or 'other party' as the male perpetrator of violence.*

*It is important to acknowledge that some men experience violence against them, and that not all men use violence against their intimate female partners. It is also important to identify that some women use violence against their partners, but often in response to, and in defending against, a man as the primary aggressor in a relationship. Research also identifies the much greater severity and injury rates experienced by women from their male partners. Domestic violence in same-sex relationships, both male and female, also occurs and it is*

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*important to understand the underlying power and control elements of DV can be present in heterosexual and same-sex relationships.*

*The term domestic violence is used in this fact sheet as this is as a global term that encompasses all violence within the family setting (eg. spousal violence, sibling abuse, elder abuse, parent abuse [the abuse of parents by older children]).*

## What is an AVO?

An Apprehended Violence order (AVO) is a written order issued by a Magistrate of the Local Court that places restrictions on the behaviour and movements of a person (the defendant) who is causing another person (the applicant) to fear for their safety. The order protects the person in need of protection (PINOP) from future violence, or threats of violence. An AVO can also protect children and other people who live with the PINOP if they are also named as protected persons on the AVO. Certain clauses contained in an AVO can also automatically protect people who live with the protected person.

An AVO is not a criminal charge and will not appear on a person's criminal record. If however, the conditions of the AVO are breached, criminal charges may be laid and if proven, can appear on a defendant's criminal record.

## There are two types of AVOs:

### 1. Apprehended Domestic Violence Order (ADVO)

This type of order is made where the people involved are related or have had a domestic or intimate relationship such as:

- members of the same family
- in an intimate relationship, de-facto relationship, LGBTIQ, married or have been in one of these relationships
- living in the same house (including flat mates)
- had or have had a relationship where one person cares for the other person (paid or unpaid)
- extended family or kin

### 2. Apprehended Personal Violence Order (APVO)

This type of order is made in all other types of relationships such as:

- neighbours
- customers or clients
- friends
- stalkers
- people you work with

## What conditions can be included in an AVO?

When an AVO is issued, Mandatory Orders (standard conditions) are included that prevent the defendant from doing the following things to the applicant:

- assault (hitting, kicking, punching etc)
- molest (sexually interfere)
- threaten (say things to make the applicant fear they will be hurt)
- harass (continually call, email, facebook)
- stalk (follow, show up at the home or place of work)
- intimidate (do other things to make the applicant feel scared)

Additional Orders (additional conditions) can be included which stop the defendant from:

- living in the same home as the applicant
- approaching or entering premises where the applicant lives or works
- approaching the applicant after they have been drinking alcohol, or taking illegal drugs
- damaging the applicant's property
- talking to the applicant except through a solicitor
- any further conditions agreed upon by both parties, or issued by the court

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## Can the Defendant and PINOP live together?

A PINOP can live with the defendant if the AVO only contains the mandatory orders. A PINOP can also live with the defendant if additional orders do not forbid the defendant from living with them, contacting or approaching them.

## How to apply for an AVO?

There are two ways you can get an AVO:

### 1. The Police can apply for an ADVO to the Local Court on behalf of the PINOP (Police application)

A police application can be made when:

- you go to the Police Station to report an incident of domestic violence or
- after the police have attended an incident of domestic violence or
- you are under 16 (only Police can apply to have children on an ADVO)

The police will need as much information as possible. After the police make the application to the court for an AVO they will give you a copy and they will serve (give) the defendant a copy of the application. The application will tell the defendant when they have to go to court. You will also have to go to court on that day.

### 2. A PINOP can apply to the Local Court for an ADVO or APVO (private application)

- you can go to the Local Court office and ask for help
- you can fill out an application for an AVO (APVO or ADVO) giving as much detail as possible

The Court staff will arrange for Police to serve a copy of the application to the defendant. The application will tell the defendant when they have to go to court. You will also have to go to court on that day.

If the PINOP is a woman and needs assistance with an ADVO application they can contact their local Women's Domestic Violence Court Advocacy Service (WDVCAS). 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.

## What information needs to be given when applying for an AVO?

Magistrates need as much relevant information as possible to help him/her decide if there needs to be an AVO made for your protection. You should provide:

- Name and address of the person you want to be protected from
- How you know the person (eg. husband, partner, family friend)
- How long you have known the person
- The names of other people you want protected (eg children)
- Details of the events that have made you afraid (days, times, what happened)
- Any property the person has damaged
- Any medical reports or injuries caused by the person you are afraid of

## Does a PINOP need a lawyer?

If police make an ADVO application on behalf of a PINOP, no lawyer is required. The Police Prosecutor will present the case to the Magistrate for the PINOPs protection.

If a PINOP has applied to the Local Court for an AVO they are allowed to represent themselves. It is however, a good idea to get a lawyer to represent you.

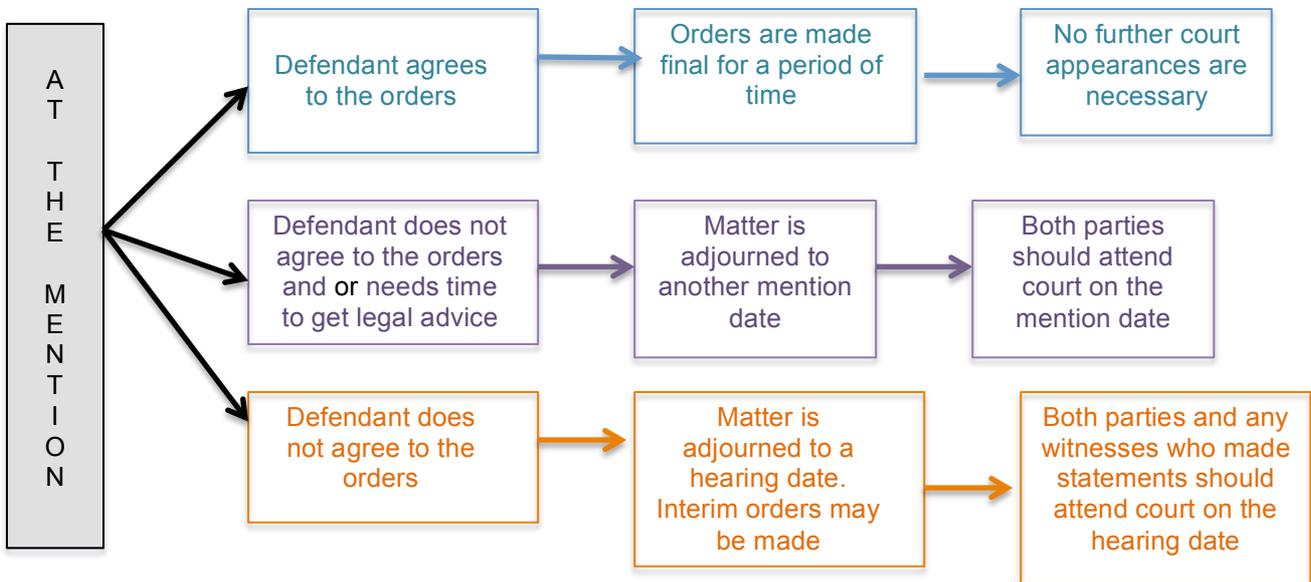
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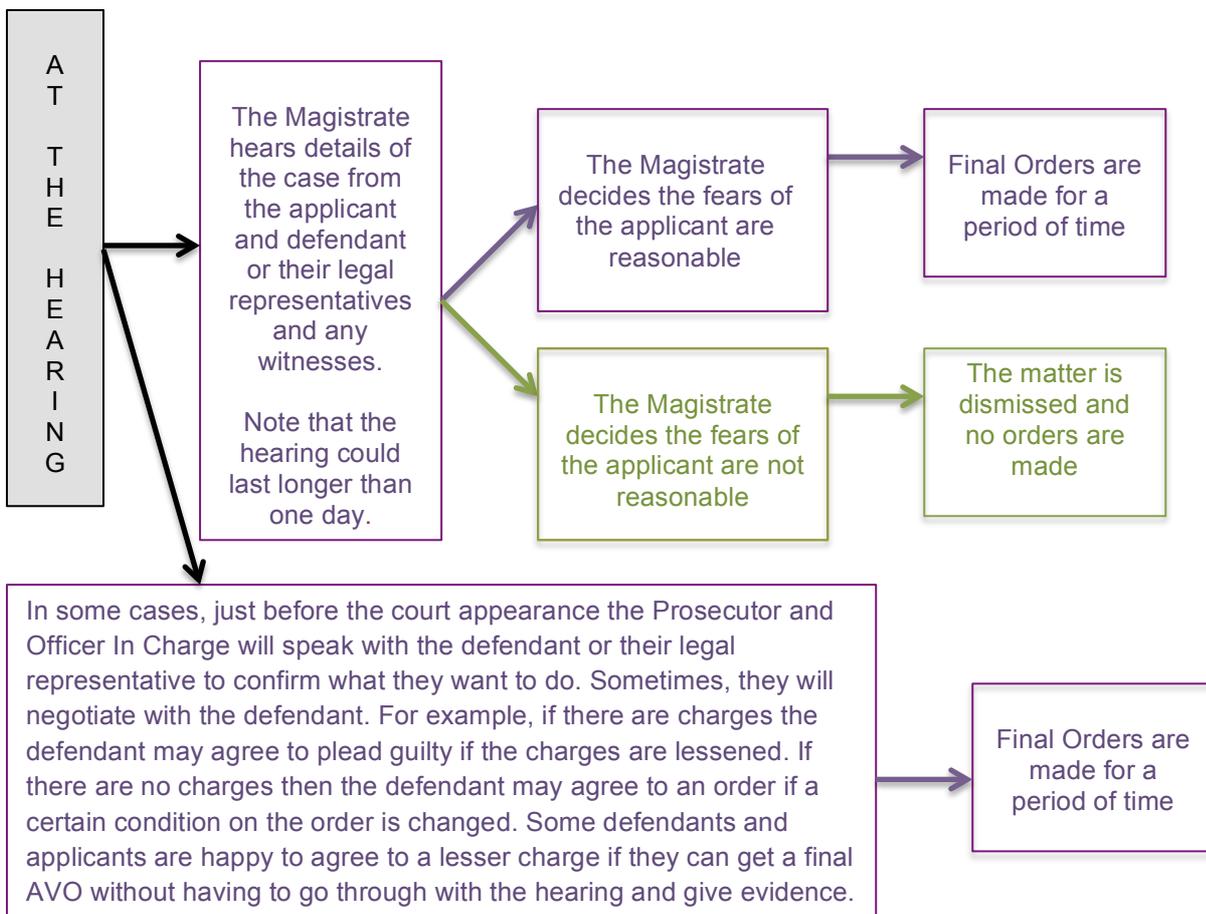
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## What happens at court?

The first court appearance is called a mention



The second court appearance may be a hearing where you will be able to present your case and get a decision



## Police can issue Provisional ADVOs immediately

Police can take what they believe to be the most appropriate action when there has been a domestic violence incident, including:

- A senior officer (a rank of sergeant or above who is not the officer in charge of the matter) can determine if there are reasonable grounds to make a Provisional ADVO and what orders should be on the application. The senior officer can make and serve a provisional ADVO immediately.
  - The provisional ADVO is enforceable from the time it is served
  - The provisional order must be listed at the local court on the next domestic violence list day but no more than 28 days after it has been issued
- Detaining the defendant for the purposes of making and serving a provisional ADVO
- Directing the defendant to either remain where they found them or accompany police to the police station and remain there
- Directing the defendant to remain at the police station for up to 2 hours not including reasonable travel time
- Making an application for an ADVO (or put in place a provisional ADVO) even if the victim does not wish to make a complaint

## How long does an AVO last?

The magistrate will decide the length of the AVO

- It can be from 6 months to 2 years
- In most cases it will be for 12 months
- In some cases it can be longer than 2 years

## What if the PINOP changes their mind or wants the orders changed?

- If you no longer fear for your safety, and you made a private application for an AVO you can withdraw the application before the mention date by going to the court office. You may need to give reasons why you want to withdraw.
- If orders have been made on a private application and you want to withdraw or change the conditions of the AVO then you can apply to the court to do so. You might need to give reasons why you want to change the orders. If the defendant does not agree to change the orders then the case may need to go to a hearing. If you want to withdraw the AVO, you should first get legal advice about the potential legal implications that may affect you if you withdraw.
- If the police applied for an ADVO then the police must withdraw the ADVO. If you want to withdraw the statement you gave Police, you should first get legal advice about the potential legal implications that may affect you if you withdraw. If children are listed on an ADVO then only police can apply to vary conditions or remove children from the order.
- If you do withdraw and the violence happens again you should report the violence to Police. If the Police don't apply for an AVO on your behalf, then you can make a private application for an AVO.

## What if the defendant breaches the AVO?

An AVO is breached when the defendant doesn't obey one or more of the AVO conditions. It is a criminal offence to breach an AVO.

If the defendant breaches any of the conditions on the order, the protected person should report the breach to the police as soon as it happens. Police investigate the breach, take evidence and may lay a charge and take the defendant to court. Breach of an AVO is a criminal offence and must be proved in court 'beyond reasonable doubt'.

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It is recommended that the protected person keep a journal of all the incidents where the defendant harasses, stalks, intimidates or abuses them. This journal should include:

- the date and time the incident happens
- who was present
- description of what happened
- action taken by the protected person after the incident eg. Any medical assistance required, if the matter was reported to police

If the incident was reported to police the journal should include:

- time of the report
- date of the report
- name of the officer
- police station reported to
- event number
- how it was reported.

If you feel like you need to speak to a police officer who specialises in domestic violence offences, ask to speak to the Domestic Violence Liaison Officer at your local police station.

### What to do if your Orders are about to run out

If your ADVO was a result of a police application or there are children on the order you can speak with police before the ADVO ends and ask that the ADVO be extended. You need to again show that you have a reasonable fear of that person.

If your AVO was a result of a private application then you can go to the court and make an application to extend the AVO.

You may also wish to contact your local Women's Domestic Violence Court Advocacy Service (WDVCAS) for support if the AVO was for a domestic matter. WDVCAS can only assist in relation to AVOs involving domestic relationships (not personal AVOs)

### What to do if you are moving to another state

If you have an AVO from any State or Territory and you are moving to another State or Territory then you will need to have it registered at the nearest Local Court so that it is enforceable by that State's police and courts.

## Need more information or local help?

**South West Sydney Legal Centre** Phone 9601 7777 [www.swslc.org.au](http://www.swslc.org.au)

**NSW Police** - Information on DV

[http://www.police.nsw.gov.au/community\\_issues/domestic\\_and\\_family\\_violence](http://www.police.nsw.gov.au/community_issues/domestic_and_family_violence)

**More information about AVOs**

[http://www.lawassist.lawaccess.nsw.gov.au/lawassist/lawassist\\_avo/lawassist\\_gettingavo\\_home/lawassist\\_applying\\_avo.html](http://www.lawassist.lawaccess.nsw.gov.au/lawassist/lawassist_avo/lawassist_gettingavo_home/lawassist_applying_avo.html)

<http://www.legalaid.nsw.gov.au/publications/factsheets-and-resources/apprehended-violence-orders-applicants>

**More information about going to court**

[http://lawlink.nsw.gov.au/lawlink/cpd/ll\\_cpd.nsf/vwFiles/Domestic\\_Violence\\_Booklet\\_Web\\_version.pdf/\\$file/Domestic\\_Violence\\_Booklet\\_Web\\_version.pdf](http://lawlink.nsw.gov.au/lawlink/cpd/ll_cpd.nsf/vwFiles/Domestic_Violence_Booklet_Web_version.pdf/$file/Domestic_Violence_Booklet_Web_version.pdf)

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**Women's Domestic Violence Advocacy Services**

<http://www.legalaid.nsw.gov.au/what-we-do/community-partnerships/womens-domestic-violence-court-advocacy-program/what-is-an-avo>

**Women's Legal Service**

<http://www.womenslegalnsw.asn.au/wlsnsw/resources/women-and-family-law/ch5-protection-violence/>

**In an emergency call Police** Phone 000

**24 hour Domestic Violence Hotline** Phone 1800 656 463

**Baptist Care Relationship Services** Phone 1300 130225 [www.baptistcare.org.au](http://www.baptistcare.org.au)

**Green Valley Liverpool DV Service** Phone 1800 111146 [www.greenvalley.dvs@sswahs.nsw.gov.au](mailto:www.greenvalley.dvs@sswahs.nsw.gov.au)

**Mary's Place** Phone 9709 2469 [www.vinnies.org.au/ Mary's place](http://www.vinnies.org.au/Mary's_place)

**Liverpool Fairfield Staying Home Leaving Violence Service** Phone 9602 7795

**South West Sydney Women's Domestic Violence Court Advocacy Service** Phone 9601 6988

**South West Sydney Legal Centre** Phone 9601 7777

**Your local Women's Health Service** provides medical and clinical services and a range of counseling, health education and self-help services.

**Bankstown** Ph 9790 1378 [www.bwhc.org.au](http://www.bwhc.org.au)

**Liverpool** Ph 9601 3555 [www.liverpoolwomenshealth.org.au](http://www.liverpoolwomenshealth.org.au)

**Men's Referral Service** (MRS) provides 24 hour, anonymous and confidential telephone counseling, information and referrals to men to help them take action to stop using violent and controlling behaviour.

**Phone: 1300 766 491**

**What Men Can Do** publishes information about how men can respond to and prevent men's violence against women <http://whatmencando.net>

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 5.00pm

Thursdays: 12.30pm to 2.00pm

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