

What is an Apprehended Violence Order (AVO)?

AVOs are court orders which protect individuals from violence, threats and harassment. They are made against a person (the defendant) and prevent that person from engaging in particular behaviour with another person (the protected person).

There are two types of AVOs:

- Domestic (ADVO) - ADVOs protect individuals from violence, threats and harassment from anyone who they are in a domestic family relationship with (e.g. a spouse, de facto partner, or family member).
- Personal (APVO) - APVOs protect individuals from violence, threats and harassment from anyone who they are not in a domestic or family relationship with (for example a neighbour).

Applying for an AVO

You can apply for an AVO at your Local Court or you can report an incident to the police and they may make an application for an AVO for you. If you have urgent concerns for your welfare or if there has been a criminal offence you should report the matter to police. A Senior Police Officer has the power to make a 'provisional order' which is a temporary AVO which will provide immediate protection until the matter can be heard at Court in some circumstances.

Different types of AVOs

The effect of an AVO will depend on what conditions are on the AVO. All AVOs say that the defendant must not assault, threaten, stalk, intimidate you or damage your property or harm an animal that belongs to you. An AVO may have other conditions which prohibit the defendant from contacting or being near you. Examples of other conditions that may be on an AVO are included in this handout.

Is an AVO a criminal offence?

If someone has an AVO against them this is not a criminal offence. An AVO does not give someone a criminal record. However, once there is an AVO in place the defendant must comply with it. If they breach the order (for example by committing a further act of family violence) this can result in a criminal charge. A breach of an AVO should be reported to the police. The police will investigate the matter and decide whether there is enough evidence to lay a criminal charge.

AVOS and children

If the Court grants an AVO to protect an adult they should include any child that is dependent on the adult or lives with the adult unless there is a good reason not to include that child. If the child's name is not on the AVO, then the AVO does not cover the child except for mandatory conditions. The Court can include conditions on an AVO that allow people to communicate about the care of their children or make a parenting agreement. If there are Family Court orders in place, these will override an AVO if the orders say different things. If there are both AVOs and Family Court orders in place parties may wish to get legal advice about how both the orders work together.

Property Recovery Orders

If the defendant or protected person needs to collect personal property from the other person's house the court can make a Property Recovery Order. The court may order that a party can collect personal property at a particular time and sometimes in the company of police to ensure everyone's safety. A Property Recovery Order is usually made on the first court date and applies to personal belongings (for example clothing, shoes or documents) only. If there are significant assets such as a house, boat or shares there will need to be a property settlement negotiated under Family Law or legal advice on Civil law options.

Examples of AVO Conditions

Mandatory Conditions

These conditions are on all AVOs to protect anyone who is in a domestic relationship with the Protected Person or who lives with them.

You (the Defendant) must not do any of the following to the protected person or anyone the protected person has a domestic relationship with:

- a) assault or threaten them
- b) stalk, harass or intimidate them, and
- c) intentionally or recklessly destroy or damage any property or harm an animal that belongs to or is in the possession of them.

Examples of additional conditions

These are examples of other conditions the court may include depending on the particular circumstances of the case.

You must not approach the protected person or contact them in any way, unless the contact is through a lawyer.

You must not approach:

- a) the school or any other place the protected person might go to for study,
- b) any place they might go to for childcare

You must not approach or be in the company of the protected person for at least 12 hours after drinking alcohol or taking illicit drugs.

You must not try to find the protected person except as ordered by a court.

You must not approach the protected person or contact them in any way, unless the contact is:

- a) through a lawyer, or
- b) to attend accredited or court-approved counselling, mediation and/or conciliation, or
- c) as ordered by this or another court about contact with child/ren, or
- d) as agreed in writing between you and the parent(s) about contact with child/ren, or
- e) as agreed in writing between you and the parent(s) and the person with parental responsibility for the child/ren about contact with the child/ren.

You must not possess any firearms or prohibited weapons.