

Apprehended Violence Order (AVO) factsheet

What is an Apprehended Violence Order (AVO)?

An AVO protects people experiencing violence, intimidation or harassment from any future violence by the perpetrators of such actions. They are commonly referred to as 'restraining orders'. An AVO protects victims by placing restrictions on what the defendant can or cannot do.

There are two types of AVOs:

1. Apprehended Domestic Violence Order (ADVO)

- This order is made where the violence involves parties who are related, are in an intimate relationship, or are living together
- Can be made against a current or former partner
- If you are an Aboriginal or Torres Strait Islander person, ADVOs can be made where the people involved are part of the kin or extended family
- Also suitable for people being cared for in a dependent care relationship against paid or unpaid carers and people living in the same residential facility

2. Apprehended Personal Violence Order (APVO)

- This order is made where you are not in a domestic relationship with the defendant, for example, a neighbour or colleague

Applying for an AVO

Most AVOs are applied for by the police. Sometimes individuals apply for the AVO themselves by completing an application at the Local Court. This is known as a private application and is not covered in this fact sheet.

Police application

- The police may apply for an AVO on your behalf if you have reported an incident of violence at a police station or if the police attend your house after an incident of domestic violence
- An AVO applicant must be aged 16 years or older. If you are under 16 years of age, only the police can apply for an AVO on your behalf

Can I get immediate protection?

Senior police officers can issue a provisional AVO upon your attendance at a police station without needing to wait for a court date. A provisional AVO gives you immediate protection from the perpetrator as the perpetrator will need to follow the provisional AVO as soon as it is issued.

What is the process for attending Court?

At the first mention, that is, the first court appearance, the defendant can agree to the AVO being made without admitting that they have done anything wrong. If this occurs, the final AVO will be made that day meaning you do not have to attend court.

If the defendant does not agree to the AVO, the case will be adjourned. The matter will then be listed for final hearing at which the Magistrate will make their decision.

Please refer to the diagram in *Figure 1: Court process relating to AVOs*.

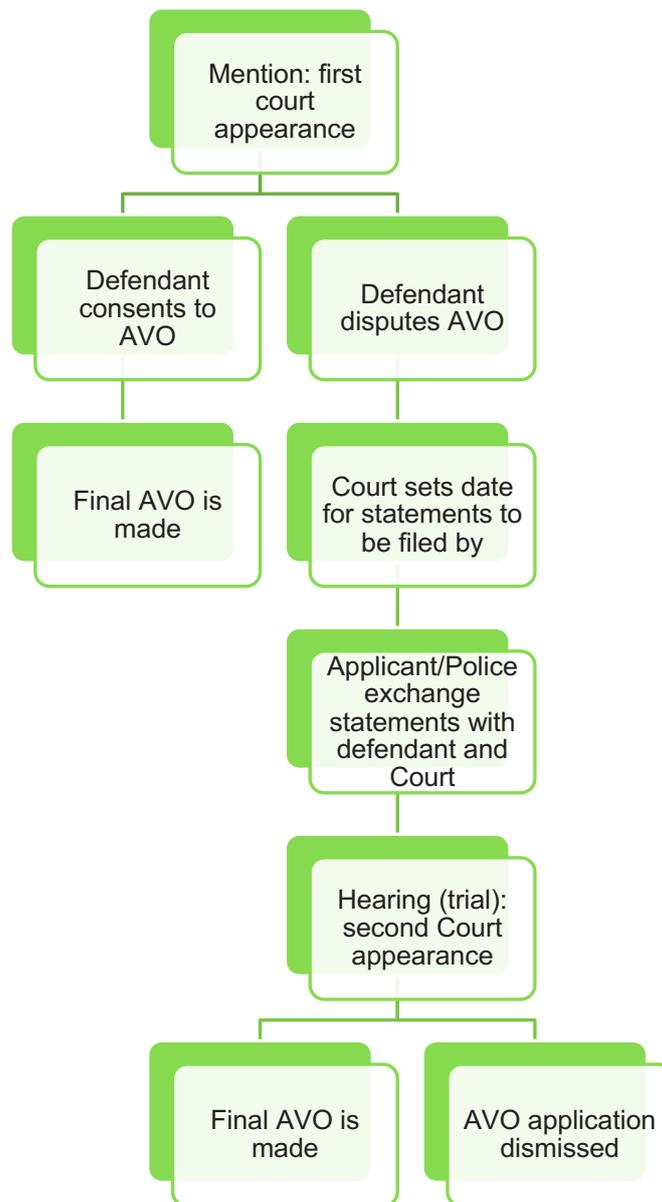


Figure 1: Court process relating to AVOs.

What types of conditions can be put in an AVO?

All AVOs protect the victim from illegal behaviour.

The following condition will always be included in an AVO:

- 1) You 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 that belongs to or is in the possession of them.

Additional conditions that may be imposed in an AVO. For example, those that would prevent the defendant from approaching or contacting you, or being in your company within a certain time frame in which they have consumed alcohol or drugs.

Can my partner and I still live in the same house if I have an AVO against them?

You and your partner can still live in the same house if there is no exclusion order attached to the AVO.

An exclusion order excludes or bans the defendant from living at your home or going into your home. An exclusion order is one of the conditions in an AVO.

What happens if the defendant does not follow the AVO?

Breach of an AVO constitutes a criminal offence. A person who is guilty of breaking an AVO may be sent to jail or ordered to pay large fines.

What if I do not want the AVO or I want the conditions removed?

Where the police have applied for the AVO, only the police can decide whether to oppose an application to change an AVO or to remove the AVO altogether.

You should discuss your wishes with the police and the police may be willing to agree to the change of the AVO.

It is important to note that the law does not allow the protected person to apply to vary or revoke a provisional AVO.

What if I want the AVO extended?

Discuss your concerns with the police.

The police may be willing to apply to extend the AVO or put in additional conditions so that more protection can be given.

What is a property recovery order?

The court may issue a property recovery order. This order allows the person named to attend the specified address to retrieve their personal belongings. The person who is given a property recovery order can only do so while accompanied by the police.

If the home you live in is the subject of a property recovery order, you should obey the order and allow the person to retrieve their belongings in the presence of the police. If there is a dispute over who owns certain property being retrieved, notify the accompanying police officers.

AVO Tips – If you are the defendant

- It is important that you attend court on the day and at the time specified on the application you were served. If you do not come to court without good reason, the court can make an Order in your absence.
- It is important that you file any documentation you are required to within the specified time frame. If you do not comply with the Court's direction, you may not be able to give evidence at the final hearing.
- Your child/ren may be included as a protected person in an ADVO which may affect your contact with them. You should seek legal advice if you wish to maintain contact with your children.



Contact

Need legal advice? We can help. [Submit an enquiry online](#) or call Marrickville Legal Centre on 02 9559 2899.