

FACT SHEET: APPREHENDED VIOLENCE ORDERS (AVOs)

What is an AVO?

An AVO is a court order, which prohibits a person from behaviour such as harassing or intimidating another person.

The purpose of an AVO is to protect a person from acts of violence such as physical assault or non-physical assault such as harassment, intimidation or damage or threatened property damage.

The order does not itself does not give a criminal record, however breach of an AVO is a criminal offence and the police may arrest and charge a person breaching an AVO.

On what basis is an AVO made?

An AVO will be granted by a magistrate if satisfied on the balance of probabilities that the person seeking the order has reasonable grounds to fear and fears that the defendant will commit a personal violence offence, or fears harassment, intimidation, molestation or stalking.

Types of AVOs

Apprehended Domestic Violence Orders (ADVOs)

These are made when a domestic relationship exists between the victim (complainant) and the abuser (defendant)

Apprehended Personal Violence Orders (APVOs)

These are made to protect a person from an abuser when there is no domestic relationship between the parties eg: work colleagues or neighbours

What is a domestic relationship?

A domestic relationship includes the following:

- A current or former spouse;
- A current or former de facto partner;
- A person who lived or formerly lived in the same house (excluding tenant);
- A person who is or was in an intimate relationship with the offender.
- A person who cares for or has cared for the victim;
- A person who is or has been a relative of the victim.

Applying for an AVO

If you are seeking protection of an ADVO, the police may make application on your behalf. Contact your local police station. In the alternative, you may make an application to your local court. You need to see the Chamber Magistrate to make a complaint.

Every complaint is to be testified on oath before a magistrate. After an explanation to the Chamber Magistrate about why you want the AVO, a hearing date will be arranged and a summons sent to the defendant to appear.

What happens next?

If the defendant attends court and agrees to the order then the AVO will start immediately.

If the defendant does not attend court the order can be made in his/her absence. However the AVO will not start until the defendant has been given a copy of the AVO by police.

If the defendant does not consent to the order being made then a hearing will occur. At the hearing the victim must establish that he/she fears that the defendant will commit a personal fear against them, or that he/she will suffer harassment, molestation or stalking and that this fear is based on reasonable grounds.

The victim must give evidence and both the victim and the defendant will be cross-examined. The victim will be required to bring witnesses to support their case.

If the application for an AVO is unsuccessful you may lodge an appeal with the District Court within 28 days.

Orders included in an AVO

Every AVO prohibits the defendant from conduct, which intimidates the victim or a person with whom the victim has a domestic relationship. The AVO will prohibit the defendant from stalking the victim.

A magistrate can make an order as deemed necessary and can adapt the AVO to suit the victim's circumstances. For example the victim can ask for an order that the defendant not go within a certain distance of the victim's residence or work.

What happens if the defendant disobeys the AVO?

If the defendant disobeys any of the orders in the AVO, the defendant may be arrested and charged. The maximum penalty for disobeying an AVO is 2 years imprisonment and/or a fine of \$5,500.

After the AVO is made the defendant will have any firearms or prohibited weapons licences or permits revoked and no licence or permit will be issued within 10 years of making the AVO.

If the defendant does breach the AVO the onus is on the victim to give effect to the order by notifying the police when a breach occurs.

Duration of AVOs

Telephone Interim Orders (TIO): A TIO usually lasts only 14 days and will be listed by police as a complaint within this time.

Interim Orders: An Interim order remains in force until it is revoked by court, or until the complaint is withdrawn or dismissed or until a final ADVO or APVO is made or served upon the defendant.

Final AVO: A final AVO is made for as long as the court deems necessary.

Contacts

Domestic Violence Line Ph 1800 65 64 63

Law Access Line Ph 1300 888 529

Central Coast DV Court Assistance Scheme

Gosford 4304 6922

Wyong 43 44 0111

Disclaimer: This fact sheet provides general information and does not provide legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to a court.