

*Just a piece of paper?*

# **Making your AVO work for you**

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**Second edition**

**by Maree Livermore and Southern Women's Group Inc.**

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**Disclaimer:**

*This is not intended to give legal advice and is not a substitute for proper legal advice tailored to the individual situation. Free legal advice is available through Law Access NSW, Women's Legal Services and NSW Legal Aid.*

# A letter to the reader

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## *About the words we use...*

New laws in NSW now refer to Apprehended Domestic Violence Orders. The short-hand way to refer to these would, strictly speaking, be by use of the term 'ADVO'. At the time of writing, however, the term 'AVO' remains the most commonly used and understood term for a domestic violence order in NSW. For this reason we have chosen to continue to use the term AVO for this edition of this publication.

This booklet was written for people who are or have been victims of domestic violence and have obtained an AVO.

These orders refer to you as 'the protected person.'

## *But let's look forward...*

Most people find their AVOs to be highly effective in preventing violence, intimidation and harassment. You have every reason to be hopeful that the defendant to your AVO will take proper notice of your AVO, and that you will have no further trouble. In the end, however, an AVO is an order of the court not just a piece of paper. What gives an AVO power is the strength of the law but very importantly also, the action taken by various people to support it.

These people include you. You may need to take specific action to keep your AVO useful and strong. We hope that the ideas in this booklet will help you to do this. As well, we think it's wise to 'be prepared' for the possibility that you might continue to have problems with the defendant, despite the AVO, and have some suggestions for planning to be safe.

We encourage you to take some time to read this booklet thoroughly, and to make sure that people close to you also read it and understand how they might need to help out.

But let's look forward positively. Your AVO is likely to be a major step towards reclaiming a sense of freedom, safety and the absence of fear. By taking out an AVO you've taken a stand. We congratulate you on taking that step.

Please accept our best wishes for your more peaceful future.

*Southern Women's Group Inc.*

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## What is an Apprehended Violence Order?

An Apprehended Violence Order (AVO) is an order made by a court restricting the behaviour of the person which the order is against. The purpose of an AVO is to protect you from violence and harassment in the future. An AVO usually states that a person cannot assault, harass, threaten you or go within a certain distance of your home or workplace.

An AVO is not a criminal charge but if the defendant breaches the AVO this is a criminal offence.

There are two types of Apprehended Violence Orders:

ADVO – Apprehended Domestic Violence Order is made where the people involved are related, living together or in a relationship, or previously in this situation.

APVO – Apprehended Personal Violence Order is made where the people involved are not related and do not have a domestic relationship, eg. they are neighbours.

### **Moving interstate**

*Your AVO is enforceable in states and territories other than NSW. If you wish to move interstate, it is best if you have your NSW AVO registered in the new state or territory. Contact the magistrate's court or a women's or community legal service in the new states or territories for help in registering your AVO interstate.*

## How do AVOs work?

### **How are AVOs enforced?**

Most defendants comply with their AVOs because they recognise the power and authority of the law behind the orders. If a defendant disobeys an AVO, the order can be enforced by police action and by use of the criminal law. A breach of an AVO is a crime.

If there is evidence of a breach of an AVO the police can arrest and charge the defendant with the offence of contravening an AVO, and possibly also with other crimes (eg. assault). If convicted of the offence of breaching an AVO, a defendant may be imprisoned.

Police action may be affected by the wishes and the insistence expressed by you, the 'protected person' on the AVO. If you believe there has been a breach of your AVO, and you want the defendant charged, you should make this clear to the police. In the end, however, the decision to charge a defendant rests with the police, not with you.

If the police charge the defendant, the matter will go to court as a criminal case. In the court hearing, the police prosecutor will lead the case against the defendant. As the victim, you do not need your own solicitor. You may be asked, however, to give evidence about what happened.

**You should report all breaches of your AVO to the police.**

### **What is a 'breach'?**

An AVO is breached when the defendant acts or behaves against one of the conditions in the AVO.

A breach can seem minor – especially to the defendant. But an act like sending a love note when the AVO tells the defendant ‘not to approach or contact the protected person’ is still a breach. Similarly, telephone messages or messages passed through friends can be breach of an order ‘not to harass’.

It is important to try to explain to a child who is protected by an AVO what types of behaviour by the defendant are forbidden by the AVO. Ask your child to tell you about this behaviour if it happens.

There are no ‘acceptable’ breaches allowed by the law. Any breach of an AVO, whether major or minor, is a criminal act. This will have been clearly explained to the defendant at court when the order was made.

## **Reporting a breach**

### **Why is reporting important?**

After an AVO has been made, a defendant may try to ‘test the boundaries’ of your readiness to report breaches of the AVO to the police. The defendant may continue with behaviour which has been prohibited by the order. If you do nothing when these small breaches happen, the defendant may decide you’ve given a ‘green light’ for this behaviour, and will almost certainly try again.

In fact, if repeated breaches are not recorded or acted upon, it is likely that the frequency and severity of the breaches will increase over time.

### **“But he only sent me flowers...”**

The defendant’s purpose in manipulating you to allow larger breaches is to reclaim control over you and to make the AVO meaningless. You do not want this. If you are noticing small breaches, such as messages or gifts when there is a ‘no

*Many small breaches may lead to more and larger breaches.*

*You can use your AVO to draw ‘a line in the sand’ between acceptable and unacceptable behaviour.*

contact’ condition in the AVO, this should be a wake up call that the harrasment will not end unless you report all future incidents to the police.

Don’t worry about whether there is enough evidence that a

breach has occurred before you call the police. Even if the police decide not to charge the defendant, the existence of a history of reports will show a pattern of behaviour that may assist police in dealing with future incidents. The attendance and investigation by police may be enough discouragement for the defendant in any case.

Remember that, in many cases, it is often only the threat or possibility of criminal punishment that makes a defendant comply with an AVO. If you don’t report a breach and there is no investigation, the defendant will know there is no likelihood of punishment.

## How to report a breach

You can report a breach by going to a police station *OR* by telephoning a police station *OR* in an emergency, by calling '000'.

### Reporting a breach by telephone

You can dial '000' from a mobile phone as well as a landline. If you have access to a mobile but are 'out of range', have poor reception, or if you can't unlock the keypad, try using the special emergency mobile call service number '112' instead.

If you call your local police station you need to ask to speak to a police officer.

To make sure that your report is officially recorded, make sure that you ask for police attendance, and for an 'event number'.

Write down the event number because it is a specific unique number that records the incident. This number allows any police officer to look up the details of that incident on the Police COPS system.

Details reported on the '000' number are always recorded.

### Reporting a breach at a police station

If you go to a police station to report a breach of an AVO, it is a good idea to say that you would like to make a written statement about what happened.

Giving a statement may mean that you become involved in court proceedings for breach of the AVO as a witness against the defendant. If this happens, you may be cross-examined by the defendant's solicitor, or by the defendant, if the defendant has no solicitor.

Appearing in court can be an unsettling experience. It may be possible to obtain the assistance of the Women's Domestic

Violence Court Advocacy worker or protective measures at court such as a

safe room. It is important however that you weigh the unpleasant aspects of the possibility of a court appearance against the advantages of providing a witness statement. These advantages include:

*A statement is a document that may be used as evidence by the police to help prosecute the defendant in court for breaching the AVO.*

- A criminal case against the defendant for breach of an AVO is more likely to go ahead. Often the evidence in court you give is the only evidence against the defendant. A case can't be brought without evidence. If the defendant pleads not guilty, you will still have to give oral evidence. A detailed statement forms part of the brief which will be served on the defendant before the defendant enters a plea.

- The police may take steps to more actively enforce your AVO if you show that you intend to support their efforts
- The defendant will be forcibly reminded that the defendant is no longer able to control you.

### Your record of making a report

It's a good idea to keep a written record of:

- When, where and how you have made each report of breach to the police
- The name of any police officer you deal with and the station at which they work
- The police 'event number' for the incident (you may have to ask for this).



## ***Police response to a breach of an AVO***

### **Role of police**

The responsibilities of police in relation to domestic violence are to:

- investigate and charge the defendant where there is evidence of an offence
- take action to provide for the safety of victims
- bring offenders before the court
- work with local service providers towards prevention of domestic violence.

### **Helping the police to respond effectively**

Police are required by their Standing Operating Procedures to investigate any reported breach of an AVO. If they investigate a breach and decide not to prosecute the defendant, police are legally required to make a formal record of their reasons for this decision.

Though the police do have legal and professional obligations to respond to your safety needs as a protected person your AVO will be most effective if you are able to work together with the police. You can help the police keep your AVO effective by:

- reporting all breaches as soon as they occur
- co-operating generally with police
- agreeing to provide a statement and attend court as a witness, and if necessary, act as a witness
- having a person (such as a community agency worker, lawyer, translator, relative or friend) help you to make contact with and explain things effectively to the police
- providing additional evidence, where possible, to back up your statement about what happened.

## **Following-up on police action**

If the police response to your report of breach of your AVO does not seem right to you, or if you do not understand what police have said or done, or you have any questions about any aspect of your AVO, you may wish to take follow-up action with the police. It is important to take the proper steps, one at a time, to achieve results.

If you have concerns about taking these actions yourself and don't know what to do next, your local Women's Domestic Violence Court Advocacy Service (WDVCAS) may be able to help. See the inside back cover of this booklet for contact details.

**Step 1:** Ring your local station and ask if there is a Domestic Violence Liaison Officer (DVLO) in your area. A DVLO is a police officer who has been specially trained to assist and support the victims of domestic violence. If there is a DVLO for your area, contact the DVLO and explain your concerns. If the problem is not resolved, go to the next step.

**Step 2:** Contact the Officer-in-Charge at your local police station.

**Step 3:** Write a letter, addressed to the Duty Officer at your local police station. Make sure you keep a copy of your letter.

**Step 4:** Make an appointment to see either the Duty Officer or the DVLO. If you would be more comfortable speaking to a female police officer try to arrange this when you make the appointment.

If you still feel, then, that the proper police response to your report of breach has not occurred then you may wish to seek legal advice, or:

**Step 5:** Contact the NSW Ombudsman.

**Step 6:** Contact the NSW Police Customer Assistance Unit on 131 444 or make a formal complaint, in writing:

- to the NSW Customer Assistance Unit at PO Box 3427, Tuggerah, NSW 2259 (email:customerassistance@police.nsw.gov.au), OR
- to the Commander of your NSW Police Local Area Command (address: your local police station).

In your letter, briefly outline what your complaint is about including all relevant names, dates and times. Politely state what action you want and need. Ask for a written response. Say what you intend to do if your complaint is not resolved. Follow-up with a phone call if you don't hear from them within 14 days.

- It is also recommended that a copy of the letter of complaint be sent to the Commissioner of Police NSW in Sydney.



## Personal records and evidence

Your written statement about what happened often will be enough evidence for police to prosecute the defendant for breach. Remember though that breach of an AVO, as a criminal offence, must be proved in court 'beyond reasonable doubt'. The court may simply believe your word (over the defendant's) without any doubt at all. However, the existence of *additional* evidence, such as the written, electronic and other forms of evidence described below, can be powerful, extra persuasion for the police and for the court to take action based on your statement of what happened.

### Keeping a journal

You should make a record in a separate journal (perhaps in an exercise book) of every instance of the defendant harassing, intimidating, abusing, stalking or hurting you, or otherwise breaking the conditions set out in your AVO, including events that you have not reported to police.

It's a good idea to include the following details in each entry:

- Date of the incident
- Description of events – who did what, when and where, in time order
- Names of children or other witnesses at or near the incident
- Action taken by you after the incident
- If the event was reported to police: time, date, name of officer, police station reported to, 'event number' and how it was reported.

### Answering machines and voicemail

A message left by the defendant on your answering machine, mobile phone or voicemail service may be a breach of your AVO. These messages might be played directly to the police or even to the court. You need, of course, to ensure that the messages are not erased. If your answering machine contains vital evidence for a breach prosecution, you should consider disconnecting it for the time being and perhaps using a voicemail service instead.

It is a good idea to check the practices of your telephone carrier in relation to saving voicemail messages. Under some plans, saved messages are automatically deleted within a few days.

### SMS, MMS and email messages

*Contact that breaches an AVO can also be received in text, picture or video form by email, MMS or SMS message. If you receive such messages, take care to save rather than delete the message and contact the police immediately.*

### Taping a conversation

A recording of an abusive or intimidating conversation can be powerful evidence but it is important that you understand the legal situation.

Under the Listening Devices Act 1994 (NSW), it is illegal to record a private conversation, even if you are a party to the conversation, unless all of the people speaking agree to be recorded. Making an illegal recording is an offence punishable by fines or possibly, imprisonment.

Furthermore, an illegal recording cannot be used in court as evidence.

Certain exceptions apply but the general rule is that a recording of a private conversation will be illegal unless you clearly:

- advise the other party or parties in the conversation that you are making a recording,
- ask for their consent, and
- obtain the consent.

All of these steps must be clearly recorded at the very beginning of the tape or other form of recording.

## Photographs and video

Unfortunately it is difficult for a photograph or video to show in itself what time and date it was taken unless it is a digital camera. For this reason, photographs or videos may not be admissible as formal evidence in court proceedings. On the other hand, a photograph may be worth a thousand words in terms of prompting effective police action.

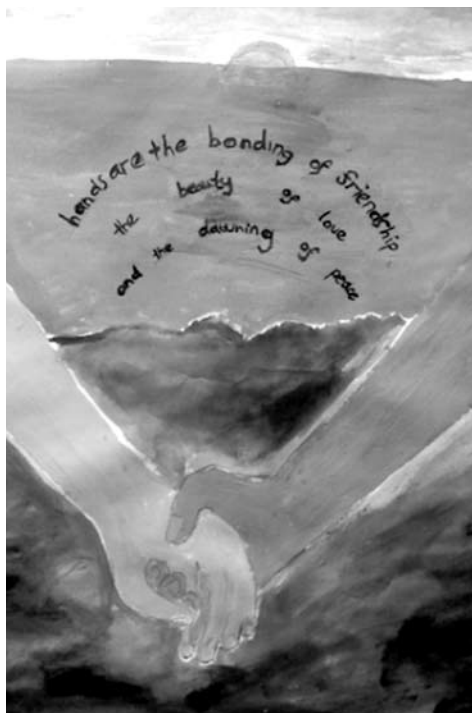
## Injuries

Make sure you see a doctor or go to the hospital if the defendant injures you. If your injuries are visible, have them photographed. Inform the police if you have gone to the doctor or hospital.

## Other witnesses

The presence of other adults at the time of an incident can be very useful to corroborate (back up) your version of what happened. However, memory tends to fade over time. It is a good idea to ask any witnesses present at the time of the alleged breach to write down what they saw or heard and when, as soon as possible after the incident.

The witnesses should write their name at the beginning of the statement and then sign and date it at the end. You might then give these documents to police (keep a copy) or keep them yourself until you need to use them.



## Telephone call monitoring

Records of repetitive, harassing or abusive telephone calls can be used as evidence of breach of an AVO. Your task is to try to identify the phone number of the incoming call. Once the source is known, the unwelcome call may be investigated, either by your telephone service carrier or by the police or both.

### Your service provider can help

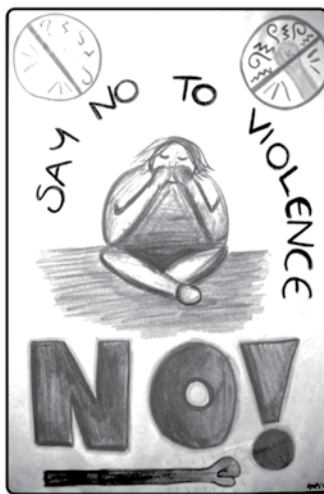
When you know the number of an unwelcome caller and notify it to your telephone service provider, the carrier may then be able to conduct an investigation into the unwelcome calls and/or set-up arrangements for future traces on your line.

Arrangements for dealing with unwelcome calls and tracing telephone numbers differ between telephone service providers, between telephone types and plans, and are often tailored to suit the particular circumstances of the customer. Fees and charges may apply. You should call your carrier and ask to be connected to the contact point for unwelcome call complaints to discuss your particular

needs. If you are a Telstra customer, call Telstra's national Unwelcome Calls line on 1800 805 996 or go to [www.telstra.com.au/unwelcome-calls](http://www.telstra.com.au/unwelcome-calls).

### Tracing past calls

Except by using 'call return' to retrieve the last unanswered number, a retrieval trace on other past calls can only be obtained by the police. It is unlikely that police will approve a trace unless the situation is particularly severe or involves a pattern of calls. However, if it is important to you to identify the source of a prior call you should ask the police about a trace in any case.



### Using 'call return' and 'call number display'

When an unwelcome caller has hung-up, you may be able to use 'call return' (e.g. for Telstra customers, ring \*10#) to identify the number of the phone that was last connected to yours. If you have a telephone that can display numbers the incoming number can be displayed on your telephone screen, using 'call number display'. You may have to speak to your telephone service carrier to arrange for 'call return' and 'call number display' to be enabled on your phone.

# AVOs and children

## The effect of domestic violence on children

The trauma of domestic violence can have serious, short-term and long-term effects on a child's physical and emotional well-being.

A child who has experienced domestic violence – either as a victim or as a witness – may benefit from counselling. To find an experienced counsellor for your child in your area, contact your local Women's Domestic Violence Court Advocacy Service or Family Support Service (see the inside back cover for contact details).

## Intimidation of children

Under new legislation children can be included on an AVO. Even if they are not named, all AVOs state that the defendant must not “engage in conduct that intimidates any other person having a domestic relationship with the protected person”.

This provision clearly includes your children. Intimidation of your child(ren), then, would be a breach of the AVO.

As well as behaviour directed towards the child particularly, the child seeing or

### Current NSW law states

*“Intimidation” is defined as conduct amounting to harassment or molestation, or the making of repeated telephone calls, or any conduct that causes a reasonable apprehension of injury to a person or to a person with whom he or she has a domestic relationship, or of violence or damage to any person or property.*

hearing domestic violence directed to another person may be held by a court to be intimidating for the child.

A copy of the AVO should be given to the children's school.

## Separate orders for children

Orders that you need that are specific to your situation may not apply for the protection of your children. Therefore it is better for your children to have separate orders made to protect them specifically. Only a police officer can apply for an order for a child. You need to remember to ask for these orders, if required, when speaking with the police officer.



# Varying or revoking your AVO

## Changing name and address

If your AVO is specific about names and addresses and these details change while your AVO is in force, you should apply for a variation to your AVO.

An AVO is an order of the court and cannot be changed by simple agreement between you and the defendant. If you don't get the order changed to include the new details, and the defendant is caught acting against the AVO because of an informal understanding with you, the police will sometimes take action against the defendant for breaching the AVO in any case.

## Other changes of circumstance

An AVO can be varied by applying to change, add to or remove orders in the AVO. The length of the order can be shortened or extended. You can also apply to the court for the AVO to be revoked (removed).

The important point is that an AVO will only be varied or removed if the court is

satisfied that there has been a change of circumstances that justifies the variation or removal. Note: an order can be varied with the consent of the other party.

## Getting back together

You may want to vary your AVO if you decide to try living with the defendant again. You should apply to vary your order if the existing order prevents your partner from living with you or approaching or entering your house.

This may be a safer option than removing it entirely.

You can keep conditions in the AVO that guard against unacceptable behaviour in the house such as violence, harassment, threats and abuse while at the same

time allowing for day-to-day contact and the development of your relationship. You might also consider applying for conditions tailored for the new living arrangements (e.g. that the defendant must not come near the house under the influence of alcohol or drugs).

*It is not a good idea to simply agree with the defendant that the new details apply instead of the old.*

## Women's Domestic Violence Court Advocacy Service

*The Women's Domestic Violence Court Advocacy Service (WDVCAS) has workers attached to Local Courts across NSW. WDVCAS workers can help you decide how your order should be changed, help you apply and support and assist you at court. They can also assist you to obtain legal advice and with referrals to other helpful services in your area and provide support if you need to appear in court as a witness against the defendant. Contact LawAccess on 1300 888 529 to find out where your nearest Women's Domestic Violence Court Advocacy Service is located.*

## **Extending the AVO**

If your AVO is due to expire and you still have fears for your safety you can apply to extend it or you can ask the police to apply to extend it.

Though you will need to make an application for a variation to the dates of coverage of your current AVO, and be able to explain to the court why you need the extension, this process will likely be less stressful and time-consuming than applying for a new AVO after the old one expires.

You should get started on your application for variation (for an extension) no later than six weeks before the expiry of your current AVO.

## **How do I apply?**

A police officer or one of the protected persons under the AVO, aged at least 16 years, can make an application for variation or removal of the AVO no matter who applied for it in the first place. If a

child is one of the protected persons under the AVO, then only a police officer can apply for the variation or removal. Contact the police or enquire at your Local Court and explain that you want to vary or remove an AVO.

## **Urgent orders**

The police can apply for an urgent AVO, or for urgent changes to an existing AVO, 24 hours-a-day, if there is an incident with the defendant, and the police consider the urgent order is necessary to ensure your safety and protection.

## ***Cross-Applications in AVOs***

*If the defendant in an AVO applies for an order against you this is called a cross-application. The court is unable to refuse to issue process for a cross-application.*

*If a cross-application for an AVO has been made for an order against you contact the Women's Domestic Violence Court Advocacy Service for assistance.*

# Staying in or leaving the home

## Should I stay or should I go?

The decision about staying in or leaving the home is individual to each person and their situation - there is no one 'right' approach.

You might feel, for example, that you and the children would be better off staying in your own home.

Or you might prefer to set up a new household.

Alternatively you might be able to find supported accommodation, such as a refuge, which may be an option for a time.

If possible however, you should seek legal advice about possible family law consequences if you plan to leave, even initially, without your children. It is rarely a good idea to leave without your children and you should make every effort to take them with you.

## Exclusion Orders

The court has the power to make an order that prohibits a defendant from living at, entering or approaching your home, even if the defendant's name is on the title or lease of the property, or if they also currently live there.

If you come to believe you are unsafe in your home, or that it would not be safe to return to your home, you should consider applying to the court for the offender to be excluded from the home. Before making an order excluding the defendant from the home the court must consider the accommodation needs of the parties and the effect on the children and the effect of not making the order.

## Property recovery order

When the court is making an AVO it can also make orders that will help either party get back personal belongings located at premises occupied by the defendant.

Property recovery orders require the defendant to allow you access to the premises to collect your property and may provide that a police officer will go with you to do this.

The court also has power to make orders for the defendant to be able to collect personal property from your residence in the company of police.

## Priority Housing Assistance

The NSW Department of Housing provides Priority Housing Assistance to people who are affected by domestic violence who are eligible for public housing, in urgent need of housing, and unable to find housing they can afford in the private rental market. Applicants approved for Priority Housing are housed ahead of most other applicants on the waiting list. If a person does not pass the eligibility test, the Department may be able to provide emergency temporary housing or rental accommodation.

## Staying Home Leaving Violence Project

A 'Staying Home Leaving Violence' (SHLV) service can work with you to plan for your safety, and help with set-up costs.

Depending on your needs, steps in the plan may involve the installation of security systems, including alarms and sensor lights, and changing locks.

At the time of writing, SHLV services are located in Bega, Eastern Sydney and Western Sydney, but many additional SHLV projects are planned.

Call NSW Department of Community Services on (02) 9716 2365 to discover if there is a Staying Home Leaving Violence Project in or coming to your area.

## Victim's compensation

You can lodge a claim for victim's compensation if you have been a victim of violence that resulted in certain injuries within two years of the violent offence which has been reported to the police. Extensions of time for the 2 year limitation period are widely available for domestic violence injuries. This process is all **free**, including the services of a solicitor. You

will not have to face the perpetrator in court.

You may also be able to claim for expenses connected with the injury such as dental, ambulance and physiotherapy fees and get help in arranging free counselling. Call Victims Services NSW to find out more.

If your application is accepted you can be awarded compensation for your injuries.

See the inside back cover for contact details.

### Centrelink 'Crisis Payment'

*You may be eligible to receive a Centrelink 'Crisis Payment' if you are in severe financial hardship, and*

- *you have been forced to leave your home and intend to establish a new home because of domestic violence, or*
- *you have remained in your home after experiencing domestic violence and the family member responsible has left the home.*

*You must make sure to apply to Centrelink for the payment within 7 days of either of these events. If you are unsure about your eligibility for the Crisis Payment or any other Centrelink benefits ask for an appointment with a Centrelink social worker.*





# AVOs and family law

## What is 'family dispute resolution'?

Many people with AVOs are also involved in disputes about parenting arrangements. The court or your advisers may suggest you try 'family dispute resolution' to resolve these issues. Family dispute resolution is a form of mediation where the parents in dispute meet together with a trained facilitator to try to reach agreement on parenting issues.

*If the court or an adviser is talking to you about going to family dispute resolution, it is important that they are aware that there is a history of domestic violence in your relationship.*

## Going to family dispute resolution

Mediation may not be appropriate where domestic violence is a factor because the power imbalance means any agreement may not be voluntary and uncoerced.

If you decide to go to family dispute resolution and your AVO does not include this allowance, you or the defendant should apply to the court for a variation to the AVO so that the defendant can attend family dispute resolution with you without breaching the AVO.

You should only attend family dispute resolution with an accredited practitioner. To find an accredited family dispute resolution practitioner in your area, call the Family Relationships Advice Line on 1800 050321 or go to [www.familyrelationships.gov.au](http://www.familyrelationships.gov.au).

Domestic Violence victims are exempt from attending mediation. The dispute resolution service must assess whether parties with a history of domestic violence should undertake mediation. They should

also have procedures in place to ensure your safety.

Special arrangements may be made such as shuttle mediation (where the parties sit in separate rooms and the mediator

goes between them) or telephone mediation, or telephone shuttle mediation (where there are two phone lines so the parties don't have to speak directly to each other).

If these arrangements are not offered to you, ask for them.

## Should I mediate with the defendant?

*You should think very carefully about whether family dispute resolution is a good idea in your situation.*

*You should never attempt to mediate on the issue of domestic violence. Going to mediation about other issues, such as parenting arrangements, may also not be a good idea if you think you might be unable to negotiate effectively, or would feel pressured to agree to certain arrangements, or if you would feel disturbed, scared or unsafe.*

## Useful tips for women preparing for mediation can be found at:

[www.dvirc.org.au](http://www.dvirc.org.au)  
[www.wlsq.org.au](http://www.wlsq.org.au)

## Is it compulsory?

If you have been a victim of domestic violence and /or there is a risk of child abuse, it is not compulsory to attend family dispute resolution.

Parenting orders can be made by a Family Court outlining parenting arrangements for the children (eg. to resolve where they live and when they spend time with each parent). Parenting orders can be made at the Local Court by consent.

If you think that family dispute resolution is not a good idea for you, and you want to be able to apply for parenting orders anyway, you have two possible courses of action:

- Tell an accredited family dispute resolution practitioner about your concerns and ask them for a certificate saying that family dispute resolution is 'inappropriate'

OR

- Tell the court when you apply for the parenting orders that you want to be considered under the exemption to the requirement for a family dispute resolution certificate on the grounds of family violence.

## Family law orders vs AVO orders

Even though you may have an AVO, perhaps even an AVO which includes your children, it is important to find out if you need new or changed parenting (family law) orders that take into account the circumstances surrounding the AVO.

If there is any clash between parenting orders and an AVO, the parenting orders will override the AVO orders.

It is a good idea to get legal advice as soon as possible after you get an AVO about whether you need changes to your existing parenting orders.

You can do this by contacting a private solicitor, Legal Aid or a community legal centre. See the inside back cover for contact details.

Make sure your legal representative and the court are aware of any history of domestic violence when you are talking to them about family law orders.

There are a number of options for legal representation and legal aid in family law. You can find out about these from LawAccess NSW, Legal Aid NSW or your local Women's Domestic Violence Court Advocacy Service.

## Changing a parenting order

A magistrate has special powers to suspend, cancel or change a parenting order at the same time as making or changing an AVO if a person has been exposed, or is likely to be exposed, to family violence as a result of the operation of a parenting order. This can be a convenient and quick way to get your parenting orders to 'match' with your AVO (without needing to go to two courts).

You may need to be prepared to ask the court or your lawyer about making changes to your parenting orders "under Section 68R of the Family Law Act" at the same time as getting or changing your AVO.

Alternatively, you can apply separately to a family law court for changes to your existing parenting orders.

*To obtain more information and legal advice and /or legal representation about family law, call the LawAccess NSW 1800 22 81 91 or Legal Aid NSW 1300 888 529.*

## Staying safe

You should continue to take practical, sensible steps to minimise risk to you and your children's safety, even after obtaining an AVO.

- Tell people at work about your AVO and give them a picture of the defendant.
- Tell trusted neighbours about your AVO and ask them to call the police if they feel you may be in danger.
- Give a copy of the AVO to your children's school, preschool or childcare centre.
- Telephone and email:
  - Change your telephone number or get a silent number
  - Speak to your telephone service provider about:
    - a) 'Call Number Display' (so the numbers of all incoming calls are displayed on your phone screen)
    - b) 'Caller ID blocking' (so your new number doesn't appear on the defendant's call number display)
    - c) 'Selective Call Forward' (to re-direct calls from the defendant's phone)
    - d) 'Distinctive Ring' (so your phone has a special ring-tone when the call is from the defendant's telephone number.
  - Install an answering machine and screen incoming calls before answering
  - Change your email address
- Store an amount of money, a credit card and copies of your AVO, details of bank account and credit card numbers and some spare clothes with a trusted friend.
- Open a new bank account.
- Change door locks (if the defendant has a key); install window locks; install an internal door lock in a room with a window or external door.
- Install motion-sensitive lighting systems, security doors and security alarms, if possible.
- Make sure your children know what to do and what not to do in an emergency.
- Keep a phone with you at all times.
- Change your normal routines, shopping destinations and travel routes.
- Complete a statutory declaration to be listed as silent on the electoral roll so that a perpetrator cannot make contact with you.

## **AVOs and immigration law**

*You do not have to remain in an abusive relationship to get a permanent residency visa to stay in Australia, even if you originally applied for it through your husband or partner. Your AVO can form part of the documentation that will allow you to continue independently with your application for permanent residency under special domestic violence provisions in Australia's migration regulations.*

*If you have any concerns about your immigration status contact LawAccess NSW on 1300 888 529 or Legal Aid NSW Migration Law Service on 9219 5000.*

## **Living with an AVO**

You may find that some people who know you or are related to you or the defendant act negatively towards you when they discover you have taken out an AVO.

This can feel very hard and unfair and sometimes even a bit lonely. It may make you wonder whether the AVO is a good idea at all.

In the end you may need to decide, once and for all, that your safety, self-respect and your right to live in peace is more important than the opinions, or even the company, of a few people who clearly do not have your best interests at heart. After all, the defendant's behaviour may only be stopped if you really have stopped putting up with it. . .

So, as hard as it may be sometimes, it's important to stay strong in yourself, and continue to act to reinforce the strength of your AVO with some of the ideas contained in this booklet.

## **Support is available**

You don't have to try to stay strong all alone. There are people and organisations who understand exactly what you're going through and can help you in the difficult times. Medicare benefits are now payable for counselling with a psychologist under a referral from a GP. Professional counselling is also available at many NSW locations through groups such as Relationships Australia, Centacare and Unifam. These community organisations generally have affordable fee policies for low-income clients.

To be strong then, don't stay silent! Keep the following list of contacts handy and call someone if you need support or information.