

AVO Law Update: Plain Language AVOs



This fact sheet summarises the Ask LOIS webinar on this topic, presented by Karen Mifsud, Senior Solicitor, Women's Legal Service NSW on 15 December 2016.

This webinar can be viewed for free at www.asklois.org.au/webinars/past-webinars.

This factsheet looks at:

Changes to the pro forma/standard Apprehended *Domestic Violence Orders*.
Changes to the information contained on an ADVO.
Changes to the grouping of orders.
Changes to the wording of orders – plain English.
Additional information attached to AVO orders.

When will the changes take effect?

The recent amendments to the *Crimes (Domestic and Personal) Violence Act 2007(NSW)* came into effect on 3 December 2016. The updated plain English orders are also being used from that date.

Changes to the front page of the orders

- The updated orders have more descriptive information at the beginning to better inform defendants of the meaning and effect of the orders.
- The first paragraph is a warning that it is a criminal offence not to follow the orders. The penalties are specified as well.
- Instead of specifying the period of time that the order is in force for (for example, 12 months), the specific date that the orders are in force to is stated.
- The names of the protected person or persons are stated (and the names are repeated in each order).
- There is a clear warning that the orders must be followed even if the protected person doesn't want the defendant to or tells the defendant that they don't need to.
- There is a warning that an attempt to do the things prohibited in the orders will still be a criminal offence.

Plain English wording

The prohibitions in the old orders have been repeated in the updated orders. There is one new optional order. Most of the orders have been rewritten into clearer language. In addition, each order is followed by a box listing examples of the things that the defendant is not allowed to do under the orders.

Changes to the grouping of orders

The orders have been rearranged with the aim of providing a more logical structuring of orders. The groupings are:

- Orders about behaviour (the mandatory orders)
- Orders about contact
- Orders about family law and parenting
- Orders about where you cannot go
- Orders about weapons
- Other orders



This means there will be a change to the numbering of orders.

Updated orders

Orders about behavior (Mandatory Orders)

Order 1 - Not:

A Assault or threaten;

B Stalk, harass or intimidate;

C Intentionally or recklessly destroy or damage property.

The mandatory orders cover the protected person or a person with whom the protected person has a domestic relationship. "Molest" and "otherwise interfere with" have been removed and a new mandatory order of not "intentionally or recklessly destroy or damage property", previously in the optional orders, has been moved to the mandatory orders.

The rest of the orders are optional orders that will be imposed as appear necessary or desirable to the court.

Orders about contact

Order 2 – Not approach the protected person or contact in any way unless the contact is through a lawyer. The explanation on the order notes that replying to contact from the protected person will be a breach.

Order 3 - Not approach the school or any other place the protected person might go for study or for childcare or other place listed here.

Order 4 - Not approach or be in the company of the protected person for at least 12 hours after drinking alcohol or taking illicit drugs. The new order has been reworked to specifically exclude the defendant from being "in the company of the protected person" and removing references to residence or place of work. The explanation states that the defendant cannot drink or take illicit drugs with the protected person and must stay away even if the protected person asks them not to.

Order 5 - Not try to find protected person except as ordered by a court. This is a new order. The explanation refers to finding people including by social media, internet or asking someone else. The order reflects changes in technology and social media.

Orders about family law and parenting

Order 6 – Not approach or contact the protected person in any way, unless:

6A through a lawyer;

6B to attend accredited or court-approved counselling, mediation and/or conciliation;

6C as ordered by this or another court about contact with the children;

6D as agreed in writing between the defendant and the parent about contact with children; OR

6E as agreed in writing between the defendant and the parent and the person with parental responsibility for the children about contact with the children.

The re-wording should make orders clearer where the parties have children. The explanation notes that if there are family law or other orders the defendant should contact a lawyer if they are in doubt about what they can or cannot do.

Orders about where you cannot go

Order 7 - Not live at same address as the protected person or any place listed here.

Order 8 - Not go into place where the protected person lives, works or other place listed here.



Order 9 - Not go within (specified number of) metres of place where the protected person lives, work or other place listed here.

The effect of these orders is substantially the same but terminology has changed. “Reside” is now called “live”. “Enter” is now called “go into”. The explanation for Order 8 clarifies that the defendant is not allowed to go within the boundary of those places. The availability of a Property Recovery Order is flagged.

Orders about weapons

Order 10 - Not possess any firearms or prohibited weapons. This order has been strengthened from the previous orders. It is now in prohibitive terms and expanded to include “prohibited weapons”.

Other orders – A court can impose any other prohibitions and restrictions as appear necessary or desirable to the court to ensure the safety and protection of the protected person and any children from domestic or personal violence.

Attachment to the orders

Each AVO will now have a page attached to the back with additional information and referrals. There is a box that contains information about domestic violence including that:

- most relationships do not include fear, control or violence;
- the order is recorded on the NSW Police system;
- exposure of children to violence in the home increases the risk of depression, anxiety and aggression, and doing worse at school;
- there are places to talk to someone – gives phone numbers for Men’s Referral Service (if defendant is male), Relationships Australia, The Parent Line.

The page repeats the penalties for breach, that charges for other criminal offences as well as breach AVO are possible, and instructs the defendant to take firearms and prohibited weapons and licences immediately to police.

Phone numbers for legal advice are provided (Legal Aid and LawAccess) alongside a suggestion to call a solicitor or Domestic Violence Liaison Officer (if the protected person). The phone number for the Telephone Interpreting Service is given.

A summary of the defendant, protected person, Police applicant, date and duration of order and court number and location are also on the back page. This information was previously at the top of the front page before the actual orders.

Other changes

- A different standard orders and referral page will be used where the defendant is a young person. Some of the examples in Order 4 are slightly different and the referrals are more appropriate.
- A different standard orders and referral page will be used for Apprehended Personal Violence Orders.