



This fact sheet summarises the Ask LOIS webinar on this topic presented on 11 March 2020 by Amy Power, Solicitor, Women's Legal Service NSW
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This factsheet will cover the following:

- [Domestic violence and AVO issues for those affected by the recent natural disasters](#)
- [Parenting and child support issues for those affected by the recent natural disasters](#)
- [Where to find help for your clients](#)

Domestic Violence and AVO issues

What is an Apprehended Violence Order (AVO)?

There are two types of AVOs:

- Apprehended Domestic Violence Orders (ADVOs); and
- Apprehended Personal Violence Orders (APVOs).

An ADVO protects someone from someone they have a domestic relationship with, such as husband/wife, de facto partner, someone you have an intimate personal relationship with, someone living in the same household as you, your carer or someone you care for, or your relative.

APVOs protect you from people you do not have a domestic relationship with, such as a neighbour or work colleague.

A client's AVO has been destroyed or lost in the recent bushfires or floods. How do they get another copy?

Your client can attend any Local Court and go to the counter to request a copy.

Your client will need to know:

- What Court made the Order; and
- The Defendant's name and date of birth.

A client has an AVO saying the defendant is not to approach them. If your client has to go to an evacuation centre the defendant might be there as well. Will the AVO protect your client?

The defendant would not breach the AVO if he accidentally ran into your client

Your client will be protected from Order 1abc that states:

1. *The defendant must not do any of the following to your client or anyone they have a domestic relationship with:*

- a) *Assault or threaten;*

- b) *Stalk, harass or intimidate, and*
- c) *Intentionally or recklessly destroy or damage any property that is in the possession of or belongs to your client.*

Sometimes it is unavoidable for your client to come into contact with the defendant. It would not be a breach of the AVO if the defendant accidentally 'runs into' your client. In an emergency, the defendant may not have any other option than to be in the same evacuation centre as your client, particularly if your client is from a small town. As soon as it becomes safe to do so, the defendant should leave.

All AVOs in NSW include orders 1a, b and c that say the defendant must not assault, threaten, stalk, harass or intimidate your client, or destroy or damage any of your client's property. Even if it is unavoidable that your client comes into close contact with the defendant, these orders still protect your client and anyone in a domestic relationship with your client. If the defendant does not obey those conditions your client should report it to the police. If your client cannot report to the police immediately, they should write down what happened or what was said and where and when it took place. It may help to write the information down in a diary. It is important your client makes a report of a breach as soon as possible after the breach.

My client has an AVO that says the defendant is not to contact them. Your client needs to ask the defendant to look after the children while she deals with other things. Is your client or the defendant going to get into trouble?

Your client cannot get into trouble for contacting the defendant but if the defendant contacts your client, he would be in breach of the order.

If possible, get your client to arrange for someone else to call the defendant and make the arrangements so the defendant is not in breach of the order

If a long-term change needs to occur, your client can apply to a Local Court to vary the order to remove the 'no contact' condition.

If your client has an AVO but the defendant still makes them feel unsafe. They can apply to vary the AVO by lengthening it or changing the conditions on the order.

Following a natural disaster, there can often be an increase in domestic violence. If your client has an AVO but the defendant still makes them feel unsafe, your client can also make an application to vary the AVO by lengthening it or changing the conditions on the order. They may wish to change the order to include conditions about how the defendant can have contact with them or their children, preventing the defendant from living at or approaching certain locations (such as your client's home, work or study place, a place your client frequents or their children's day care or school) or preventing the defendant from locating your client or owning or possessing any firearms or prohibited weapons.

My client has an AVO that says the defendant cannot come within 100 metres of her home, and her address was specified on the order. Your client had to leave her home and is now staying with her parents. Can the defendant go near your client's home?

Generally, orders in NSW about where the defendant cannot go, protects your client at any place they reside or work, even if the address is not stated unless the order specifically only covers a particular address. To be found guilty, the defendant must have "knowingly" contravened a prohibition or restriction on the order.

Parenting and Child Support Issues

Language and Terminology

It is useful for your client to understand the language and terminology used in parenting matters as this will help them work out their obligations and available options.

If parents are able to reach an agreement about parenting arrangements they can have:

- an informal agreement;
- a parenting plan; or
- apply for consent orders.

If parents are not able to reach an agreement, they can apply to the Federal Circuit Court of Australia or the Family Court of Australia for parenting orders.

My client has not been able to follow an informal agreement, parenting plan or parenting order

because of the recent natural disasters. What should my client do?

The court cannot enforce an informal agreement or a parenting plan so if your client is not able to follow an informal agreement or a parenting plan, they can't be punished by the court. However, it is possible the other parent will apply to the court for a parenting order if they are not seeing the children.

Unless your client has concerns for the safety of their children when they are with their other parent, it is important to help the children stay in touch with the other parent so their relationship can continue until the children are able to see the other parent again in person.

Parenting orders (including consent orders) are enforceable, meaning that a person is required by law to comply with (follow) them.

My client's situation has changed because of a natural disaster and they need to change their parenting order or parenting plan. How does my client do this?

The Family Law Act requires all decisions to be in the best interests of the child/ren. It's important that any proposal your client has is in the best interests of their child/ren.

If it's safe to talk with the other parent, your client can discuss the changes they wish to make to their parenting order or parenting plan.

My client's children seem really affected by the bushfires (or other natural disaster) and don't want to leave to spend time with the other parent. What can my client do?

When children suffer trauma, they may regress (go backwards in their development) and may not wish to be apart from the parent they spend most of their time with.

Are there other ways the children could keep in contact with the other parent during this time, like by phone or by the other parent visiting the child.

My client has lost their court documents or parenting plan in a natural disaster. How can they get replacement copies?

The Family Law Courts (Family Court of Australia and the Federal Circuit Court of Australia) will provide replacement copies of court documents without charge for people who have lost their documents as a result of a natural disaster.

If your client made their parenting plan with the assistance of a lawyer or a Family Relationship Centre, they can contact them to see if they have a copy of the parenting plan. If it is safe, your client could ask the other parent if they will provide them with a copy of any lost documents.

My client's relative or friends have died in the natural disasters and my client would like to get orders that have their child/ren live with them. Is this possible?

As a starting point, your client should check whether their friend or relative had a will. In certain circumstances, your client may be able to apply for Parenting Orders. An alternate option your client may want to consider is adoption.

Before going ahead with any option, your client should get legal advice!

My client's financial circumstances have changed. What can they do if they cannot meet their child support obligations?

If your client has a change in circumstances, they can call the child support hotline on 1800 241 272 to provide updated details.

Find more help

Your client may be eligible for additional support through Services Australia.

Your client can contact the Disaster Payments Hotline on 180 22 66

The NSW Council of Social Services has a bushfire relief assistance resource available online here:

<https://www.ncoss.org.au/capacity-building/sector-support/templates-and-resources/bushfire-relief-assistance-resource>