

**ADVO DEFENDANT PILOT
MOUNT DRUITT LOCAL COURT**

Final Review Report

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Erin Gough
Manager Legal Policy
Strategic Policy and Planning Division
Legal Aid NSW

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A. BACKGROUND

In September 2011 the CEO of Legal Aid NSW approved funding for the temporary appointment of Apprehended Violence Order (AVO) duty solicitors for defendants as part of an AVO Defendant Pilot to be run firstly at Mount Druitt Local Court and subsequently at Dubbo Local Court. The funding allowed for duty solicitors to be employed at each site 7 hours a week for 9 months. This proposed pilot was in the context of the development of crime early intervention projects which may have been eligible for Commonwealth funding under the National Partnership Agreement on Legal Assistance Services (NPA).

The duty solicitor for the Mount Druitt pilot, Ms Kasey Pearce, commenced providing duty services for defendants at the end of November 2011.

The aim of the pilot was to "test the proposition that providing holistic minor assistance and duty representation to defendants in AVO matters reduces future legal problems (in crime, civil and family law areas)." Legal Aid NSW had not previously provided these types of services to defendants and grants of legal aid are only available to defendants in AVO matters in limited circumstances.¹

The rationale and timing for the pilot was the commencement of an inquiry by the Legislative Council Standing Committee on Social Issues into Domestic Violence trends and issues in NSW, whose reference included inquiring into and reporting on "early intervention strategies to prevent domestic violence". This inquiry followed the launch of the NSW Government's *Stop the Violence End the Silence NSW Domestic and Family Violence Action Plan*, which made specific provision for Legal Aid NSW to:

"explore the option of an evaluated pilot AVO-Defendant lawyer scheme in two regions... to ensure better outcomes for victims and defendants".

In March 2012, the Director of Criminal Law at Legal Aid NSW, Brian Sandland, submitted a business case to the CEO to extend the Mount Druitt pilot to a full 12 months of service delivery, and to extend the Dubbo pilot, once it commenced, to a full 12 months of service delivery, plus the option to extend for a further 12 months. Prior to making a decision on the extension of Mount Druitt and the commencement of Dubbo, the CEO commissioned a mid-pilot review report to inform his decision-making.

The mid-pilot review [**Attachment 1**] was conducted in April-May 2012 and assessed the initial effectiveness of the Mount Druitt pilot from the perspective of its key stakeholders, particularly identifying lessons learned and intended and unintended consequences of the pilot. The review was conducted by Jane Cipants, Manager Legal Service Development, Strategic Policy and Planning Division.

Subsequently the CEO approved an extension of the Mount Druitt pilot to 31 December 2012 along with modifications to the pilot, implemented in July 2012. The CEO also approved scoping work for a second pilot in another location (not

¹ In addition to meeting a means and merit test, ADVO defendants must satisfy an exceptional circumstances test to be eligible for a grant of aid. See Policy 4.4 on Policy Online: <http://www.legalaid.nsw.gov.au/for-lawyers/policyonline/policies/4.-criminal-law-matters-when-legal-aid-is-available/4.4.-apprehended-domestic-violence-orders>

necessarily Dubbo) that would have an emphasis on benchmarking and testing the potential impact of the pilot on breach rates.

The pilot at Mount Druitt finished at the end of 2012. A final review of the pilot was conducted in January-March 2013. This report sets out the findings of that review.

B. METHODOLOGY

1. Aims of the Final Review

The final review of the ADVO Defendant Pilot at Mount Druitt was conducted to:

1. Document the operation of the pilot before and after the changes made following the mid-pilot review, including client data and roles of stakeholders;
2. Analyse breach rates for Mount Druitt court prior to and during the pilot;
3. Identify benefits and lessons from the pilot, including any issues arising;
4. Make recommendations regarding:
 - a. the application of lessons from the Mount Druitt pilot to a second Local Court pilot site; and
 - b. the potential longer term application of components of the pilot to Mount Druitt and other courts.
5. Identify the service delivery mechanisms required to meet the ongoing needs of clients accessing Mount Druitt Local Court.

2. Participating stakeholders

Stakeholders interviewed as part of the final review were:

Legal Aid NSW

Kasey Pearce, Pilot Solicitor and Matthew Greenaway, Regional Program Coordinator Crime (31.1.13); Sarah Ellison, Solicitor in Charge (SIC) Penrith (21.2.13); Mary Gleeson and Ruth Pilkinton, former and current SIC Family Law Early Intervention Unit (1.3.13); Paul Walkden, SIC Blacktown (15.3.13); Angela Jones, Senior Family and Domestic Violence Solicitor (8.2.13).

Mount Druitt Local Court

Adele Andrews, Registrar (5.3.13).

Mount Druitt Police

Senior Sergeant Chris Pullen, Senior Police Prosecutor; Senior Constable Brian Johnston, Domestic Violence Liaison Officer (DVLO); Senior Constable Chris Green, DVLO; and Constable Chris Drummond, DVLO (30.1.13).

The Shed

Rick Welsh, Coordinator; Professor John Macdonald, Director Men's Health Information and Resource Centre UWS; Colleen Sutherland, Board member; Jason Downes, Family Referral Service; Ray Donaldson, Holy Family Site Manager; Sandra Kelty, Board member (30.1.13).

Department of Human Services

Lisa Galvin, Centrelink (30.1.13).

Western Sydney Women's Domestic Violence Court Advocacy Service (WDVCAS)
Cheryl Alexander, Coordinator (12.2.13).

Women's Legal Service (WLS)

Janet Loughman, Principal Solicitor; Pip Davis, Assistant Principal Solicitor; Rebecca Frost, Domestic Violence Specialist Solicitor; and Alicia Jillard, Solicitor (10.1.13).

A list of questions asked of stakeholders is at **Attachment 2**.

The following people were consulted but did not participate in a structured interview:

Brian Sandland, Director Criminal Law, Legal Aid NSW
Kylie Beckhouse, Director Family Law, Legal Aid NSW

The following people were approached but not interviewed:

Magistrate Toose, Presiding Judicial Officer, Mount Druitt Court during pilot
Chief Inspector Wayne McMahon, Senior DVLO, Mount Druitt Police
Chimindri Veitch, Domestic Violence Practitioner Scheme (DVPS) solicitor
Shanna Mahony, DVPS solicitor

C. TERMINOLOGY

For a list of abbreviations, see **Attachment 3**.

Apprehended Violence Orders

There are two types of Apprehended Violence Orders (AVOs):

- An Apprehended Domestic Violence Order (ADVO) is an order made by the Court to protect a person from violence, threats, harassment and stalking by a current or former spouse, de facto partner, relative, carer or person living in the same household or residential facility.
- An Apprehended Personal Violence Orders (APVO) is an order made by the Court to protect a person from violence, threats and harassment from anyone they are not in a domestic or family relationship with.

Conflict of interest

The term "conflict of interest" used in this report refers to a particular type of conflict that can arise because of the special relationship of trust and confidence between a solicitor and client. The professional rules² that govern that relationship prevent solicitors from the same firm acting for more than one party in proceedings.

In the context of the Mount Druitt pilot, this rule prevented Legal Aid NSW from providing advice and assistance to both victims and defendants in the same AVO matter. This would have meant that two Legal Aid NSW solicitors would be negotiating directly with each other on behalf of their clients, which would have

² Solicitors' Rules (The Law Society of New South Wales Professional Conduct and Practice Rules Legal Profession Act 1987) Rule 9. However, Legal Aid NSW has information barriers between program areas to allow *advice* to be provided without conflict arising from a service provided in another program.

breached the conflict of interest rules. This had implications for the operation of the Legal Aid NSW services operating as part of the pilot as discussed further below.

Defendants

Consistent with the terminology used in the *Legal Aid NSW Domestic and Family Violence Policy*, this report refers to alleged perpetrators of domestic violence as *defendants*.

Domestic Violence Practitioner Scheme

The Domestic Violence Practitioner Scheme (DVPS) is a state-wide specialist service funded by Legal Aid NSW. Legal Aid NSW pays private lawyers to assist women and children experiencing domestic violence to seek legal protection through ADVOs. The DVPS gives free independent advice to clients (including police clients) on ADVOs, family law, care and protection and victim's compensation matters. DVPS solicitors can also refer clients to other services for more legal help. The DVPS solicitor can prepare matters and represent clients in court in private ADVO applications in mentions and in hearings through a grant of legal aid. This includes cross-applications.

Duty Lawyer Service – Legal Aid NSW

The duty lawyer service of Legal Aid NSW is legal advice and legal representation provided at a court or tribunal where a court or tribunal event is imminent. If the client needs further assistance then an application for a grant of legal aid must be made and a case file opened. Whether a grant of legal aid is available will depend upon the client's eligibility under Legal Aid NSW policies.

JusticeLink

JusticeLink is the computer system that provides access to case information via a single database for the NSW Supreme, District and Local courts.

Victims

Consistent with the terminology used in the *Legal Aid NSW Domestic and Family Violence Policy*, this report refers to *victims* of domestic violence, rather than applicants or PINOPs (persons in need of protection).

Warm referral

A warm referral is an introduction by phone call or visit, where the individual making the referral makes first contact on behalf of the client, and explains to the referral organisation or team the client's circumstances and the reason they believe the client would benefit from the referral.

Women's Domestic Violence Court Advocacy Services

Women's Domestic Violence Court Advocacy Services (WDVCAS) assist women and children who are or have been experiencing domestic violence to obtain legal protection through applications for ADVOs.

WDVCAS help women and children obtain legal protection from domestic violence and access support services (for example financial assistance and advice, housing, counselling and help with family law issues). The service cannot provide legal advice but it can refer clients to solicitors.

D. OPERATION OF THE PILOT

1. Pilot solicitor

During the course of the pilot, the Legal Aid NSW pilot solicitor attended the AVO list day (Monday) at Mount Druitt Local Court, providing duty lawyer services to defendants in AVO mentions. While this service constituted the core of the pilot, the pilot solicitor was supported by a number of service partners as outlined below.

2. Family law service - Early Intervention Unit (EIU)

The Family Law Early Intervention Unit (EIU) is a specialist Family Law service of Legal Aid NSW that provides duty lawyer services in a number of Family Law Courts in New South Wales. The broad goals of the service are to³:

- Increase access to earlier, expert legal assistance for self-represented individuals seeking legal help at court;
- Assist these clients to take timely and appropriate action to progress or resolve their family law matters efficiently and effectively; and
- Help reduce the impact of self-represented litigants on the court workload.

Prior to the pilot, staff from the EIU were attending Mount Druitt Court on AVO list day. The WDVCS would refer its clients to the EIU for family law advice. During this time the EIU advised both victims and defendants in AVO matters on a first come, first served basis. (Due to conflict of interest considerations the EIU never assisted both the victim and defendant in the same matter.)

During the first half of the pilot, one or two solicitors from the EIU attended the AVO list day at Mount Druitt. However, because an in-house Legal Aid NSW solicitor (the pilot solicitor) was now providing legal assistance to defendants and directly negotiating with the victim's legal representative, conflict of interest rules prevented the EIU (also an in-house Legal Aid NSW service) from providing legal assistance to victims in those matters. As a result the WDVCS was no longer able to refer victims of domestic violence to the EIU.

EIU client numbers therefore dropped after the pilot commenced. However, the pilot solicitor (who was not equipped to provide specialist family law advice) and The Shed referred defendants needing family law advice to the EIU. The EIU provided specialist family law advice and minor assistance to these defendants with the aim of negotiating ADVO orders that were more appropriate and less likely to be breached as a result of unresolved issues regarding child contact arrangements.

After the mid-pilot review, as a result of a recommendation of that review, the EIU ceased operating from Mount Druitt Local Court. Instead defendants were referred to the EIU at the premises of The Shed at Emerton (see below) or the family law clinic at the Blacktown Legal Aid office for family law advice. Victims requiring family law advice were referred to a clinic operated by one of the DVPS practitioners.

3. Non-legal service partner - The Shed

The pilot solicitor was supported by two workers from The Shed who coordinated the non-legal services at the court. The Shed, based at Emerton, is a partnership

³ Law and Justice Foundation, *An evaluation of Legal Aid NSW's Family Law Early Intervention Unit Duty Lawyer Service*, Suzie Forell and Michael Cain, November 2012

program between the University of Western Sydney and agencies in Mount Druitt and surrounds. The Shed identifies itself as a suicide prevention service with Aboriginal males as its priority target. However, the service is willing to provide help to anyone who seeks it. The Shed sees a link between contact with children and an improvement in mental health for men. It is the experience of the service that Aboriginal men have a high rate of suicide and incarceration linked to these issues.

Prior to the pilot, The Shed accepted referrals from Mount Druitt court (e.g. for anger management programs) and provided support letters for clients returning to court. During the pilot two workers from The Shed attended the court on AVO list day and coordinated the attendance of other services such as drug and alcohol, mental health, social housing, Centrelink and financial counselling services. The Shed and related services were allocated the use of an unused court room on list day. The workers would walk the court waiting area talking to clients and identifying if they were there for an AVO. They would undertake a brief assessment of each client's service needs and then introduce them to the relevant workers. If the client needed legal assistance they would provide legal aid application forms, and then would refer the client to either or both the pilot solicitor and a family law (EIU) solicitor. The Shed staff reported that they provided assistance to both men and women and also provided general court support for other matters (e.g. traffic matters).

The Shed continued to provide services at Mount Druitt Court until the pilot ceased operation at the end of 2012.

4. Dedicated services for victims – WDVCS, DVLO and DVPS

Services provided for victims during the pilot included the Western Sydney WDVCS, which operated out of the "Shine Room" (a purpose built safe room for women) on list days. The WDVCS had a Domestic Violence Practitioner Scheme (DVPS) practitioner rostered on every second list day and the Women's Legal Service (WLS) provided legal duty services every other fortnight. Prior to the pilot these practitioners would refer victims to the EIU for family law advice when appropriate. However, because of the conflict of interest issues already mentioned this ceased once the pilot commenced.

After the mid-pilot review the WLS stopped providing legal duty services and in response to a recommendation of the review the WDVCS engaged an additional DVPS practitioner with family law experience who was able to provide family law advice and advocacy to victims as well as advice in relation to the AVO. This was provided after the first mention at a weekly clinic located at the Mount Druitt Family Violence Team near Mount Druitt Police Station.

The majority of ADVO matters are police initiated and in such cases the victim was therefore assisted in the ADVO by the Police Domestic Violence Liaison Officer (DVLO) and Police Prosecutor. WLS and the DVPS practitioner provided advice and assistance with private applications.

E. PILOT DATA⁴

1. Data

⁴ The review gratefully acknowledges the assistance of Jane Cipants, Rachelle Johnston and Ben Dougall in the preparation of this section of the report.

As already mentioned, the pilot underwent a number of fundamental changes as a result of the mid-pilot review (described in Chapter F, Section 2) which came into effect on 1 July 2012. Unless specified, all data below is for the period 1 July to 30 December 2012. A comparison of the data between the first period of the pilot and the second period is found at section 4 of this chapter.

A total of 114 defendants were assisted by the pilot solicitor between July and December 2012 (the total for the whole pilot period was 286 defendants). Defendants were mostly male and between 31-50 years old. Most ADVO applications were police initiated and just over a third of defendants had associated charges.

Client details

Between July and December 2012 of the defendants assisted:

- 82% (94) were male
- 23 % (26) identified as Aboriginal or Torres Strait Islander
- 29% (33) identified as being from a Culturally and Linguistically Diverse background

Client age	Number of clients*	% (rounded to whole no.)
18 – 20	9	8
21 – 25	13	11
26 – 30	17	15
31 – 40	33	29
41 – 50	27	24
Over 50	15	13
TOTAL	114	100

* Each client is only counted once, even if they attended numerous services for the one matter. Where there were separate matters, the client is counted twice.

Referrals

The pilot solicitor made 15 referrals for defendants during the period:

- 10 to a Legal Aid NSW criminal law clinic
- 4 to the Legal Aid NSW Family Law EIU clinic
- 1 to another Legal Aid NSW family law clinic

However, staff from The Shed were present on most AVO List days during the pilot, as well as other government and non-government service providers (such as mental health workers and Centrelink staff), and one of their primary roles was to make targeted referrals. The Shed did not provide data for this review so the numbers and type of these referrals is not known. It can be assumed though that defendants received significant numbers of referrals from this service to housing, mental health and drug and alcohol services.

Between July and December 2012 the Legal Aid NSW Family Law EIU Clinic operating at The Shed (which was specifically identified as a referral point for family law advice for defendants) recorded that it received 49 referrals from Mount Druitt Court. This could have been from a number of sources, for example, the Registrar, the pilot solicitor, or The Shed services at court.

ADVO applications

Of the ADVO applications the pilot solicitor assisted with between July and December:

- 94% were police initiated
- 37.5% had associated charges (NB whether there were associated charges is unknown for 4% of clients)
- In 61% of cases the protected party was an adult only (ie no children were on the order):

<i>Applicants</i>	<i>Number</i>	<i>%</i>
Adult only	68	61
Adult and children	33	29
Children only	9	8
Unknown	2	2
TOTAL	112	100

Final orders and adjournments

Of the defendants assisted by the pilot solicitor:

- 30% of clients had a final order granted at the first duty solicitor service date
- 32% had an interim order granted and the matter was adjourned to a future date (a final outcome during the pilot period was not known)
- 20% had a final order granted after more than one mention
- 17% of clients had their matter withdrawn/ dismissed/ revoked

Breaches

Breach⁵ data was gained by a search of JusticeLink in January and February 2013⁶ of the defendants assisted by the pilot solicitor. This means that some orders (for example those granted in July 2012) had been in place much longer than others (for example those granted in December 2012). The following is of note:

- Of the 58 final orders and 36 interim orders granted, 7 breaches occurred (representing a breach rate of 7.44%)
- Of the 7 breaches identified, 5 breaches were of final orders and 2 breaches were of interim orders
- 4 breaches occurred where there were children *and* adults protected in the order
- Of the 5 breaches of final orders, all of these orders were granted on the first mention date of the matter. This means that breaches of final orders only occurred in cases where advice was given at the first mention date and the matter was not adjourned.
- There were no breaches of final orders where there was some tailoring of orders relating to children⁷
- Of the 58 matters where a final order was granted, 1 breach occurred where there were associated charges

A more detailed breakdown of the breach data is at **Attachment 5**.

2. Comments on breach data

⁵ A "breach" in Justicelink means that the defendant has been charged under section 14 *Crimes (Domestic and Personal Violence) Act 2007* relating to breach of AVO.

⁶ Justicelink was accessed on 3 Jan 2012 for most of the data. However, some data was checked on 12, 13 and 18 February 2012.

⁷ Where orders 5, 6 and/or 12 were changed on the final order compared to the orders sought in the application. For details of the orders listed on an ADVO form see **Attachment 4**.

While the breach data gives an overall indication of breach trends for defendants assisted by the pilot solicitor at Mount Druitt, there are significant limitations to the breach data that restrict the conclusions that may be drawn.

The main limitation is in relation to the way in which the breach data was collected. Justicelink was accessed on a number of different dates over the period 3 January 2013 to 18 February 2013 to check for breaches by defendants assisted during the second half of the pilot. This means that a consistent period of time was not applied to all defendants between the granting of the interim or final order and checking for breaches (e.g. a consistent 4 week period). For some defendants, a number of months would have passed and for others, only a matter of weeks.

The second limitation relates to changes in police operations at Mount Druitt during the course of the pilot and the possible impact of these changes on the breach rate. In other words, there are limits to the claims that the pilot can make about the seemingly low breach rate as the breach rate may also have been impacted by operational changes in the policing of ADVOs.

The third limitation relates to the lack of baseline data (apart from official breach data) about breaches of ADVOs at Mount Druitt. Without this baseline data, comparisons of breach rates during the pilot with breach rates before the pilot began are limited.

This said, in relation to the original proposition being tested by the pilot, the positive early trends that the data (with its limitations) identifies are:

- A seemingly low breach rate for defendants assisted during the second half of the pilot (7.4%)
- No breaches of final orders where there was some tailoring of orders relating to children⁸
- Breaches of final orders only occurred where advice was given at the first mention of the matter and the matter was not adjourned. There were no breaches of final orders in cases where matters were adjourned. This may indicate that adjourning matters for legal advice has a positive impact on the rate of breaches.

3. Mount Druitt pilot data compared to official ADVO and breach data⁹

During the whole pilot period (12/12/11 to 17/12/12), 286 AVO defendants were assisted by the pilot solicitor at Mount Druitt. During almost the same period (calendar year 2012), BOCSAR data shows that 562 ADVOs were granted at Mount Druitt Court (meaning that the pilot solicitor assisted just over half of the defendants at Mount Druitt Court). The following table shows that Mount Druitt has had a steadily increasing official breach rate since 2009.

Mount Druitt Court - Breaches (contravene prohibition/restriction in AVO (domestic)) compared with total numbers of ADVOs granted (source BOCSAR)

<u>Year</u>	<u>ADVOs granted</u>	<u>Breach</u>	<u>Breach rate</u>
2009	616	170	27.59%
2010	583	198	33.96%

⁸ Where orders 5, 6 and/or 12 were changed on the final order compared to the orders sought in the application

⁹ Data compiled by the NSW Bureau of Crime Statistics and Research (BOCSAR)

2011	566	202	35.69%
2012	562	207	36.83%

As discussed above, one of the significant limitations of measuring the impact of the pilot on breach rates is that the pilot did not have the ability or mandate to change police operational initiatives that were occurring during the same time period, especially those that aimed to specifically *increase* police action on breaches of ADVOs. This is a lesson for any subsequent pilots that are aiming to reduce breach behaviour, and the methodology used to measure any changes in that behaviour.

4. Comparison of first and second periods of the pilot

This section gives a comparison of the first 13 weeks of the pilot (data relating to 12/12/11 to 31/3/12, referred to as the First period) and the last 25 weeks of the pilot (data relating to 2/7/12 to 17/12/12, referred to as the Second period).

In summary, 286 defendants were assisted by the pilot solicitor over the entire pilot period. There were less defendants assisted each week in the Second period because APVO defendants were excluded from the Second period. The percentage of Aboriginal clients increased from the First period (18%) to the Second (23%). The gender split remained stable between the two periods (82% male and 18% female). The percentage of matters with associated charges remained relatively similar between the two periods (between 35% and 37.5%). The number of adjournments increased, from around 42% of matters during the First period, to around 51% of matters during the Second period.

A more detailed breakdown of comparative data is at [Attachment 6](#).

F. STAKEHOLDER INTERVIEWS

1. Identified benefits of the pilot

The benefits of the pilot reported by stakeholders during the final review interviews were largely consistent with the benefits identified during the mid-pilot review interviews.

The majority of stakeholders supported the aims of the pilot. Most felt the pilot increased the efficiency and smooth operation of the court and provided a positive opportunity for early intervention for defendants, who were able to access a range of both legal and non-legal services at the court.

Having a dedicated duty solicitor for defendants in AVO matters was also considered an improvement on previous attempts to provide advice sessions for AVO defendants at Mt Druitt court, which had been poorly attended. Both the Police and the Court expressed satisfaction at having someone to refer defendants to for assistance. The WDVCS service reported that having the defendant represented reduced problems with self-represented defendants denigrating victims in the courtroom.

Stakeholders reported that the pilot resulted in an increased level of engagement by defendants, their increased understanding of the process and the AVO itself, and a greater sense of empowerment and satisfaction with the outcome. In the views of most stakeholders, these factors meant that AVOs tended to be more realistic, took

into account child contact arrangements (as a result of input from EIU family lawyers) and were therefore less likely to be breached.

Most stakeholders considered the involvement of EIU family lawyers to be positive. It enabled contact arrangements to be negotiated and most importantly, parties to be educated about the potential consequences under care and protection laws (eg removal of children by the State) if AVOs were breached. It was the view of The Shed that defendants were less likely to breach an order if they had a plan in place to have contact with their children. Parties were better equipped to advocate for children to be taken off the AVO in appropriate cases.

However, the perceived imbalance of service provision between victim and defendant services, the conflict of interest issues associated with the EIU provision of family law advice, and the perceived pressures applied to victims to address family law issues on the first mention date drew criticisms, as discussed further below.

2. Impact of the mid-pilot review

The mid-pilot review recommended a number of changes to the operation of the pilot that came into effect in the first week of July 2012. These changes were as follows:

1. The Legal Aid NSW Domestic and Family Violence Committee assumed an advisory role for the pilot (Recommendation 1)
2. The Legal Aid NSW Family Violence Specialist Solicitor assumed the task of monitoring and managing the pilot, including managing expectations and perceptions associated with the pilot (Recommendation 2 and 7)
3. The pilot was renamed the ADVO Defendant Pilot to clarify that the emphasis of the pilot was on ADVOs, rather than APVOs (Recommendation 3)
4. Guidelines were drafted outlining, among other things, the duties of the pilot solicitor and the way in which matters with associated charges were to be dealt with (Recommendations 4 - 6): for guidelines see **Attachment 7**
5. The EIU clinic ceased to operate at Mount Druitt Court and alternative family law referral options were established (Recommendations 8 - 10)
6. Efforts were made to ensure the pilot solicitor and DVPS practitioner had family law as well as criminal law experience (Recommendations 11-14)

The most significant change that stakeholders reported experiencing was the implementation of the recommendation that the EIU Mount Druitt Court clinic cease to operate.

This recommendation was made on the basis that:

- The involvement of the EIU with the pilot effectively reduced the number of services previously available to victims of domestic violence. Because the Legal Aid NSW in-house pilot duty solicitor was providing advice to defendants and negotiating directly with the victim's legal representative, the conflict of interest rule prevented the EIU (also a Legal Aid NSW in-house service) from providing advice to victims as it had done prior to the pilot.
- The EIU was providing assistance to defendants in drafting Parenting Plans, which was perceived to create undesirable pressures on parties on the day to have a Parenting Plan drafted and agreed. Some matters were too complex to be dealt with in such a short period of time and there was a risk that this may compromise the safety of victims and children. In these circumstances robust family law referral pathways were more appropriate.

- The pilot needed to be a model that could be replicated elsewhere, and the EIU was not available in every NSW court.

The mid-pilot review therefore recommended that:

- Defendants be referred for family law assistance to the Legal Aid NSW Blacktown in-house family law service and the EIU clinic operating weekly at The Shed;
- Consideration be given to establishing a clinic for victims operated by the DVPS to provide legal assistance in addition to what could be provided as part of the regular duty lawyer service for family advice; and
- especially when the ADVO matter has been adjourned, the pilot solicitor makes warm referrals for family law assistance by booking defendants directly into the relevant clinic.

Some stakeholders reported satisfaction with the decision to remove the EIU from the court. The WLS and the WDVCAS expressed the view that with the EIU in court, and the pilot solicitor making warm referrals to the EIU, the balance of available services had been tipped in favour of the defendant. With defendants receiving family law advice on the day, unreasonable pressure from the defence, the EIU, the prosecutor and the Court was being put on victims to make parenting arrangements. This was seen as problematic for a number of reasons.

Firstly, it took the focus away from the main purpose of the AVO mention, which was to ensure the safety of the victim and children and in matters with associated charges to hold the defendant to account, placing the focus instead on the defendant's right to have contact with children. This was contrary to the principles reflected in recent changes to the *Family Law Act*.

Secondly, some stakeholders felt that victims were effectively being required to barter with child contact arrangements to secure an AVO.

Thirdly, drafting Parenting Plans could be a difficult exercise which often required more time than was available to parties at court. Victim advocates acknowledged that a number of the family defence lawyers participating in the pilot understood that sometimes it was not possible or appropriate to try and finalise parenting plans on an AVO list day, but felt this was not understood by all. Furthermore, the presence of the EIU was seen to legitimise the defence push for parenting plans in the eyes of the Court. Police noted the additional complicating factor that negotiated contact arrangements made at first mention dates sometimes contradicted bail conditions, which meant that a bail review also had to be scheduled. For these reasons, some stakeholders considered it was more suitable for parenting arrangements (or at least those that raised complex issues) to be made outside of court at a later date when the family law issues could be given proper consideration, preferably through the Family Law system which had appropriate mechanisms to deal with clients where violence is a factor in the relationship. With appropriate orders in place, safety could be ensured and parenting arrangements organised later.

It is worth noting that most stakeholders reported that only a handful of parenting plans were made during the course of the pilot; however it is not possible to know the actual numbers as no official data was kept in relation to parenting plans.

Stakeholders were generally satisfied with the mid-pilot recommendation that the DVPS solicitor have both crime and family experience. The resulting appointment of a new DVPS lawyer with the requisite experience was felt to offer continuity of

representation to victims, which meant, among other things, that victims did not have to tell their story to a criminal lawyer and again to a family lawyer.

Many other stakeholders were unhappy with the decision to remove the EIU from the court. They observed that the community that Mount Druitt Court services is very disadvantaged, with limited social and economic capital, and that public transport in the area is also limited, a problem compounded by the fact that many local people do not have access to a car. It was therefore preferable to have services at court that people could access when they were there for a court date, rather than off-site on another day, when they might have to take additional time off work or out of childcare responsibilities. Having the EIU at court was also beneficial because the relevant paperwork was already at the court and service providers could walk clients through the courthouse to the EIU. Some stakeholders reported that clients referred to the Blacktown or Penrith Legal Aid NSW offices often did not follow up on those appointments.

This was seen as particularly unfortunate because the first AVO mention date was identified as a critical intervention point, at which time people were most open to legal advice. It was argued that it was the ideal point at which to provide family law advice to both parties, including robust advice to defendants about the implications of AVO breaches, such as the possibility of children being removed by the State. This was perceived to be a particular issue for Aboriginal clients and clients from emerging communities, which comprise a significant proportion of people accessing Mount Druitt Court. EIU staff reported that once the EIU service was moved off-site, there were fewer people accessing the service and therefore fewer people receiving this crucial advice.

Some stakeholders perceived that the supposed imbalance between defendant and victim services was in part due to the incapacity of participating victims' services to provide an equal level of service, particularly in the area of family law.

Stakeholder awareness and feedback about other changes to the pilot resulting from the mid-pilot review, such as the recommendations for new guidelines, was limited. Police welcomed the new guidelines that required monthly stakeholder meetings but reported that these meetings did not occur every month.

Few stakeholders commented on the reduction of APVO matters dealt with by the pilot solicitor after June 2012 as a result of the mid-pilot recommendation to restrict assistance for APVO's; however those who did considered it to be an appropriate measure that ensured ADVO matters were prioritised.

Some stakeholders reported that the mid-pilot review process engendered a degree of mistrust and confusion. The stakeholder meeting held to explain the outcomes of the review was felt to be "top heavy" with senior Legal Aid NSW staff and did not provide a real opportunity for stakeholders to participate in the discussion about the future of the pilot.

3. Issues with the pilot

During the mid-pilot review, stakeholders raised a number of issues with the pilot concerning:

- the oversight and management of the pilot;
- the scope of the pilot;
- the perception that the pilot led to more matters going to hearing;

- the lack of a family law referral pathway for victims;
- the balance of legal assistance available to both parties; and
- the management of expectations regarding potential ongoing arrangements at Mount Druitt and roll out of the model elsewhere.

Stakeholders reiterated many of the issues with the pilot raised during the mid-pilot review and raised a number of additional matters.

3.1 Family Law referral pathways

This issue is discussed in Section 2 "Impact of the mid-pilot review" above.

3.2 Lack of clarity about roles of and interactions between service providers

A number of stakeholders reported confusion about the role of each service provider and how the different services involved in the pilot were supposed to work with each other.

For example, because The Shed was seen by many stakeholders as primarily a suicide prevention service for Aboriginal males, it was unclear to them whether it took referrals from clients who did not fall into that target category. Because its client base is traditionally Aboriginal, it attracted Aboriginal victims as well as defendants. Aboriginal couples that were parties to an AVO matter often attended The Shed service together. While The Shed was willing to assist whoever came through its door, other service providers questioned whether this was appropriate. The WDVCS felt that the WDVCS service should be the main referral point for victims.

Concern was also expressed by some stakeholders about non-legal services providing quasi-legal advice.

There was also uncertainty about how the pilot would be evaluated, which meant that information-gathering opportunities – for example, the opportunity to gather information about defendant and victim satisfaction with the additional services – were underutilised.

3.3 Scope of the pilot

Matters with associated charges

As set out in Chapter E, the percentage of AVO matters handled by the pilot solicitor with associated charges was relatively stable throughout the course of the pilot at around 35%. In a majority of these cases, defendants would be given advice about the AVO by the pilot solicitor and then the matter would be adjourned so that the client could attend a crime advice clinic. The AVO and charge matters would then be mentioned in court together by a crime duty solicitor, not the pilot solicitor. This was in line with the guidelines prepared by the Legal Aid NSW Family Violence Specialist Solicitor after the mid-pilot review.

The WDVCS expressed the view that matters with associated charges should be excluded from the pilot because otherwise these defendants were receiving double the assistance. However, the Director of Criminal Law, Legal Aid NSW thought it was important that matters with associated charges were included in the pilot because the provision of comprehensive AVO advice was outside the scope of the crime duty

solicitor's role. If such matters were not included in the pilot, defendants would miss out on crucial AVO advice in the very cases considered most serious by Police.

No assistance with hearings

Many stakeholders expressed frustration about the fact that the pilot provided defendants with advice at the first mention stage but that Legal Aid NSW then failed to represent many of these defendants at the more complex hearing stage. This was because the Legal Aid NSW client eligibility policies prevent an AVO defendant from being granted aid for a hearing except in exceptional circumstances.

This was considered by many stakeholders to be undesirable, particularly in cases where a defendant decided to defend a matter as a result of advice from the pilot solicitor, but was unable to make a successful case at that point due to lack of legal representation.

3.4 Relationships between people involved in the pilot

Almost everyone interviewed talked about the impact of the relationships between the people involved on the success of the pilot – what a positive effect a good relationship had and how detrimental bad relationships were.

There was a perception that some stakeholders mistrusted other stakeholders, or were not as engaged as others or as committed to the aims of the pilot. When a stakeholder failed to attend meetings about the pilot or was reluctant to communicate or negotiate with other stakeholders, this affected the outcomes of the pilot. A lack of knowledge about each player's roles and obligations within the AVO legal process meant that some stakeholders had unrealistic and ill-informed ideas about the extent to which negotiation between stakeholders regarding matter outcomes was possible in any given case.

It was reported that relationships improved the more stakeholders worked with each other and learned about each other's roles.

Because some of the non-legal services (for example, the providers from Mental Health and Human Services) were seen to be aligned with the Shed, the main referral point for defendants, some victims services were reluctant to refer victims to these services, fearing breaches of confidentiality. This limited the assistance these services could provide to victims.

When referral guidelines were drawn up after the mid-pilot review, there was a perception that not all stakeholders adhered to these guidelines.

3.5 Perception that the pilot led to more matters going to hearing

Mount Druitt Police expressed the view that in some cases the pilot solicitor was advising clients who would otherwise have consented to an order to withhold consent, which resulted in more matters going to hearing. The pilot solicitor did not consider that the pilot had resulted in more matters going to hearing.

As already mentioned, it is not possible to compare data on AVO matters at Mount Druitt Court before and after the pilot, since no pre-pilot data exists.

3.6 Aims of the pilot

The WLS queried whether the aim of the pilot – to test the proposition that providing assistance to defendants in AVO matters reduces future legal problems – was an appropriate one, since it could be argued that a decrease in “future legal problems” such as breaches did not necessarily equate to a decrease in violence. It was the view of the WLS that any future pilot should shift its focus to measuring safety levels of victims rather than future legal problems.

3.7 Length of the pilot

It is the experience of the WLS that in AVO matters violence often increases once the AVO expires or at the point in time where the victim becomes involved with another partner. In this context the WLS queried the utility of a 12-month pilot, given that the AVO might still be in place at that time, and that the most significant AVO outcomes could occur many months, or even years, after the initial order was made.

3.8 Pilot duty lawyer hours

The pilot solicitor reported that while she had enough time to deal with the listed AVO matters at court on list day, the limited one-day-per-week funding of the position made it difficult for her to follow up on referrals and undertake the necessary record-keeping.

3.9 Timeframes of orders

Police expressed dissatisfaction with the reduced timeframes of ADVOs that often resulted because of negotiations with the pilot solicitor. It was the Police view that they would request an appropriate timeframe for an order depending upon the seriousness of the incident/offence. Initially the defendant would be willing to consent to the order, but then the pilot solicitor would become involved and would withhold consent until the Police agreed to the reduced timeframe.

Other stakeholders expressed the alternate view that reduced timeframes were appropriate in the cases where they were negotiated.

4. Lessons for future pilots

When asked about what lessons from Mount Druitt Legal Aid NSW should apply to future pilots, stakeholders made the following suggestions.

- Clearer guidelines are needed from the outset about:
 - client eligibility for pilot solicitor services
 - the role of each service provider
 - the relationships between the service providers
 - referral pathways, and
 - how to assess when a parenting plan or family law proceedings are appropriate
- The intended length of the pilot should be made clear to all stakeholders at the beginning of the pilot.
- AVO training should be made available to all stakeholders involved in the pilot.
- Stakeholders should have access to and knowledge of local legal and non-legal services.
- Regular interagency meetings should be held throughout the course of the pilot.

- Appropriate account needs to be taken of female defendants. In Mount Druitt the DVPS solicitor assisted female defendants where a judgment call was made that that person was in effect the victim.

5. Meeting the ongoing service needs of Mount Druitt Court

It was the view of most stakeholders that Mount Druitt Court services a demographic with unique dimensions of disadvantage and therefore requires a unique service response.

There was support for the reintroduction of the EIU clinic to the court, as well as a duty service for AVO defendants that was linked to social services. While it was recognised that The Shed provided an invaluable service to Aboriginal men, some stakeholders expressed the view that its funding arrangements limited the extent to which it had a mandate to provide defendant support services to a wider demographic. It was therefore suggested that Legal Aid NSW should explore developing referral pathways for defendants to services in addition to The Shed.

A practical impediment recently arising at Mount Druitt Court is the current magistrate's use of Courtroom 3 as a call-over court (in 2012 this was the space used by the Shed to coordinate the non-legal services.) Consideration would have to be given as to how to best deliver access to social services in these circumstances.

Another suggestion was for Legal Aid NSW to work with Police and other service providers to ensure defendants receive early referrals to legal and non-legal services at the time the provisional ADVO is made.

G. RECOMMENDATIONS

Recommendations for a future ADVO defendant pilot

Aims of a future pilot

Recommendation 1: That a future pilot aims not just to measure its impact on future legal problems but on the safety levels of victims

This recommendation recognises that official breach rates do not necessarily reflect recurring domestic violence incidents, and aligns the aims of a future pilot more closely with the Government's intention, as expressed in its NSW Domestic Violence Justice Strategy, to prevent defendants from committing further acts of violence or abuse, thereby making victims safer.

Design of the pilot

Recommendation 2: That prior to the commencement of a future pilot:

- a clear evaluation framework is established
- clear referral pathways are established
- the roles of and relationships between each service provider are clearly defined
- the intended length of the pilot is communicated to all stakeholders

Having a clear evaluation framework will ensure that the aims of the pilot are clear to stakeholders and appropriate information is collected during the pilot.

It is recommended that baseline data on matter outcomes at the chosen pilot site prior to the commencement of the pilot is collected so that the impact of the pilot can be effectively measured, as well as follow-up data on outcomes of the pilot.

To reflect the revised aim of a future pilot and to bypass the influence of police operational initiatives on the reporting of AVO breaches, the evaluation of data collected will need to go beyond a collection of police-recorded breach rates to examine actual breach behaviour by defendants. This could be collected by interviewing victims prior to and after their involvement in the pilot. Detailed information about the service provided by the pilot solicitor should also be collected, including information about referrals made, family law advice received, the number of parenting plans made and victim and defendant satisfaction with the service.

It will also be important to acknowledge and account for the limitations of the pilot, for example the fact that because significant AVO outcomes can occur a long time after the initial AVO is granted this will limit the value of data collected around breach rates in any time-limited pilot.

Having clear referral pathways will avoid conflict of interest considerations being a barrier to legal services. It should also be made clear who the victim's and defendant's first point of contact should be, to avoid confusion about the roles of each service provider. It is recommended that the referral pathways for each potential category of party, including female defendants, are defined and documented.

All stakeholders, including parties to ADVO proceedings, should be made aware of the extent and limitations of each service, including whether the service is a legal service or provides non-legal services only.

The intended length of the pilot should be communicated to all stakeholders prior to commencement to manage expectations about future service delivery.

Scope of the duty service

Recommendation 3: That the scope of the duty service in a future pilot is restricted to the provision of assistance in relation to ADVOs (as opposed to APVOs) unless exceptional circumstances exist

Recommendation 4: That ADVO matters with associated charges are included in the scope of a future pilot

Recommendation 3 reflects the consensus of stakeholders, as recorded in the mid-pilot review, that the focus of the duty work undertaken by the pilot solicitor should be on ADVOs.

While not all stakeholders agreed with including matters with associated charges in the scope, arguing that defendants in such matters are receiving double the assistance (from the pilot solicitor and again from a Legal Aid NSW criminal duty lawyer), this recommendation recognises that it is currently beyond the scope of Legal Aid NSW criminal law duty solicitors to provide comprehensive ADVO advice. Including matters with associated charges within the scope of the pilot also ensures that the pilot is targeting matters where the additional service could have a significant impact.

Family Law Services

Recommendation 5: That the pilot solicitor and DVPS practitioner of a future pilot have crime and family experience

Recommendation 6: That a future pilot establishes from the outset guidelines that outline where parties can seek family law assistance and when in the process family law outcomes should be negotiated. The guidelines should note that the safety of victims and children is the paramount consideration on the first mention date and should specify that parenting plans involving complex issues should not be negotiated on the first mention date.

Recommendation 5 recognises the relevance of both areas of law to ADVO matters and the positive effect of family law advice on matter outcomes, as reported by the majority of stakeholders.

Recommendation 6 seeks to address the concern expressed by a number of stakeholders that unreasonable pressure was being placed on victims to negotiate parenting arrangements at the first mention, which distracted from what should have been the focus of the mention: ensuring ongoing victim safety.

Conflict of interest

Recommendation 7: That the pilot duty solicitor service in a future pilot is provided by a private practitioner engaged by Legal Aid NSW

This will prevent conflict of interest issues with Legal Aid NSW in-house family law services arising.

Supporting stakeholders

Recommendation 8: That training about AVOs is made available to all stakeholders involved in the pilot

Recommendation 9: That stakeholders are provided with access to and knowledge about local legal and non-legal services

Recommendation 10: That stakeholder meetings are held regularly throughout the course of the pilot

Feedback from stakeholders about the pilot made clear that positive relationships between stakeholders are crucial to a program's success. The above recommendations aim to ensure stakeholders are appropriately supported and connected throughout the pilot.

Knowledge about local non-legal services should include knowledge about contacting Community Services, to enable effective negotiations with the relevant case manager to take place.

Regular stakeholder meetings will enable discussion and resolution of issues arising throughout the course of the pilot.

Ongoing service needs of Mount Druitt Local Court

If the outcomes of a second pilot are positive and funding is available, it is possible that Legal Aid NSW will be in a position to roll out an ADVO defendant service to local courts across the State, including Mount Druitt. The review makes the following recommendations to meet the ongoing needs of the court in the interim.

Family Law Services

Recommendation 11: That Legal Aid NSW works with service partners to explore options for providing family law advice and assistance to AVO victims and defendants on location at Mount Druitt Local Court.

Recommendation 12: That any plan for provision of family law advice and assistance at the court :

- (a) defines the roles of and relationships between other service providers
- (b) establishes clear referral pathways between service providers
- (c) specifies that parenting plans involving complex issues should not be negotiated on the first mention date.

These recommendations recognise the positive impact of access to family law advice and assistance on AVO matter outcomes as reported by the majority of stakeholders.

Recommendation 12 seeks to address the confusion experienced during the pilot about referral pathways and the roles of each service provider. It also seeks to address the concerns raised by stakeholders about the pressure placed on victims to negotiate parenting arrangements on the first mention date.

Referrals pamphlet

Recommendation 13: That Legal Aid NSW liaises with Mount Druitt Police and other service providers about developing a pamphlet for Police to distribute to defendants and victims outlining available AVO services at the point in time when Police make the provisional AVO

This recommendation aligns with Strategy 1.3 of the NSW Domestic Violence Justice Strategy (which requires that the police officer attending a domestic violence event refers victims to victim services before the end of his or her shift) and Strategy 5.3, (which requires police to provide defendants with information on accessing legal information and advice before the first mention.) A pamphlet could include contact details for and information about services such as Legal Aid NSW, the WDV CAP, and the DVPS to provide parties with an opportunity to seek advice and assistance from the first point of contact with Police.

AVO defendant solicitor

Recommendation 14: That Legal Aid NSW seeks additional funding for an AVO defendant solicitor at Mount Druitt Local Court to:

- (a) Provide a weekly legal duty service at court for defendants on AVO list day;
- (b) Follow up on referrals; and
- (c) Undertake record-keeping

Recommendation 15: That should funding be secured, Legal Aid NSW engages a private practitioner to undertake the role to avoid conflict of interest issues arising with Legal Aid NSW in-house services.

As noted above, if the outcomes of a second pilot are favourable Legal Aid NSW will seek funding for a roll out of the ADVO defendant service across the state. However, in the interim, it is recommended that Legal Aid NSW explores opportunities to seek funding from external sources for a service at Mt Druitt. If successful, it is recommended that funding be provided for a solicitor to perform duty work in court one day per week, and follow up on referrals and undertake the necessary record-keeping later in the week.

Longer term application of pilot components to other courts

Longer term application of pilot components to other courts

Recommendation 16: That Legal Aid NSW makes decisions in relation to the longer term application of components of the ADVO defendant pilot taking into account the results of a second pilot

Given the limitations of the data collected during the first pilot and the intention of Legal Aid NSW to run a second pilot in another location with a more rigorous evaluation framework, it is recommended that Legal Aid NSW reserves any decisions about introducing components of the pilot to other NSW courts until after the second pilot is completed and evaluated.

Legal Aid NSW AVO policy

Legal Aid NSW AVO policy

Recommendation 17: That Legal Aid NSW takes into account the outcomes of this review and the outcomes of any future pilot when considering future amendments to its AVO client eligibility policy.

Many stakeholders expressed their support for an expansion of the current Legal Aid NSW AVO policy (Policy 4.4) to provide representation for defendants at AVO hearings in more than exceptional circumstances.

The review recognises that decisions made by Legal Aid NSW about amendments to its client eligibility policies must take into consideration the cost impact of any changes, competing priority areas and available funds. Therefore rather than recommending an amendment to the policy, this review recommends that Legal Aid NSW takes into account the outcomes of this review and any future pilot when making decisions about future policy changes.

ATTACHMENT 1

[mid-pilot review]

ATTACHMENT 2

ADVO pilot stakeholder questions used for the final review

1. What was your role in the pilot?
2. What were the benefits of the pilot, if any?
3. What were the problems with the pilot, if any?
4. A number of changes were made to the operation of the pilot after the mid-pilot review.
 - a. What were the advantages of these changes, if any?
 - b. What were the disadvantages of these changes, if any?
5. The aim of the pilot was to offer early intervention to defendants in ADVO matters to reduce further offending, and further legal problems. To what extent do you think the pilot achieved its aim?
6. It is likely that Legal Aid NSW will be running a second pilot in another court, drawing upon the lessons of the Mt Druitt pilot. From your experience of the Mt Druitt pilot, what suggestions would you make to Legal Aid NSW about running the second pilot?
7. What do you think Legal Aid NSW can apply from the Mt Druitt pilot to other courts?
8. What service delivery mechanisms do you think are required to meet the ongoing needs of AVO clients accessing Mt Druitt Local Court?
9. Any other comments?

ATTACHMENT 3

List of abbreviations

<i>ADVO</i>	Apprehended domestic violence order
<i>APVO</i>	Apprehended personal violence order
<i>AVO</i>	Apprehended violence order
<i>BOCSAR</i>	NSW Bureau of Crime Statistics and Research
<i>DVLO</i>	Domestic Violence Liaison Officer
<i>DVPS</i>	Domestic Violence Practitioner Scheme
<i>EIU</i>	Early Intervention Unit
<i>PINOP</i>	Person in need of protection
<i>SIC</i>	Solicitor in charge
<i>WDVCAS</i>	Women's Domestic Violence Court Advocacy Scheme
<i>WLS</i>	Women's Legal Service

ATTACHMENT 4

ADVO form

Associated Charges YES / NO

LAC: H / M / S

Defendant Served YES / NO

Name of PINOP: _____ DOB: _____ At Court: Yes / No

Name of Defendant: _____ DOB: _____ At Court: Yes / No

Period Orders Sought: _____ months / years

PROPERTY RECOVERY ORDER REQUESTED: YES/NO

CONSENT WITHOUT ADMISSIONS: YES / NO

FINAL / INTERIM ORDERS

Mandatory Orders Sought:

1. a) The defendant must not assault, molest, harass, threaten or otherwise interfere with the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.
- b) The defendant must not engage in any other conduct that intimidates the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.
- c) The defendant must not stalk the protected person(s) or a person with whom the protected person(s) has/have a domestic relationship.

Additional Orders Sought:

2. The defendant must not reside at the premises at which the protected person(s) may from time to time reside, or other specified premises: _____
3. The defendant must not enter the premises at which the protected person(s) may from time to time reside or work, or other specified premises: _____
4. The defendant must not go within _____ metres of the premises at which the protected person(s) may from time to time reside or work, other specified premises: _____
5. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the defendant's legal representative or as agreed in writing or as permitted by an order or directions under the Family Law Act 1975, as to purpose of counselling, conciliation, or mediation.
6. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the defendant's legal representative or as authorised by a parenting order under the Family Law Act 1975.
7. The defendant must not approach or contact the protected person(s) by any means whatsoever, except through the defendant's legal representative.
8. The defendant must surrender all firearms and related licences to Police.
9. The defendant must not approach the school or other premises at which the protected person(s) may from time to time attend for the purposes of education or child care, or other specified premises: _____
10. The defendant must not approach the protected person(s) or any such premises or place at which the protected person(s) from time to time reside or work within twelve (12) hours of consuming intoxicating liquor or illicit drugs.
11. The defendant must not destroy or deliberately damage or interfere with the property of the protected person(s).
12. Additional Protected people: 1. _____ DOB: _____
2. _____ DOB: _____
3. _____ DOB: _____
4. _____ DOB: _____
13. Other orders: _____

Person in need of protection: _____ Date: _____

Defendant: _____ Date: _____

Person in need of protection wishes to withdraw this AVO application

1. PINOP named on application:
2. I, want to withdraw the above Apprehended Domestic Violence Order (ADVO).

I understand that by withdrawing this matter and signing this form, an ADVO will no longer be in place for my protection from the named defendant.

- I do not have fears for my safety
- The defendant has not threatened me, and
- There have been no further incidents since.

I will give evidence on oath stating this in court if required.

I understand I can apply for an ADVO again at any time in the future if the situation or need arises.

Signature Date

ATTACHMENT 5

Breaches of ADVO orders

made in relation to applicants assisted by the Mount Druitt pilot solicitor between 1 July and 30 December 2012

Breaches – general:

- 58 final orders were granted – 5 of these were breached (8.62%)
- 36 interim (but not final) orders were granted during the pilot period – 2 were breached (5.5%)
- Of 58 final orders and 36 interim orders granted, 7 breaches occurred (7.44%)

Breaches – final orders – children/adults

- Of the 58 final orders and 36 interim orders granted (totalling 94), 4 breaches occurred where there were children and adults protected in the order (4.2%)
- Of the 58 final orders and 36 interim orders granted, 3 breaches occurred where there were only adults protected in the order (3.2%)

Breaches – final orders – duration of the order

- Of the 58 matters where a final order was granted, 3 breaches occurred where the order was 12 months in duration (5.1%)
- Of the 58 matters where a final order was granted, 2 breaches occurred where the order was 24 months in duration (3.4%)

Breaches – final orders – associated charges

- Of the 58 matters where a final order was granted, 41.37% of matters had associated charges.
- Of the 58 matters where a final order was granted, 1 breach occurred where there were associated charges. 4 breaches occurred where there were no associated charges.

Breaches – duration of the matter and number of services

- There were 5 breaches where a final order was granted on the first mention date of the matter (being 100% of all breaches of final orders)
- There were 0 breaches where a final order was granted after the matter had been adjourned at least once for the purposes of legal advice.
- Note: breaches of final orders only occurred where advice was given at the first mention of the matter and the matter was not adjourned.

Breaches – tailoring of orders

- There were 4 breaches where a final order was granted and no conditions were changed from those that were sought by the applicant (being 80% of all breaches)
- There was 1 breach where a final order was granted and one condition was changed from those that were sought by the applicant (being 20% of all breaches)
- There were 0 breaches where a final order was granted and at least two conditions were changed from those that were sought by the applicant

Breaches – negotiation of conditions regarding children

- There was one breach of an interim order where no children specific orders were sought (50% of all breaches of interim orders)
- There was one breach of an interim order where the conditions were tailored regarding children (50% of all breaches of interim orders)
- There were 5 breaches of final orders where no specific conditions were sought regarding children. This accounts for 100% of all breaches of final orders.
- There were no breaches of final orders where there was some tailoring of orders relating to children.

Summary of breaches (negotiation and tailoring of orders):

EVENT:	Total no. of clients:	Total no. of breaches:	% of breaches relating to duration
An interim order was granted with no tailoring of conditions	28	1	14.28
An interim order was granted with tailoring of conditions	8	1	14.28
No conditions were changed from those sought to those granted during the AVO process	45	4	57.14
One condition was changed during the AVO process	9	1	14.28
Two conditions were changed during the AVO process	2	0	0
Three or more conditions were changed during the AVO process	0	0	0
Child was removed from the order (but no other changes)	2	0	0
TOTAL	94	7	Total % of breaches = 7.44%

Summary of breaches (negotiation of child-related conditions)¹⁰:

EVENT:	Total no. of clients:	Total no. of breaches:	%
An interim order was granted and there are no children specific conditions	29	1	14.28
An interim order was granted with no tailoring of conditions regarding children (where orders 5/6/12 were sought)	1	0	
An interim order was granted with tailoring of conditions regarding children (where orders 5/6/12 were sought or children removed from order)	5	1	14.28
No specific conditions were sought regarding children	50	5	71.42
No conditions were changed from those sought regarding children to those granted during the AVO process	0	0	0
Condition 5 was removed from the final order (though was sought)	2	0	0
Condition 6 was removed from the final order (though was sought)	0	0	0
Conditions regarding children remained the same but children removed from the order	6	0	0
Condition 12 was included on the final order (often regarding children)	1	0	0
TOTAL	94	7	Total % of breaches = 7.44%

¹⁰ Where several conditions were removed or a condition was removed and condition 12 added, the client's matter may appear several times in this single table. Thus, the total here is not the total number of matters but of changes to overall conditions on all orders and breach rates.

Attachment 6

Mount Druitt data: comparison of First and Second periods of the pilot

First period = the first 13 weeks of the pilot (data relating to 12/12/11 to 31/3/12)

Second period = the last 25 weeks of the pilot (data relating to 2/7/12 to 17/12/12).

Clients assisted:

During the First (13 week) period 111 defendants were assisted

During the Second (25 week) period 114 defendants were assisted (reflecting a period of time double in length to the First period). This can mostly be explained by the exclusion of APVOs in the Second period.

ADVO/APVO:

During the First period 78% of matters were ADVO matters and 22% were APVO matters. During the Second period 94.21% of matters were ADVO matters and 5.79% were APVO matters. This reflects the deliberate strategy to exclude APVO matters in the Second period.

Police/Private:

During the First period 19% of overall matters were private applications, and during the Second period 5.26% of overall matters were private applications. This again reflects the exclusion of APVO matters in the Second period.

Associated Charges:

The percentage of matters with associated charges remained relatively similar between the two periods. During the First period around 35% of matters seen by the pilot solicitor had associated charges. During the Second period around 37.5% of matters had associated charges.

Adjournments:

During the First period around 42% of matters where the pilot provided duty services were adjourned.

During the Second period, 19.29% of final orders were granted after more than one mention.

A further 31.57% of matters were adjourned for a future mention and an interim order was granted (final outcome unknown during the pilot period).

Attachment 7

Legal Aid NSW ADVO Defendant Pilot Mt Druitt Guidelines

AIM

To test the proposition that providing holistic minor assistance to defendants in ADVO matters reduces future legal problems in crime, civil and family law and promotes safety for victims and children.

This aim will be achieved by ensuring that defendants are properly advised with regards to the terms of the ADVO, the implications of each of the terms as well as advice and referrals with regard to the other legal issues upon which the ADVO may impact.

SCOPE

The Legal Aid New South Wales defendant pilot at Mt Druitt Local Court ("the pilot") will operate until 30 December 2012.

The pilot will be operationally managed by the Legal Aid NSW Senior Domestic and Family Violence Solicitor and the Legal Aid NSW Domestic & Family Violence Committee will have an advisory role.

In order to evaluate the achievement of the Aims (above), there will be benchmarking and testing of the statistical rates of Breach of ADVO matters at Mt Druitt Local Court. There is also a possibility of qualitative testing in relation to experiences of the pilot.

It is also anticipated that there will be monthly stakeholder meetings to ensure communication between all stakeholders and to promote awareness and resolution of any issues which may arise in relation to the changes made to the pilot.

The pilot, through the pilot solicitor, allows the provision of duty services and advice to defendants in ADVO mentions only, unless "exceptional circumstances" apply to a defendant in an APVO. The pilot does not provide for the conduct of ADVO hearings or the preparation of statements for Defendants in ADVO matters.

The pilot does not provide for the conduct of hearings in ADVO matters or ongoing casework where there is an associated charge matter. The charge matter will be referred to the criminal law duty solicitor servicing Mt Druitt Local Court and the Legal Aid NSW "means", "availability of funds" and "exceptional circumstances" tests apply to those matters.

There is scope for the pilot solicitor to advise and undertake minor assistance in the preparation of or agreement to Parenting Plans which may form part of the ADVO. Where it is not appropriate for Parenting Plans to be drafted and Orders made on any list day, a short adjournment of 1-2 weeks should be sought and referrals should be made for defendants (by legal or non-legal stakeholders) to the identified legal pathways (see appendix of referral document) to assist in the timely resolution of family law issues, particularly where children are named as PINOPS in the ADVO.

ROLE OF PILOT SOLICITOR

The pilot solicitor is to provide advice and representation to defendants in ADVO matters only at Mt Druitt Local Court on Mondays, without any requirement to apply the "means", "availability of funds" or "exceptional circumstances" tests. There is no scope for the pilot solicitor to act in hearing or associated charge matters. The pilot solicitor may provide advice and representation in APVO mentions where the usual Legal Aid NSW tests are satisfied.

The pilot solicitor may provide some advice, minor assistance and representation in non-complex Family Law matters (where appropriate) during the listed duty appearance only. This may include negotiating a Parenting Plan on the duty day with the Domestic Violence Practitioner Scheme ("DVPS") practitioner who represents the victim in the ADVO matter. Where this is not appropriate or possible the pilot solicitor will make a "warm referral" (including assistance in making appointments) to the Legal Aid NSW Early Intervention Unit or Blacktown Legal Aid Office clinic.

The pilot solicitor will provide a wholistic response (both legal and non-legal) to clients on the day at court and will be assisted in this by use of targeted referrals (see Referral Model). This will include liaison with all stakeholders to provide co-ordinated service delivery.

The pilot solicitor will also promote the pilot on the list day.

The pilot solicitor will also record data relevant to the pilot and may play a role in benchmarking and testing whether aims are being achieved.

ROLE OF DVPS

The DVPS is funded by Legal Aid NSW and co-ordinated by the Western Sydney WDVCS. There are 2 DVPS practitioners allocated to Mt Druitt Local Court. A DVPS practitioner will be rostered on each week to assist victims (and female defendants where necessary). One DVPS practitioner will be conducting weekly clinics (outside of the court) to provide advice and minor assistance and any ongoing legal assistance required.

ROLE OF Family Law EIU

The EIU will conduct fortnightly clinics in the Mt Druitt area as a referral pathway for family law issues for defendants. The pilot solicitor or any other stakeholder may refer to the EIU.

ROLE OF BLACKTOWN LEGAL AID OFFICE

Blacktown Legal Aid office conducts family law advice clinics on Tuesdays and will be a family law referral pathway for defendants in the pilot on the alternate week to the EIU. They will also have the capacity to provide ongoing casework, (subject to Legal AidNSW means and merits tests) where family law issues are not resolved swiftly by a Parenting Plan.