



Legal Aid policy

[Part 4.4 of Legal Aid NSW Policy](#) provides when legal aid is available. A grant of legal aid can be available for both Applicants and Defendants if certain criteria is satisfied.

The [Legal Aid NSW Guidelines](#) for criminal law matters provides the definition of 'victim of domestic violence' under the ADVO Policy. This assists you as the lawyer to identify eligibility for aid where it can be satisfied that the applicant for legal aid is a victim of domestic violence.

Important practice tips

1. If you encounter an ADVO only in your duty list, always enquire whether or not there is an associated charge. This can be done by asking the Police Prosecutor or by asking the court officer to check for you. It is important to try and keep the proceedings together.
2. Always identify a client's eligibility for aid at first mention. If you are of the view that there is an exception to policy such as the defended hearing policy, then please make that clear on your duty form. Always ask question '5' and '6' on the green duty form.
 - a. If they answer 'Yes'
 - please try and expand on this with the client as this will assist with determination and
 - obtain contact information of other services that may be assisting the client.
 - b. If they answer 'No'
 - please be mindful that they may be unwilling to just provide such information, so having an open ear during your conference will often allow you to revisit the topic again. The key though is not to be too direct, as they are often long-time victims and are vulnerable.

Recent changes in ADVO practice and procedure

Some recent changes to the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) concerning the length of ADVOs. The amendments commenced on 28 March 2020.

There are two key amendments:

1. The standard length of an ADVOs has increased from 12 months to 2 years, and the court has to consider certain things when it sets the duration of the ADVO.
2. A court can now make an indefinite order against an adult defendant. To get an indefinite order, police have to satisfy the court that the circumstances are such that there is a significant and ongoing risk of death or serious physical or psychological harm to the protected person or their children and that a fixed term order would be insufficient to address the risk.

Apprehended Domestic Violence Orders

There were two key changes to Local Court Practice Note Crim 1 which were brought into effect from 18 December 2020:

1. There is now an entitlement afforded to a complainant under [s 289V Criminal Procedure Act 1986 \(NSW\)](#).
 - The prosecution is required to provide notice to the Court at first mention¹. [Attachment 'E'](#) is required to be filed by the prosecution at first mention, indicating whether or not the complainant wishes to exercise their entitlement under s 289V.
2. Where matters are a Domestic Violent offence, the time standard for the setting of hearing dates has been increased to six months of the charge(s) being laid.

¹ [Local Court Practice Note Crim 1, Part C, Chapter 10, Paragraph 10.3\(b\)](#)
