

# Week 3: Extreme Scenarios in Family Law

## Family Violence and Domestic Violence

### What is Family Violence?

Family violence is any threatening, coercive, abusive or dominating behaviour that occurs in a family or domestic setting or in an intimate relationship.

As a result of this, the person who is subjected to violent behaviour feels fear.

Family violence can be perpetrated in many forms including through emotional abuse, verbal abuse or physical abuse.



### Types of Abuse

Many think that physical abuse is the only form of abuse that can amount to family violence. This is not true.

Given below are other forms of abuse that parties can be subjected to:

- Emotional abuse
- Psychological abuse
- Financial abuse
- Sexual abuse
- Verbal abuse

Family and domestic violence can cause severe trauma to people. This is why it is necessary to make use of available legal avenues to address this.

Moreover, if there are children involved, in all family law matters the courts will give a lot of significance to the safety and well-being of the child.

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### What is Domestic Violence?

Domestic violence need not always involve physical abuse. It can be any coercive behaviour that causes the victim some level of distress.

For example, domestic violence occurs even when a person tries to maintain control over the victim and have them suffer and live in fear through means of social isolation and financial deprivation.

Domestic violence cases are dealt with utmost seriousness in Australia. There are legal ways in which victims can address FV or DV.



### ADVO & APVO

If a person is being subjected to family violence or domestic violence by their partner, they can apply for an **Apprehended Domestic Violence Order or ADVO**.


An ADVO protects the person from any further threats to their safety by placing restrictions on the party who is being violent or abusive.


It is a court order that protects a person from harassment, further violence or intimidation.


An ADVO is applicable in circumstances where a person is seeking protection from someone with whom they have a domestic relationship.

On the other hand, an **Apprehended Personal Violence Order or APVO** can be made for similar purposes against neighbours, colleagues or a friend.

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### Case Scenario

Consider an example of Emma and Tom. Emma and Tom were a married couple with two young children. Over time, Tom became increasingly controlling and abusive towards Emma, both physically and emotionally. Emma tried to leave the relationship several times but was always persuaded by Tom to return.

One day, Tom became violent towards Emma in front of their children. Emma called the police, and Tom was arrested and charged with family violence offences. Emma then obtained a family violence intervention order, which prevented Tom from contacting or approaching her or their children.

Emma decided to file for divorce, and during the family law proceedings, she sought a property settlement order and custody of the children. Emma's lawyer argued that Tom's violent behavior towards Emma and the children meant that he should not have contact with the children and that Emma should receive a greater share of the property settlement.

The court considered Tom's history of family violence and his behavior towards Emma and the children when making its decision. The court ordered that Tom's contact with the children would be supervised and that Emma would have sole custody of the children.

The court also awarded Emma a greater share of the property settlement due to the impact of Tom's family violence on her ability to earn and accumulate assets during the relationship.

This case study illustrates the serious impact of family violence on individuals and families. Family violence is taken very seriously under Australian law, and there are many legal avenues available to help victims of family violence seek protection and justice.