

Working with clients* who have experienced domestic and family violence

Best practice guidelines for independent children's lawyers[^] (ICLs)

1. The safety of clients, children and workers is paramount

1.1 Identify if any domestic and family violence protection orders exist and if there have been any breaches when accepting a referral

Practice points:

- If the children are named on the domestic and family violence order, note this on the file along with any other relevant conditions.
- If the children are named on the domestic and family violence protection order, get the client's written consent regarding family report assessments that will involve the children's interaction with the ex-partner.

1.2 Conduct and document any potential safety or security risks when collecting information on a file

Practice points:

- Use the risk assessment pro-forma as a guide to assess the level of risk to all parties in the situation.
- Review the risk assessment from time to time during key stages of the court process, eg interim hearing, pre-hearing conference, day one of the LATs or trial.

1.3 When clients are attending court take appropriate precautions for their safety

Practice points:

- If either of the parties are unrepresented, ensure security arrangements have been made at the court.
- Consider other safety issues (eg the order in which parties leave the family law conference or the pre-hearing conference and the order and timing of interviews for assessment processes).

1.4 Take appropriate precautions for your own safety

Practice points:

- If you are working at a Legal Aid Queensland office know where the distress buttons are in the interview rooms.
- If you are working at a Legal Aid Queensland office know how and when to write a workplace health and safety incident report.
- If a client threatens you, notify Legal Aid Queensland, the appropriate authorities or a colleague and make a file note.
- Ensure your own safety as you leave the building.

2. Violence is a crime whether it occurs in public or in private

2.1 Give clients information about the legal options to address domestic and family violence, where appropriate

Practice points:

- Be aware of referral options.
- Consider whether domestic and family violence is an issue or has been an issue for any of the parties.

3. Actively involve clients in assessing their legal needs and in making decisions about their future.

3.1 Fully explain the ICL's role when contacting clients

Practice points:

- Send a letter in plain English explaining the ICL's role and include Legal Aid Queensland's factsheet about family report writers.
- Provide information to clients about how their children may have to spend time with their ex-partner for the purposes of the court process.

- If an unrepresented client contacts you about the court process, explain the probable or likely process to them.
- Provide information to the client about the ICL's role.
- Provide information to the client about possible grievance procedures.

4. It is important to work collaboratively with other services that support clients who have been affected by domestic and family violence

4.1 Ensure you collect appropriate information for the court

Practice points:

- Consider the type of report you need.
- Consider who will read the report.
- Consider what information and/or assessment you are seeking.
- How is the report going to help your role?
- Do not automatically get a very detailed report giving all of the details of a client's or a child's personal trauma.
- Consider whether a specific request for information is more appropriate than a subpoena.
- See the problem in a holistic light, acknowledge the other needs for the parties apart from their legal needs.
- When appropriate, provide information for external referrals.

5. All clients should be treated with respect

5.1 Consider any allegations of domestic and family violence when collecting information for the court

Practice points:

- Consider the independent evidence you should obtain when making any recommendations to the court.

- Consider the party's own risk assessment — are they playing down the risk of future domestic and family violence?
- Encourage a process that enables parties to make informed decisions.

6. Legal Aid Queensland's services should be accessible and equitably delivered to all clients affected by domestic and family violence

6.1 Access and document information about relevant cultural practices when collecting information for the court

Practice points:

- Do not make assumptions about a client based on their cultural background.
- Contact established migrant/refugee welfare services for cultural information or for support for a client.
- Use the internet to get current international evidence on the political and social situation in other countries eg country reports.
- Contact established Indigenous welfare services for information about culture or support for the client.
- Trained interpreters should be offered.
- Legal Aid Queensland will fund interpreters.
- Allocate extra time if there will be an interpreter involved.
- Always check that a client from a non-English-speaking background is comfortable to proceed without an interpreter, even if they have declined one on a previous occasion. Attempt to make arrangements so the conference can proceed, such as organising a telephone interpreter.

7. Develop and maintain your knowledge of the social context of domestic and family violence including power, control and gender

7.1 Ensure you are informed by, and include the relevant sociological, psychological and political perspectives explaining domestic and family violence in the home when assessing the issues for children in violent families

Practice points:

- Ensure you are informed about the current theoretical perspectives on domestic and family violence against clients and children.
- Ensure you are informed about the current theoretical perspectives on children's developmental stages.
- Ensure you are informed about the current theoretical perspectives on the impact of abuse and witnessing domestic or family violence.
- Attend relevant professional development opportunities to keep your knowledge base current.
- Participate in a local domestic violence integrated response project eg Gold Coast, Townsville, Wynnum and Logan.
- Be aware of and make contact with and/or participate in other relevant networks/agencies (eg local refuges, local domestic violence regional services or sexual assault services).

* Clients are all parties to a dispute.

[^] Independent children's lawyers should remain independent.