

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

Working with people who have experienced domestic violence



Principle 1. Improve your understanding

Guideline 1.1 - Ensure you are informed by, and consider the relevant sociological, psychological and government priorities explaining domestic 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 violence against parties 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 current.

Principle 2. Prioritise safety

Guideline 2.1- Identify if any domestic violence protection orders exist and if there have been any breaches when assessing a referral.

PRACTICE POINTS:

- The questionnaire sent to parties should ask if the children are named on the protection order; note this on the file along with any other relevant conditions.
- If the children are named on the protection order, get the parties' written consent regarding family report assessments that will involve the children's interaction with the other parent.
- Proactively respond to evidence of children being exposed to domestic violence and continue to be mindful of the impact of exposure to domestic violence on children.
- Amend the expert referral letter and highlight any domestic violence issues and domestic violence orders.

- Comply with obligations to inform the court or relevant authority in accordance with sections 12E, 60D and/or 63DA of the *Family Law Act 1975*.
- 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 violence?

Guideline 2.2 - Continue to be mindful of any potential safety or security risks when collecting information on a file.

PRACTICE POINTS:

- Use a risk assessment tool 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, key court events, day one of the trial.

Guideline 2.3 - When parties are attending court take appropriate precautions for their safety.

PRACTICE POINTS:

- If either of the parties are unrepresented, ensure the initial letter refers the party to court for security arrangements.
- Consider other safety issues (eg the order in which parties leave the family dispute resolution conference process or key court events and the order and timing of interviews for assessment processes).

Guideline 2.4 - 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 and a physical incident occurs or is threatened, complete a workplace health and safety incident report, notify Legal Aid Queensland and document the incident appropriately.

- If a party threatens you or a physical incident occurs, inform your supervisor and consider if the appropriate authorities need to be notified.
- Protect your personal information (eg be conscious of social media posts, your listing on the electoral role and transport arrangements).
- Protect your own safety as you leave the building.

Principle 3. Facilitate empowerment

Guideline 3.1 - Fully explain the ICL's role when contacting parents.

PRACTICE POINTS:

- Send a letter to the parents (written in plain language) explaining the ICL's role and include Legal Aid Queensland's factsheets about the ICL's role and the family report writer's role.
- Provide information to the parent about possible complaints procedures.
- If an unrepresented party contacts you about the court process, explain the probable or likely process to them.

Principle 4. Foster respect

Guideline 4.1 - Consider any allegations of domestic violence when collecting information for the court.

PRACTICE POINTS:

- Encourage a process that enables parties to make informed decisions.
- Consider how your behaviour may impact on a family's experience of domestic violence.
- 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?
- Use discretion before seeking very detailed reports giving all of the details of a party's or a child's personal trauma.

- Consider whether a specific request for information is more appropriate than a subpoena.
- Acknowledge the non-legal needs of the parties and make appropriate referrals where necessary.

Principle 5. Acknowledge violence is a crime

Guideline 5.1 - If in your view a crime has occurred, consider your obligations to inform the court or relevant authority in accordance with the Family Law Act 1975.

PRACTICE POINTS:

- Consider which referral options would minimise risk.
- Offer referral options.
- Consider if a Notice of Child Abuse, Family Violence or Risk of Family Violence [Form 4] is needed.

Principle 6. Respect diversity

Guideline 6.1 – Ensure you are familiar with cultural issues.

PRACTICE POINTS:

- Recognise that people may respond to domestic violence in different ways.
- Be aware of the impact of culture, religion, education, socioeconomic background, refugee experiences etc.
- Seek information from appropriate sources to help you gain a better understanding of cultural issues relevant to domestic violence.
- For example, people from some backgrounds:
 - may smile when recounting their experience of domestic violence. This is appropriate behaviour in their cultural context and is used to “save face” and maintain self-esteem and dignity
 - may not report because of lack of trust of people in authority
 - won't discuss events of domestic violence in front of community elders.

- Obtain current international information about the political situation, social situation and cultural norms in the parties country of origin relevant to domestic violence.
- Consider contacting established migrant/refugee or Indigenous welfare services, women's disability support services or gay or lesbian organisations for relevant information and support services. Be aware when contacting these agencies that some communities are small and your inquiry may affect the parties.

Guideline 6.2 - Consider language requirements at all times.

PRACTICE POINTS:

- Consider the barriers that may limit the parties understanding of complex legal language and meaning and adapt your practice accordingly. For example the party may require an interpreter, support worker or social worker.
- If a party has a disability, check how that might impact on them giving instructions, understanding legal advice and coping with the court process.
- Be aware of Legal Aid Queensland's Language Services Policy:
 - trained interpreters should be organised if you think language is an issue or the party has requested an interpreter
 - always check that a party from a culturally and linguistically diverse background is comfortable to proceed without an interpreter, even if they have declined to use one on a previous occasion
 - organise a telephone interpreter for any interviews
 - Legal Aid Queensland will fund interpreters
 - use separate interpreters for both parties in a dispute
 - ask if the party would prefer a male or female interpreter
 - allocate extra time when an interpreter or support worker is involved in a matter.

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- Interpreters must be independent to the parties – don't use friends or neighbours
- Interpreters must not be part of the negotiations. Their role should be only to interpret for the party.

Principle 7. Respond collaboratively

Guideline 7 – Be aware of other services that might be able to assist your party.

PRACTICE POINTS:

- Be aware of local domestic violence integrated response projects eg Gold Coast, Townsville, Wynnum and Logan.
- Ensure you know or can find out about appropriate non-legal support and referral services and ensure this information is provided to the party, such as domestic violence services, refuges, children's contact centres and other organisations listed in Legal Aid Queensland's online organisations directory www.legalaid.qld.gov.au/legalinformation/Pages/Organisations.aspx
- If in doubt, contact a lawyer or social worker in Legal Aid Queensland's Violence Prevention and Women's Advocacy team.

Notes

Training

The Queensland Centre for Domestic and Family Violence Research offers regular videolink seminars to keep practitioners current in their knowledge and understanding of domestic violence. A free and regular newsletter is also sent out to subscribers. www.noviolence.com.au/reader.html

Resources

Legal Aid Queensland has a Language Services Policy to ensure people from culturally and linguistically diverse backgrounds are not disadvantaged in accessing quality legal services. www.legalaid.qld.gov.au/about/policy/Documents/languageservicespolicy.pdf

Useful contacts for referral

- DV Connect is a 24/7 service offering advice on domestic violence matters
Ph: 1800 811 811
- Department of Communities Regional Domestic Violence Services
www.communities.qld.gov.au/communityservices/violence-prevention/contacts/regional-domestic-and-family-violence-services
- Zig Zag Young Women's Resource Centre is a resource centre for young women aged 12 to 25 years. The organisation currently focuses on homelessness and associated support issues and sexual assault. www.zigzag.org.au
- Brisbane Rape and Incest Survivors Support Centre (BRISSC) has fact sheets and online resources www.brissc.org.au
- The Immigrant Women's Support Service (IWSS) has publications, resources and forum papers. Ph 3846 5400
- Working Alongside People with Intellectual and Learning Disabilities (WWILD) has specific resources about working with women with an intellectual and learning disability www.wwild.org
- The Gay and Lesbian Welfare Association Queensland provides confidential peer telephone counselling www.glwa.org.au

LINKS FROM THESE WEBSITES TO OTHERS ARE ALSO USEFUL.