Best Practice Guidelines Framework
Working with clients who have been affected by domestic violence
CEO foreword

I am pleased to present the third edition of Legal Aid Queensland’s best practice resources for working with clients who have been affected by violence.

These resources include best practice guidelines for a range of professional groups, a risk assessment tool and this companion framework.

The resources were developed by Legal Aid Queensland in 2000 and since then have become an important tool for practitioners in their work with clients, especially women and their children, who have experienced domestic and family violence and are navigating the legal system.

It is concerning to see so many people coming before our courts whose lives have been affected by violence. Legal Aid Queensland takes this issue seriously and recognises that clients have different needs and will require a variety of responses.

I encourage everyone who helps people who have been affected by violence to make these resources part of their everyday work practices.

Anthony Reilly
Chief executive officer, Legal Aid Queensland

September 2012
Background

In 1999, Legal Aid Queensland endorsed and implemented a Violence Against Women Strategy in response to concerns raised by community organisations about the way the legal system treats people who have been affected by violence. Our strategy aimed to provide an integrated, collaborative and consistent response to clients who have been affected by domestic violence.

A key aspect of the strategy was developing best practice guidelines to help practitioners provide a consistent, high quality service to people affected by domestic violence. We also developed a best practice framework that outlined our organisation’s response to domestic and family violence and explained how practitioners should use the best practice guidelines.

This is the third version of our best practice response to domestic and family violence and reflects the changes in the legal landscape made by the 2012 amendments to the Family Law Act 1975 and the Queensland Domestic and Family Violence Protection Act 2012.

Legal Aid Queensland’s best practice response to domestic and family violence

A significant proportion of Australian women have experienced physical or sexual violence from previous or current partners. A 2011 Queensland report (Nancarrow et al. 2011) found that 13 percent of the women surveyed had experienced some type of physical abuse (including sexual) by their spousal partner in their current relationship. The most common physical abuse was ‘threatening’ and ‘pushing, grabbing or shoving’ followed by ‘slapping’, ‘kicking, biting, hitting with a fist’ and ‘hitting with something’. Nearly one third (33 percent) of women surveyed had experienced at least one form of non-physical abuse such as psychological abuse. The report also notes that in Australia, 22 percent of homicide incidents in 2006-07 were intimate partner homicides, with three-quarters of the victims being female.

These statistics paint a sombre picture for those working with people affected by domestic and family violence. Legal Aid Queensland plays an important role in this landscape – by funding in-house and private solicitors to represent people in domestic and family violence matters and family law parenting cases, and by providing court assistance services in Brisbane.

We acknowledge and support the objective of Queensland’s new laws on domestic and family violence – that is, to maximise the safety, protection and wellbeing of people who fear or experience domestic violence, including children.

Several of the principles contained in the new laws on domestic and family violence are also relevant to our work. In particular, the principles that people who fear or experience domestic violence, including children, should be treated with respect and disruption to their lives should be minimised; that some people have characteristics that may make them particularly vulnerable to domestic and family violence and that any response to the violence should take those characteristics into account; and that where there are conflicting allegations of domestic violence, the person who is most in need of protection should be identified.

We believe the objectives and principles of the legislation need to be reflected in our daily activities - in the way our officers assess applications for aid, in the way our client service staff interact with clients and in the way our lawyers (both in-house and private lawyers who do legal aid work) represent clients.

We have developed this suite of documents to assist practitioners to deliver a consistent, high quality service to women and children affected by domestic violence. The guidelines have been integrated into our case management standards, which are the minimum standard for the conduct of files for lawyers, both in-house and for lawyers in private practice who undertake work on our behalf.
What is domestic violence?

The Domestic and Family Violence Protection Act 2012 provides a comprehensive definition of domestic violence.

Domestic and family violence behaviour includes when another person you are in a relationship with:

- is physically or sexually abusive to you, or
- is emotionally or psychologically abusive to you, or
- is economically abusive to you, or
- is threatening, or
- is coercive, or
- in any other way controls or dominates you and causes you to fear for your safety or wellbeing or that of someone else.

Examples of this type of behaviour include:

- injuring you or threatening to injure you - punching, strangling you, grabbing your throat, pushing, slapping, pulling your hair or twisting your arms
- repeatedly calling, SMS texting, or emailing you or contacting you on your social networking site without your consent
- damaging (or threatening to damage) your property eg punching holes in the walls or breaking plates
- stalking or following you or remaining outside your house or place of work
- monitoring you (unauthorised surveillance) including reading your text messages, your email account, your internet browser history, your social networking site
- putting you down or make racial taunts
- holding your against you will
- forcing you to engage in sexual activities without your consent
- getting someone else to injure, intimidate, harass or threaten you, or damage your property
- threatening to commit suicide or self-harm to scare you
- threatening you with the death or harm of another person
- threatening to withdraw their care of you if you don’t do something
- coercing you to give them your social security payments
- forcing you to sign a power of attorney to them against your will so that they manage your finances
- threatening to disclose your sexual orientation to your friends or family without your consent
- preventing you from making or keeping connections with your family, friends or culture, including cultural or spiritual ceremonies or practices.

Both the Family Law Act 1975 and the Domestic and Family Violence Protection Act 2012 include a definition of when a child has been exposed to domestic violence. This occurs “if the child sees or hears family violence or otherwise experiences the effects of family violence”. This is a significant point for practitioners to consider in their practice.
Using the framework, best practice guidelines and risk assessment tool

This framework outlines the seven overarching ‘best practice principles’ and the theory behind our commitment to quality legal service delivery. The best practice principles also inform and provide the framework for the best practice guidelines.

The companion best practice guidelines provide practical tips for practitioners from a range of professional groups and are related to each principle, with examples, suggestions and recommendations.

The risk assessment tool can be used by practitioners in cases where they have concern for the client’s safety. It provides a list of risk factors to be considered, which should inform the future conduct of a case, including planning around safety for the client and their children.

The professional groups for whom these documents have been developed are:

- family and social assessment report writers
- lawyers
- family dispute resolution practitioners
- separate representatives and independent children’s lawyers
- administrative and client service staff.

The best practice principles for working with clients affected by domestic violence

The following seven principles form the basis of a holistic service delivery approach to working with clients who have been affected by domestic violence.

The seven best practice principles are:

1. Improve your understanding
2. Prioritise safety
3. Facilitate empowerment
4. Foster respect
5. Acknowledge violence is a crime
6. Respect diversity
7. Respond collaboratively
Principle 1. Improve your understanding

Practitioners should ensure they are up-to-date with the current research about domestic violence. Not all clients will present with domestic and family violence as their primary issue, but practitioners should be able to recognise the impact domestic and family violence has on clients and their children and provide appropriate responses and referrals.

While violence may occur in various contexts (in partner relationships, in the family, or in the community) the common base for domestic and family violence is the unequal power relationship between the perpetrator and the person who has experienced domestic violence, and more specifically, between men and women in society. Practitioners need to understand the social issues that impact on their clients’ safety. They should consider the social context within which women live.

It is important that this analysis of the social context, which is acknowledged in the Family Law Act (1975) and the Domestic and Family Violence Protection Act (2012) is taken into account when working with clients who have experienced violence. Practitioners should be aware that:

- women are disproportionately the ones who experience domestic and family violence in families and/or relationships
- intimate violence is not just a personal or relationship issue but reflects broader social patterns of power and gender relations
- responsibility for the violence lies with the offender
- Indigenous women (Schmider & Nancarrow 2007) and women with a disability (Frohmander 2011) are more likely than other Australian women to experience family violence
- some acts of abuse are subtle and may not be recognised by the aggrieved as domestic violence
- value systems and beliefs about family violence may block conversation and restrict information, making it difficult for the client to make changes to their circumstances that are in their best interests (Frohmander 2011).

There are real differences between violence by men to women, and the violence by women to men, including that:

- women are three to seven times more likely to experience domestic and family violence than men (ABS 2006)
- intimate partner abuse is predominantly perpetrated by men against women (Nancarrow & Viljoen 2011)
- women are more likely than men to suffer physical harm (VicHealth 2009)
- women and their children can face homelessness as a result of escaping from domestic and family violence (Tually et al. 2008)
- women usually have less physical strength than men, putting them at greater risk of physical harm
- women are more likely to experience fear and intimidation
- women are more likely to be passive in the face of aggression
- women are more likely to be socially isolated
- women are less likely to use sexual assault to control their partner within a relationship
- when women do commit domestic and family violence they are less likely to cause serious injury
- if both parties use violence, the effect of the violence on the woman is likely to be greater than the effect of the violence on the man
- while both men and women are affected by domestic violence, statistics show the overwhelming majority of casualties continue to be women
- it is important to acknowledge a small percentage of men do genuinely experience domestic violence.
Principle 2. Prioritising safety

The safety of clients and their children is paramount in service delivery. Risk assessment is a necessary step in ensuring a client’s safety needs (physical, emotional and psychological) are considered when providing services. Practitioners must ensure client safety is not compromised by their practice. Worker safety is equally important and practitioners must not place themselves in danger. Prioritising safety is important because:

- the fear clients feel in these situations is a serious indicator of the level of risk and should be taken seriously
- domestic and family violence may be life threatening
- society and sometimes clients themselves can minimise the seriousness of domestic violence
- exposing children to domestic and family violence is harmful
- workers can only provide safe environments for their clients if they hold their own safety foremost.

Principle 3. Facilitate empowerment

Practitioners should encourage clients to make their own informed choices. Clients may feel disempowered through the controlling behaviour of another person, so it is vital for practitioners to provide an environment of support and respect and to help clients make their own decisions.

Empowerment is associated with encouraging clients to make their own choices and identify their own goals. Practitioners should work in this way because:

- it is essential clients do not feel further disempowered or further abused by the legal process
- it acknowledges clients can make their own choices if given information and options in plain language.

Principle 4. Foster respect

It is important to use interpersonal skills that foster trust and empowerment when working with clients who have experienced domestic violence.

Practitioners should:

- be positive in both verbal and non-verbal communication
- use a non-judgmental approach
- validate clients’ experiences through empathetic responses
- allow clients to make their own choices, and accept the choices made
- encourage women to take their safety and their children’s safety seriously, by accepting their report of their experience
- encourage men to take responsibility for their behaviour to ensure they do not put the safety of their partner or children at risk.
Principle 5. Acknowledge violence is a crime

Practitioners are obliged to inform clients that violence is a crime, whether it occurs in public or in private. Clients and their children have a right to feel safe at all times.

When working with clients who have experienced violence it is crucial that they are aware that violence is against the law. This perspective is important because:

• women and children who experience domestic and family violence may need support to have perpetrators held criminally accountable for their conduct
• it challenges the idea that violence in a family or relationship context is a ‘private’ affair and therefore acceptable.

Principle 5. Respect diversity

Practitioners need to recognise and respect cultural differences in all aspects of service delivery. Domestic and family violence is a violation of human rights and is not acceptable in any culture, cultural practices or special needs group and should not be minimised or excused. Practitioners should adapt their practise to meet the needs of clients in vulnerable circumstances.

It is important when working with diverse clients (Aboriginal and Torres Strait Islander backgrounds, culturally and linguistically diverse backgrounds, clients who identify as lesbian, gay, bi-sexual, transgender or intersex, and clients with a disability) to adapt work processes to best meet their needs. This respect for diversity is important because:

• it acknowledges it can be difficult for clients in special circumstances to access the legal system. For example, women with disabilities may be reliant upon the perpetrator of violence for their day to day needs and may not have an opportunity to seek out assistance (Frohmander 2011)
• it acknowledges clients from different cultural environments will have different needs
• it acknowledges that discussing domestic and family violence is a taboo in some cultures (MDAA 2010)
• it challenges the notion that all clients have the same experience of violence.

Principle 7. Respond collaboratively

Domestic and family violence is a social issue and requires a community response. Practitioners need to be aware of the services available to meet the holistic needs of the client.

A collaborative approach is important because:

• it acknowledges that responses to violence need to encompass more than a legal response
• it encourages lawyers to develop relationships with other professionals who also respond to violence, which enhances their knowledge and the service they can offer clients
• it acknowledges that women may need additional referral options when they are escaping domestic and family violence situations and are more likely to get appropriate assistance if services work together
• it acknowledges women and children who have experienced violence may not present to a legal service with violence as their primary ‘legal’ problem
• it encourages practitioners to consider the needs of children who have been exposed to domestic and family violence and who may also need a variety of support.
How we monitor quality service delivery

The best practice guidelines are integrated into our case management standards. The case management standards are the minimum standard for the conduct of files for Legal Aid Queensland lawyers.

To ensure we can meet the demand for legal services across Queensland, we have contractual arrangements with over 300 private practitioners. The requirements for inclusion and staying on our preferred supplier panels include:

- meeting inclusion criteria relevant to the type of service to be provided
- entering into a service agreement that requires compliance with the Legal Aid Queensland Act 1997, relevant professional rules, and Legal Aid Queensland’s practice and case management standards; and establishes the payment and operating rules, and
- making files available for regular audit by the Legal Aid Queensland audit team.

Preferred suppliers who provide legal services on our behalf are also expected to comply with these case management standards.

The files of our in-house lawyers and our preferred suppliers are audited regularly. This will ensure that if the standard of service is not achieved, processes are implemented to reach the standard. Legal Aid Queensland also has a ‘compliments and complaints’ process which is available and easy to use for clients dissatisfied with any service provided by us or our associated providers.

Making a compliment or complaint

If a client would like to provide feedback about a service they received from Legal Aid Queensland, there is a compliments and complaints process. The client, or an advocate on their behalf, can call us on 1300 65 11 88 or email complaints@legalaid.qld.gov.au. Staff can process the compliment or complaint over the phone or via email, and will forward the feedback to a senior staff member in the appropriate area for action and response. Please note that complaints about specific legal matters or cases must be made in writing.

Feedback can be given anonymously. However, if the client would prefer a response to their feedback, and/or to be notified of the outcome, contact details will need to be provided. We encourage feedback from our clients and members of the public to ensure business excellence and best practice for our clients.
References


Best Practice Principles for use in Parenting Disputes when Family Violence or Abuse is Alleged, 2009, Family Court of Australia, Sydney.


Violence Through Our Eyes: Improving access to services for women from non-English-speaking backgrounds with disabilities and carers experiencing violence project report, 2010, Multicultural Disability Advocacy Association of New South Wales (MDAA), Harris Park.


Nancarrow, H, Viljoen, R 2011, Breaking the Cycle. Trial integrated response to domestic and family violence in Rockhampton. Client experiences and outcomes, Queensland Centre for Domestic and Family Violence Research, Central Queensland University, Rockhampton.

Schmider, J, Nancarrow, H 2007, Aboriginal and Torres Strait Islander Family Violence Facts and Figures, Queensland Centre for Domestic and Family Violence Research, Central Queensland University, Rockhampton.


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