

## Best practice guidelines for working with children and young people

### 1. Understand the child or young person

**Guideline 1.1: Understand social context and respect diversity: Respectfully ask questions to help you understand the issues and experiences that may impact on the child or young person and the way they interact with you.**

#### Practice points

- The child or young person's social context, stage of development and own life experience can impact how they communicate with you and their behaviour. For example:
  - A child or young person who has experienced abuse may have difficulty trusting adults.
  - A child or young person's prior experience of the child protection system may impact on the way they engage with the legal process.
- Be aware that children and young people have varying levels of family/carer support and can experience a range of issues that impact on their ability to engage with you and the legal process, including abuse/neglect, mental illness, substance abuse, different types of disability, homelessness, domestic violence (either personally or in their family) and young parenting issues.
- If a child or young person has a disability, consider how that might impact on them accessing offices or courts/tribunals, giving instructions, understanding legal information and advice and coping with legal processes.
- If the child or young person has experienced domestic and family violence, you should also follow the best practice guidelines for working with people experiencing domestic violence.

- Be aware of the impact culture, religion, education, socio-economic background, refugee experiences etc can have on the child or young person's behaviours and their legal issue.
- When working with children and young people who are:
  - from an Aboriginal or Torres Strait Islander background, you should also use Legal Aid Queensland's *Best practice guidelines for lawyers providing legal services to Aboriginal and Torres Strait Islander clients* noting in particular the need to avoid gratuitous concurrence (where a person agrees with everything being said to show a willingness to engage) when taking instructions.
  - from culturally and linguistically diverse backgrounds, you should also apply Legal Aid Queensland's Language Services Policy arranging an interpreter when required.

**Guideline 1.2: Knowledge of social science theories: Be aware of the social science research relevant to working with children and young people.**

#### Practice points

- If you regularly work with children and young people, make sure you are up to date with current research about the stages of child development and other relevant social science research that impacts on your area of practice. This knowledge supports your understanding and your effective advocacy when you need to argue or challenge social science evidence.
- Use appropriate and relevant social science evidence as required in litigation.
- Seek out publications and reports that detail children and young people's views about their experiences of working with lawyers and dealing with legal systems to understand concerns they might have.
- Attend relevant professional development opportunities to keep your knowledge current.

### 2. Communicate effectively

**Guideline 2.1: Manage regular communication: Expect phone numbers and addresses to change, especially for a child or young person who does not live in stable accommodation, is homeless, in the child protection system or experiencing violence or abuse at home. Ensure you have "safe" addresses and phone numbers.**

#### Practice points

- Ask the child or young person where they would like any mail sent and check regularly to see whether the postal address and phone number remains current and safe. Record a note on the file and in the client database if any contact details have changed.
- If you have to send them material, provide self-addressed envelopes and clear instructions about what you want the child or young person to do if you need them to return documents (like a signed client authority).
- Check whether email is a better way to communicate with them and ask for an email address that they regularly check and is safe to use.
- If you are going to call the child or young person's mobile phone, let them know if that call will appear as a 'private number' and give them a time frame within which to expect a call. Children and young people may not answer a call from a private number.

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- Remember a child or young person who attends school may only be available before and after school hours.
- Recognise family, school, after school activities, work and community commitments may affect their availability and may take priority over attending appointments, meetings and court. You need to discuss this issue with the child or young person and any associated adults in advance so you can make appointments at appropriate times.
- Make clear to the child or young person when they must attend any meetings/mediations or court/tribunal dates.

### **Guideline 2.2: Building rapport and trust: Communication tips.**

#### Practice points

- Before interviewing or meeting with the child or young person, develop a plan for how you will manage your communication:
  - Clearly establish the interview or meeting's purpose.
  - Carefully consider what information you need to share and what information is necessary at that point in time for the child or young person to share with you.
  - Think about how you are going to explain key legal concepts, policies or processes in a way they can understand.
  - Ensure you are fully informed about their situation and have read all of the available material to give the child or young person a sense of confidence that you have adequately prepared, which will assist in building trust.
  - Plan your interview and use your time efficiently. You may need to allow for breaks. Accept that a child or young person may be distressed by the process or may experience difficulty concentrating for long periods of time.

- When you are meeting or interviewing a child or young person consider the following:
  - If possible, choose a comfortable setting for the interview and make sure the space is welcoming and appropriate for them.
  - Introduce yourself and explain the meeting or interview's purpose.
  - Discuss how an associated adult/support person will be involved, how client confidentiality will be managed and whether information will be shared with that person.
  - Use plain language, avoid legal jargon and use age appropriate language. Carefully explain what legal terms mean in a way the child or young person can understand.
  - Familiarise yourself with the resources available to help you communicate with the child or young person including Legal Aid Queensland factsheets.
  - Check the child or young person understands your information. Just because you might need to repeat your explanations, or if the child or young person doesn't understand straight away, doesn't necessarily mean they cannot understand the concepts. If one way of explaining doesn't work, try another way. Think about providing examples.
  - Ask simple and clear questions.
  - When seeking instructions about when an event occurred, recognise that a child or young person may not be able to provide a date but might reference an event that is meaningful to them (like their birthday, school holidays or Christmas) to events that were happening at the time.

- Respect any silences. Give the child or young person time to answer your questions and allow time for them to ask their own questions.
- When acting as a direct representative, always let the client make up their own mind and provide them with all relevant information to help them make an informed decision. Understand that the client may have capacity to instruct on some but not all issues.
- Ask the child or young person if they have any worries about you sharing the information that is being discussed with other people. Discuss with them how that will be managed depending on the legal representation model that applies.
- Visual aids like diagrams, flowcharts and pictures may be helpful to communicate the key issues discussed.
- Be prepared to adapt your process as needed. What works for one child or young person may not work for another.

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### 3. Deliver quality legal services

**Guideline 3.1: Professionalism: The same level of professional competence and diligence is required when assisting or representing a child or young person as is required for an adult.**

#### Practice points

- Understand the decisions made in legal processes can be just as life changing for a child or young person as they are for adult clients. These decisions can affect their liberty, who they will live with, what contact they have with their parents, siblings and other family members, and where they go to school. All of these decisions can have long term consequences.
- Appropriately prepare for and manage ongoing interactions with the child or young person as you would for an adult client by:
  - reading all the relevant materials involved in their matter
  - reviewing all the relevant policies and procedures that apply to their situation
  - knowing the relevant law that applies
  - advising them of all the available options including review and appeal rights and how to make a complaint if they need to in relation to their legal matter or the service they received. Provide appropriate written information to support their understanding.

**Guideline 3.2: Maintain professional boundaries: Be clear about your role and how you can help.**

#### Practice points

- Make sure the child or young person has a clear understanding of the service to be provided:
  - Explain your role and what you will do for them. It is important to follow through and do what you say you will do or inform them if anything changes.
  - Be clear about what you cannot do for them.
- If you are a lawyer provide clear information about:
  - the client/lawyer relationship, including how confidentiality applies and how it will be managed with the adults involved, such as parents, youth workers, government officers, detention centre workers and the courts.
  - the role of everyone involved in their matter.
  - the decisions the court or tribunal has to make and what information they consider when making those decisions.
  - how and when their views and wishes can be made known to the decision maker or when the decision maker might ask them questions.
  - the tasks that must be done and who is responsible for doing them. If the child or young person has tasks to complete, talk to them about whether they need any help to complete them and try to suggest options to assist them.
  - any upcoming court/tribunal appearances, including what they will be about and whether they are required to attend. Explain who will be there and ask them whether they have any concerns (including safety) about attending. Ask how

they will get there and whether there is someone who can help them get to the court/tribunal if needed. If they have never been to a court/tribunal before, think about arranging a visit in advance or meeting them a bit earlier to show them around. Give them a reasonable idea about how long it will take and suggest they bring something to occupy themselves and to eat and drink.

- estimate how long the different stages in the legal process will take (including things that may be beyond your control).
- what happens next.
- when your role will end.

**Guideline 3.3: Make appropriate referrals: Provide the child or young person with information about services that could address their other needs.**

#### Practice points

- Ensure you know or can find out about appropriate legal and non-legal support and referral services such as youth agencies, housing, social support, income support, child advocates from the Office of the Public Guardian and other organisations listed on Legal Aid Queensland's online organisations directory.
- When necessary provide the child or young person, and with their knowledge and consent, any associated adult/support persons, with information about referrals. If appropriate make a direct referral.

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**Guideline 3.4 Manage associated adults/support people: Manage your interactions with the associated adults/support people who may be involved in the child or young person's life such as parents, guardians, foster or kinship carers, departmental officers, youth workers, teachers, family friends or child advocates from the Office of the Public Guardian.**

### Practice points

- The child or young person may rely on their parents, guardians, foster or kinship carers, youth workers or other associated adults to attend appointments or for support during the legal process. In some instances, they may want that adult to attend meetings with a lawyer or the adult may insist that they do. Recognise that this may make them comfortable when meeting you for the first time or during the legal process. Alternatively, be aware that involving associated adults may make it difficult to engage with the child or young person.
- Be respectful and cautious when managing your interactions with associated adults/support people, especially parents, guardians or foster or kinship carers, particularly when those relationships may go through periods of conflict or disagreement. Understand those relationships will remain important after your professional relationship with the child or young person has ended.
- Consider how the model of legal representation being used impacts on your interactions with these associated adults/support people. When required, talk to the child or young person about any concerns and consider carefully how you will manage issues such as seeking consent for the child to attend counselling, or sharing information about what is happening in the legal process. If you are acting as a direct representative you should get clear instructions from the child or young person about what information, if any, you will share with a support person.
- When an associated adult/support person attends with a child or young person, the lawyer must consider how to manage the associated adult/support person from the outset, making clear:
  - they are giving legal advice to the child or young person, not the adult. Where appropriate, preferably with the child or young person's knowledge and consent, provide any associated adult with referrals for their own independent legal advice.
  - legal professional privilege only applies to their relationship and conversations with the child or young person. It does not extend to the associated adult/support person who can be called on to give evidence of conversations that would be otherwise covered by legal professional privilege.
  - how the adult will be involved in the interview and when they will need to leave.
  - how they intend to manage any information sharing with the adult after talking this through with the client and, when required, getting their consent to do so.
- an associated adult/support person may be a potential complainant or witness in the matter involving the child or young person. For example, a youth worker from a residential facility accompanying a child or young person in out of home care to an interview with a lawyer may be a complainant in relation to wilful damage or assault charges arising from an incident in that facility.