

Domestic and Family Violence

Best Practice Guidelines

July 2016

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Version 1 | July 2016

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Domestic violence can affect anyone, regardless of age, gender or wealth, where they live or their cultural background.¹

Objective

These best practice guidelines have been developed to assist practitioners in dealing with legal matters that are impacted by domestic and family violence. They have been developed in direct response to recommendation 107 of the Taskforce Report – **Not Now Not Ever – Putting an End to Domestic and Family Violence in Queensland**. These best practice guidelines aim to be part of the Domestic and Family Violence Prevention Strategy for Queensland.

The extensive research considered by the Special Taskforce on Domestic and Family Violence in Queensland suggests:²

- Domestic violence is extremely common in the Queensland community. 180 domestic and family violence incidents were reported to the police every day in Queensland during 2013-2014.³
- Some sections of the community are possibly at even higher risk, such as Aboriginal and Torres Strait Islander communities.⁴
- Anyone can be a victim of domestic and family violence but although men are also victims of domestic and family violence, the majority of people who experience domestic and family violence are women, thus making the crime of a gendered nature.⁵
- Domestic and family violence is not restricted to physical violence alone but extends to a variety of ways one partner might attempt to control and dominate another partner. These can include injury, threats against the partner, the children, or the pets, forcing the partner to engage in sexual activity, deprivation of liberty, damaging property, attempting to exert emotional control through threats or attempts of self-harm, unauthorised surveillance of the partner including electronic surveillance, withholding access to income or assets, restricting access to religious or cultural activities, verbal abuse and other means of creating an atmosphere of fear and intimidation.⁶
- It is extremely important to consider the effects of domestic and family violence on the children in the relationship, as a wide range of negative developmental impacts have been observed, as well as the overall impact on children from seeing one parent mistreat another, and living in a general atmosphere of tension and fear.⁷

¹ Not Now, Not Ever Putting an End to Domestic and Family Violence in Queensland Taskforce Report – 2015 (hereinafter referred to as the Taskforce Report).

² Appendix 8 of the Taskforce Report.

³ Taskforce Report Executive Summary, p. 6; Section 1.1, p. 47; Section 2.4, Section 2.5, p. 78.

⁴ Taskforce Report Executive Summary, p. 6; Chapter 5.

⁵ Taskforce Report Executive Summary, p. 7; Section 1.1, p. 49; Section 2.3, pp. 72-73). For example, between September 2013 and September 2014, 15,656 protection orders were taken out where the aggrieved was a woman, whilst 4,486 orders were made where the aggrieved was a male and adult male offenders represented 87% of those who subsequently breached these orders; in the 2013-2014 financial year, 22,393 women contacted DV Connect in search of assistance as victims whilst 831 men contacted DV Connect Mensline in search of assistance as victims (Section 2.3, p. 73). A 2012 survey of 17,050 adult men and women conducted by the Australian Bureau of Statistics found 1 in 6 women and 1 in 19 men had experienced physical or sexual violence from a current or former partner (Section 2.4, p. 74).

⁶ Taskforce Report Section 2.2, pp. 68-70.

⁷ Taskforce Report Section 2.5, p. 77, Section 5.7.

Purpose

These best practice guidelines are provided as a resource to Queensland Law Society members. They do not constitute legal advice and Queensland Law Society recommends practitioners exercise their experience and judgment in applying the guidelines to particular matters at hand. The guidelines are not all-encompassing and are not an exhaustive list of every issue that may arise in relevant matters. Practitioners will need to adapt the guidelines to address individual clients' circumstances. These guidelines are not a replacement for legal training or engaging qualified legal practitioners or other professionals. These guidelines are designed to identify and draw attention to some key issues which may arise in matters.

Terminology

Victim is used in this document to denote a person who is the alleged victim of domestic and family violence.

Perpetrator is used in this document to denote a person who is the alleged perpetrator of domestic and family violence.

Principles

1. Prioritise Safety
2. Communicate effectively and appropriately
3. Improve your understanding
4. Facilitate empowerment or accountability
5. Collaborate with other services

1. Prioritise Safety

1.1 Assess potential safety or security issues for your client

Practice points:

- 1.1.1 Endeavour to use routine and systematic questions to decide what safety precautions are necessary for you and the client, document safety risks on the file and consider the safety procedures of the relevant court (at an early stage).
 - Recognise your limitations in assessing risk (as a lawyer) and consider whether referral to another service is required.
- 1.1.2 A list of risk factors is at **Attachment A** to these guidelines.
- 1.1.3 Review the risk assessment during the legal process such as interim hearing, pre-hearing, family dispute resolution conference and before day one of trial, and when you become aware of new information that may indicate a change in the level of a risk.
- 1.1.4 Consider attending risk assessment training so you can identify risks in domestic and family violence proceedings, or be aware of services that can undertake this assessment.
- 1.1.5 Recognise that court proceedings can be used by perpetrators to engage in domestic and family violence and safety risks can increase during court proceedings.
- 1.1.6 Use prompts to assist clients in being aware of risks to, and measures to protect, their safety, including:
 - Home security.
 - Having somewhere safe to go.
 - Storing a bag with basic items for themselves and children.
 - Safe transport.
 - Child pick-ups and drop-offs.

When acting for perpetrators:

- 1.1.7 Do not give legal advice that may compromise the safety of your client, the other party, any child or others.
- 1.1.8 Advise your client about the way their behaviour can be perceived in court proceedings and identify options to address this.
- 1.1.9 Be aware of perpetrators' potential to manipulate and exert control and do not allow yourself to be drawn into or act in furtherance of such behaviour.

1.2 Take appropriate precautions for your client's safety

Practice points:

- 1.2.1 If the client identifies feeling fearful of the other party, take steps to minimise the risk that they will see the other party and utilise safety rooms where they are available.
- 1.2.2 Always ensure there are no identifying documents or files left in view of or accessible to the other party at any time.
- 1.2.3 Take steps to ensure court documents do not inadvertently disclose addresses or phone numbers (including in documents annexed to affidavits).⁸ Also do not record this information on the front cover of the file taken to court.
- 1.2.4 Ensure that relevant staff in your office are aware of the safety concerns for the client.

⁸ http://www.courts.qld.gov.au/__data/assets/pdf_file/0004/162166/dva-f-domestic-and-family-violence-safety-form.pdf
http://www.courts.qld.gov.au/__data/assets/pdf_file/0020/162164/dva-f-aggreived-details-forms.pdf

- 1.2.5 Ensure that the method of communication you adopt with your client is safe:
- Discuss the security of emails and the ability of the other party to access them from another computer, if they are aware of the password.
 - Discuss with the client the benefit of switching off their GPS/location data on their mobile phone.⁹
 - Make notes of which telephone numbers are safe to ring.
 - Remove any unsafe number to call, insecure email address, or other address from any computerised document management system to avoid any inadvertent disclosure by staff members.
 - In circumstances where it is not safe to call the client at home, make alternative arrangements for contacting the client (if possible) and record these on the file.
- 1.2.6 Do not give out the client's address or that of their relatives or friends without the client's permission.
- 1.2.7 Consider whether a client who is still living in the home needs to leave before the other party is served with the client's court application and discuss your concerns with the client, providing them with appropriate referrals to relevant support organisations.
- 1.2.8 Consider the legal implications of moving out immediately or remaining in the property with safety as the overall consideration.
- 1.2.9 Do not give out refuge contact telephone numbers or street addresses.
- 1.2.10 Consider the logistics of getting the client to and from your office and legal events:
- Consider the client using a separate exit and arriving/leaving at staggered intervals.
 - Accompany the client to a court or legal event or meet them at an independent place so they are not waiting with the other party.
 - Consider a plan for a safe return home.
- 1.2.11 Let a court know well in advance about safety arrangements that may need to be made at the court for the client. Do this in writing if necessary, and check with the court to ensure arrangements have been actioned.
- 1.2.12 Familiarise yourself and your clients with the court safety procedures¹⁰ and protocols including the Queensland Courts Domestic Violence Protocol,¹¹ utilising safety rooms, for example.
- 1.2.13 Limit the line of sight between perpetrators and victims in any courtroom (eg place someone or yourself physically in the direct line of sight).

When acting for perpetrators:

- 1.2.14 Take steps to protect your safety.
- 1.2.15 Do not leave documents or files where they can be read or accessed by your client, especially if the documents contain personal information like phone numbers and addresses, which could be used to locate the other party.
- 1.2.16 Before considering whether to enter into negotiations about parenting plans or parenting arrangements at domestic violence order proceedings, consider the demeanour of the other party and advise your client about the potential of negotiations at such an event being portrayed as taking advantage of the other party in a vulnerable position, or intimidating or controlling the other party.
- 1.2.17 Explain the protection order's conditions to your client and provide advice that helps prevent future acts of domestic and family violence. Advise the client that any further acts of domestic and family violence would breach the protection order or potentially increase the protection order's conditions.
- 1.2.18 If the client makes threats to the safety of the other party or that party's lawyer, consider contacting the lawyer to tell them about the threats. If you have any doubts about when to contact the lawyer for the other party and what to disclose, contact the Queensland Law Society's Ethics Centre¹² or Law Care service¹³ for expert advice. In emergency situations contact the police and/or the court.
- 1.2.19 If asked to pass gifts to children, consider the potential for a perpetrator to insert a tracking device in the gift and strongly consider whether it is appropriate to pass gifts or accept gifts on behalf of clients.

⁹ <http://www.dvrcv.org.au/knowledge-centre/technology-safety> and <http://www.smartsafe.org.au/>

¹⁰ Family Law Court Family Violence Best Practice Principles <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/policies-and-procedures/family-violence-best-practice-principles-december-2015>

¹¹ Queensland Courts Domestic Violence Protocol http://www.courts.qld.gov.au/_data/assets/pdf_file/0014/162230/domestic-violence-protocols-for-staff.pdf

¹² Queensland Law Society Ethics Centre http://www.qls.com.au/knowledge_centre/ethics, Rule 9.2 ASCR http://www.qls.com.au/Knowledge_centre/Ethics/ASCR_2012 and Section 197A *Child Protection Act 1999* (Qld) http://www.austlii.edu.au/au/legis/qld/consol_act/cpa1999177/s197a.html

¹³ Law Care Service http://www.qls.com.au/For_the_profession/Love_law_Live_Life/LawCare

1.3 Take appropriate precautions for your own safety

Practice points:

- 1.3.1 If you are seeing the client away from the office, consider conducting a safety assessment of the location prior to the interview taking place.
- 1.3.2 If using an offsite location, take safety precautions by arranging to call your office when you arrive and when you are leaving so your colleagues know where you are and when to expect you back at the office.
- 1.3.3 If you are working in a government setting, know their safety procedures.
- 1.3.4 Familiarise yourself with the court safety procedures and protocols¹⁴ including the Queensland Courts Domestic Violence Protocol.¹⁵
- 1.3.5 In extreme cases, where you become concerned that your own safety may be at risk, protect your personal information (eg be conscious of social media posts, mobile phone usage, your listing on the electoral roll and transport arrangements). Familiarise yourself with using safety and security features when having contact with clients who may become emotional or angry (eg security buttons, locks on doors, positioning within room, notifying security staff).
- 1.3.6 Protect your own safety as you leave the building (eg carry a personal duress alarm or leave the building with colleagues).
- 1.3.7 Be aware of the impact of vicarious trauma and the support available through Law Care.¹⁶
- 1.3.8 Consider your workplace safety procedures and emergency procedures and be familiar with them.

When acting for perpetrators:

- 1.3.9 Familiarise yourself with using safety and security features when having contact with clients who may become emotional or angry (eg security buttons, locks on doors, positioning within room, notifying security staff).
- 1.3.10 If using an offsite location, call your office when you arrive and when you are leaving, so your colleagues know where you are and when to expect you back at the office.
- 1.3.11 Protect your own safety as you leave the building (eg carry a personal duress alarm or leave the building with colleagues).
- 1.3.12 If a client threatens you or a physical incident occurs, notify your supervisor and consider if the appropriate authorities need to be notified.
- 1.3.13 In extreme cases, where you become concerned that your safety is at risk, protect your personal information (eg be conscious of social media posts, mobile phone usage, your listing on the electoral roll and transport arrangements).
- 1.3.14 Be aware of some perpetrators' ability to manipulate, which may extend to you as a legal practitioner.

1.4 Consider the safety of any children

- 1.4.1 Routinely make inquiries regarding the presence and safety of children when conducting cases where domestic and family violence has been alleged. Be aware that your client may be unaware of the level of risk to their children and may make statements like, "I don't think he would ever hurt the children."
- 1.4.2 The risk of harm to children must be considered taking into account all of the information provided to you, not just the information provided by your client.
- 1.4.3 Be aware that neglect, direct physical, sexual and emotional abuse of children often co-occurs in households where family and domestic violence occurs.
- 1.4.4 Understand that domestic violence is a form of child abuse.
- 1.4.5 Be aware that children can be at just as great a risk of harm post-separation as they were whilst living with a perpetrator of family violence, and their safety is directly linked to the safety of the non-offending parent.¹⁷

¹⁴ Family Law Court Family Violence Best Practice Principles <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/policies-and-procedures/family-violence-best-practice-principles-december-2015>

¹⁵ Queensland Courts Domestic Violence Protocol http://www.courts.qld.gov.au/_data/assets/pdf_file/0014/162230/domestic-violence-protocols-for-staff.pdf

¹⁶ Law Care Service http://www.qls.com.au/For_the_profession/Love_Law_Live_Life/LawCare

¹⁷ Women's Legal Service Queensland, Safe After Separation: Abuse on Contact (2014) which is available from Women's Legal Service, www.wlsq.org.au.
Shea Hart, A. (2011) Child safety in Australian Family Law: Responsibilities and challenges for social science experts in domestic violence cases. Australian Psychologist, 48 (2011), 31-40.
Bromfield, L. (2010) Domestic violence and assessing risk to children. National Child Protection Clearinghouse, Australian Institute of Family Studies.
Jaffe, R.G.; Lemon, H.K. & Poisson, S.E. (2003) Child Custody and Domestic Violence: A call for safety and accountability. Thousand Oaks, Ca., Sage Publications.

- 1.4.6 In providing advice to clients regarding the options for the parenting arrangements for children and the terms of any parenting orders, consider the risks to the child where either of the parents of the child has perpetrated family and domestic violence.
- 1.4.7 Restriction of information should be considered if there is a danger that parental knowledge of this information will place a child at risk of harm (eg knowledge that a child has reported abuse by a parent, or indicated a preference not to have contact with a parent). This needs to be considered in the context of your duty to your client.
- 1.4.8 If your client is required to participate in a social assessment or an assessment for a family report, inform your client about the process and advise the client to discuss their concerns about the children's safety with the assessor.
- 1.4.9 Utilise the resource of any appointed independent children's lawyer to ensure a child's safety needs are considered in parenting arrangements.
- 1.4.10 Utilise the resource of any appointed separate representative to raise any issue about a child's safety needs in any child protection proceedings.
- 1.4.11 Provide advice to your client in relation to reporting to the Department of Communities, Child Safety and Disability Services, allegations of unacceptable risk of harm and in the event that the client has any questions about what the level of risk of harm to the child is, encourage the client to make inquiries with the Department.
- 1.4.12 Be aware of the ability to make an anonymous notification to the Department of Communities, Child Safety and Disability Services.¹⁸

2. Communicate effectively and appropriately

2.1 Be non-judgmental in your response when interviewing the client and hearing their experience of domestic and family violence

Practice points:

- 2.1.1 Refer to the *Australian Solicitors Conduct Rules 2012* (ASCR), specifically rules 4.1.2, 4.1.4, 7, 34.1 and 34.2. Listen and respond respectfully and sensitively when clarifying or asking for further details of abuse, domestic and family violence or cultural practices.
- 2.1.2 Support the client's concerns about their or their children's safety, as well as concerns they may have about the perpetrator, including about their wellbeing.
- 2.1.3 Do not ask the client questions in a way that suggests they are to blame. Use questions when seeking information from the client that do not imply some form of judgment about the client's behaviour, for example, ask: "Has (use the partner's name) ever interfered with your trying to leave?" as opposed to "Why didn't you just leave?".
- 2.1.4 Use open ended questions such as "Tell me about your relationship", "What was your relationship like?", "What happened if you did not agree about something?"
- 2.1.5 If the client is angry or depressed, be patient, listen and show compassion.
- 2.1.6 Allocate time to gather evidence from sources external to your client to corroborate your client's evidence about domestic and family violence allegations.
- 2.1.7 Have more than one meeting with a client and ask the more personal questions in a subsequent interview.¹⁹
- 2.1.8 Recognise that a court does not require corroborative evidence to make a finding about domestic and family violence (*Amador v. Amador* (2009) FamCAFC 196).
- 2.1.9 Ask about behaviours rather than using terminology the client may not understand or relate to.
- 2.1.10 Use plain language and check the client understands the information you provide to them.
- 2.1.11 Consider any additional support your client may require and refer them to appropriate services.²⁰ Be sensitive in your referral process, as some victims do not identify with having experienced domestic and family violence. If you are in doubt about the services available contact an agency like DV Connect or Lifeline.

¹⁸ Department of Communities, Child Safety and Disability Services
<https://www.communities.qld.gov.au/childsafety/protecting-children/reporting-child-abuse>

¹⁹ Research suggests that women may only disclose sexual abuse, for example, on a second or third meeting.

²⁰ There is a list of resources maintained on the Queensland Courts website containing links to many government and community support services available throughout Queensland to help clients in a domestic violence relationship. See <http://www.courts.qld.gov.au/courts/magistrates-court/domestic-and-family-violence/support-services>

When acting for perpetrators:

- 2.1.12 Listen and respond respectfully and sensitively.
- 2.1.13 Communicate to your client that domestic and family violence is criminal behaviour and capable of resulting in a criminal conviction.
- 2.1.14 Discuss the importance of acknowledgement of past behaviour and willingness to change.
- 2.1.15 Be aware of the effect of ASCR rules 19 and 20 and the ethical prohibition on a lawyer acting on instructions inconsistent with an admission by the client of past domestic and family violence.
- 2.1.16 Explain that evidence can be given to establish the context in which an act of domestic and/or family violence took place, but it does not excuse the behaviour.
- 2.1.17 Consider that perpetrators may not understand or accept their behaviour is violent and may need support to consider impact of behaviour. Provide an appropriate referral for your client to attend some form of counselling.²¹

2.2 Acknowledge that clients may be reluctant to reveal domestic and family violence and may not understand that some acts comprise domestic and family violence

Practice points:

- 2.2.1 Communicate clearly to clients about what constitutes domestic and family violence. Reiterate to clients the confidentiality that exists between lawyers and client (refer to ASCR rule 9).
- 2.2.2 When acting for an elderly client, be aware that statistically the abuse is perpetrated equally by both sons and daughters and is overwhelmingly psychological and economic.
- 2.2.3 Barriers to elderly people and disabled people reporting domestic and family violence include:
 - Reliance on the perpetrator for care.
 - Fear of being relocated to a nursing home/facility.
 - Fear of retribution.
 - Shame and embarrassment (for elderly people).
- 2.2.4 Be aware that victims of domestic and family violence often present as incoherent and fearful, and provide incomplete accounts of abuse. Time is needed to be spent with them to obtain a full account. If the appropriate time is not available from the lawyer, consider referral to a support service²² to assist the client in relaying abuse.
- 2.2.5 Consider whether a female or male should interview the client.
- 2.2.6 Domestic and family violence may not be disclosed until a relationship of trust has been developed. Sexual violence may be particularly difficult for a victim to disclose, and some forms of domestic and family violence may not become clear until the client has an opportunity to reveal the pattern of abuse.
- 2.2.7 Acknowledge that it takes great courage to disclose domestic and family violence.
- 2.2.8 Consider using the risk factors document at **Attachment A** when obtaining information from your client.

When acting for perpetrators:

- 2.2.9 Communicate clearly to clients what constitutes domestic and family violence.
- 2.2.10 Explain implications of denying domestic and family violence when it has occurred and explore alternatives such as acknowledgement coupled with an action plan to reform/rehabilitate/address behaviour.
- 2.2.11 Be aware of the effect of ASCR rules 19 and 20 and the ethical prohibition on a lawyer acting on instructions inconsistent with an admission by the client of past domestic and family violence.
- 2.2.12 Take note of cogent evidence from doctors or allied health professionals demonstrating that a client has mental health or substance dependency issues when referring clients to perpetrator programs and where possible, provide referrals to related support programs addressing all of these issues in a holistic fashion.²³

²¹ There is a list of resources maintained on the Queensland Courts website containing links to many government and community support services available throughout Queensland to help clients in a domestic violence relationship. See <http://www.courts.qld.gov.au/courts/magistrates-court/domestic-and-family-violence/support-services>

²² There is a list of resources maintained on the Queensland Courts website containing links to many government and community support services available throughout Queensland to help clients in a domestic violence relationship. See <http://www.courts.qld.gov.au/courts/magistrates-court/domestic-and-family-violence/support-services>

²³ <http://www.familyrelationships.gov.au/searchpages/GeneralService.aspx?ResourceId=3319>

2.3 Respect diversity

Practice points:

- 2.3.1 Familiarise yourself with cultural and religious issues.
- 2.3.2 Do not make assumptions about the client based on their background.
- 2.3.3 Recognise that people may respond to domestic and family violence in different ways. Acknowledge that current legal options may not be the only or best response.
- 2.3.4 Be aware of the impact of culture, religion, education, socio-economic background and refugee experiences. For example, people from some backgrounds may:
 - smile when recounting their experience of domestic and family violence. This may be appropriate behaviour in their cultural context and is used to “save face” and maintain self-esteem and dignity.
 - not report because of lack of trust of people in authority.
 - be unwilling to discuss events of domestic and family violence in front of community elders.
 - Females from some cultures may be unwilling to or provide full instructions to male lawyers about sexual violence and other sensitive matters.
- 2.3.5 Be aware of the impact that the Stolen Generations, intergenerational trauma, high rates of incarceration of Aboriginal and Torres Strait Islander (ATSI) people, dispossession of land and traditional culture, breakdown of community and kinship systems and entrenched poverty have on Aboriginal and Torres Strait Islander clients and communities.
- 2.3.6 Be aware of the impact and importance of family and kinship connections and the pressures on victims not to disclose violence, including fear of retribution or children being removed.
- 2.3.7 ATSI victims may be reluctant to disclose violence unless a relationship of trust has been established. Consider consultation with and referral to culturally competent services and community supports.
- 2.3.8 ATSI victims may respond better to people of their own gender and ethnicity.
- 2.3.9 Obtain information about cultural norms within the client’s (be they victim or perpetrator) own community or current international information about the political situation, social situation and cultural norms in the client’s country of origin relevant to domestic and family violence.
- 2.3.10 Consider referring the client to established Aboriginal & Torres Strait Islander welfare/support services or migrant/refugee services, women’s services, men’s services, disability services, health services, services to support the elderly or lesbian, gay, bisexual, transgender or intersex (LGBTI) organisations for relevant information and support.²⁴ Be aware that you should only contact these services with the express consent of your client.
- 2.3.11 If the client has a disability, check how that might impact on their giving instructions, understanding legal advice and coping with the court process.
- 2.3.12 Be satisfied that your client has legal capacity to provide instructions (refer to Capacity Handbook).²⁵
- 2.3.13 Consider the impact on a victim’s mental health and decision-making ability when taking instructions and take steps to facilitate additional non-legal support if required.

When acting for perpetrators:

- 2.3.14 Explain that domestic and family violence exploits inequalities between the parties and cannot be excused because of cultural, religious, social or other factors, and remains unlawful even if considered “culturally appropriate” to the person using violence.
- 2.3.15 If necessary, refer to community support organisations to assist in this explanation.
- 2.3.16 If relevant, consider referring your client to local migrant communities which can often provide support to individuals who are struggling to adapt to a new way of life and accepted codes of conduct.

²⁴ There is a list of resources maintained on the Queensland Courts website containing links to many government and community support services available throughout Queensland to help clients in a domestic violence relationship. See <http://www.courts.qld.gov.au/courts/magistrates-court/domestic-and-family-violence/support-services>

For specific resources for those of multicultural background refer to:

<https://www.communities.qld.gov.au/resources/multicultural/communities/qmrd-master-directory.pdf>

For specific resources relating to sexual assault refer to National Sexual Assault Domestic Violence Counselling Service –

1800 RESPECT <https://www.1800respect.org.au/service-support/queensland-domestic-family-violence-and-sexual-assault-services/>

²⁵ https://www.qjs.com.au/Knowledge_centre/Ethics/Resources/Client_instructions_and_capacity/Queensland_Handbook_for_Practitioners_on_Legal_Capacity

2.4 Ensure language requirements are met prior to interview

2.4.1 Consider the barriers that may limit the client's understanding of complex legal language and meaning and adapt your practice accordingly. For example the client may require an interpreter, support worker or social worker.

2.4.2 Be aware:

- NAATI Level 3 accredited interpreters should be arranged if you think that there may be language issues or the client has requested an interpreter.²⁶
- If there is not an accredited interpreter available consider whether there are other methods, such as using a friend or associate from the client's community, or a telephone interpreter.
- Always check that clients from an Aboriginal or Torres Strait Islander background or culturally and linguistically diverse background are comfortable to proceed without an interpreter, even if they have declined to use one on a previous occasion.
- For eligible clients, Legal Aid Queensland will fund interpreters.
- Use separate interpreters for both parties in a dispute and provide the other party's name to the interpreter to check whether they have interpreted for the other party in the past.
- Ask if the client would prefer a male or female interpreter.
- Interpreters ideally should be independent to the parties – don't use friends or neighbours except as a last resort and for indigenous clients who may prefer a family member.
- Interpreters must not be part of the negotiations. Their role should be only to interpret for the client.
- Sit opposite the client and speak to the client not the interpreter.
- Allocate extra time when an interpreter or support worker is involved in a matter.

2.5 Consider any child's needs and ability to communicate

2.5.1 Understand generally how children communicate and particularly how they communicate in situations of stress or fear. Often lack of protest or comment does not indicate consent but high levels of fear about stating their preferences.

2.5.2 Consider whether an interpreter is needed and refer to practice points in 2.4 above.

2.5.3 Consider the impact on a child who has been subject to domestic and family violence, and acknowledge that just because the child is no longer living with an alleged perpetrator does not mean that they will now feel sufficiently safe to discuss their preferences freely with others.

2.5.4 Raise any concerns about a child's ability to communicate at family report or social assessment interviews with the assessor, so arrangements can be made to enhance a child's ability to communicate. Recognise that a child may be intimidated by the alleged perpetrator's presence in the waiting room, even if no interaction between the perpetrating parent and the child is planned in the assessment process.

2.5.5 Be aware of the tendency for both child and adult victims who have experienced living in situations of domestic and family violence to minimise the impact the violence has had and the continued risks they may still face.

2.5.6 Understand that a child is easily intimidated as a witness and they will often understand repeated questions, based on their experiences at school, as indicating that they have responded incorrectly to the question, and then become confused or seek to provide alternate answers which they hope will be treated as more correct.

2.5.7 Understand that children can be groomed by perpetrators and may not appear to be intimidated by a domestic and family violence perpetrator.

3. Improve your understanding

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

3.1.1 Continually update your knowledge about the current research on domestic and family violence, acknowledging the impact of power and control and not just a focus on physical violence.²⁷

3.1.2 Attend relevant continuing professional development opportunities to keep your knowledge base current.²⁸

²⁶ For interpreter and relay services for the hearing impaired refer to TIS National Services – <https://www.tisnational.gov.au> or National Relay Service <http://relayservice.gov.au>

²⁷ Taskforce Report refers to extensive research about domestic violence <http://www.qld.gov.au/community/documents/getting-support-health-social-issue/dfv-report-vol-one.pdf>

²⁸ <http://www.dvalert.org.au/Getting-Started/What-is-DV-alert>

- 3.1.3 Engage report writers and professionals who have knowledge about the current sociological, psychological and legal perspectives explaining domestic and family violence, and have appropriate safe physical environments to conduct interviews for assessments.
- 3.1.4 Continually update your knowledge about the legal processes about domestic and family violence including the definition of domestic and family violence.
- 3.1.5 Understand that the impacts of domestic and family violence on a child are not confined only to violence the child has actually witnessed, but also extends to what the child has heard and what they have witnessed of the after effects of violence.
- 3.1.6 Be aware that some people are more vulnerable to domestic violence.²⁹

3.2 Make sure you know about the law so you can give considered advice

Practice points:

- 3.2.1 Acknowledge that domestic and family violence is a crime, whether it happened in public or in private.
- 3.2.2 Make the distinction between the civil and criminal ramifications of a domestic violence order and give the client accurate and realistic information about their options to address domestic and family violence, both criminally (make a complaint to police) and civilly.
- 3.2.3 Inform the client about what to expect in the court process, including the format of hearing and the timing of getting a result.
- 3.2.4 Make the client aware of Section 151 *Domestic and Family Violence Protection Act 2012* about restriction on perpetrators cross-examining witnesses.³⁰
- 3.2.5 Inform the client how to apply for a domestic violence order under the *Domestic and Family Violence Protection Act 2012* or how to make a complaint to the police under the *Criminal Code Act 1899*.
- 3.2.6 Consider whether any other causes of action are established, such as a personal injuries claim, and ensure you are clear with the client on what you are retained to do and refer to another professional where appropriate.
- 3.2.7 Be aware of your ethical obligation not to undertake work in which you do not have adequate competence. Refer to rules 4.1.3 and 5 of ASCR.

When acting for perpetrators:

- 3.2.8 The *Work Health and Safety Act 2011* places obligations on an employer to consider the safety of a victim while in the workplace (for example, where a perpetrator might try to enter the workplace to threaten the safety of the victim – this often happens where a victim has left the family home, but is still attending work).
- 3.2.9 Provide clients where there is cogent evidence about them perpetrating domestic and family violence with referrals to relevant behavioural change programs.³¹
- 3.2.10 Give the client accurate and realistic legal advice about the potential criminal and civil consequences of domestic and family violence and the distinction between the civil and criminal ramifications of a protection order.
- 3.2.11 Advise the client of all potential consequences, for now and the future, of committing domestic and family violence.
- 3.2.12 Advise the client of the consequences of providing false evidence.
- 3.2.13 Provide thorough legal advice about court processes, the client's options for consenting 'without admissions' or responding to protection order applications and the possible outcomes of their options.
- 3.2.14 Make the client aware of the limitations of their cross-examining a victim if they are not legally represented.³²
- 3.2.15 Explain to your client that an adverse finding made by the court at a domestic violence order hearing can have consequences on other legal matters they may have.
- 3.2.16 Provide legal advice about what constitutes a breach of a protection order and how they are prosecuted.
- 3.2.17 Provide legal advice about the implications of a domestic violence protection order being made against your client, for example, the restriction on holding a weapons licence and effect on existing and future employment prospects, or if a work email or telephone is used to harass a victim which may be in breach of their workplace Code of Conduct.

²⁹ Section 4 *Domestic and Family Violence Protection Act 2012* Refer to http://www5.austlii.edu.au/au/legis/qld/consol_act/dafvpa2012379/s4.html

³⁰ For Section 151 *Domestic and Family Violence Protection Act 2012* refer to http://www5.austlii.edu.au/au/legis/qld/consol_act/dafvpa2012379/s151.html

³¹ Refer to <http://www.familyrelationships.gov.au/searchpages/GeneralService.aspx?ResourceId=3319> for programs available

³² For Section 151 *Domestic and Family Violence Protection Act 2012* refer to http://www5.austlii.edu.au/au/legis/qld/consol_act/dafvpa2012379/s151.html

3.3 When preparing material for a court hearing ensure all domestic and family violence allegations are investigated

Practice points:

- 3.3.1 Identify if the client has any protection orders and if there have been any breaches and document it on the file.
- 3.3.2 Attach the protection order and the application to the affidavit material.
- 3.3.3 Ensure you know the court's processes ie Include information about all of the allegations in the mandatory [Form 4] Notice of Child Abuse, Family Violence or Risk of Family Violence (Family Court)³³ or Notice of Risk (Federal Circuit Court)³⁴ and affidavits in family law matters.
- 3.3.4 Even if domestic and family violence does not become an issue at the initial interview, the possibility that it has occurred should be kept in mind at all stages – the client may not feel comfortable to reveal their history at the first interview.
- 3.3.5 Be aware that clients may not reveal history of abuse at first and develop skills to facilitate full and frank disclosure. This does not extend to 'putting words into their mouth'.
- 3.3.6 Collect appropriate police reports, medical reports and statements from witnesses.
- 3.3.7 Consider what electronic evidence may be available from mobile phones, emails and social media.
- 3.3.8 Consider the importance of information available from the Department of Communities, Child Safety and Disability Services including any investigation conducted.
- 3.3.9 Consider any information provided by your client and whether advice should be provided to make a notification with the Department of Communities, Child Safety and Disability Services.
- 3.3.10 Discuss with the client the need to protect existing evidence and the need to gather evidence in the future – visiting GPs, obtaining photographs, keeping diaries and contact details for potential witnesses.
- 3.3.11 Consider evidence about any child who has experienced domestic and family violence, potentially having negative impacts on their development as a result of living in chronically fearful situations.
- 3.3.12 Make your client aware of the benefits of being legally represented at all legal events and the options available.³⁵
- 3.3.13 If a family report is being prepared, consider the qualifications of the expert witness to assess the impact and effects of domestic and family violence on the parties and the children.
- 3.3.14 Consider whether it is necessary to obtain an independent family violence report (as contemplated in the Family Violence Best Practice Principles of the Family Law Courts³⁶ p. 13 at xviii).
- 3.3.15 When briefing an expert witness to prepare a family report or social assessment report, give consideration to the directions to be provided to the expert and refer to suggested directions in the Family Violence Best Practice Principles of the Family Law Courts.

When acting for perpetrators:

- 3.3.16 Focus on specific behaviours the client says occurred and tell them why the behaviours are or are not considered domestic and family violence.
- 3.3.17 Provide specific examples of the client's behaviour from information they have provided and how it could be domestic and family violence.
- 3.3.18 Provide information to your client about steps they can take to change their behaviour.
- 3.3.19 Provide legal advice to your client about the impact of their acknowledging their behaviour and willingness to take steps to change, and provide referrals to them to assist in taking those steps.
- 3.3.20 Ensure that you are not complicit in enabling your client to use court processes to further perpetrate domestic and family violence on the victim.
- 3.3.21 If possible in court place yourself in the line of sight between the perpetrator and victim to protect your client from any potential allegation of intimidation.
- 3.3.22 Provide information to your client about the impact domestic and family violence has on children.

³³ <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/forms-and-fees/court-forms/form-topics/Family+Violence/form-nchild-abuse>

³⁴ <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/forms-and-fees/court-forms/form-topics/Family+Violence/form-nchild-abuse>

³⁵ Refer to QLS Find a Lawyer http://www.qls.com.au/For_the_community/Find_a_solicitor

Legal Aid Queensland <http://www.legalaid.qld.gov.au/Home> or

The Queensland Association of Independent Legal Services provides links to Community Legal Centres at <http://www.qails.org.au>

³⁶ <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/policies-and-procedures/family-violence-best-practice-principles-december-2015>

4. Facilitate empowerment or accountability

4.1 Keep the client fully informed throughout the legal process

Practice points:

- 4.1.1 Reassure your client of confidentiality and legal privilege.
- 4.1.2 Always remain client focused – not all victims want to navigate the legal journey.
- 4.1.3 Focus on the most effective solution in the circumstances of your client's case.
- 4.1.4 Prepare your client for any meetings by letting them know any steps they can take prior to the meeting to assist.
- 4.1.5 Consider providing appropriate written material to your client at the initial interview so they have information to take away and read, after assessing it is safe to do so. You must ensure this does not place your client at further risk, for instance if the perpetrator discovered the documents.
- 4.1.6 Discuss available options and always let your client make up their own mind. Provide them with enough information to assist them to make an informed decision.
- 4.1.7 Communicate to your client that independent verification of allegations of domestic and family violence is not needed for a court to be satisfied that it has occurred, but be realistic about evidence available.
- 4.1.8 Remind your client about the principles in section 4 of the *Domestic and Family Violence Protection Act 2012*, that where there are conflicting allegations of domestic and family violence in the Magistrates Court, the Magistrate should identify the person most in need of protection.³⁷
- 4.1.9 Make the client aware of Victim Assist Queensland's services.³⁸
- 4.1.10 Make the client aware of potential appropriate referrals for distressed children.
- 4.1.11 Consider the client's workplace and employment rights to request paid leave and flexible working arrangements.
- 4.1.12 Where appropriate ensure your client is aware of how the legal system responds to victims who have used violence in response to domestic and family violence.³⁹
- 4.1.13 Be empathic in your communications with your client and develop a rapport with your client.
- 4.1.14 Be aware that some clients have severe financial incapacity and consider referrals to appropriate support to ensure they can travel to attend court events eg Salvos may provide bus voucher.

When acting for perpetrators:

- 4.1.15 Make your client aware of resources available to address and stop domestic and family violence behaviours.
- 4.1.16 Explain the consequences of behaviours continuing in the legal process, including any attempts to approach the other party at events in the legal process.

4.2 Do not put pressure on a client to agree to any orders or agreements if it would jeopardise their safety and continue the domestic and family violence

Practice points:

- 4.2.1 Do not pressure the client to agree to orders or a parenting plan during a court event or primary dispute resolution process.
- 4.2.2 Communicate to clients that they have the right not to agree to conditions if they are not comfortable with the outcomes.
- 4.2.3 Provide information about the next steps and other resolution methods available if no agreement is reached.
- 4.2.4 Accept your client's decision even if this means there is no resolution.
- 4.2.5 Explain any agreements' terms and implications to your client.
- 4.2.6 Reality test agreements to ensure they are workable.

³⁷ Section 4(2)(d) of the *Domestic and Family Violence Protection Act 2012*.
http://www5.austlii.edu.au/au/legis/qld/consol_act/dafvpa2012379/s4.html

³⁸ Victim Assist Queensland http://www.justice.qld.gov.au/__data/assets/pdf_file/0008/18926/Victim_Assist_Queensland_brochure.pdf

³⁹ See *R. v. Robyn Bella Kina* (1993) QCA p 480 at <http://archive.sclqld.org.au/qjudgment/1993/QCA93-480.pdf>

- 4.2.7 Place agreements in context. Ask your client to think of possible scenarios to ensure they fully understand the agreement's possible ramifications.
- 4.2.8 Ensure that your client is aware of the process if no settlement is reached, including the likely costs, whether or not they will have to represent themselves, time to achieve an outcome, prospects of success at court and in obtaining legal aid funding, the impact on their well-being and health and the impact on the children being involved in any court process over a period of time.

When acting for perpetrators:

- 4.2.9 Discuss arrangements that can be put in place to minimise risk of certain behaviours recurring (eg limit any direct contact between the parties).
- 4.2.10 Provide information about the next steps and other resolution methods available if no agreement is reached.
- 4.2.11 Accept your client's decision even if this means there is no resolution.
- 4.2.12 Ensure your client has a full understanding of the agreement's terms and implications.
- 4.2.13 Reality test agreements to ensure they are workable.
- 4.2.14 Place agreements in context. Ask your client to think of possible scenarios to ensure they fully understand the agreement's possible ramifications.

4.3 With perpetrators, provide accurate information about domestic and family violence behaviours

- 4.3.1 Encourage clients to develop an awareness of their behaviours that are considered to be domestic and family violence.
- 4.3.2 Remind clients that regardless of context, domestic and family violence behaviours are never justified.
- 4.3.3 Remind clients that violent and controlling behaviours are solely the responsibility of people using those behaviours.
- 4.3.4 Provide information about resources available to address these behaviours⁴⁰ and consider the impact of their behaviours and provide support for change.
- 4.3.5 Be aware of how your own life experiences may affect your views of victims and perpetrators.

4.4 With perpetrators, understand the process for obtaining a voluntary intervention order, voluntary intervention order programs and referral processes

Practice points:

- 4.4.1 Review Part 3 Division 6 of the *Domestic and Family Violence Protection Act 2012* which covers the basis for making a voluntary intervention order and the way in which a court can make one.
- 4.4.2 Understand your local court's voluntary intervention order process and voluntary intervention order programs operating in your area, as well as the referral processes in order to provide clients with current information.⁴¹
- 4.4.3 Explain the impact for other legal proceedings in engaging in this process.

4.5 Encourage children involved in court processes to feel empowered

- 4.5.1 Consider and understand the role of the Independent children's lawyer.⁴²
- 4.5.2 Consideration of a children's counsellor or support worker to be present at interviews, etc.
- 4.5.3 Section 148 of the *Domestic and Family Violence Protection Act 2012* provides that a child cannot be compelled to give evidence.
- 4.5.4 Section 149 of the *Domestic and Family Violence Protection Act 2012* provides that a child must be allowed to obtain legal advice.
- 4.5.5 If domestic and family violence is a factor in a matter which requires a social or family assessment, make inquiries about the qualifications of the assessor and their expertise in domestic and family violence.

⁴⁰ Refer to <http://www.familyrelationships.gov.au/searchpages/GeneralService.aspx?ResourceId=3319> for resources.

⁴¹ Refer to Magistrates Court bench book http://www.courts.qld.gov.au/__data/assets/pdf_file/0020/435026/dv-bench-book.pdf

⁴² <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/family-law-matters/parenting/independent-childrens-lawyer/> and http://www.austlii.edu.au/au/legis/cth/consol_act/fla1975114/s68la.html

5. Collaborate with other services

5.1 When giving legal information to your client also provide information about services that could address their other needs and those of their children

Practice points:

- 5.1.1 Familiarise yourself with how to find out about appropriate non-legal support and referral services in your local area and ensure this information is provided to your client, such as domestic and family violence services, refuges, children's contact centres and other organisations.⁴³
- 5.1.2 If you receive a new client inquiry in relation to domestic and family violence and it is clear that the person lacks the financial capability to privately engage a law firm, it is vital for a referral to be made to a community legal centre. Refer to the Community Legal Centres Queensland website for appropriate services.⁴⁴
- 5.1.3 If you are dealing with an unrepresented party, whether victim or perpetrator, it is good practice to recommend that the other party seek legal advice including community legal centres.
- 5.1.4 The Queensland Law Handbook⁴⁵ provides contact details for a large number of non-government organisations which specialise in domestic and family violence law including social work assistance.

When acting for perpetrators:

- 5.1.5 The victim's employer may have policies or procedures to assist the victim in dealing with issues of domestic and family violence.
- 5.1.6 Familiarise yourself with how to find out about services which address domestic and family violence behaviours for perpetrators.⁴⁶
- 5.1.7 Discuss the approach of the court if it can be demonstrated that your client acknowledges their behaviour was wrong and has taken steps to address their behaviour and the risk of it reoccurring.

5.2 When preparing a client's case, ensure there is appropriate liaison with the client's support networks

- 5.2.1 If your client is seeing a counsellor or health professional, consider asking for a report from them if your client agrees and if it would help your client's case and does not breach their privacy.
- 5.2.2 Make arrangements for a refuge worker or support worker to sit with your client when they are giving instructions or when they are appearing in court, if the client gives permission.
- 5.2.3 If the client is an Aboriginal or Torres Strait Islander consider what support is required.⁴⁷
- 5.2.4 If the client is lesbian, gay, bisexual, transgender or intersex, consider what support is required.⁴⁸

⁴³ An extensive list of support services is maintained on the Queensland Courts website containing links to many government and community support services available throughout Queensland to help clients in a domestic violence relationship.
<http://www.courts.qld.gov.au/courts/magistrates-court/domestic-and-family-violence/support-services>

There is also a list of support services maintained by the Department of Human Services
<http://www.humanservices.gov.au/customer/subjects/domestic-and-family-violence>

⁴⁴ The Community Legal Centres Queensland website provides links to Community Legal Centres at <http://www.communitylegalqld.org.au>

⁴⁵ The Queensland Law Handbook is available for purchase at <http://esvc000603.wic001ss.server-shop.com/store/viewItem.shop?idProduct=7>

⁴⁶ Refer to <http://www.familyrelationships.gov.au/searchpages/GeneralService.aspx?ResourceId=3319>
http://www.quac.org.au/sites/default/files/Domestic_Violence_Resource_040612-web.pdf

⁴⁷ Refer to ATSILS <http://www.atsils.org.au/> or ATSICHS <http://www.atsichsbrisbane.org.au/>

⁴⁸ Refer to QUAC http://www.quac.org.au/sites/default/files/Domestic_Violence_Resource_040612-web.pdf

Attachment A

Assessing potential domestic and family violence

Risk factors

1. Choking of the victim by alleged perpetrator (please note that this is regarded by many practitioners and researchers as indicative of extremely high risk).
2. Sexual assault by the alleged perpetrator.
3. Use of a weapon in any past or more recent incidents of violence.
4. The alleged perpetrator exhibiting obsessive/jealous behaviour towards the victim and/or others, including viewing the victim and/or others as a target of blame.
5. The alleged perpetrator stalking the victim.
6. Actual threats been made by, or fantasies identified [ideation] in relation to, the alleged perpetrator wanting to damage property or to kill and/or physically harm a parent, child, family member, or pets.
7. Actual or threats of harm to family pets.
8. Actual or threats of harm against children.
9. Access by the alleged perpetrator to the means to carry out such plans or threats. For example, the alleged perpetrator having access to weapons, including as part of their occupation (eg police, armed forces).
10. Recent escalation or increase in the severity and/or frequency of violence or threats.
11. The alleged perpetrator threatening or attempting to commit suicide or to self-harm, including specific plans and/or threats to harm his/herself.
12. The alleged perpetrator reports having, or is reported to have, specific plans to kill or seriously harm the partner.
13. Breaches of an Intervention Order by the alleged perpetrator.
14. History of mental illness in relation to the alleged perpetrator, particularly in respect of: depression, thought disorders, paranoia, personality disorder, emotional instability, rage or angry outbursts.
15. History of substance abuse and/or excessive use of alcohol that would reduce the alleged perpetrator's capacity to appropriately manage angry impulses.
16. The alleged perpetrator recently experiencing separation, a significant loss or other stressful life event [eg unemployment, eviction, financial difficulties, disruption to other significant relationship/s, loss of contact with children].
17. The commencement of a new relationship by the former partner of the alleged perpetrator, or the birth of a child to either the alleged perpetrator or the alleged perpetrator's former partner now in a new relationship; any threats to kill the new partner.
18. Pregnancy with which either the victim or the perpetrator is concerned.
19. The alleged victim expresses fears for his/her own or his/her child/ren's safety.
20. The time of separation is a very high risk time for women.

Training, Resources and Research

Training

- The Queensland Centre for Domestic and Family Violence Research offers regular video link seminars to keep practitioners current in their knowledge and understanding of domestic and family violence. A free and regular newsletter is also sent out to subscribers.¹
- Central Queensland University is offering specific training in domestic violence.²

Useful contacts for referral

ANROWS		www.anrows.org.au
DV Connect	State-wide helpline offering advice on domestic and family violence	
Womensline	24/7 telephone counselling, referral and support service for women	1800 811 811
Mensline	Seven days, 9am to midnight, telephone counselling, referral and support service for men	1800 600 636
Queensland Centre for Domestic and Family Violence research		www.noviolence.com.au
Department of Communities, Child Safety and Disability Services	Regional Domestic and Family Violence counselling, support and advice services	www.qld.gov.au/community/getting-support-health-social-issue/counselling-support-advice/index.html
Fair Work	Provides information about rights to request paid leave and flexible work arrangements	www.fairwork.gov.au/employee-entitlements/flexibility-in-the-workplace/flexible-working-arrangements
Court Network	Provides information about at court support, non-legal information and referrals for applicants and respondents	1800 267 671 www.courtnetwork.com.au

Department of Human Services provides includes information and links to further resources as follows:

- <http://www.humanservices.gov.au/customer/subjects/domestic-and-family-violence#a4>
- <https://www.humanrights.gov.au/our-work/family-and-domestic-violence/publications/fact-sheet-domestic-and-family-violence-workplace>
- <https://www.humanrights.gov.au/sites/default/files/document/publication/DV-as-a-workplace-issue-factsheet.pdf>
- <https://www.arts.unsw.edu.au/research/gendered-violence-research-network/gendered-violence-work/>

¹ <http://www.noviolence.com.au/>

² <http://www.noviolence.com.au/professional-development/accredited-training>

Other Resources

There are other resources that have been developed and will assist practitioners in meeting their obligations when dealing with matters that are impacted by domestic and family violence:

- *Australian Solicitors Conduct Rules 2012* – http://www.qls.com.au/Knowledge_centre/Ethics/ASCR_2012
- Best Practice Guidelines for Lawyers doing family law work, Family Law Section of the Law Council of Australia, 2010 – <https://www.familylawsection.org.au/resource/BestPracticeGuidelinesv8FINAL.pdf>
- Family Violence Best Practice Principles (Edition 3.2), December 2015 published by the Family Court of Australia and the Federal Circuit Court of Australia – <http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/about/policies-and-procedures/family-violence-best-practice-principles-december-2015>
- For legal aid work – <http://www.legalaid.qld.gov.au/About-us/Policies-and-procedures/Best-practice-guidelines/Lawyers-working-with-people-who-have-experienced-domestic-violence>

Services to refer clients to:

- Duty lawyer services at various Magistrates Courts – Caxton Legal Centre, Legal Aid, Women's Legal Service, Southport arrangements
- <http://www.legalaid.qld.gov.au/Get-legal-help/Help-at-court#toc-domestic-violence-duty-lawyer>
- Seniors Legal Advice and Support Services (SLASS) at Caxton Legal Centre
- National Sexual Assault Domestic Violence Counselling Service – 1800 RESPECT
<https://www.1800respect.org.au/service-support/queensland-domestic-family-violence-and-sexual-assault-services/>
- MensLine Australia is a support service for men that offers counselling and support for relationship issues, family and domestic violence (perpetrators and victims) via national telephone line 1300 78 99 78, 24 hours a day, 7 days per week. MensLine Australia also offers online and video counselling – <https://www.mensline.org.au/>
- Women's Legal Service – Re-Focus App is a free interactive App for women who are separated or thinking of separating and includes legal information about family and domestic violence and helpful referrals for accommodation and support – <https://www.wlsq.org.au/resources/legal-toolkit/re-focus-app>

Definitions

Domestic and Family Violence is defined in two relevant Acts:

Domestic and Family Violence Protection Act 2012 (Qld)

Section 8 – Meaning of Domestic Violence

1. **Domestic violence** means behaviour by a person (the **first person**) towards another person (the **second person**) with whom the first person is in a relevant relationship that—
 - a. is physically or sexually abusive; or
 - b. is emotionally or psychologically abusive; or
 - c. is economically abusive; or
 - d. is threatening; or
 - e. is coercive; or
 - f. in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.

2. Without limiting subsection (1), domestic violence includes the following behaviour—
 - a. causing personal injury to a person or threatening to do so;
 - b. coercing a person to engage in sexual activity or attempting to do so;
 - c. damaging a person's property or threatening to do so;
 - d. depriving a person of the person's liberty or threatening to do so;
 - e. threatening a person with the death or injury of the person, a child of the person, or someone else;
 - f. threatening to commit suicide or self-harm so as to torment, intimidate or frighten the person to whom the behaviour is directed;
 - g. causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the person to whom the behaviour is directed, so as to control, dominate or coerce the person;
 - h. unauthorised surveillance of a person;
 - i. unlawfully stalking a person.
3. A person who counsels or procures someone else to engage in behaviour that, if engaged in by the person, would be domestic violence is taken to have committed domestic violence.
4. To remove any doubt, it is declared that, for behaviour mentioned in subsection (2) that may constitute a criminal offence, a court may make an order under this Act on the basis that the behaviour is domestic violence even if the behaviour is not proved beyond a reasonable doubt.
5. In this section—
 - i. **coerce**, a person, means compel or force a person to do, or refrain from doing, something.
 - ii. **unauthorised surveillance**, of a person, means the unreasonable monitoring or tracking of the person's movements, activities or interpersonal associations without the person's consent, including, for example, by using technology.

Examples of surveillance by using technology—

reading a person's SMS messages

monitoring a person's email account or internet browser history

monitoring a person's account with a social networking internet site

using a GPS device to track a person's movements

checking the recorded history in a person's GPS device

- iii. **unlawful stalking** see the Criminal Code, section 359B.

Section 9 – Meaning of associated domestic violence

Associated domestic violence means behaviour mentioned in section 8(1) by a respondent towards—

- a. a child of an aggrieved; or
- b. a child who usually lives with an aggrieved; or
- c. a relative of an aggrieved; or
- d. an associate of an aggrieved.

Section 10 – Meaning of exposed to domestic violence

A child is **exposed** to domestic violence if the child sees or hears domestic violence or otherwise experiences the effects of domestic violence.

Examples of being exposed to domestic violence—

overhearing threats of physical abuse

overhearing repeated derogatory taunts, including racial taunts

experiencing financial stress arising from economic abuse

seeing or hearing an assault

comforting or providing assistance to a person who has been physically abused

observing bruising or other injuries of a person who has been physically abused

cleaning up a site after property has been damaged

being present at a domestic violence incident that is attended by police officers

Section 11 – Meaning of emotional or psychological abuse

Emotional or psychological abuse means behaviour by a person towards another person that torments, intimidates, harasses or is offensive to the other person.

Examples—

following a person when the person is out in public, including by vehicle or on foot remaining outside a person's residence or place of work
repeatedly contacting a person by telephone, SMS message, email or social networking site without the person's consent
repeated derogatory taunts, including racial taunts
threatening to disclose a person's sexual orientation to the person's friends or family without the person's consent
threatening to withhold a person's medication
preventing a person from making or keeping connections with the person's family, friends or culture, including cultural or spiritual ceremonies or practices, or preventing the person from expressing the person's cultural identity

Section 12 – Meaning of economic abuse

Economic abuse means behaviour by a person (the **first person**) that is coercive, deceptive or unreasonably controls another person (the **second person**), without the second person's consent—

- a. in a way that denies the second person the economic or financial autonomy the second person would have had but for that behaviour; or
- b. by withholding or threatening to withhold the financial support necessary for meeting the reasonable living expenses of the second person or a child, if the second person or the child is entirely or predominantly dependent on the first person for financial support to meet those living expenses.

Examples—

coercing a person to relinquish control over assets and income
removing or keeping a person's property without the person's consent, or threatening to do so disposing of property owned by a person, or owned jointly with a person, against the person's wishes and without lawful excuse
without lawful excuse, preventing a person from having access to joint financial assets for the purposes of meeting normal household expenses
preventing a person from seeking or keeping employment
coercing a person to claim social security payments
coercing a person to sign a power of attorney that would enable the person's finances to be managed by another person
coercing a person to sign a contract for the purchase of goods or services
coercing a person to sign a contract for the provision of finance, a loan or credit
coercing a person to sign a contract of guarantee
coercing a person to sign any legal document for the establishment or operation of a business

Family Law Act – Section 4AB

1. For the purposes of this Act, **family violence** means violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the **family member**), or causes the family member to be fearful.
2. Examples of behaviour that may constitute family violence include (but are not limited to):
 - a. an assault; or
 - b. a sexual assault or other sexually abusive behaviour; or
 - c. stalking; or
 - d. repeated derogatory taunts; or
 - e. intentionally damaging or destroying property; or
 - f. intentionally causing death or injury to an animal; or
 - g. unreasonably denying the family member the financial autonomy that he or she would otherwise have had; or
 - h. unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or his or her child, at a time when the family member is entirely or predominantly dependent on the person for financial support; or
 - i. preventing the family member from making or keeping connections with his or her family, friends or culture; or
 - j. unlawfully depriving the family member, or any member of the family member's family, of his or her liberty.
3. For the purposes of this Act, a child is **exposed** to family violence if the child sees or hears family violence or otherwise experiences the effects of family violence.
4. Examples of situations that may constitute a child being exposed to family violence include (but are not limited to) the child:
 - a. overhearing threats of death or personal injury by a member of the child's family towards another member of the child's family; or
 - b. seeing or hearing an assault of a member of the child's family by another member of the child's family; or
 - c. comforting or providing assistance to a member of the child's family who has been assaulted by another member of the child's family; or
 - d. cleaning up a site after a member of the child's family has intentionally damaged property of another member of the child's family; or
 - e. being present when police or ambulance officers attend an incident involving the assault of a member of the child's family by another member of the child's family.



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