

Working with clients* who have experienced sexual violence

Best practice guidelines for lawyers

1. Clients' emotional safety is paramount

1.1 Take appropriate precautions for the client's emotional and physical safety

Practice Points

- Allocate sufficient time for your initial interview to develop a rapport with the client.
- Be aware of the trauma of sexual violence and the subsequent emotional safety needs. Make sure your interactions with your clients are sensitive to their experiences of sexual violence. For example:
 - » ensure the interview room is client-friendly
 - » ask the client if they prefer the door open or closed
 - » allow the client to sit where they feel safe.
- Be aware of the definition of sexual violence, the behaviours it encompasses and the likely impact on the client. Sexual violence includes behaviours ranging from sexual harassment and unwanted touching, to rape, sexual torture and ritual abuse. The impact on the client will depend not only on the form of the sexual violence but also on other variables such as age, psychological make up, support levels, relationship with the perpetrator etc.
- Validate the client's feelings and experience when helping them identify the impact of sexual violence. Make sure you acknowledge and are empathetic to the client's needs and there are no judgements made regarding their experience.
- Discussing the case may cause the client to re-live the sexual violence and become distressed.

- Ensure you have access to a support worker or that the client has a support person with them, for example, a sexual assault worker, a counsellor, or if necessary a Legal Aid Queensland or Women's Legal Aid social worker.

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

2.1 Give clients appropriate information about legal options

Practice Points

- Tell clients any violence is a crime whether it happened in public or in private.
- Some clients may not recognise rape/sex as an act of "violence".
- Give clients accurate and realistic information about their options and the legal process.
- Do not frame questions in a way that invites blame. For example, ask: "What was happening that contributed to you staying" or "What were some of the difficulties for you in leaving?" as opposed to "Why didn't you leave?".
- Be aware of referral options for support services.
- If the relationship is ongoing and sexual assault has occurred within a spousal, dating, family or informal care relationship, the client should be informed about how to apply for a domestic and family violence order under the Domestic and Family Violence Protection Act 1989.

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

3.1 Fully inform clients about the legal process and how to apply for criminal injuries compensation

Practice Points

- Send a letter in plain English explaining the process.
- Set expectations about the legal process and the matter's preparation, ie what is going to happen, time for questions and provide a realistic time frame for the matter's completion.
- Do not make promises you can not keep. Remember when a person is sexually abused/assaulted, trust is a big issue.
- Always let the client make up their own mind and provide them with enough information to assist them to make an informed decision. Resources are available from a number of services assisting women (see 8.1 for website addresses for resources).
- Encourage communication with the client at an early stage and encourage participation and communication with a support person.

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

4.1 When giving legal information to clients, also provide information about services that will address their other needs.

Practice Points

- Ensure you know or can find out about appropriate non-legal support and referral services and ensure this information is provided to the client, for example, sexual assault counselling services (including culturally appropriate counselling services), medical services, women's refuges, Legal Aid Queensland database.
 - If in doubt, contact a relevant Legal Aid Queensland specialist unit, such as Women's Legal Aid, the social work team, or the domestic and family violence unit.
- #### 4.2 When preparing a client's case, ensure there is appropriate liaison with the client's support networks

Practice Points

- Identify the support mechanisms the client has or does not have.
- If a client is seeing a counsellor or health professional, consider asking them for a report if the client agrees, if it will assist the case and not breach their privacy.
- Tell the client what will happen with information collected about them. Explain you will be getting reports from various sources that will be served on the other party and presented before the court.
- Check with the client about whether there is any information they do not want disclosed.

- If possible and appropriate, make arrangements for a sexual assault support worker or counsellor to sit with the client when they are giving instructions or when they are appearing in court. (This may not always be possible so do not raise the client's expectations.)

5. All clients should be treated with respect

5.1 Do not be judgmental, inappropriate, insensitive, or inattentive when interviewing a client and hearing about their experience of violence

Practice Points

- Listen, respond respectfully and behave sensitively when clarifying or asking for further information about alleged domestic and family violence or cultural practices.
- Ask the client if they prefer a female or male solicitor.
- Ask the client if they prefer a female or male interpreter (if relevant and possible to arrange).
- If the client is angry or depressed, validate the client's feelings and respond with genuine concern and clarify/restate the interview's purpose.

* Clients are all parties to a dispute.

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Best practice guidelines for lawyers (continued...)

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

6.1 *When preparing for court hearings, ensure cultural, sexuality and disability issues are addressed.*

Practice Points

- Do not make assumptions about a client based on their cultural background, sexual preference or disability.
 - Contact established migrant/refugee sexual assault services for cultural information and/or support for the client, such as Immigrant Women's Support Service (IWSS) if relevant.
 - Access the internet to collect current international evidence on political and social situations in other countries relevant to the sexual violence.
 - Contact gay and lesbian welfare organisations for information and/or appropriate support, if relevant.
 - Contact established Indigenous sexual assault services or welfare services for information about culture and/or support for the client, such as Murrigunyah Aboriginal and Torres Strait Islander Corporation for Women, if relevant.
 - Contact a service assisting women with disabilities, such as WWILD-SVP (Working alongside Women with Intellectual and Learning Disabilities – Sexual Violence Prevention) for information and/or support for the client, if relevant.
 - If a client has a disability, check out how that might impact on them giving instructions, understanding legal advice and coping with the court process.
- Trained interpreters should be offered if you believe language is an issue.
 - Legal Aid Queensland will fund interpreters.
 - Check out with the client whether the interpreter is appropriate or not. In some small community groups, there may be issues about maintaining the client's confidentiality and the interpreter being associated with all the parties involved.
 - Check to see if a client from a non-English-speaking background is comfortable to proceed without an interpreter. Organise a telephone interpreter if required.
 - Consider asking for an interpreter of the same gender as the client. Check whether the client has any gender preference for the interpreter.
 - Ensure the client feels comfortable with the interpreter and that there are no gender, religious, political, or privacy concerns. Ensure the interpreter speaks the same first language or dialect as the client.
 - Make every effort to have the same interpreter for each interview if the client agrees with this.
 - Allow double time for the interview if you are using an interpreter.

- Do not assume all people respond to sexual violence in the same way. Be aware of the impact of culture, religion, education, socio-economic background, refugee experiences, etc. Seek information from appropriate sources to assist you in this regard. For example, a woman from a particular south-east Asian background may smile while recounting her experience of being raped. This is a culturally appropriate behaviour for overcoming embarrassment and for maintaining self-esteem and dignity. However, it can be interpreted by those in the legal system as an indication of the diminished significance of the rape. (Hunt, L. *'Issues for Women from Culturally and Linguistically Diverse Backgrounds'*, unpublished paper presented at Legal and Practice Issues Forum convened by the Sexual Assault Service Southport 1998)

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

7.1 *Be informed of the relevant sociological, cultural, psychological and political perspectives explaining sexual violence in all its contexts.*

Practice Points

- Ensure you are informed about current theoretical perspectives on violence against women and children.
- Attend relevant professional development opportunities to maintain current knowledge.
- Engage other relevant professionals to write reports to assist the client's case, eg sociologists, social workers, psychologists, counsellors, etc.

8. Develop and maintain knowledge of resources about sexual violence and services available to assist clients.

8.1 *The following are some sources of information available on the internet.*

- Brisbane Rape and Incest Survivors Support Centre (BRISSC) has fact sheets and online resources – www.brissc.com.au
- Gold Coast Sexual Assault Support Service has information on myths and facts, statistics, resources and information for survivors of sexual assault – www.stopsexualviolence.com
- IWSS has publications, resources and forum papers – www.iwss.org.au
- The Centre Against Sexual Violence Inc (CASV) has info sheets for adult survivors of sexual assault, survivors of childhood sexual assault and those supporting survivors of sexual assault – www.connectqld.org.au/casv
- WWILD-SVP has specific resources about working with women with an intellectual and learning disability – <http://cwpp.slq.qld.gov.au/wwild/>
- Queensland Health has some resources and information sheets online, including for Indigenous women, and information on services – www.health.qld.gov.au/violence/sexual
- The Domestic Violence & Incest Resource Centre website has a range of info sheets, booklets and other publications – www.dvirc.org.au
- The Australian Centre for the Study of Sexual Assault has research papers, articles and other publications online – www.aifs.gov.au/acssa
- Links from these websites to others are also useful.

Notes: