

Working with victims and perpetrators of family violence and sexual violence

Guidance for criminal legal aid lawyers

Introduction

New Zealand has high rates of family violence and sexual violence. The Ministry is committed to providing the best response it can to people affected by family violence and sexual violence. It's important that participants feel safe and supported by the people they interact with, including legal aid lawyers.

What to do if you suspect your client is a victim of family violence or sexual violence

Family violence and sexual violence can include:

Physical: hitting, slapping, kicking, strangling, choking, suffocating, burning or use of weapon. Taking away things needed due to age, health condition, or disability.

Sexual: pressuring a person to do something they don't want to do sexually. Forcing sexual acts or forcing someone to watch pornography.

Emotional and psychological: put downs, name calling, humiliation alone or in public. Controlling and isolating a person. Threatening pets, stalking, following, or harassing in person, on the phone or on the internet.

Financial: Taking money, using a person's bankcards, taking on debt in a person's name or pressuring a person to take on a loan. Stopping access to funds.

Threats and intimidation: face-to-face, over the phone, through email, written in letters, or on social media.

If you suspect your client is a victim of family violence or sexual violence, do not ignore it.

Let your client know they can apply for:

- A [Protection Order](#)
- A [Parenting Order](#)
- An Occupation Order, Tenancy Order, or [Furniture Order](#).

If your client would like to make any applications advise them of the process to do so or suggest they contact a family lawyer.

Let your client know that they can access a [safety service](#) once they have applied for a Protection Order.

If your client is interested, they can contact a [Safety programme provider](#) from the list of regional providers. These programmes are funded by the Ministry and the Protection Order applicant and their children, can access this service at any time.

If the person you think is currently a victim of family violence or sexual violence is a child or young person, you can make a referral to [Oranga Tamariki](#).

You need to maintain the privacy of your client, but can discuss their case with others if you think your client is at imminent risk of harm. You should get your client's consent before discussing their case with others.

Support services

If your client is a victim of family violence or sexual violence, you can advise them to contact:

- [Women's Refuge](#) – Safe houses, 24-hour crisis line (0800 REFUGE), home and community visits, advocacy, referrals to counselling and other support services (such as Whanau Protect), and support groups.
- [Shine](#) – Helpline/Webchat (0508 744 633), safety programmes, and refuges.
- [Shakti NZ](#) – support for migrant and refugee women.
- [Safe to talk](#) - Sexual harm 24-hour helpline (0800 044 334).
- [Barnardos](#) – a helpline (0800 WHATS UP), is a helpful for Tamariki and Rangatahi in Aotearoa. It's available nationwide, and children and teenagers can either call for free or chat online with one of their counsellors.

For perpetrators of family violence or sexual violence, you can advise them of:

- The [Hey Bro](#) helpline (0800 HEY BRO), who provide 24/7 support for men who think they may harm a loved one or family member.
- [Shine](#) – Helpline/Webchat (0508 744 633) and can make referrals.
- [Te Kupenga Whakaoti Mahi Patunga](#), or the National Network of Family Violence Services, can help you locate a regional family violence service.

Support for perpetrators of family violence

If you suspect or know your client is a perpetrator of family violence, make sure they are aware of the services available to them.

While referrals to non-violence programmes are usually ordered by the court, if your client is interested you can review [the list](#) of regional providers, some of whom take self-referrals. These self-referred programmes are not funded through the Ministry.

If your client has been issued with a Protection Order, you need to make sure they understand what this means. You can give them the final Protection Order [information pack](#) or the temporary Protection Order [information pack](#), and make sure they understand:

- what it means if they have a 'No violence' or 'No contact condition'
- they can only have contact with any children if there is a Parenting Order, other Court Order or parenting agreement in place, or they are living with the applicant
- if they have any weapons, these need to be given to the police within 24 hours
- if they need to attend a non-violence course, and how they can apply to the court if they object
- how they can defend the Temporary Order within 3 months, and that if they don't the order will become final.

What do we expect?

By having a working knowledge of family violence and sexual violence dynamics, you are more prepared to know the best action to take if you suspect your client is affected. We expect that as a legal aid provider, you take all appropriate steps to support your client.

It's important to make sure bail and parole conditions are appropriate. If the charge is related to alleged family violence, you need to consider how this affects release on bail or parole, and the appropriate bail or parole conditions. Complainants must also be advised of any bail or name suppression applications, and have their views sought.

If you suspect family violence or sexual violence, you should keep a record of the advice you gave the client about support agencies and Protection Orders.

Sexual Violence Legislation Act 2021

The [Sexual Violence Legislation Act 2021, which became a number of amendment Acts](#), came into force in December 2021. The Act amends the Evidence Act 2006, Victims' Rights Act 2002, and the Criminal Procedure Act 2011.

The purpose of the legislation is to reduce trauma to victims/survivors of sexual violence when they attend court and give evidence. As a legal aid provider, you need to have up to date knowledge of the changes introduced in this Act, and the current best practice in sexual violence cases.

[Key changes](#) made by the Act are:

- sexual violence complainants can now use alternative ways of giving evidence
- no evidence or questions can be asked regarding the complainant's previous sexual interactions with the defendant unless a Judge gives permission
- judges are required to speak with the jury to ensure there are no misconceptions relating to sexual violence that could be brought into the case.

In cases involving a child witness, it is presumed a child will give evidence in an alternative way, such as pre-recorded evidence.

Note that cost and the need for extra hearing or trial time are irrelevant to any decision as to how evidence will be given.

The [Solicitor General's Prosecution Guidance for Sexual Violence](#) says that:

- calling child witnesses (if they will be giving evidence in real time) should be done only at the beginning of the day
- frequent breaks can be taken, either scheduled in advance or requested on the day
- avoiding delays before trial is especially important in sexual violence cases
- any vulnerabilities of the witness should be investigated at an early stage to determine the need for communication assistance or expert reports
- an [application for communication assistance](#) should be made if any child aged 12 years or under will be giving evidence.