

tipsHEET

Screening, identifying risk and responding to domestic and family violence

Important things to know

- It is important to screen, identify risk issues and respond appropriately to domestic and family violence so that all clients receive a high quality and safe legal service.
- This can easily be worked into your client appointment.
- This Tip Sheet provides guidance on how to screen, make plans around safety and assist clients who may be experiencing domestic and family violence. It also provides guidance on working with clients who may use violence.

1. SCREENING

Why is screening important?

- So you can develop a complete picture of your client's legal needs.
- So you can run an evidence based case.
- So any assistance you provide is safe.
- So that you can make appropriate referrals.

Sometimes you may be aware that a client is affected by violence as a victim or as a person who uses violence because:

- questions about domestic and family violence or ADVOS are ticked on the client's form, intake documents or application for legal aid.
- the Court documents alert you to the issue.
- the client or someone else tells you.
- there are other signs.

For safety and privacy reasons, generally, it is important to screen for domestic and family violence when clients are alone and in a private space. Where you can, it is good to talk to clients face to face and after you have established a bit of a relationship.

Below are some questions which may help you screen for domestic and family violence. These are not scripts but rather a guide about what kind of questions might be helpful.

Clients charged with domestic violence offences can also be victims of domestic and family violence or the primary victim in a violent relationship (this is particularly relevant for female defendants). For this reason, it can be important to screen for both the victimisation and perpetration of violence.





A. VICTIMS

The following questions can help you screen for domestic and family violence.

- Do you feel safe to go home?
- Have you ever had any ADVOs protecting you?
- Have the police come round to your house?
- Does anyone in your home or family threaten you or your children?
- Has John ever hurt you?
- Has John ever hit you?
- Has John ever pushed/ kicked/ choked you?
- Have you seen a doctor or been to hospital for injuries caused by John?
- Does John control who you see/ what you do and/ or what money you spend?
- What happens when you and John argue?
- How would John react if he knew you were here today?
- Has anyone pressured you into coming to see me today?

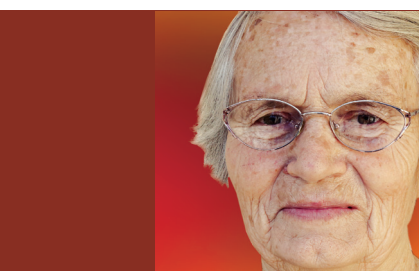
Research shows that most people appreciate being asked about whether they have experienced domestic and family violence. It signals to your client that you have concern for them.

B. PEOPLE WHO USE VIOLENCE

The following questions can help you screen for clients who use domestic and family violence.

- Have the police ever come to your home?
- Has there ever been an ADVO made against you?
- Do you have a criminal record?
- What happens when you and Lucy argue?
- Was there ever any yelling/ pushing/ hitting/ kicking between you?
- If we end up going to Court, the Court may have access to information about you and/or your family from police, hospitals, schools and community services (for example, if the police have ever come to your home). What do you think those records might say?
- You have raised some concerns with me about Lucy today. If we end up going to Court, what kind of concerns do you think Lucy or the Police might raise?





2. IDENTIFYING RISKS

A. VICTIMS

Once you have established that your client is experiencing or has experienced domestic and family violence, it is important to identify the risks. Factors which increase the risk of death or serious harm include:

- threats to harm or kill,
- choking,
- obsessive behaviour (including stalking),
- controlling behaviour (including monitoring over devices),
- access to weapons,
- past breach of AVOs or other Orders,
- recent escalation of violent or controlling behaviour,
- whether the behaviour is happening in the context of separation, court processes or pregnancy. These are high risk times.
- presence of substance abuse, mental health and unemployment issues, particularly for the perpetrator,
- suicidal threats or attempts by the perpetrator,
- your client's assessment of their own safety.

This is a guide for you to recognise risk indicators rather than a checklist. In some circumstances you may also need to ask your client about whether there has been sexual assault.

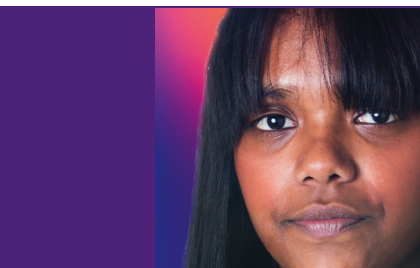
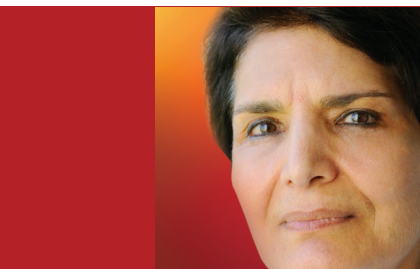
If you are working with a client on a long term basis or you would like the assistance of a more structured risk assessment tool, you may wish to complete the [NSW Domestic Violent Safety Assessment Tool](#). The DVSAT is designed to be easy to use and it is relatively quick. It is a risk assessment tool used by NSW Police as well as many other agencies across NSW. For more information, please refer to the [DVSAT Guide](#).

B. PEOPLE WHO USE VIOLENCE

It is equally important that you are able to identify issues which heighten risk when you are working with alleged perpetrators so that you can run an evidence based case and so that you can make effective referrals for your client that properly address their needs (for example, like how you might refer a client who has drug and alcohol issues to D&A rehabilitation or counselling).

The above list can also be used for identifying risk issues affecting people who may use violence.





What do I do if I become concerned about what my client tells me?

Lawyers are bound by legal professional privilege and a duty to maintain client confidentiality.

If you become aware of information that places a person's health and safety at risk or there are grounds for disclosure in the public interest (for example, a client makes a threat to kill another person), then there may be some scope for disclosure including to authorities such as Police or Community Services.

In most situations, this is unlikely to arise out of a process of screening for or identifying risk of domestic and family violence.

If you are concerned you should contact your Manager. The Law Society NSW also provides an ethics assistance line on 02 9926 0114.

C. PLANNING FOR THE SAFETY OF VICTIMS

After you have considered the risk issues with your client, have a conversation about ways they can keep themselves safe. Safety planning is about:

- Helping your client to take preventative steps to mitigate risk, and to be prepared in the event of an emergency.
- Having a plan tailored to your client's situation.
- Helping all staff to safely manage your client's legal matter.

Common types of safety plans are about being safe in the home, out in public, the workplace, at changeover of children for contact and at Court.

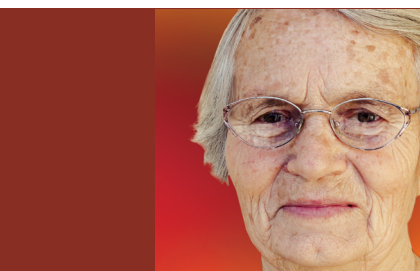
To safely manage your client's matter, you may wish to:

- Speak to your client about the safest way to contact them. Consider whether it is safe to send mail, phone, SMS, leave a message and/or call your client from a lawyer's phone number.
- Speak to your manager and other people at your firm to ensure they are aware of any high risk matters and to see what can be put in place to protect you and your client.

For more information on safety planning please refer to the following resources.

- [1800 RESPECT Safety Planning Checklist](#)
- [Technology Safety Planning](#)
- Checklist—Safety planning for high risk legal matters





D. ASSISTING YOUR CLIENT WITH THEIR LEGAL PROBLEMS

Clients who have experienced domestic and family violence as victims or people who have used violence often have a range of complex legal problems as a result.

These problems commonly include:

- ADVOs
- Family law (eg. parenting, property, child support)
- Care and protection
- Victims support and/or restitution orders
- Immigration (eg. problems with spousal visas)
- Other civil law issues like housing, social security, police complaints and credit/ debt
- Criminal law issues (eg. clients who are charged with DV offences or have ADVOs against them but tell you they are a victim of domestic and family violence).

It is important to screen for these legal issues; and to provide your client with legal assistance and/or refer them. Remember to at least flag with victims of domestic and family violence the availability of an ADVO to protect them and about their possible entitlement to victims support counselling and financial assistance.

Understandably, clients who have experienced domestic and family violence often feel overwhelmed and frightened. Also, some of the above legal problems can be time sensitive (like immigration timeframes or risk issues involving children). If you need to refer the client to a different lawyer, it helps if you can make that referral to be smooth as possible for them. So your client doesn't have to repeat their story, consider getting their authority to pass on information and book them into an appointment. Ensure you find out a safe way for the new lawyer to contact the client.

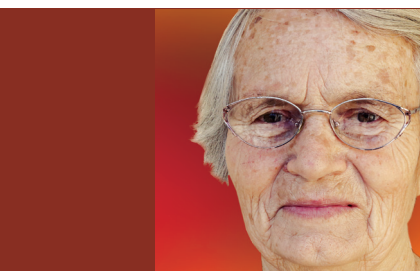
E. WHERE TO REFER YOUR CLIENT FOR NON-LEGAL SUPPORT

It is important to talk to your client about what non-legal referrals they may need to assist them moving forward. For example, they may benefit from:

- Emergency accommodation
- Counselling
- Behaviour change programs (people who use violence)
- Drug and alcohol programs
- Intensive casework support
- Centrelink or Housing Assistance
- Financial assistance (such as brokerage or crisis payments)

Where possible you may be able to assist your client to make an appointment with the relevant service or the contacts below can provide information to clients about services in their area.





- **NSW Police:** If your client is in immediate danger, “000” or “112” from a mobile
- **Women’s Domestic Violence Court Advocacy Services (WDVCAS) 1800 WDVCAS (1800 938 227)**—The WDVCAS help women and children to obtain legal protection from violence and with other needs including accessing support services (for example, financial assistance and advice, housing, counselling and family law issues). More information about the WDVCASs and their contact details can be found [here](#) (for victims).
- **Family Advocacy and Support Services (FASS)**—Support services are available for people affected by family violence with family law issues in the Parramatta, Sydney, Newcastle and Wollongong family law courts. Services may include assessment of welfare needs, referrals, risk assessment, safety planning, advocacy with organisations like Police, Housing and especially with ADVOs, support through family law processes as well as referrals to behaviour change programs and other assistance as needed. Clients can attend a family law registry for help. More information about the FASS and their contact details can be found [here](#) (for victims & people who use violence).
- **1800 RESPECT: 1800 737 732 (24 hours, 7 days, Australia wide)**—telephone counselling, information and referral (for victims).
- **Domestic Violence Line: 1800 656 463 (24 hours, 7 days)**—assistance with emergency accommodation and referrals for counselling, health and legal services (for victims).
- **Link 2 Home: 1800 152 152 (24 hours, 7 days, State wide)**—emergency accommodation (for victims & people who use violence)
- **MensLine: 1300 789 978 (24 hours, 7 days)**—phone support and referral for males affected by domestic and family violence (for victims & people who use violence).
- **Men’s Behaviour Change Programs**—These programs are for men who use domestic violence and would like assistance. The programs involve assessment, risk assessment, group work, individual counselling and case management; as well as separate support, information, referral, safety planning and sometimes, counselling and case management for the (ex) partners and children of those men. Ensure any program you refer your client to meets the minimum standards. More information and contact details for these programs can be found [here](#) (for people who use violence).
- **Victims Access Line**—support and assistance for victims of crime **1800 633 063**; Aboriginal Contact Line: **1800 019 123** (for victims).

F. WHERE TO GO FOR MORE HELP?

If you have any questions about this tip sheet or about responding to domestic and family violence, please contact Legal Aid NSW’s Domestic Violence Unit on (02) 9219 6300.