

Supplemental Material

Tab #14: Talking to a Child Client about Family Violence

This document aims to support legal advisers who represent child clients in family law cases and provides high-level guidance on talking to a child about family violence. Most family law legal advisers do not represent children, but some specialize in this area. In addition to specialized training in child development and age appropriate questioning, legal advisers who represent children should also have training and expertise in family violence and childhood trauma before they talk to child clients about family violence.

Please note:

- ▶ This document is supplementary to the [HELP Guide](#) and [Legal Response Guide](#), and should be read in conjunction with them.
- ▶ In this document, the term “child” is used to refer to a child or youth who is under the age of majority.
- ▶ For more information on the impacts of family violence on children, see [Tab #5: Children’s Experiences of Family Violence](#).

1. Talking to a child client about their experience

Child clients have varied levels of capacity to feel safe to engage with you, to answer questions and to identify their needs. Some general tips about talking to a child client about family violence are set out below.

- ▶ Take extra time to build rapport and trust before asking about family violence.
- ▶ Explain why it is important to understand more about the client’s experiences, including experiences that may involve family violence. Explain why this information is relevant: for the case, to help ensure the client is safe, and to identify resources/services that may be helpful to them.
- ▶ It is important that children understand that there may be limits to confidentiality and that in some situations, you may have a duty to report concerns about safety. You should explain these limits and your relevant legal and professional obligations in a way that the client can understand.

- ▶ Provide an opportunity for the child to share any concerns they may have about disclosing family violence to their parents and discuss how information can be shared safely.
- ▶ Remember that your client will decide if and when to share their experiences with you. Be respectful and do not pressure.
- ▶ During a conversation, you may unintentionally trigger a client. A good practice is to provide support and a safe environment for your client. For example, you can tell them that their reaction is normal.
- ▶ Encourage your client to tell you if your questions are causing them to feel uncomfortable and/or upset. This will allow you to understand what is happening and to take breaks when the client needs them.
- ▶ Understand that children suffering from trauma can be expected to exhibit the following types of behaviour:
 - difficulty recalling and giving detailed information about traumatic events;
 - confusion about timing and sequencing of events;
 - delayed and incremental disclosure;
 - minimization or denial of traumatic events;
 - lack of emotional response (such that information about severe acts may be given in a detached, emotionless manner); and/or
 - confusion about related details.⁷⁴
- ▶ It is also important to understand that there are many reasons why a child client might not disclose family violence, including the following:
 - not understanding that abusive behaviour is wrong or not normal;
 - embarrassment or desire for privacy;
 - being warned to "keep your mouth shut";
 - believing they caused the violence;
 - having no trusted adult in their lives;
 - fear of consequences for themselves (e.g. being taken from the family); and
 - fear of consequences for the family (e.g. arrest of parent, divorce, parent being hurt).⁷⁵

2. Asking about family violence

When discussing family violence with children, it is important to adapt questions to the age and maturity of your client. Below are some examples of ways to adapt questions for use with child clients.

- ▶ *“What do you like about your family? What do you not like about your family? What would you change about your family if you could?”*
- ▶ *“Who in your family do you feel safe with?”*

- ▶ *“Is there anyone in your family who doesn’t make you feel safe? What does that person do that makes you feel like you are not safe?”*
- ▶ *“Are you worried about the safety of anyone else in your family?”*
- ▶ *“Can you tell me about a time when you thought that someone in your family was not safe?”*
- ▶ *“Have you ever been worried about the safety of a family pet?”*
- ▶ *“Does anyone stop you from seeing or talking to people you care about?”*
- ▶ *“Do you want to spend time with or talk to ____? Is there anything that makes you nervous or uncomfortable about seeing them or talking to them? Is there something that would make you feel more comfortable about talking to them or spending time with them?”*

3. The impact of family violence on the family law case

- ▶ If a child discloses family violence, this will affect all aspects of your client's case.
- ▶ Consider the nature of the violence: Is the violence directed at the client, a parent or another sibling?
- ▶ What type of parenting arrangement will protect your client from future harm while supporting healthy relationships? Consider responses that may range from suspending parenting time to creating situations that minimize the likelihood that violence will occur, such as by having visits or transfer of care from one parent to another occur under supervision. Also, consider the frequency and duration of the visits: Should they be for a few hours? For longer periods with or without overnights?
- ▶ Who can support the parenting arrangements? For example, is there a third party or relative who can support parenting time with supervision or supervised transfers?
- ▶ What other supports are in place to reduce the likelihood of future harm? For example, is the abusive family member engaged in counselling or in a specialized family violence prevention program to learn about their harmful or inappropriate behaviours? Do they have a mental health or addiction issue for which they are seeking professional care?
- ▶ If your client continues to have a relationship with their abusive parent, what services might help to heal and prevent future harm to your client? For example, consider whether individual counselling would be useful.
- ▶ What type of outcome will support your client to have healthy relationships with important people in their lives? If a client has a good relationship with the abuser's extended family, should these relationships continue?
- ▶ Once parenting arrangements have been established, how will your client be able to express their concerns about a risk of violence or violence that is occurring during parenting time? Should they talk to a parent? To you? To someone in the community?

- ▶ How will concerns about your client's safety affect their options for expressing their views in the family law matter? For example, if their voice will be represented in an affidavit, a parenting assessment or a voice of a child report, it is important that any professional working with your client have expertise and training in family violence, trauma, adverse childhood experiences and risk assessment. They must be able to provide details about the impact of exposure to family violence on the child and connect those impacts to the best interests of the child.
- ▶ If direct participation in a family dispute resolution process or direct testimony in a trial is necessary, a child may be able to participate by using a screen or video link to avoid direct confrontation with a parent who has caused them harm.

4. Connecting with resources

Depending on your client's situation, it may be important to talk to them about how you can help connect them with people in their community who can support them to address their experiences of violence or prevent further harm. Remember that any outside referral should be made only with the client's consent, unless you have a legal duty or professional responsibility to report. See [Tab #12: Making Referrals](#).