

Exercise

Responding to Disclosures of Family Violence

AVERT
FAMILY VIOLENCE



**Collaborative Responses in
the Family Law System**



An Australian Government Initiative

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Responding to Disclosures of Family Violence Exercise

Purpose:

- To provide an opportunity for participants to reflect on the role and skills required of legal practitioners in responding to disclosures of family violence.

Materials required:

- Copy of scenario A and B – provided at the end of this document

Process:

- In small groups, ask one half of the room to consider scenario A and the other half of the room to consider Scenario B.
- Invite participants to discuss how they would respond to the client in each scenario.
- Specifically consider their responses from a:
 - professional role perspective
 - broader ethical perspective
- At the conclusion of the exercise, invite participants to share the key discussion points that emerged.

Emphasise:

- The impact of professional attitudes and perceived roles on the response to disclosures from either perspective
- Representing and counselling clients who are victims of domestic abuse can present lawyers with very specific dynamics of communication, evaluation, advocacy, client identification, etc.
- The importance of maintaining respectful engagement with all parties but being clear about not colluding with violence
- The primacy of the safety of the victim
- Litigants experiencing family violence often enter and exit the legal system repeatedly due to the cyclical nature of abuse and may disclose at any point in this cycle.



Scenario A: a victim's disclosure of family violence.

Mrs Taylor

You are the legal representative for Mrs Taylor. Mrs Taylor left her husband Neal two years ago. There is a parenting order in place and she takes her two young children to his mother's house to handover to him for a two-day stay every fortnight. She discloses to you that in recent months Neal has been becoming more and more "aggressive" and "harassing" towards her at these handover times. She feels the children are more and more reluctant to go to him and wants your advice on changing the parenting arrangements.

How might these facts to date impact on the preparation of a legal case?

What questions could you ask to elicit more information?

She then discloses that Neal has been turning up at her home on Friday nights yelling abuse at her in the street. He also followed her home from work on two occasions recently and watched her from a distance.

These behaviours are familiar to Mrs Taylor as she explains he was "always possessive and controlling in the marriage and he did sometimes hit me when I did something wrong." She had not disclosed this information during the original legal proceedings because she was afraid it might "create too much trouble for the children and make him worse".

What matters could form part of the evidence?

What response would support safety whilst also representing your client's interests?



Scenario B: a perpetrator's disclosure of family violence.

Mr Taylor.

You are the legal representative for Mr Taylor. Mr Taylor has come to seek legal advice from you regarding his ex-wife's application to vary a parenting order they have had in place for two years. He explains that she left him without warning and took their two young children without his permission or any discussion. The judge at the Family Court hearing was a woman and he believes she was biased against him as a man and "typically for a woman" didn't look at the facts properly. Even though he has more money; a better house; a more stable living environment; and plenty of support from his mother she ordered that the children spend equal time with each parent.

He argues he has been compliant and patient with this arrangement but has had concerns about his ex-wife's new partner who is "not a good role model for my children". He has also noticed that the house is not kept clean and he can see she is "squandering" money.

Now she has the temerity to seek more control over the children and to push him out of their lives. He has a good mind to "teach her a lesson" which he says worked well in their relationship – "like many women she had to be reminded of her responsibilities with a few slaps every now and again."

What response would support safety whilst also representing your client's interests?

What would you suggest in terms of referral paths for Mr Taylor?