



This fact sheet summarises the Ask LOIS webinar on this topic presented by Evelyn Chan, Social Worker, WLS NSW and Julie Howes, Solicitor, WLS NSW. To view this webinar for free, or to access other resources, visit [www.asklois.org.au](http://www.asklois.org.au)

### This factsheet will cover the following:

- **The value of socio-legal collaboration**
- **Common DFV and SA legal issues**
- **Spotting the legal issue**
- **Practical tips on assisting the client**
- **Case study**

### The benefits of socio-legal collaboration

We know that collaboration between community workers and lawyers when supporting women experiencing domestic and family violence (DFV) and/or sexual assault (SA) has many benefits for clients and for workers. We see in our work with clients that macro and micro social issues inevitably intersect with client's legal issues. Community workers have a valuable role in assisting clients to navigate complex social and legal systems which are often overwhelming and challenging to manage; and assist to triage clients' immediate needs, whether social or legal.

### Common DFV and SA legal issues

#### ***What are the common legal issues?***

In your role as a community worker supporting clients, you do not need to know the ins and outs of the law. It is best for the client to speak directly with a solicitor to get current, relevant, and accurate legal advice about their circumstances.

The common areas of law a client experiencing or escaping DFV or SA may present with include:

- Family law matters, such as parenting issues, divorce, property settlement issues.
- ADVO matters, when a client has a current ADVO or has reported violence to police.
- Sexual assault or childhood sexual assault matters, which may have occurred recently or historically
- Care and protection matters, for example when DCJ is involved with the client / family or have removed child from the care of the client.
- Victims Support matters, such as when a client has left an abusive relationship, or they are planning to leave the relationship and need financial support to flee.



### Spotting the legal issue

#### ***How do you spot a legal issue?***

Legal issues don't go away, and you can't avoid or ignore them. The sooner your client gets legal advice about their issues, the more informed they are to make decisions about their circumstances.

It is always best to start with asking if they have received legal advice before. It may be that they are already instructing a solicitor. If not, speak with them about how their situation may require legal advice and help the client to identify the legal issues.

As community workers you will uncover possible legal issues simply by talking with your client, or during an intake with your client, or when asking them about their current situation or about what has changed in their circumstances. When you are talking with your client they may talk about:

- **Relationship** status or issues
- If they have **children** or not
- **Safety** issues and concerns
- Their experience and survival of **violence and abuse** against them
- Current or previous **court matters**
- Other issues such as immigration or visa issues, housing or tenancy issues, financial and debt issues, and Centrelink issues

When these topics come up you may want to ask some questions to further help identify your client's legal need. Here are some examples below:

Relationships

- Are they married, de facto, or have they never been in a relationship?
- Divorced – culturally or legally? Separated or thinking of separating?
- Are they on a partner visa, another temporary visa, permanent resident, citizen?
- Do they live in the family home?
- Is the home owned outright, mortgaged, is the title and mortgage in both names?
- Or are they renting the family home? Who is on the lease? Do they want to leave or stay? Is there an AVO that will be relevant to the tenancy?

Children

- What are the ages of the children and who do the children live with?
- Who has been doing the parenting of the children before separation?
- Is the other parent demanding time with/refusing to return the children?
- Are there parenting plans or orders about the children?
- Is DCJ involved with the family or has DCJ been involved with the family?

Safety

- Is it safe to call, message, or leave voice messages?
- Is your client fearful of their partner?
- Is your client planning to escape the relationship?
- Is your client disclosing DFV or SA?
- Is there a current ADVO, who is named on the ADVO, what do the orders say?

Violence and abuse

- Has your client experienced DFV, child abuse, child sexual assault, or SA?
- When did the violence and abuse happen?
- Have they reported to police or a doctor or a counsellor?
- Are the police applying for an ADVO to protect your client?
- Does your client need support reporting to police, or do they have a police complaint?

Court matters

- Does your client have a Victims Support matter? (even though VS is not a court matter it is a legal matter which can be stressful and there may be intersecting legal issues which need to be considered – e.g. criminal proceedings and delaying a VS application until resolved.)
- Is mediation or family dispute resolution being organised?
- Does your client have an upcoming court matter? Local Court? Family Court? Children's Court?
- Have they had legal advice? Is a solicitor representing them?
- Is your client being contacted by solicitors acting for the other party?

Of course, getting legal advice can be a very daunting experience for someone and your client will let you know when they are ready to access advice.

**Practical tips on assisting the client*****Encourage the client to seek legal advice***

Once you've spoken with the client and helped them spot the legal issues, you can encourage the client to seek legal advice. You can:

- Speak with the client about the benefits of understanding their rights and responsibilities in their current situation.
- Let the client know that they choose what to do with the legal advice they have received, and they are not obligated to act on the legal advice.
- Dispel myths about receiving legal advice, with a common example being that seeking legal advice does not automatically mean going to court.
- Speak with clients about legal advice sessions being private and confidential, as solicitors hold legal professional privilege, and they are not mandatory reporters.
- Manage expectations about receiving legal advice and discuss with the client that receiving legal advice is different to ongoing legal assistance and legal representation.

***Refer the client to an appropriate legal service***

If the client consents, refer them to an appropriate legal service. If they have received legal advice before about the same issue, assist with a re-referral to the same legal service. Otherwise, provide a warm referral where the

community worker contacts the organisation directly to refer the client. Include the following information:

- Client's name, DOB, contact number and how the organisation can safely contact the client.
- Other Party's name and DOB.
- Description of client's situation, legal issues and other relevant information.
- Does the client have accessibility needs?
- Relevant documentation, such as court orders, copy of the ADVO or parenting plan.

### **Support the client to prepare for their legal advice session**

Community workers can:

- Consider access needs, e.g. can the client access a safe and confidential space for a phone appointment or need help with transportation?
- Consider documentation, e.g. does the client have ready access to documentation or would a summary of the violence help the client no not have to re-tell their story to the solicitor?
- Consider children, e.g. does the client need help to arrange care for the children?
- Help the client to prepare emotionally and mentally to discuss triggering and sensitive material with a safety plan, including coping mechanisms and pre-arranged debrief following the advice session.

### **During the legal advice session**

Clients can:

- Tell the solicitor how to make the advice session as accessible as possible.
- Jot down notes and ask for clarification if they are unsure.
- Discuss with the solicitor if they are wanting their community worker to be present for the advice session. The solicitor will have a confidential conversation with the client about legal professional privilege and assess whether appropriate for the community worker to be present.
- Call back to clarify or seek further legal advice.

### **Support the client following the legal advice session**

Clients can benefit from knowing they can access emotional support following the legal appointment if they

need and can assist the client to engage more wholly with the solicitor during the legal advice session.

Community workers can:

- Arrange access to emotional support, such as a pre-arranged phone call with their community worker, or a booked counselling appointment.
- Assist the client with actions from the legal advice.
- Re-refer or encourage the client to seek further legal advice. As clients' circumstances change, if the client has further legal questions, or as new legal issues arise, clients can always be re-referred to the legal service.

### **Case Study**

*Rana is a woman who has self-referred to your service.*

*She has been **married** to her husband for 8 years, and they have **two children** together, aged 5 and 7 years old. Rana and her family live in a **private rental** home where Rana has **tried to separate** from her husband for the last 6 months. His behaviour and use of violence towards her has **escalated**. Rana has experienced ongoing verbal, emotional and financial abuse from her husband.*

*Police applied for an **ADVO** to protect Rana 2 months ago with only the mandatory condition 1abc on her ADVO. Rana was hoping for increased protection and for her children to be named on the ADVO as well. There is an upcoming **court date** at Rana's Local Court for the ADVO.*

*Rana is hoping to **move in with her mother** who can help Rana care for the children while she looks for work, but is worried about her **children not having a father in their lives**. Rana's husband has also **threatened that Rana will never see the children again** if she leaves him.*

### **How might the community worker assist Rana**

#### Spot the legal issue

The community worker can begin by spotting the legal issues in Rana's situation which we have highlighted in bold within the case study.

#### Encourage Rana to seek legal advice

The community worker can speak with Rana about how she may feel more empowered and confident in her choices if she receives legal advice to know her and her children's

options; let Rana know that they often encourage women to seek legal advice when they experience violence; and reassure her about her conversation with the solicitor being free and confidential.

#### Refer Rana to an appropriate legal service

The community worker would then ask Rana if she has received legal advice before about her situation. In this scenario, Rana has let us know that she hasn't spoken with a solicitor before about the violence and she consents to a referral. We would then provide a warm referral to the Women's Legal Service NSW, and attach a copy of the provisional ADVO. We could indicate in the referral that Rana prefers a text before the legal service calls her, so that she can ensure it is safe for her to take the call as she is still living with her husband, and also ask for the legal appointment to be booked during school hours so the children are at school.

#### Support Rana to prepare for her legal advice session

The community worker could then organise a plan with Rana to be in a safe and confidential place so she can take the advice call without her husband being present. Perhaps the community worker can book a meeting room at their office for Rana to attend. They could let Rana know she can jot down notes during the advice call and to have a pen and paper handy. The community worker could pre-organise to give Rana a call following her legal appointment so she can debrief with her worker.

#### At the legal advice session

The solicitor will advise Rana on the ADVO and upcoming court date, the ADVO conditions, how it can be strengthened or if she needs additional orders (if possible). The solicitor would need to see the ADVO (which is hopefully the provisional ADVO) to give complete advice. The provisional ADVO contains the story of what happened and why the police are seeking an ADVO to protect Rana.

Throughout the advice session the solicitor would be assessing Rana's safety needs and would safety plan with her if needed. Or the solicitor would seek Rana's consent to speak with her community worker about safety planning (if that is not already happening).

The solicitor would advise Rana on parenting matters, enquiring if DCJ has been in contact with Rana. The solicitor would discuss the family law - the principles (Best Interests of the Child, prioritising safety over meaningful relationship), live with and spend time with

arrangements and when to seek urgent recovery orders. The solicitor would discuss Family Dispute Resolution/mediation, and the pros and cons of informal and formal parenting arrangements, e.g. parenting plans and court orders. The solicitor would discuss family supports and the change of living arrangement/location and any complications with this, e.g. moving interstate as opposed to moving a couple suburbs away.

The solicitor would discuss breaking the lease of the tenancy – having an ADVO means Rana can end her tenancy without penalty.

And the solicitor might touch on divorce and property matters if that is relevant.

The solicitor might discuss the Victims Support Scheme however Rana is still living with her husband and because of this she is not eligible to apply for financial assistance. Once she has separated from him she will be eligible. Rana is eligible to apply for Victims Services counselling however.

#### After the legal advice session

As Rana and her community worker had previously arranged, the community worker would call Rana to check in. They would ask Rana if she understood the legal advice, and whether there are any actions from the advice. Does she need help with any of these actions?

Rana may say she needs help with advocacy with police. The community worker could offer to speak with her local Women's Domestic Violence Court Advocacy Service, or the police Domestic Violence Liaison Officer or Officer In Charge of her matter in regards to the ADVO, and find out details about the next court date (e.g. is it a mention or hearing?) The community worker could ask if there is a possibility to strengthen the ADVO due to the escalating violence and Rana's plans to leave the relationship.

Whilst continuing to work with Rana, the community worker will consider whether Rana needs further safety planning if her circumstances change and assess whether any new issues arise that may require legal advice. For example, Rana can be re-referred to the Women's Legal Service NSW should another DFV incident occurs where Rana is unsure if she wants to report to police, or Rana has separated from her husband and they're no longer living together, and he is demanding to see the children.