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## Protecting clients as violence increases during pandemic

By Jerome Doraisamy | 02 April 2020



Lawyers must proactively reach out to clients to ensure their physical safety, as COVID-19 sees drastic increases in domestic and family violence across Australia.

In a statement issued last weekend, Prime Minister Scott Morrison said that – in the wake of the coronavirus pandemic – Google has seen “the highest magnitude of searches for domestic violence help that they have seen in the past five years with an increase of 75 per cent and [domestic, family and sexual] services are already reporting an increase in demand”.

In light of this, the federal government pledged an initial \$150 million to support Australians suffering from such forms of violence during the pandemic.

Responding to the announcement, Domestic Violence NSW spokesperson Renata Field said: “Services are quickly adapting to ensure that help is accessible and safe during the COVID-19 crisis, however we are extremely concerned that people will be unsafe and feel that it is even harder than ever to reach out for help.”

According to three lawyers working in this space, legal practitioners must be on the front foot in ensuring their clients are protected during this time.

### **Exacerbation of violence in wake of COVID-19**

VM Family Law principal Katherine Manby said the imposition of quarantine and self-isolation was problematic for clients who “get some level of relief” from domestic and family violence (D&FV) during periods in which the abuser is away from home, at work or out socialising.

“Similarly, if the person at risk is still able to work, there can be some relief during these periods. If we are isolating and not permitted to leave our homes, these clients become at risk 24 hours a day, with no chance of escape or ability to seek help,” she explained.

“Leaving the home becomes even more impossible and therefore raises the level of risk that the clients are facing on a daily basis.”



Joplin Lawyers director Joplin Higgins agreed, saying that even in the midst of a pandemic, women shouldn't have to be afraid to leave an unsafe environment.

“I have heard of situations where the coronavirus is being used as a tool of controlling and coercive behaviour with threats of being infected or coming into contact with persons that are [infected], women need to take all steps to protect themselves and know that services are open and able to assist during this time, if they decide to leave or are forced to leave,” she recounted.

Ms Manby's firm has “seen an increase in the number of clients seeking assistance in this area”, she said, which was backed by Separate Together director Siobhan Mullins, who noted that “media from across the country are reporting a surge in the number of reported family violence incidents and increased need for support services”.

Ms Higgins: “My view would be that our spike is about to increase with the stricter isolations rules which are in place and will be implemented in the future.”

### **How lawyers can help**

In order to protect clients during this time, Ms Mullins said that lawyers must become the “fountain of knowledge as to the non-legal support services that are available”.

“This knowledge should include how the services work, what they do, their intake process and expected turnaround time for a response or delivery of support,” she explained.

“Get curious as to those legal and non-legal problems – i.e. their clients’ fears and emotions. Ask questions and communicate with existing and former clients to then create an appropriate action plan to deal with the immediate short, mid and longer term problems, so as to provide some assurance into the future.”

Ms Manby argued that lawyers must “reach out to clients now”.

“Assist them with connections in the area of safety planning, if they remain in a relationship characterised by D&FV. Make sure that the clients are aware of what supports are available to them during any period of isolation,” she said.

“If you are intending on still being available, set out the parameters around this and explain to the client’s the manner in which the courts will be working and available to assist them with safety. Give the clients tips around safety, such as having a code word to call their friends and family or even your office, if they are at risk. It is essential that the clients understand that help will not stop during periods of isolation.”

Moreover, “clear and concise strategies” must be communicated to clients so that they can protect themselves, Ms Higgins noted.

“Identify a safe space within your home that you possibly can use as an escape, keep your phone charged at all time, ensure that they are not afraid to call 000, make sure your car has fuel in it, [and] if you leave, take your children with you, do not leave them in the home,” she advised.

### **Navigating the new court processes**

Lawyers in this space are navigating a very new court system, “where face-to-face really is no longer an option, this would have been unimaginable to many of us four weeks ago”, Ms Higgins mused.

“We must ensure that our clients always receive natural justice and that they have the right to a fair hearing. The courts are doing all they can in the current circumstances, but it is more important now more so than ever that we as lawyers ensure that our client’s case [is] afforded natural justice and our clients must be consulted as to the effect of not having face-to-face hearings and what that can mean,” she said.

The court has made clear, Ms Manby outlined, that they will still operate to ensure persons at risk will have access to the court process, if it is required.

“It is essential, as it is everyday when working in this role, that practitioners know how best to prepare a case for a person who is at risk of harm to ensure that the appropriate level of protection is obtained. Make sure that you are aware of the legislative requirements and orders that are able to be made for the court. Consider if an ouster order is required and what evidence will need to be before the court for the court to consider making such an order,” she suggested.

Furthermore, lawyers in this space have already seen the lengths that people will go to in order to satisfy their own needs above others, Ms Mullins warned.

“When we’re directed by the government to isolate at home, as glib as this may sound, housing could very well be the next toilet paper equivalent. Aside from being across the updates and changes to the court processes, it’s important that the finer details of the legislation and rules regarding the conduct of FV proceedings are not overlooked in haste,” she said.

“The due process principles still apply and we want to ensure that justice isn’t compromised in an effort to have clients’ applications dealt with as efficiently as possible – and this swings both ways. The last thing an applicant wants is for the decision-maker’s decision to be challenged on a technicality and from a respondent’s perspective, for the application process to be abused or unfairly decided.

“An FVO can prohibit a respondent from returning to the family home. What if the applicant was the FV perpetrator though and used the FV process to exclude the victim from the home? Or, what if the decision to prohibit a respondent from returning to the family home was later overturned on a technicality and the respondent was allowed to return to the family home?”