The Brief

Not your average legal Magazine. We talk Innovation. We breathe Strategy. We give a damn about Humanity.

NOVEMBER 2025 ISSUE 03

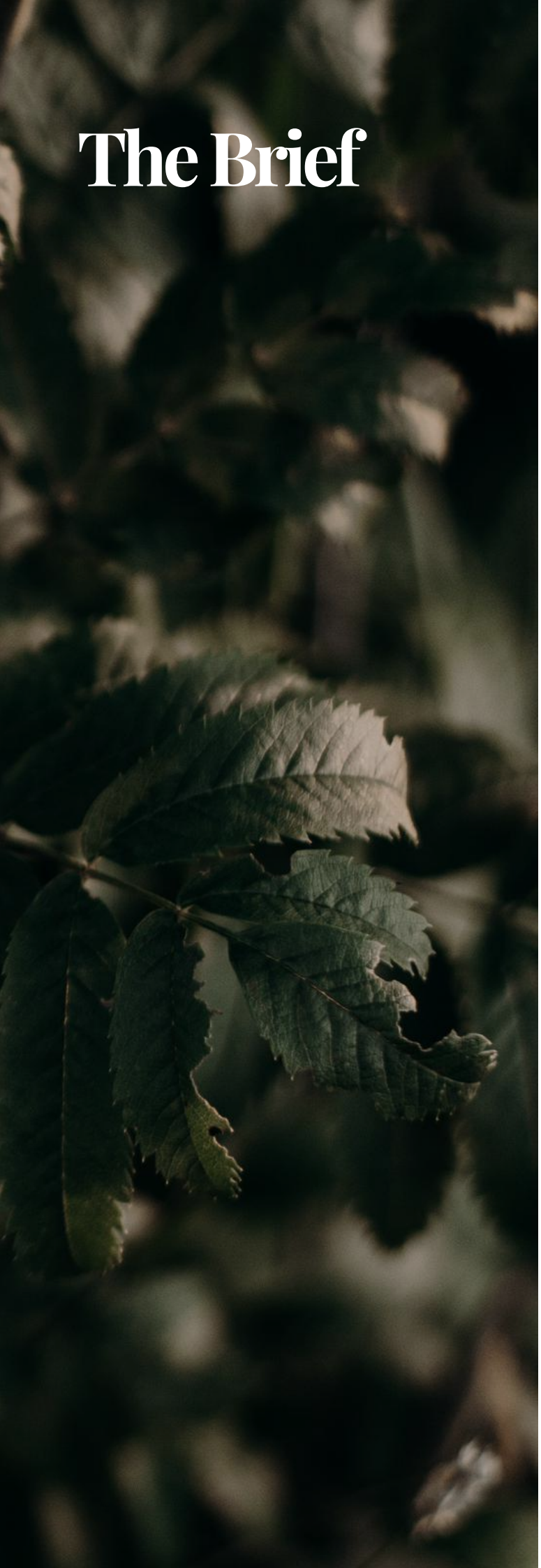
ALSO IN THIS ISSUE:

The Honourable **Deputy Chief Justice Robert McClelland AO** examines the evolving treatment of family violence in family law cases, while **Dora Ko** explores culturally informed mediation and the importance of diversity in practice.

Rachel Brace shares practical insights on supporting child wellbeing, and **Kristy Kerswell** provides guidance on obtaining leave for adversarial evidence. We also hear from **Angela Harbinson** on purposeful leadership, **Lisanne Iriks** and **Sharyn Green-Arndt** on bridging law, psychology, and technology, and **Kate Greenwood** on transitioning from family law to tech. Rounding out the edition, **Stephanie Azzi** discusses disclosure and the growing role of litigation funding —continuing the conversation on innovation, empathy, and the evolving practice.

Cover Photography by Faith Thiang of Faith May Creative.


“When every voice is heard, justice speaks more clearly.”



The Brief

PUBLISHED BY

FAMILY LAW EDUCATION NETWORK

EDITOR-IN-CHIEF

AMANDA LITTLE

MANAGING EDITOR

VICTORIA MOSS

CREATIVE DIRECTOR & DESIGNER

AMI GANDHI

The Brief is published by the Family Law Education Network (FLEN) to support education, connection and leadership within the family law community in Australia and New Zealand.

The Briefing Room

The Big Reads







From The Editor

Welcome to the third edition of The Brief—a publication for those shaping the future of family law with empathy, innovation, and purpose.

This issue brings together voices across the profession who are rethinking how we practice, lead, and connect. From culturally informed practice and child wellbeing to leadership, technology, and judicial insight—each contribution challenges us to look deeper at how law impacts the people it serves.

We are honoured to feature a piece from **Deputy Chief Justice McLelland,** offering a timely reflection on the evolving landscape of family law and the importance of balance, clarity, and compassion in judicial practice. His perspective reminds us that reform is not just about systems—it's about people.

Our cover story, Culturally Informed Practice in Family Law by **Dora Ko**, explores what it means to truly understand and respect the diverse experiences of clients. Her insights highlight the power of cultural awareness in building trust, improving advocacy, and strengthening client relationships.

We are also honoured to have both of them speaking at Disrupting Traditions 2026 at the ICC Sydney.

Alongside these, you will find practical guidance from industry experts—how to support child wellbeing in practice, insights into litigation funding transparency, and the intersection between law, psychology, and technology. Together, they reflect a profession that is both grounded in tradition and brave enough to evolve.

As always, this issue is a collective effort—thank you to our contributors for their generosity, thought leadership, and commitment to driving meaningful dialogue across the sector.

Here's to continuing the conversation, challenging the norm, and building a more connected, compassionate, and forward-thinking family law community.

Warmly,
Amanda Little
CEO, Family Law Education Network

Amanda Little

CEO, EDITOR-IN-CHIEF

Our Contributors

The Honourable Deputy Chief Justice Robert McClelland AO
Federal Circuit and Family Court of Australia

Dora Ko
Dora Ko Mediation

Skye Trevanion
The Law People

Alison Mau & Zoë Lawton
TIKA

Lisanne Iriks & Sharyn Green-Arndt
The Co-Parenting Institute

Angela Harbinson
The Separation Guide

Kate Greenwood
Lander & Rogers

Rachel Brace
Kinship Books

Kristy Kerswell
Kerswell Valuation

Anna Wynne
Anna Wynne & Associates

Stephanie Azzi
In-House Family Lawyer at JustFund, FDRP & Parenting Coordinator at Myra Aris & Co.

Amanda Little
Family Law Education Network

Photography by Deputy Chief Justice Robert McClelland AO

PROVING FAMILY VIOLENCE IN FAMILY LAW CASES

Photography taken at the Family Law Education Network Event

Written by The Honourable Deputy Chief Justice Robert McClelland AO

Introduction

Since a tranche of further amendments to the Family Law Act 1975 (Cth) ("the Act") took effect on 10 June 2025, the legislative framework governing family law proceedings in Australia has confirmed that family violence is a relevant consideration in the determination of both parenting and property disputes.

Critically, while the Act allows the Court to consider allegations of family violence, it remains incumbent on the parties, and by extension their legal representatives, to substantiate such allegations to the requisite standard of proof.

This paper endeavours to assist practitioners to succeed in doing that.

What Constitutes Family Violence?

The term family violence is defined in s 4AB of the Act as being "violent, threatening, or other behaviour by a person that coerces or controls a member of the person's family (the family member) or causes the family member to be fearful." This definition is helpfully accompanied by a non-exhaustive list of behaviours which may constitute family violence for the purposes of the Act (s 4AB(2)).

In recognising instances of family violence, family law practitioners may be assisted by further examples contained within the National Domestic and Family Violence Bench Book as well as those embedded in the rulings of courts in comparable jurisdictions. In the United Kingdom, for example, Justice Hayden detailed an extensive list of behaviours which may constitute family violence in A County Council v LW & Another [2020] EWCOP 50 at [21]. Similarly, in Laurence v Ross, 2025 ABKB 131 at [132] ("Laurence v Ross"), Justice A. Loparco of the Court of King's Bench in Alberta, Canada catalogued recent cases in which findings of coercive and controlling behaviour were made.

"While the law recognises family violence as central to parenting and property disputes, it remains up to practitioners to substantiate those allegations with evidence."

Impact of Family Violence

In recent decades, family courts in Australia, and comparable jurisdictions abroad, have evolved in accordance with community values to explicitly recognise the "insidious" nature of family violence (Pickford & Pickford (2024) FLC 94–230 ("Pickford & Pickford") at [47]), and its "profoundly corrosive" effect on those subjected to or exposed to such behaviour (F v M [2021] EWFC 4 ("F v M") at [64]).

In Khatri & Khatri (2024) FLC 94-207 at [86], the Full Court of the Federal Circuit and Family Court of Australia (the "Full Court") adopted and applied the following statement of the England and Wales Court of Appeal: "...harm to a child in an abusive household is not limited to cases of actual violence to the child or to the parent. A pattern of abusive behaviour is as relevant to the child as to the adult victim" (Khatri & Khatri (2024) FLC 94-207 quoting Re H-N [2022] 1 WLR 2681 at [31]).

The Task of Proving Coercive Control

The challenge of proving family violence, particularly coercive control, is well recognised. As recently stated in Laurence v Ross at [125], family violence is both "insidious and inconspicuous as it is usually perpetrated by skilled manipulators, making it difficult to prove, because acts often take place in private."

In F v M [2021] EWFC 4 at [108], Justice Hayden emphasised that, when considering whether a party has been the victim of coercive or controlling conduct, it is important to take a broad view of the evidence; warning that "a tight, overly formulaic analysis may ultimately obfuscate rather than illuminate the behaviour." At [109], his Honour went on to state that, the "key to assessing abuse in the context of coercive control is recognising that the significance of individual acts may only be understood properly within the context of wider behaviour... it is the behaviour and not simply the repetition of individual acts which reveals the real objectives of the perpetrator and thus the true nature of the abuse."

Full Court authorities have established that, in some cases, the family violence endured by a party may be such that the Court infers that their parenting capacity might be adversely impacted if orders for a child/ren to spend time with the perpetrating parent were made (Keane & Keane (2021) 62 Fam LR 190 at [91] ("Keane & Keane"). Similarly, in property proceedings, the level of family violence may be such that the Court infers that a party's ability to make direct or indirect contributions to marital property was adversely affected (Martell v Martell (2023) 66 Fam LR 650 at [24]). However my key point is that, if relevant evidence can be adduced as to impact, it should be rather than chancing that the Court may not make the necessary inference.

Gathering Evidence

The Interview

First and foremost, when gathering evidence from a client, it is essential to obtain a comprehensive picture of your client's personal circumstances, the dynamic of their relationship with the alleged perpetrator, and the nature of the conduct to which they have been subjected.

A basic but useful questionnaire can be found on the website of the United Kingdom's Children and Family Court Advisory and Support Service (CAFCASS) titled "Practice Aid for Assessing Coercive Control" (see Resources). Australian state and territory governments also have family and domestic violence risk assessment tools available, such as the Western Australian Family and Domestic Violence Common Risk Assessment Tool (see Resources). These tools helpfully provide information on how to use them in a trauma-informed manner. More sophisticated material is available by the Australian-based Safe and Together Institute website under the organisation's resources tab. As these questions involve potentially traumatic material, it may be prudent to involve a social worker, mental health professional or support person in the interview, to provide emotional and psychological support to victim survivors. This also mitigates the re-traumatisation of victim survivors, by not requiring them retell their experiences to multiple service providers.

"The true nature of coercive control is rarely revealed by a single act—it emerges through patterns of behaviour that corrode safety, trust, and autonomy."

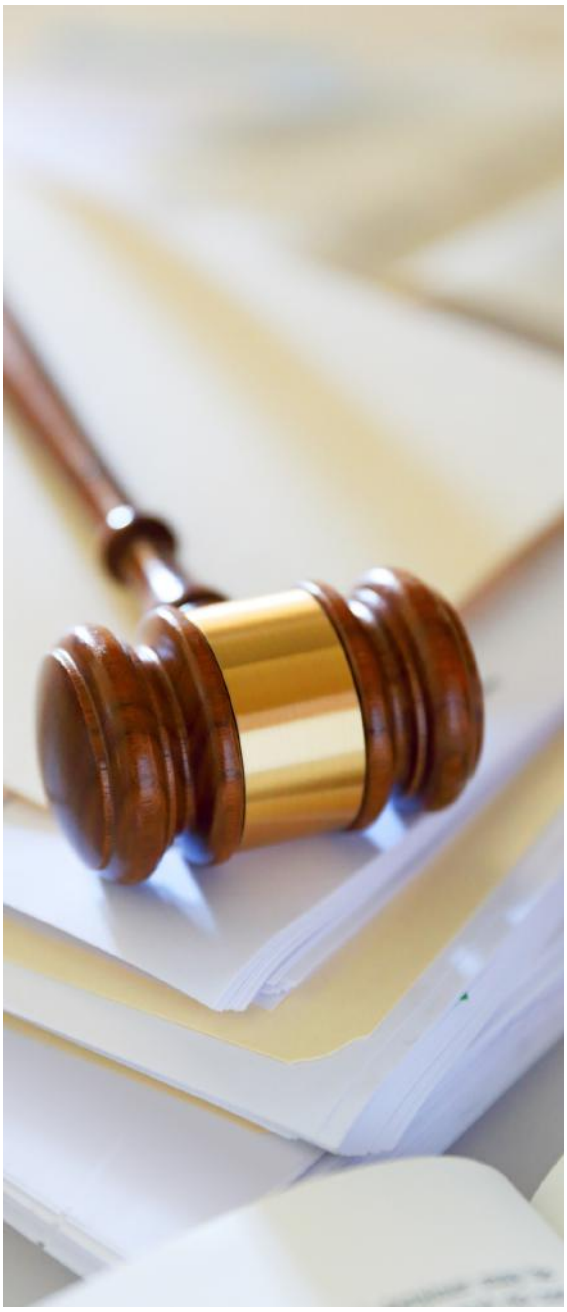
Supportive Evidence

It goes without saying that, should a matter proceed to hearing, your case should be supported by the best available evidence. While there is no strict requirement to provide corroborative evidence in support of an allegation of family violence – where such evidence is available, it should be presented.

To assist with the task of gathering evidence, practitioners may be guided by the United Kingdom Crown Prosecutor Service's website which features a non-exhaustive list of possible sources of evidence. This list includes:

- phone records, text messages and device logs (whilst ensuring limited disruption, if any, to the victim and not risking further harm);
- evidence of abuse over the internet, digital technology (e.g. smart speakers) and social media platforms;
- copies of emails;
- photographs of injuries such as: defensive injuries to forearms, latent upper arm grabs, scalp bruising, clumps of hair missing;
- photographs of damage to property such as broken doors, holes in plasterboard, doors pulled from cupboards or signs of forced entry into rooms;
- tapes or transcripts of interviews or proceedings;
- CCTV and home video footage – e.g. smart doorbells;
- video footage;
- lifestyle and household evidence documenting, for instance, changes to the victim's behaviour and routine (this could include evidence of isolation such as lack of contact between family and friends, victim withdrawing from activities such as clubs, suspects accompanying victims to medical appointments and the victim withdrawing from support services);
- records of interaction with services such as child welfare and support services medical records;
- bank records to show financial control, previous threats made to children or other family members;
- suicide threats from the suspect (e.g. via text, email, or postings on social media or multi-media sites);
- any diary kept by the victim; and
- GPS tracking devices installed covertly an/or overtly on mobile phones, tablets, vehicles etc.

Is noteworthy that the above guide was constructed in the context of discharging the requisite onus to sustain a criminal prosecution. Therefore, it can be accepted that a litigant in family law proceedings has an even greater prospect of discharging their onus according to the civil standard set out in s 140 of the Evidence Act 1995 (Cth) (or the equivalent State provision), if they are equally diligent in obtaining evidence in accordance with the guide.



Presentation of Evidence

As explained by Justice Hayden in F v M at [108], a judge's task of making findings of fact, including in respect to coercive and controlling behaviour, is done by evaluating the "separate strands of evidence and then considering them in the context of the whole". His Honour further noted that, in the context of considering allegations of coercive or controlling behaviour, "some features of the evidence will weigh more heavily than others and evidence which may not be significant, in isolation, may gain greater relevance when placed in the context of the wider evidential canvas."

Accordingly, when prosecuting a case in which coercive and controlling behaviour is alleged, you will need to present evidence of those stands and, importantly, draw the strands together.

In Re JK (A Child) (Domestic Abuse: Finding of Fact Hearing) [2021] EWHC 1367 (Fam) at [27], Justice Poole suggested that, in addition to witness evidence, a trial judge would be assisted by the parties providing a concise statement setting out:

(a) a summary of the nature of the relationship;
(b) a list of the forms of domestic abuse that the evidence is said to establish;
(c) a list of key specific incidents said to be probative of a pattern of coercion and/or control;
(d) a list of any other specific incidents so serious that they justify determination irrespective of any alleged pattern of coercive and/or controlling behaviour;
(e) any reply indicating which specific allegations listed at (d) were admitted or disputed.

Other evidence-gathering methods available to practitioners include:

- Serving a "Request to Admit Facts and Authenticity of Documents" pursuant to r 8.01 of the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Cth) ("the Rules");
- Utilising s 50 of the Evidence Act 1995 (NSW) (or an equivalent section) in respect to voluminous or complex documents (such as extracting the content of text messages and summarising bank statements); and
- Requesting directions for the parties to file the equivalent of a "Scott Schedule" of family violence allegations and responses – a practice commonly followed in the United Kingdom which forces parties to particularise their position on each issue in dispute.

Appreciating where Expert Testimony is Required

If corroborating evidence is available to bolster an allegation of family violence, then such evidence should be presented to the Court. Indeed, there are specific rules which ensure the tendering of such evidence may occur – namely, r 7.1 of the Rules. Furthermore, as lay evidence cannot be given about matters of medical science (ss 76 and s79 of the Evidence Act 1995 (NSW)), practitioners must recognise when expert testimony must be adduced to prove a particular allegation of family violence.

This is particularly relevant if you are seeking that the Court make a finding that the victim survivor has a diagnosable mental illness (such as Post-Traumatic Stress Disorder) as a result of the conduct to which they have been subjected where the victim survivor is contending that their future parenting capacity would be adversely impacted by spend time orders (Keane & Keane at [91]); or, in a property dispute, if the victim seeks an adjustment for their future needs as a result of reduced earning capacity: Pantoja & Pantoja [2025] FedCFamC1A 104 at [71].

Conclusion

It is now well established that family violence, including coercive and controlling behaviour, can profoundly affect a victim survivor's capacity to parent and make financial and non-financial contributions, and impact upon their future needs in the years following the breakdown of the relationship. Given the scourge of family violence, practitioners should endeavour to ensure the best evidence is available to the Court. While family law judges, through their training and experience, are becoming increasingly well-informed on this area – findings are only open to judges which are based on the evidence before them.

Proving family violence is complex and to achieve justice for victim survivors in family law proceedings, legal practitioners must adopt a rigorous and strategic approach to gathering and presenting proof, including through the use of corroborative materials and, where available, expert testimony.

Resources

- Children and Family Court Advisory and Support Service, 'Practice aid for Assessing coercive control', Indicators of domestic abuse such as coercive control (Web Page) <https://www.cafcass.gov.uk/professionals/our-resources-professionals/child-impact-assessment-framework-ciaf/indicators-domestic-abuse-such-coercive-control>

- Government of Western Australia, Western Australian Family and Domestic Violence Common Risk Assessment and Risk Management Framework (Web Page, 25 September 2024) <https://www.wa.gov.au/government/document-collections/western-australian-family-and-domestic-violence-common-risk-assessment-and-risk-management-framework>

- NSW Department of Communities and Justice, Domestic Violence Safety Assessment Tool (Web Page, 21 November 2022) <https://dcj.nsw.gov.au/service-providers/supporting-family-domestic-sexual-violence-services/dfsv-tools-and-resources/domestic-violence-safety-assessment-tool.html>

- Safe and Together Institute, Resources (Web Page) <https://safeandtogetherinstitute.com/our-resources>

- United Kingdom Crown Prosecution Service, Legal Guidance, Domestic Violence (Web Page, 22 July 2025) https://www.cps.gov.uk/legal-guidance/domestic-abuse

- Victorian Government, Family Violence Multi-Agency Risk Assessment and Management Framework (Web Page, 27 July 2023) <https://www.vic.gov.au/family-violence-multi-agency-risk-assessment-and-management>

"Courts can only act on what is before them — it's the practitioner's role to ensure the truth is supported by the best available evidence."

The Honourable Deputy Chief Justice Robert McClelland AO is speaking at

BRIDGING THE GAP

Dora Ko's Mission to Make Family Law More Culturally Aware

Photography by Faith Thiang of Faith May Creative

Photography provided by Dora Ko

Dora's first encounter with a kangaroo as a new immigrant to Australia

Written by Victoria Moss, based on an interview with Dora Ko

Dora Ko is a nationally accredited mediator, parenting coordinator, and Family Dispute Resolution Practitioner with over 15 years' family law experience. From 2022 to 2025, she served as a Judicial Registrar of the Federal Circuit and Family Court of Australia, managing complex parenting and property matters and conducting court-based mediations. Now in private practice at Dora Ko Mediations, Dora specialises in culturally sensitive, trauma-informed dispute resolution, drawing on her legal expertise and fluency in Mandarin and Cantonese and conversational Japanese to assist families across Australia in achieving practical, lasting agreements.

"Cultural awareness isn't just about language—it's about truly understanding how people experience conflict, family, and resolution."

When Dora Ko was nine years old, she left behind the bustling streets of Hong Kong—and the small measure of celebrity she'd known there as a child actress—for suburban Australia.

"All the kids in my school knew me," she remembers. "I was outspoken… I'd be voted student leader just because they saw me on TV. But when I came to Australia, it was very different. I looked different. I couldn't speak the language. The food I had in my lunchboxes was weird or different. I couldn't do the monkey bars because that's not what we played in Hong Kong. I had a really good trim down of my ego at the age of nine."

Her parents had deliberately chosen a school with few other Asian students. "They wanted me to integrate rather than go somewhere with a bigger Asian population. It was hard, but it made me driven to assimilate—to get to know what people do, to sound like everyone. I think I'm fortunate for that, because I sound like I'm Australian, but I also maintained my language at home."

Photography provided by Dora Ko

Dora and her fellow Aussie friend on scholarship exchange in Japan dressed in their infamous sailor school uniforms

Life in Japan – Another Kind of Foreign

Before starting university, Dora won a scholarship to spend a year in Japan, living with host families and attending high school. “It was almost like I lived another life where I was a foreigner again—but this time I looked like everyone else. I was Asian, … and yet I was different.”

That year brought joy and hardship. One homestay placed her with a host she now realises was emotionally abusive. “For the first time, I understood what it feels like when home is meant to be your safe space—but it’s not. I had nowhere else to go.”

The experience taught her what it’s like to live in constant tension, and how isolation can strip away your confidence. “Looking back now, it was a very important moment for me—probably in terms of understanding domestic violence. I know what it feels like to go home and there’s a perpetrator there. You can’t relax. You’re always on edge.”

Eventually, a friend’s family took her in. “I’m forever indebted to them. They hadn’t planned to have a homestay, but they saw what was happening. That changed my entire overseas exchange experience for me.”

Choosing Law—With a Side of Psychology

Back in Australia, Dora enrolled in a double degree in law and psychology. “If I’m honest, my passion was probably more in psychology… but I didn’t want to follow what my parents wanted—health sciences. I had the marks for law, and I liked debating more than anything.”

She got her start in a mid-tier Brisbane firm—first in the mail room, then as a participant in their clerkship program , where she discovered family law. “I was amazed watching Evette Clark, a senior associate. She was firm but kind, guiding clients through such difficult situations. I realised I am a people’s person. That’s what drew me in.”

From there came a traineeship which was a baptism of fire in legal aid work. “At one point I had 80 files as a first-year lawyer. It was sink or swim. I learned so much, but it wasn’t sustainable.”

She moved into a respected family law firm handling complex, high-net-worth, and international cases—including her first matter for a Chinese-speaking client, a jurisdictional dispute that went to trial. “I didn’t know what I was doing at first, but I was supported by great colleagues and barristers. That case opened my eyes to the value of being able to bridge legal and cultural worlds.”

Finding the Missing Demographic

Volunteering with Women's Legal Service Queensland deepened Dora's perspective. "We talk about the 'missing middle'—people who can't afford representation but don't qualify for legal aid. But I realised there's another missing demographic: culturally diverse people. You don't see them in the court system in numbers proportionate to our population. There's a barrier—language, trust, cultural norms—that keeps them from accessing legal help."

Her language skills—fluent in Mandarin and Cantonese and conversational Japanese —meant she could often connect quickly with clients who might otherwise struggle to engage. But she also saw how quickly misinformation spread in tight-knit communities.

She tells of two Chinese women she met as a duty lawyer. The first had called police during a domestic incident, exaggerating her account because "I didn't think the police would do anything… that's what would happen in China." When the police issued a protection notice and ousted her husband from the home, she wanted it withdrawn.

The second woman was in serious danger from a violent spouse but decided she wanted to withdraw her own application after speaking to the first woman in the waiting The second woman was in serious danger from a violent spouse but decided she wanted to withdraw her own application after speaking to the first woman in the waiting room. "That really highlighted to me how important it is that we try to help. I had to convince her that her situation was very different—that she needed protection. If I didn't speak her language, if I didn't understand the cultural lens, I might not have been able to get through to her."

The Power of Cultural Context

Dora is quick to point out that cultural norms can influence everything from the instructions a client gives to how their case is perceived.

She recalls a Middle Eastern woman who came to her visibly injured. "She told me, 'I will be disowning my family name… my father will have someone kill me if I did that.' She wasn't exaggerating. My usual advice—leave, safety plan, go to police—wasn't workable. I had to think differently about how to keep her safe."

In another case, a Chinese mother was accused of neglect because her seven-year-old's teeth were decayed. "On the face of it, it looked bad. But the real reason was her parents—qualified Chinese medicine doctors—had told her to give honey water and vitamin C instead of plain water, believing it would boost immunity. It wasn't about neglect—it was cultural practice. My job was to explain that to the court and show she was taking steps to address it."

Even parenting arrangements can be misunderstood. "Our system prioritises time with both parents. But for some migrant families, sacrificing time and hard earned money to send children to tutoring or extracurriculars is seen as the best parenting—investing in their future. Without that lens, it's easy for it to be painted as disinterest."

學習精英

高詩韻
樂在拍戲的日子裡

小明星不愛簽名

母親代勞看劇本

Dora's first and only other magazine article at age 7 documenting her journey as a childhood actress in Hong Kong.

Choosing Law—With a Side of Psychology

Back in Australia, Dora enrolled in a double degree in law and psychology. "If I'm honest, my passion was probably more in psychology… but I didn't want to follow what my parents wanted—health sciences. I had the marks for law, and I liked debating more than anything."

She got her start in a mid-tier Brisbane firm—first in the mail room, then as a participant in their clerkship program , where she discovered family law. "I was amazed watching Evette Clark, a senior associate. She was firm but kind, guiding clients through such difficult situations. I realised I am a people's person. That's what drew me in."

From there came a traineeship which was a baptism of fire in legal aid work. "At one point I had 80 files as a first-year lawyer. It was sink or swim. I learned so much, but it wasn't sustainable."

She moved into a respected family law firm handling complex, high-net-worth, and international cases—including her first matter for a Chinese-speaking client, a jurisdictional dispute that went to trial. "I didn't know what I was doing at first, but I was supported by great colleagues and barristers. That case opened my eyes to the value of being able to bridge legal and cultural worlds."

Finding the Missing Demographic

Volunteering with Women's Legal Service Queensland deepened Dora's perspective. "We talk about the 'missing middle'—people who can't afford representation but don't qualify for legal aid. But I realised there's another missing demographic: culturally diverse people. You don't see them in the court system in numbers proportionate to our population. There's a barrier—language, trust, cultural norms—that keeps them from accessing legal help."

Her language skills—fluent in Mandarin and Cantonese and conversational Japanese —meant she could often connect quickly with clients who might otherwise struggle to engage. But she also saw how quickly misinformation spread in tight-knit communities.

She tells of two Chinese women she met as a duty lawyer. The first had called police during a domestic incident, exaggerating her account because "I didn't think the police would do anything… that's what would happen in China." When the police issued a protection notice and ousted her husband from the home, she wanted it withdrawn.

The second woman was in serious danger from a violent spouse but decided she wanted to withdraw her own application after speaking to the first woman in the waiting The second woman was in serious danger from a violent spouse but decided she wanted to withdraw her own application after speaking to the first woman in the waiting room. "That really highlighted to me how important it is that we try to help. I had to convince her that her situation was very different—that she needed protection. If I didn't speak her language, if I didn't understand the cultural lens, I might not have been able to get through to her."

The Power of Cultural Context

Dora is quick to point out that cultural norms can influence everything from the instructions a client gives to how their case is perceived.

She recalls a Middle Eastern woman who came to her visibly injured. "She told me, 'I will be disowning my family name… my father will have someone kill me if I did that.' She wasn't exaggerating. My usual advice—leave, safety plan, go to police—wasn't workable. I had to think differently about how to keep her safe."

In another case, a Chinese mother was accused of neglect because her seven-year-old's teeth were decayed. "On the face of it, it looked bad. But the real reason was her parents—qualified Chinese medicine doctors—had told her to give honey water and vitamin C instead of plain water, believing it would boost immunity. It wasn't about neglect—it was cultural practice. My job was to explain that to the court and show she was taking steps to address it."

Even parenting arrangements can be misunderstood. "Our system prioritises time with both parents. But for some migrant families, sacrificing time and hard earned money to send children to tutoring or extracurriculars is seen as the best parenting—investing in their future. Without that lens, it's easy for it to be painted as disinterest."

Practical Cultural Competence

For Dora, cultural competence means more than empathy—it's about advocacy. "If there are facts of a matter which may be peculiar or different to what one would normally expect,, make sure that is highlighted in the court material filed with sufficient context to assist the presiding judicial officer to give due consideration to those matters."

She also believes mediation can be a better fit for culturally complex cases. "Court processes—and even the social science research they rely on—are often based on Western norms. In mediation, you can talk about values and priorities, and structure arrangements that reflect them."

Facing Prejudice in the Profession

Throughout her career in family law, Dora has brought diversity to her role as an advocate—but it is not without challenges.

She recalls an incident from around nine years ago that she still remembers in vivid detail. The case was an urgent matter. The court list was full, and by the afternoon it had become clear that another matter was going to take priority. Negotiations were tense; the other side's barrister had been pressing their client's position throughout the day.

Eventually, a compromise was reached for interim orders until the matter could be determined by the court on a further interim basis. It was then, in the liminal space outside the courtroom—an area where both clients and lawyers mingled—that the moment happened.

"*He hadn't really spoken to me all day,*" *she says. "We had counsel on both sides, so most of the exchanges were between the barristers. I was there, listening, taking notes. And then, out of nowhere, he waves a bit of paper of the draft interim orders, looks around, and says just loudly enough, 'Where's that little Chinese girl?'*"

The words landed with a force that took her breath away. "It was loud enough for my client, his client, and everyone else to hear. It was so public. I froze. I didn't know how to react."

In the moment, she chose silence. She chose to act as though she did not hear the remark. But in reality, it lodged deep. "From then on, every time I went to court, I remembered it. It became a sort of background hum—a reminder that I was different."

For Dora, the comment was professionally diminishing. "It's not just about that one comment. It's about how something like that stays with you, how it shapes your sense of belonging in a professional space."

Despite those experiences, Dora continued to work to develop her skills as a family lawyer. Several years later, she was appointed to and worked at the very place where she was once made to feel very small – as a Judicial Registrar.

"Cultural competence isn't just empathy—it's advocacy. It's giving context so the Court can see the full picture."

Dora on her day of admission to the legal profession in January 2011 with her Mover, Mr Alex Nelson of Counsel

Dora received the Diversity Ambassador CLM Inspire Awards in June 2025

Advice for Practitioners

Dora offers the follow advice for lawyers assisting clients who are of diverse cultural backgrounds:

- Ask questions when the facts of the case don't make coherent sense.
- Be proactive, not reactive, about potential misunderstandings. "Each family is different. Culture isn't static. We need to keep asking, keep learning, and keep making space for people to tell us what matters to them."
- Acknowledge culture directly in Affidavits – give specific thought to the lens the Court might have when looking at the issue – how can you adjust your drafting to highlight your client's case?
- Consider mediation for cases with complex cultural factors.

"Each family is different. Culture isn't static. We need to keep asking, keep learning, and keep making space for people to tell us what matters to them."

A Mission to Bridge the Gap

Dora has always strived to provide excellent services to clients. 15 years on, she is becoming ever more passionate about doing more to further diversity, equity and inclusion "I feel like this is something I can really help bridge. It's about recognising the barriers, asking the right questions, and making sure our processes don't unintentionally exclude people from justice."

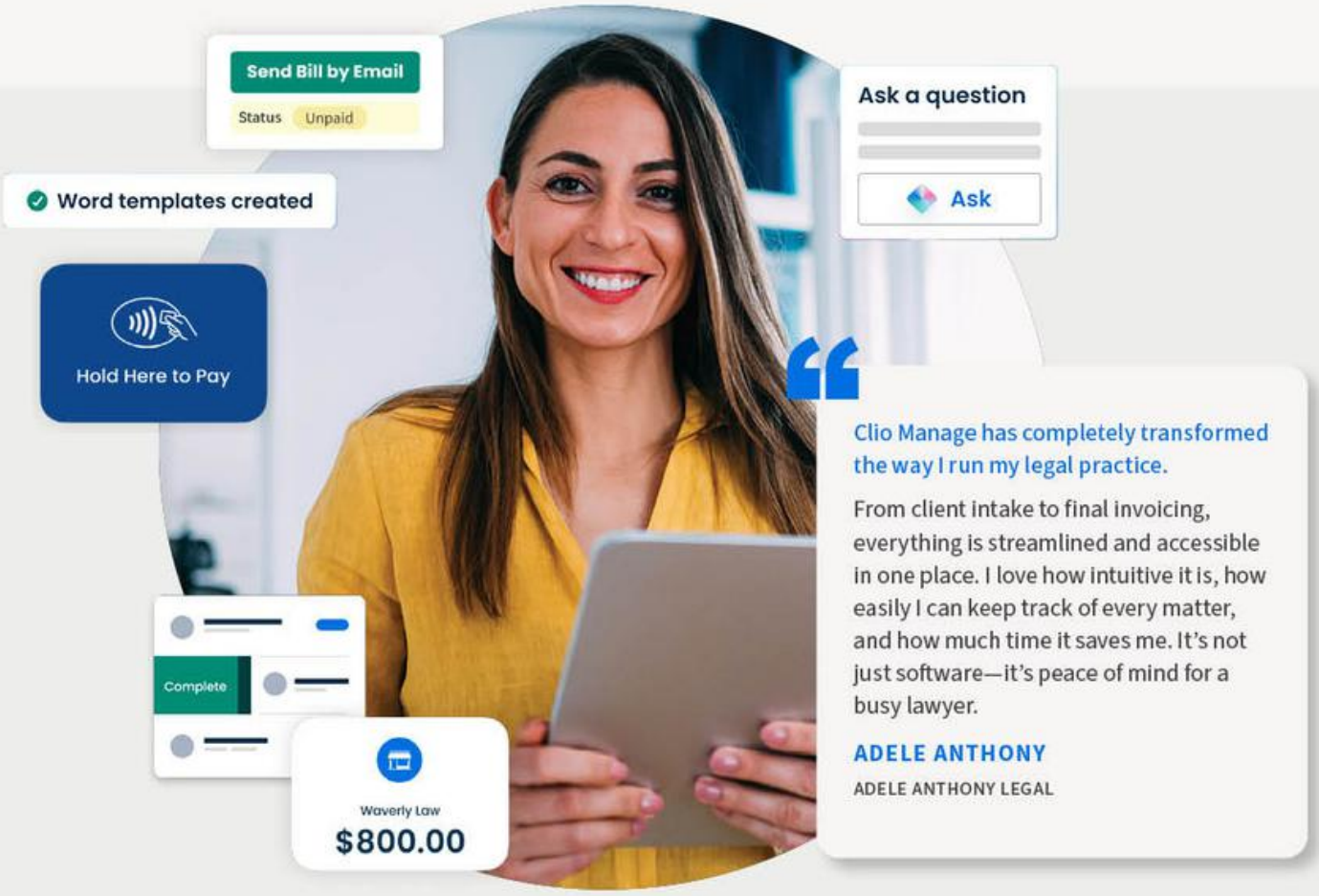
Recently, she received an email from a family lawyer colleague which said, "I'm genuinely inspired. It's empowering to see a woman of Asian heritage excel so remarkably in her career." While Dora is extremely touched by those kind words, she longs to see a day where one's achievements need not be distinguished due to that person's gender or racial background.

Meet Dora and hear her story at

DISRUPTING TRADITION
Innovative Strategies in Family & Estates Law

Future proof your firm with Clio

More than just software. Simplify and centralise your case management with Clio. Get access to no lock in contracts, an all cloud-based solution, best-in-class security, 24/5 customer support, integrations with your favourite apps and tools and trust accounting certified software.



THE LAW SOCIETY OF NEW SOUTH WALES

Clio Trust Accounting: Law Society Certified

Scan to book a free demo or chat to us today!
Visit clio.com/au | sales.apac@clio.com
(+61) 1-800-122-546

Clio

DISRUPTING TRADITIONS

Redefining the Narrative of Law for People, Purpose and Progress

Written by Amanda Little

For centuries, the legal profession has prided itself on structure, process and tradition.

But as the world around us changes - families, workplaces, communities, even the concept of justice itself; the question is no longer whether the law will evolve. It's whether we will.

In March 2026, the legal and interdisciplinary professions across Australia and NZ will converge at ICC Sydney for **Disrupting Tradition: Innovative Strategies in Family & Estates Law, hosted by the Family Law Education Network (FLEN) and co-hosted by JustFund.**

It's more than a conference — it's a movement. A gathering of the country's greatest legal minds, innovators, and visionaries to ask: ***What does it mean to practise law in service of people, not process?***

FAMILY LAW EDUCATION NETWORK

JustFund

The Age of Connection

The modern lawyer can no longer act in isolation.

The families, clients, and communities we serve exist within complex systems, financial, emotional, cultural, and digital. To truly assist them, we must understand that law is not separate from society. It's part of it.

Family and estates practitioners, in particular, operate at the intersection of human experience and legal structure. The issues we manage like relationship breakdowns, loss, wealth transfer, family violence, and generational transition, are deeply human stories. To navigate them effectively, we must acknowledge the wider context, working alongside psychologists, counsellors, mediators, financial advisers, and social workers to achieve truly holistic outcomes.

It is my belief that every legal issue is part of a wider social story and the future of law depends on our ability to connect disciplines, to look beyond our own lens, and to remember that what we do impacts people - not just process.

This is the essence of Disrupting Traditions, a movement that reimagines personal-services law not as a transactional profession, but as a transformational one.

Changing the Narrative

For too long, law has been reactive. We enter the picture when things break down, marriages, estates, relationships, systems.

But what if we could shift that narrative from conflict to prevention, from adversarial to collaborative? from burnout to balance?

Disrupting Tradition calls upon lawyers to see themselves as agents of positive change - custodians of stability, clarity, and compassion.

Across its four integrated streams, Family Law, Wills & Estates, Collaborative & Kindness in Law, and Business & Personal Development — the conference explores how we can rebuild our practices and systems to be more connected, collaborative, and client-centred.

"True disruption isn't about tearing things down; it's about re-imagining them. We're challenging the systems that no longer serve us, and replacing them with ones that make the profession — and society — healthier, smarter and more sustainable."

"Law doesn't exist in isolation — it lives within the stories, systems, and communities we serve."

Photography taken at the Family Law Education Network Event in 2024

A Gathering Like No Other

There has never been a conference like this. For the first time in Australian history, we have gathered Australia's leading thought-makers across family law, estates, collaboration, and kindness in practice - under one roof, supported by the nation's peak professional bodies including **AACP**, **CPSNW**, **CPQ** and **STEP Australia**.

Delegates will be moved by the personal, touching, and deeply inspiring storytellers **Brintyn Smith** and **Colin Jowell**, whose words will make you pause and ponder your own humanity and purpose. You'll hear the interwoven stories of lawyers who have chosen values-driven career paths, rejecting the old metrics of billables and prestige for purpose and meaning in the first of its kind interactive performance.

Be challenged and invigorated by leading innovators and disruptors including **Tara Lucke**, **Clarissa Rayward**, **James D'Apice**, **Zinta Harris** and **Perpetua Kish.** The professionals who are redefining what leadership looks like in modern practice.

Connect with **Dave Kramer** from **Small Steps 4 Hannah**, the conference's official charity partner, and reflect on how compassion, advocacy, and action must continue to inform the work we do every day.

Engage in meaningful debates, panels and discussions including leading minds across all areas of law.

Then, deepen your technical skills and strategic insight, through the practical sessions led by our industry thought leaders including their honours **Deputy Chief Justice McClelland, Justice Altobelli, Justice Benjamin, Justice Needham, Justice Hallen, and Justice Kunc**, and business and thought leaders.

Together, these voices create a tapestry of insight and inspiration that challenges every lawyer to look inward and forward.

"These speakers aren't just talking about change. They're living it. They're proof that when we collaborate across disciplines, the impact radiates beyond our firms - into families, communities, and even policy."

FAMILY LAW EDUCATION NETWORK JustFund8

A Profession in Evolution

The shift toward a connected model of practice is already underway. Across Australia, lawyers are working with allied professionals to design holistic client journeys — integrating mental-health support, financial planning, and post-separation counselling into traditional legal pathways.

The rise of collaborative practice and interdisciplinary dispute resolution is not a threat to the legal profession; it's its next evolution.

In the Business & Personal Development stream, industry leaders will explore how law firms can thrive in this new landscape — building cultures of ethical profitability, embracing technology responsibly, and redefining success around wellbeing as well as revenue.

As one speaker succinctly puts it:

"It's no longer about billable hours. It's about meaningful impact."

Disrupting for Good

Disruption often conjures images of chaos, of systems breaking. But at its best, disruption is an act of care - a courageous step towards something better.

Disrupting Tradition is not about abandoning the past; it's about honouring it by evolving it. It is about equipping practitioners with the insight, courage and community needed to practice differently, for themselves, for their clients, and for the next generation of lawyers.

It is my thoughts that if the law is to serve people, it must first understand them. And if lawyers are to lead change, they must first be willing to change themselves. That's what this conference and this movement is all about.

Because when lawyers disrupt with purpose, society benefits. Families heal faster. Estates are planned with foresight, not fear. Justice becomes more accessible. And the profession, once seen as rigid, becomes a catalyst for renewal.

Join the movement and be part of the future of law

Community as a Catalyst

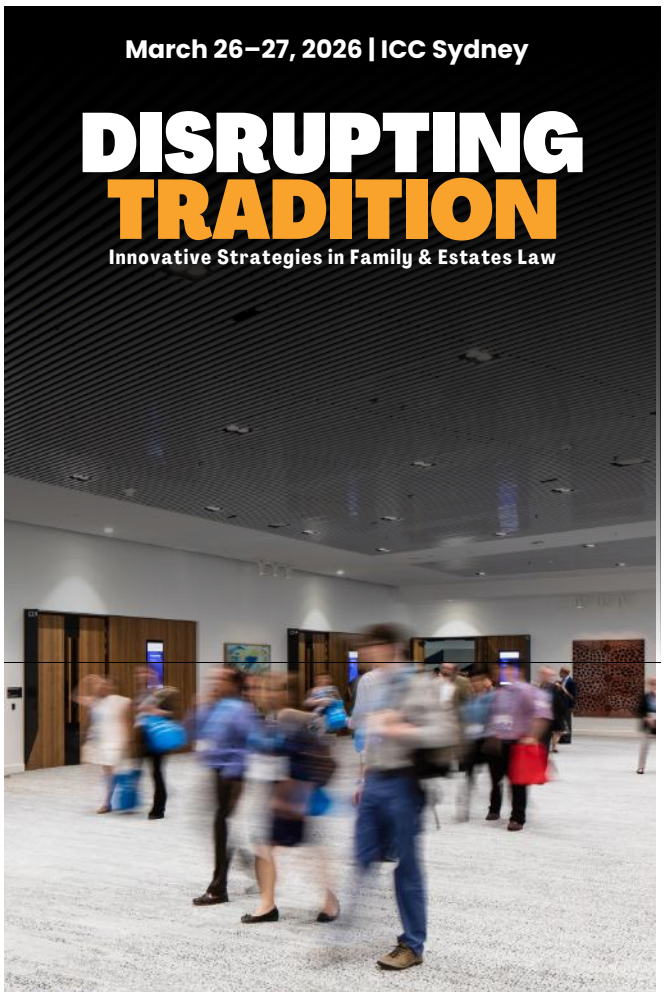
At the heart of Disrupting Tradition lies a simple but radical idea: community is the most powerful driver of professional transformation.

FLEN's mission has always been to create spaces where learning and leadership meet humanity. Whether through its 3,500-strong membership base, its FamMastery mentorship program, or its industry-leading precedent platform FamDraft, FLEN continues to prove that connection breeds quality — in practice, performance and purpose.

With the support our our major Partners and cohost Justfund our dream is becoming a reality.

The conference itself reflects this ethos in every detail. From the Paths Less Taken session a TED-style exploration of personal stories from lawyers who have redefined their paths — to practical workshops on case strategy, mediation, and leadership, the event blends inspiration with implementation.

It's a reminder that we are more than practitioners of law. We are participants in progress.




Photography provided by The Law People

FROM DRIP TO DELUGE

Are the Floodgates Open?

Written by Skye Trevanion

THELAWPEOPLE

"It is important to consider the 'floodgates' argument. That is, these principles, which should only apply to exceptional cases, may become common coinage in property cases and be used inappropriately as tactical weapons or for personal attacks and so return this Court to fault and misconduct principles in property matters."

Photography provided by The Law People

In 1997, the majority judgment in Kennon accepted that there are some property matters in which a consideration of the consequences of domestic and family violence is necessary. At the same time however, the Court expressed a concern that the application of such a principle to cases which are not exceptional would open the Court to misuse by litigants.

With the introduction of the Family Law Amendment Act 2024 on 10 June 2024, it is now mandated that domestic and family violence will be required to be considered in all property settlement disputes.

The Family Law Amendment Act 2024 has introduced the following considerations:

1. at Section 79(4)(ca), "the effect of any family violence, to which one party to the marriage has subjected or exposed the other party, on the ability of the party to the marriage to make the kind of contributions referred to in paragraphs (a), (b) and (c); and

2. at Section 79(4)(5)(a), "the effect of any family violence, to which one party to the marriage has subjected or exposed the other party, on the current and future circumstances of the other party…"

These amendments have been necessitated by welcome societal trends and rhetoric surrounding domestic and family violence, and in particular, the impact of victims and their children in post-separation circumstances. Parties who have been subject to domestic violence in intimate partner relationships are often significantly disadvantaged when it comes to the division of matrimonial assets upon marriage or de facto relationship breakdown. This is due to a number of factors, including the significant power imbalance and the characteristically unilateral control of funds by the perpetrating partner. Further, a fear for personal safety and the involvement of children often serves to discourage pursuit of financial entitlement.

However, the Court has had a rather long and complicated history reconciling domestic and family violence with the practical realities of the breakdown of relationships, including complicated dynamics between parties and the appropriate utilisation of limited Court resources.

"Family violence is no longer an exception — it's now a mandated consideration in every property settlement."

[1] Kennon & Kennon (1997) Fam LR 1, 24.

Until 1975, it was necessary to find "matrimonial fault" for the Court to be able to grant a dissolution of a marriage. In 1958, the Matrimonial Causes Act extended the grounds of divorce to adultery, cruelty, desertion and incurable insanity. The proving of these quasi-offences often required a party to engage in incredulous and undignified investigations, hindering the role of the Courts in providing just and expeditious outcomes. It was unanimous that reform of the law surrounding marriage and divorce was necessary with the introduction of the Family Law Act 1975 (Cth) (FLA).

The Family Law Act 1975 (Cth) (FLA) first introduced the concept of the "no fault divorce". As a result, parties were no longer required to prove a fault for a dissolution of their marriage.

The only acknowledgement of domestic and family violence in the nascent FLA was an injunctive provision to exclude a spouse from the matrimonial home. This was an intentional move on behalf of the Parliament at the time, with the then Attorney General Lionel Murphy stating in the Second Reading Speech of the Family Law Bill:

"I have given a great deal of thought as to whether there should be another ground to meet the cases where the husband repeatedly comes home from work drunk and beats up his wife and terrifies the children, if not beating them as well. The marriage may well become intolerable for the wife, and yet she cannot physically separate from her husband because there is no-where she can go... however intolerable conduct would of necessity contain an element of fault, and there would have to be an inquiry to satisfy that the respondents conduct was intolerable. This is what we are trying to avoid."

One year after the introduction of the FLA, the Court heard the matter of Soblusky.[1]Soblusky involved a determination of whether Section 75(2)(o) of the Act allowed the Court to consider the conduct of the parties (including allegations of family violence) in determining an application for spousal maintenance. In determining that conduct of the parties is not relevant to Section 75(2)(o), the Court stated "the fact that in the Family Law Act 1975 there is no express reference to 'conduct' of the parties as being a relevant circumstance is striking feature which cannot be ignored".

[1] In the marriage of Soblusky (1976) FLC 90-124

With the "no fault" reform, the Court struggled with the relevance of domestic violence in family law matters more generally, and tended to approach it by seeking to ignore it entirely. In 2010, the Honourable John Fogarty spoke to this stating:

"*I think the very strong determination was to cut away from the harsh moralistic style of the Matrimonial Causes Act era, and try and model yourself on people who were more dignified. It probably went a bit far in that fault seemed to disappear altogether. This was something that wasn't recognised at the time. You just simply couldn't have it in any case, in children's cases, in property cases, fault being raised at all. Looking back, it was a complete misunderstanding, but an almost universally held misunderstanding*".[1]

This jurisprudence wholly infiltrated family law discourse until Kennon in 1997.

In Kennon, Fogarty and Lindenmayer JJ held that the Court is entitled to take family violence into account in considering the Section 79 contribution factors where:

"*There is a course of violent conduct by one party towards the other during the marriage which is demonstrated to have had a significant adverse impact upon that party's contributions to the marriage, or, put the other way, to have made his or her contributions significantly more arduous than they ought to have been*".

Although promising, the reality has been that the application of the Kennon principle has been rarely successful and practitioners have encountered problems with the correct application of the "two limbs" formulae.

[1] In the marriage of Soblusky (1976) FLC 90-124
[1] Australian Law Reform Commission, Family Violence: A National Legal Response, Final Report No 114 (2010) 164.

"Family violence is no longer something the Court can ignore — its impact on contributions and circumstances must now be properly considered."

In the 2009 decision of Kozovska & Kozovski[1], Altobelli J made an adjustment in favour of the Wife under the Kennon principle but made reservations about the principle in practice. He stated:

"*Assessing the extent that the more arduous contribution should be reflected in the property settlement is difficult, and rather arbitrary… My real concern is as to the artificiality of a Kennon type adjustment, whatever the percentage is. Having regard to the nature of the violence suffered by the wife during a long marriage it is clear that neither 10% or any other figure could possibly be characterised as compensatory, because no amount should compensate her for what she experienced at the hands of her husband…. Clearly the adjustment that the Full Court contemplated in in its decision in Kennon was not meant to be compensatory, but more in the nature of perhaps symbolic recognition of the extraordinary efforts of one's spouse in persisting with contributions in the face of enormous and unjustified adversity. One cannot help but think that much greater thought needs to be given to the very rationale of a Kennon type adjustment, and whether there might be a better, more transparent and fairer method for dealing with issues of conduct in the course of financial matters in the Family Law Courts.*"

It is yet to be seen whether the introduction of the Family Law Amendment Act 2024 is the answer. It is suggested however, that practitioners must give serious and genuine consideration to the application of the amendments in day-to-day practice. Instructions must be taken carefully to ensure that there is a clear connection between conduct and consequence, and matters of family violence should not be raised in a property settlement dispute if there is not.

Equally, practitioners should ensure that any allegations raised actually constitute acts family violence. Even prior to the introduction of the Family Law Amendment Act 2024, the Court has been required to make determinations between parties as to what conduct does, or does not, constitute family violence. The recent matter of Pickford[1](although in the context of a parenting dispute) provides significant guidance in this regard.

If it is the case that the amendments are simply a codification of the Kennon principle, then practitioners should ensure that such considerations remain reserved for the "exceptional" cases where a spouse has persisted with contributions (or been unable to do so) in the face of "enormous and unjustified adversity".

[1] Kozovska & Kozovski [2009] FMCAfam 1014.

Photography provided by The Law People

Without doing so, there is a significant risk that the already limited resources of the Court will be spent adjudicating personal disputes between parties, which have little to no impact on the overall property settlement outcome (but likely a very significant impact on any potential future co-parenting relationship, where children are also involved).

Taking from the England and Wales Court of Appeal, as quoted by McLelland DCJ in Pickford:

"*Few relationships lack instances of bad behaviour on the part of one or both parties at some time and it is a rare family case that does not contain complaints by one party against the other, and often complaints are made by both. Yet not all such behaviour will amount to 'domestic abuse', where 'coercive behaviour' is defined as behaviour that is 'used to harm, punish, or frighten the victim...' and 'controlling behaviour' as behaviour 'designed to make a person subordinate...' In cases where the alleged behaviour does not have this character it is likely to be unnecessary and disproportionate for detailed findings of fact to be made about the complaints; indeed, in such cases it will not be in the interests of the child or of justice for the court to allow itself to become another battleground for adult conflict.*"

Pickford & Pickford [2024] FedCFamC1A 249

By ensuring that these amendments are approached carefully and with thoughtful consideration, we can ensure that the challenging matters that do require such determinations remain focused and properly dealt with.


Photography provided by The Law People

COLLEGE OF LAW

WHERE'S NEXT?

FAMILY DISPUTE RESOLUTION PRACTICE

Combine mediation with empathy to help families reach their own agreements. And where possible – give a voice to children so they can shape their own future.

Find your pathway to becoming an accredited FDRP:

Graduate Diploma of Family Dispute Resolution Practice

- Complete 5 core subjects to sharpen your skills in family and mediation matters

Master of Laws (Applied Law) majoring in Family Dispute Resolution Practice

- Deepen your expertise with 5 core subjects
- Plus 3 elective subjects or a second major in a practice area such as Family Law

Why choose the College Of Law?

1. Courses are developed and led by leading practitioners
2. Flexibility to study around work – 100% online
3. Practical strategies you can apply immediately
4. Pathway to national accreditation as an FDRP

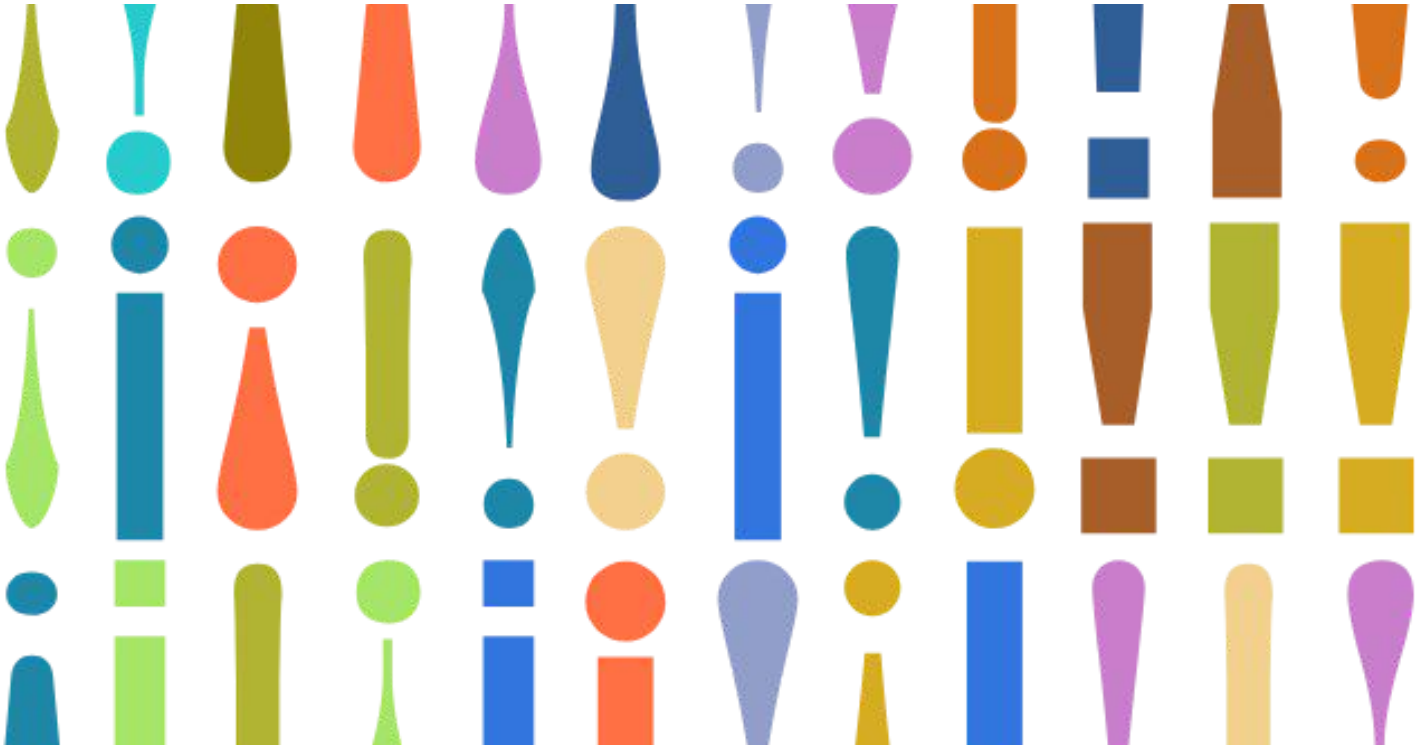
INTAKE 1 STARTS 9 FEBRUARY 2026

Find out more →

Photography provided by Tika

TIKA

A New Zealand Start up empowering Survivors to Seek Justice through collective action



Written by Victoria Moss, based on an interview with Zoë Lawton & Alison Mau of Tika

Tika: A New Zealand Start up empowering Survivors to Seek Justice through collective action

Sexual harm remains one of the most under-reported crimes in New Zealand, with police and Ministry of Justice figures indicating that only 7% of sexual assaults are reported. Despite years of awareness-raising efforts and brave survivor stories, the barriers to reporting and seeking justice remain significant. Recognising this gap, former investigative journalist **Alison Mau** and barrister **Zoe Lawton** co-founded Tika—a groundbreaking platform designed to empower survivors and remove the barriers preventing them from seeking justice.

The Realisation Behind Tika

Tika was born from the shared experiences of its founders in the fields of law and investigative journalism. Alison had spent many years leading a major project for New Zealand's largest news organisation, investigating sexual harassment and sharing survivor stories. Zoe, as a barrister, had worked extensively within the legal system, advocating for survivors of sexual harm.

"After five exhausting years of raising awareness, Zoe and I realised that despite all that work, the reporting rates for sexual harm remained at just 7%," Alison explains. "We sat down over a coffee and asked ourselves—what's stopping survivors from reporting? Why is justice still out of reach for so many?"

They identified three major barriers:

1. Lack of Information – Survivors often don't know where their experience sits within the law. Many are unsure whether what happened to them is illegal under the Human Rights Act or the Crimes Act.

2. Shame and Self-Blame – Unwarranted feelings of guilt and self-blame prevent survivors from coming forward.

3. Isolation – Many survivors feel like they are the only one, which is often by design. Serial perpetrators deliberately create an environment where survivors feel alone and unsupported.

"We realised that survivors were stuck—not because they didn't want accountability, but because the system wasn't built to support them properly," Alison says.

Building a Survivor-Led Platform

From the outset, Tika was designed to be survivor-led. Alison and Zoe understood that survivors needed a way to report sexual harm and seek support without navigating intimidating or unfamiliar processes.

"Currently, to report sexual harm, you have to walk into a police station or call a police number," Alison says. "And quite often, you're speaking to a uniformed officer who hasn't been trained in trauma-informed care. That alone is enough to stop people from reporting."

TIKA

Tika solves this problem by offering an online reporting system—something that has never existed in New Zealand before. Survivors can log their experience through a secure platform, and the system will automatically check for other reports involving the same named perpetrator.

"For many survivors, having the option to report online rather than face-to-face is a game-changer," Alison says. "Gen Z doesn't want to pick up the phone—they want to do it on their phone."

If a match is found, a group is formed (of three or more), and survivors are then given advice and can vote (independently of one another) on next steps. Importantly, Tika covers all legal representation from start to finish—free of charge.

Survivors who are identified as members of a group, do not meet one another to ensure evidence is preserved, unless they vote to do so.

"It's crucial that survivors have access to legal support without the financial burden," Alison says. "They shouldn't have to choose between justice and their financial security."

Pathways to Justice

Tika offers survivors a range of options once they have reported their experience and a group of three or more has been formed:

1. **Criminal Prosecution**
If survivors choose to pursue criminal charges, Tika connects them with Crown law solicitors who will handle the case.

"Many survivors don't realise that when they give evidence in court, the Crown prosecutor isn't their lawyer—they're just a witness," Alison says. "That's incredibly traumatic for survivors. Tika will ensure they understand the process and have the right support from the start."

2. **Civil Prosecution**
While civil action for sexual harm is still rare in New Zealand, Tika aims to build more case law in this area.

"Over time, we hope to establish more precedent through civil cases, which could open up new pathways for survivors seeking compensation or accountability," Alison explains.

Photography provided by Tika

3. Restorative Justice
For some survivors, particularly within Māori and Pacifica communities, restorative justice is a preferred option. This allows for direct engagement with the perpetrator in a controlled and supportive environment.

4. Mediation
In cases of sexual harassment, survivors may choose to pursue mediation under the Human Rights Act. If mediation fails, the case can be escalated to the Office of Human Rights Procedures (OHRP).

5. No Further Action and meet one another
Tika also recognises that for some survivors, simply being part of a group and knowing they are not alone is enough.

"Sometimes, the most powerful outcome is connection," Alison says. "For some survivors, meeting others who have experienced the same harm can be incredibly healing."

Importantly, survivors are advised along the way as to their options and what each one entails. If a group elects to meet one another, they are advised that further criminal action (For example) at a later stage may be more difficult given allegations of interference with evidence that their meeting each other may bring about.

Providing a Second Chance

One of Tika's most innovative features is its ability to give survivors a second chance at justice.

"I've spoken to hundreds of survivors who were brave enough to report to police, only to be told that their case didn't meet the Solicitor-General's threshold," Alison explains. "That can be devastating after working up the courage to report."

In these cases, police can now refer survivors to Tika. If a match is found with other cases involving the same perpetrator, the survivors have the option to pursue collective action.

"This gives survivors a second opportunity they wouldn't otherwise have," Alison says.

What If There's No Match?

A common concern is what happens if a survivor registers with Tika but no match is found.

"We are structured for collective action," Alison explains. "But if a survivor doesn't find a match, they can choose to take their case to police or withdraw their details at any time."

Tika will also refer survivors to specialist support services, including counselling and trauma support.

"We're not a counselling service ourselves—but we've been welcomed by the sector because they know the legal piece is the missing link," Alison explains. "We'll make sure survivors are connected to the right support."

Scaling and Future Plans

Tika is currently in the beta testing phase, with a full launch expected soon.

"We're almost there," Lison says. "The challenge now is spreading the word and making sure survivors know that Tika exists and that it's free."

The platform is already attracting attention. A similar initiative in Australia saw thousands of people sign up within weeks.

"We know there's a demand," Alison says. "We're preparing for significant uptake once we go live."

A Game-Changer for Survivors

Tika represents a major shift in how sexual harm cases are handled in New Zealand. By providing a safe, online reporting system, connecting survivors with others who have experienced harm from the same perpetrator, and offering free legal support, Tika removes many of the traditional barriers to justice.

"It's about giving survivors back their power," Alison says. "Justice shouldn't depend on whether you have the money, the right connections, or the emotional strength to walk into a police station. Tika ensures survivors have the support they need to pursue accountability on their own terms."

COMPLIANCE, CERTAINTY AND QUALITY

How consistent delivery of high quality content is key to law firms success

Written by Karina Sultana

In an industry where precision and compliance are non-negotiable, FamDraft has emerged as a game-changer for Australian family lawyers.

Designed by the Family Law Education Network (FLEN), this all-inclusive membership delivers the ultimate suite of family law precedents, workflows, and checklists — empowering firms to achieve consistency, compliance, and quality in every matter.

At its core, FamDraft is more than a collection of documents; it's a strategic practice solution built by family lawyers, for family lawyers. It represents a quiet revolution in how legal professionals deliver services — reducing risk, boosting efficiency, and restoring balance to the demanding rhythm of legal practice.

Compliance and Confidence – Built In

Each precedent within FamDraft is drafted and maintained in accordance with the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 and relevant Central Practice Directions. This means members can rely on every clause, order, and workflow being fully compliant and up to date — providing certainty and peace of mind in a constantly shifting legal landscape.

By centralising compliance at the drafting stage, firms not only minimise errors and omissions but also enhance their reputation for accuracy, professionalism, and excellence.

Consistency Drives Quality

FamDraft ensures consistency across every level of a law firm's practice — from junior solicitors to senior partners.

Its Master Checklist operates as both a workflow guide and a quality-control mechanism, outlining the critical steps, filings, and documents required at each stage of a matter.

This structure eliminates the chaos that often accompanies high-volume or complex caseloads. It reduces duplicated effort, streamlines supervision, and ensures every client receives the same high-quality, compliant legal service — no matter who's running the file.

As Amanda Little, CEO of FLENA, describes it, "*Being a lawyer often feels like riding a bike while on fire — and the ground's on fire too. FamDraft is about putting the flames out. It brings order, structure, and sanity back to practice.*"

"FamDraft has transformed how firms manage their time. By removing the duplication and guesswork, we've seen practitioners reclaim hours every week — and convert them into growth, profitability, and breathing space."

Amanda Little

Smarter Drafting for a Smarter Profession

The jewel in the FamDraft crown is its interactive Orders Suite — a meticulously developed library of children and property orders that can be customised to fit the precise circumstances of any matter. These aren't static templates; they're dynamic, logic-based precedents designed to save time, reduce risk, and increase billable efficiency.

Members consistently report how FamDraft's Orders Suite and bespoke drafting services have reduced repetition, improved turnaround times, and provided mental clarity.

With everything at their fingertips, lawyers can produce court-ready documents faster and more confidently than ever before.

Driving Profitability and Work-Life Balance

By integrating FamDraft into their daily practice, firms are experiencing more than operational efficiency — they're seeing growth in profitability, improved staff retention, and healthier work-life balance.

With workflows and precedents doing the heavy lifting, practitioners can allocate their time where it matters most: client strategy, business development, and personal wellbeing.

For many, FamDraft has become the key to transforming their practice from reactive to proactive — and their workday from chaotic to controlled.

More Than Precedents – A Community of Mastery

Every FamDraft membership includes access to LawCademy, FLEN's continuing legal education platform, and FamMastery, an exclusive professional community dedicated to deep practice development and mentorship.

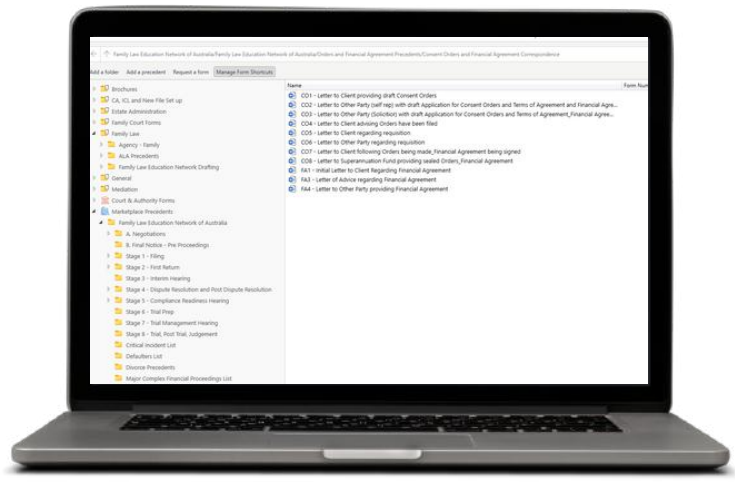
Together, these programs ensure members don't just have access to the tools of great lawyering — they're supported in the ongoing mastery of their craft. It's this blend of education, resources, and community that makes FamDraft not just a precedent suite, but a practice evolution.

"FamDraft is proof that innovation in law doesn't have to mean losing the human element. It's technology that serves the practitioner — not the other way around."

Changing the Way Family Lawyers Practice

FamDraft is reshaping the future of family law — a future where compliance is seamless, quality is standard, and lawyers can truly thrive.

As new suites continue to roll out and existing ones are updated in real time, one thing remains certain: FamDraft isn't just improving how family law is practised — it's redefining what's possible for the profession itself.



BRIDGING LAW, PSYCHOLOGY AND TECHNOLOGY

The Co Parenting Institute's Vision for Families

Photography provided by
The Co-parenting Institute

The
Co-parenting
Institute

Written by Victoria Moss, based on an interview with Lisanne Iriks & Sharyn Green-Arndt

When mediator Lisanne Iriks and child expert Sharyn Green-Arndt first crossed paths at a family law conference, neither imagined they would go on to create an institute, a national program, and eventually a parenting app. Yet their partnership has become one of the most innovative collaborations in the family law landscape.

Together, through The Co Parenting Institute and their "CoOperate" app, Lisanne and Sharyn have developed practical, psychology-informed tools that support separated families to reduce conflict, improve communication, and protect children from the fallout of entrenched disputes. Their dual expertise – Lisanne's in mediation and negotiation, Sharyn's in child psychology and family therapy – offers family our profession unique insights into how to approach high-conflict cases and support clients through separation.

Two Journeys Converge

Lisanne's path began in law. Originally from the Netherlands, she studied a Masters in Law but quickly realised traditional practice was not her calling. Drawn to people-focused work, she retrained in counselling and discovered mediation. Sixteen years on, she has mediated hundreds of disputes, often involving high-conflict separated parents. Her reflections from countless clients – "If I'd had more help at the beginning, I wouldn't be here now" – planted the seeds for early intervention programs.

Sharyn, by contrast, has been a psychologist in Perth for more than three decades, specialising in child therapy within family law cases. Early in her career, she was drawn into complex family court matters and quickly became a sought-after expert witness and therapist. But with books permanently closed and demand far exceeding capacity, she began searching for scalable ways to help more families. "For every client I could see, I'd get 100 enquiries from lawyers," she recalls.

It was the meeting of Lisanne's mediation lens and Sharyn's child-focused expertise that created a turning point – quite literally, the name of their first joint program.

The Turning Point Program

Their flagship course, Turning Point, is a six-week hybrid program combining pre-recorded education modules, practical workbooks, and assessment quizzes. Participants have the opportunity to ask questions via a private link and they will receive an answer via video message. It is accessible to separating parents voluntarily, via lawyer referral, or by court order.

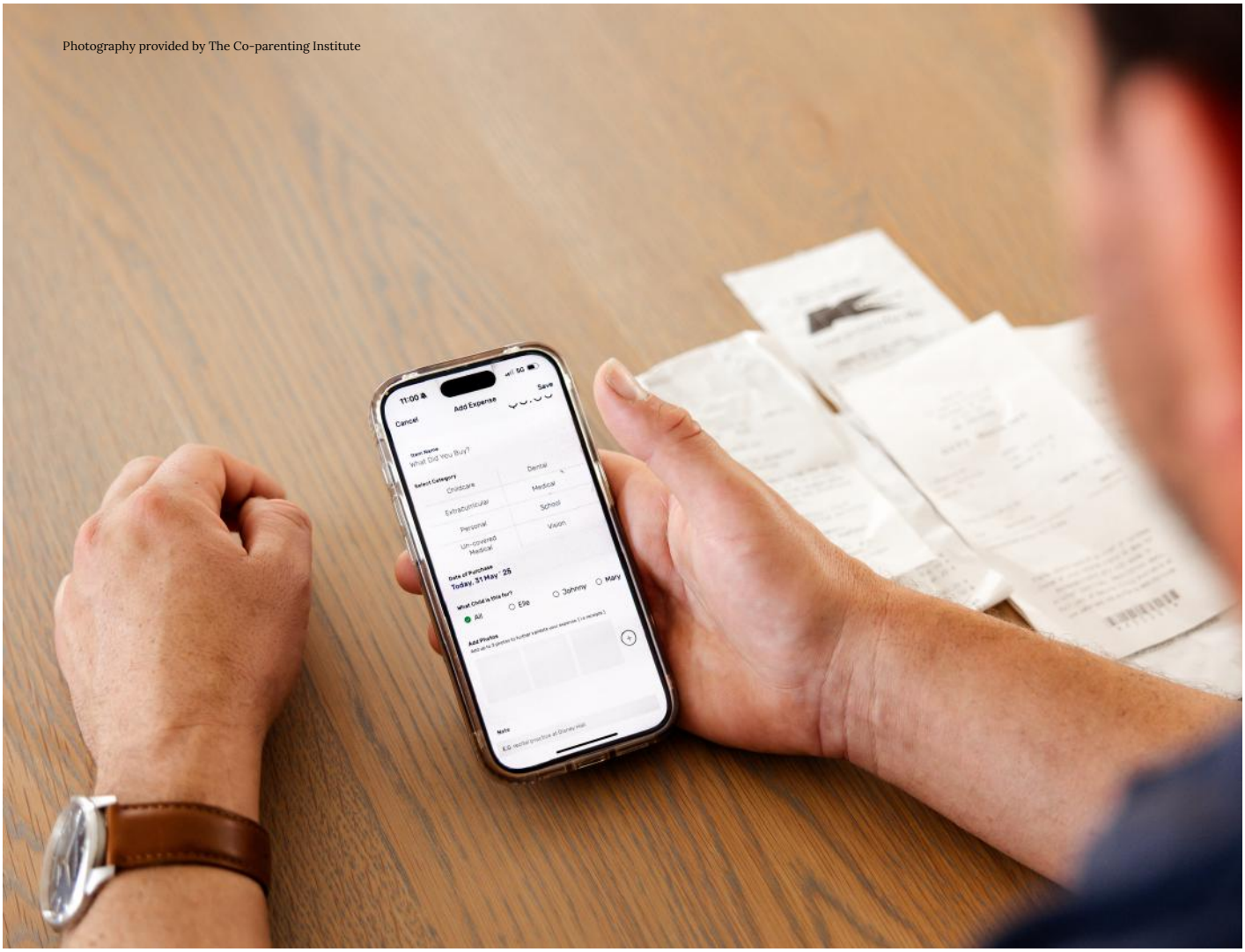
The content covers co-parenting communication, conflict resolution, negotiation strategies, parenting after separation, indirect conflict awareness, and the practical realities of court and mediation. Importantly, sessions are designed for both parents, but never in the same group.

While initially aimed at parents early in their separation journey, the program has also been embraced by courts for entrenched matters. This has led to additional modules on alienating behaviours, personality disorders, and managing high-conflict dynamics.

The team of experts involved in the program is steadily growing and in addition to Lisanne and Sharyn, now includes Dr Phil Watts (Forensic Psychologist), Professor Bruce Smyth (who addresses transitions), Anne Marie Cade (who assists with parenting coordination) and Vicky Pellowe (assisting with how FIFO families can manage challenges). Lisanne and Sharyn explain that they continue to add to their excellent panel of experts to ensure that course participants have access to the best people to assist them through the program.

Feedback has been overwhelmingly positive. Although court-ordered participants may arrive reluctant, Sharyn notes: "Week one they're grumpy, but by week two they engage. By the end, they're saying, I wish I'd known this 18 months ago."

"When law and psychology work together, families don't just separate — they heal."



The Role of Technology – The CoOperate App

Recognising that communication is often the flashpoint in co-parenting, Lisanne and Sharyn turned to technology. They trialled multiple co-parenting apps worldwide, but found them either clunky, poorly supported, or non-compliant with Australian privacy laws. So, against their own expectations, they built their own: the CoOperate app.

The app consolidates all parenting communication in one secure channel. Features such as read receipts, uneditable messages, and secure data storage provide both clarity and safety. Crucially, responsive customer support is part of their service – a rarity in the tech world but vital in family law contexts where non-communication can mean missed time with children.

For lawyers, the app offers practical reassurance. Communication is streamlined, disputes over "who said what" are reduced, and the client's anxiety around constant phone pings is alleviated.

Insights for Family Lawyers

Drawing on their collective experience, Lisanne and Sharyn share practical takeaways for family lawyers navigating high-conflict parenting cases:

1. Shift from Combat to Collaboration – Lawyers should reframe their role in mediation: fight for the family, not just the client.
2. Educate Clients Early – Early referrals to programs can reduce conflict and prevent entrenched litigation.
3. Recognise the Power of Small Shifts – Even if only one parent changes their behaviour, it improves outcomes for children.
4. Be Mindful of Indirect Conflict – Highlight the impact of background conflict on children, not just overt fights.
5. Mind Your Letters and Language – Aggressive correspondence often escalates conflict unnecessarily.
6. Know When to Step Back – If triggered, take a break. Neutrality from practitioners often sets the tone for clients.

Photography provided by The Co-parenting Institute

Photography provided by The Co-parenting Institute

Building a Movement, Not Just a Business

The Co Parenting Institute is more than a service provider; Lisanne and Sharyn see it as a movement. By equipping parents with tools to manage conflict, they aim to break cycles of trauma and protect children's mental health long term.

Their work has been recognised nationally, with nominations for ADR Project of the Year. But beyond accolades, what excites them most is seeing parents soften, children thrive, and lawyers find relief in having practical, trusted tools to recommend.

The Takeaway for Practitioners

For family lawyers, the lessons are clear:

- Early, holistic intervention is more effective than late-stage litigation.
- Tools like Turning Point and CoOperate can complement legal strategy, easing lawyer workload and improving client outcomes.
- A shift in mindset – from adversarial combat to collaborative problem-solving – better serves families, children, and the profession itself.

As Lisanne reflects, "Agreements make a huge difference. But if someone wants to fight, they'll fight. Our role is to give parents the tools to stop that cycle."

And as Sharyn adds: "Even if you can't change your ex, you can change yourself – and that changes everything for your kids."

LEAP Family Law

The all-in-one software solution for Australian family lawyers

Family law is complex - your software shouldn't be. LEAP cuts repetitive drafting, research and admin, so you can focus on your clients.

- Smart balance sheet
- Intelligent parenting arrangements
- Effortless financial disclosure
- AI legal research
- Matter AI chat interface

Unlock our **end-of-year incentives** by requesting a no-obligation demonstration today.

Photography provided by Angela Harbinson

FROM IDEA TO IMPACT

How One Female Founder Is Changing Separation Forever

Written by Victoria Moss, based on an interview with Angela Harbinson

Angela Harbinson is the founder and CEO of The Separation Guide, an independent platform that helps Australians navigate the legal, financial, and emotional aspects of separation. With a background in strategic marketing and leadership, she launched the platform in 2019 to provide clarity, connect people with trusted professionals, and reduce conflict during one of life's most challenging transitions.

When Angela Harbinson speaks about her work, there's a calm confidence in her voice — the kind that comes from years of navigating complex situations and leading people through change. As the founder and CEO of The Separation Guide, she has built a platform designed to guide Australians through one of life's most challenging transitions: the breakdown of a relationship.

Her story is not one of overnight success, but of steady evolution. From her early career in marketing and the corporate sector to leading a business that sits at the intersection of technology, law, and human experience, Angela's journey offers a blueprint for what modern female leadership can look like — authentic, strategic, and deeply empathetic.

From Corporate Life to Founding a Platform

Angela's early professional years were shaped by her work in strategic marketing and leadership roles. Yet, the spark that would lead to The Separation Guide came later, when she recognised a glaring gap in how Australians navigated the legal, financial, and emotional aspects of separation.

"I realised that most people didn't know where to start," she said. "They didn't know what to expect from the process, what it would cost, how long it would take, or even what their options were."

The traditional pathways were fragmented. People were often pushed into the legal system without a clear understanding of alternative resolutions. Angela wanted to change that — to create a single point of entry that offered clarity, connection to the right professionals, and support that extended beyond legal advice.

The Separation Guide: A Bridge Across the Gap

Launched in 2019, The Separation Guide was Angela's answer to that problem. "We're an independent platform that helps people navigate separation by giving them tailored information, connecting them to trusted professionals, and supporting them through the journey," she explained.

The platform works by asking users a series of questions about their circumstances. Based on the answers, it provides personalised guidance and connects them with a network of vetted mediators, lawyers, counsellors, and financial advisors.

"Our goal is to make sure people get the right advice at the right time," Angela said. "Too many people start with a lawyer when mediation or counselling might be a better first step. We help them make informed decisions about what comes next."

She has seen firsthand the impact of this approach. "We've had people tell us they avoided going to court altogether because they understood their options early on. That's life-changing — financially and emotionally."

Angela Harbinson with Jenny Rudd from Dispute Buddy

Leading as a Female Founder and CEO

As a woman leading a tech-enabled business in a traditionally male-dominated legal landscape, Angela is aware of both the challenges and opportunities that come with her role.

“One of the biggest lessons I’ve learned is to back yourself,” she said. “There will always be people who doubt you — sometimes they’re external, sometimes they’re in your own head. But if you believe in what you’re building, you have to keep going.”

Her leadership style blends strategic vision with empathy. “I think being a female leader gives me a certain perspective — I’m not afraid to bring humanity into the business conversation,” she said. “That’s important when your work is about helping people through something as personal as separation.”

Advice for Aspiring Founders

Angela’s advice to other women considering entrepreneurship is refreshingly straightforward: “Start with a problem you really care about solving. It’s hard work, and there will be challenges, so you need that passion to sustain you.”

She also encourages founders to build a strong network. “Surround yourself with people who get it — whether that’s other business owners, mentors, or advisors. You don’t have to do it alone.”

On the practical side, she recommends early focus on sustainability. “Have a clear business model from the start. Make sure what you’re building can actually sustain itself and grow.”

Photography provided by Angela Harbinson

Impact Beyond Business

While The Separation Guide is a business, Angela sees its work as fundamentally about social impact. “We’re reducing conflict, reducing costs, and reducing stress for families,” she said. “That has a ripple effect on the community.”

She’s particularly proud of the platform’s reach into regional and rural areas. “Not everyone has easy access to legal or mediation services locally. Being able to connect people with the right help, no matter where they are, is huge.”

Looking Ahead

Angela is focused on expanding the platform’s reach and deepening its network of professionals. “We’re continuing to grow our partnerships and improve the technology so that we can help more people, more efficiently,” she said.

Her vision for the future is clear: “I’d like The Separation Guide to be the go-to resource for anyone in Australia going through separation. If we can help people feel more in control and less alone, then we’ve done our job.”


Photography provided by Angela Harbinson


Photography provided by Angela Harbinson


FirmEdge
FAMILY LAW FIRM ACCELERATION
FAMILY LAW
EDUCATION NETWORK
FirmEdge
Less stress. More strategy.
Build a law firm that works for you.
Join FirmEdge
www.familylawedu.com.au

LawCademy

FAMILY LAW
EDUCATION EXCELLENCE

LawCademy redefines professional learning for family law practitioners.

Whether you are new to the profession or refining your expertise, **LawCademy** gives you access to:

- Monthly case summaries
- On-demand CLE webinars
- Mandatory CPD bundle
- Exclusive member discounts
- Access to expert resources
- Nationwide professional network

Join LawCademy today and take the guesswork out of CPD. Gain immediate access to trusted CLE content, real-world insights, and a community of Family Law professionals shaping the future of the profession.

www.familylawedu.com.au


Photography provided by Kate Greenwood

WHEN LAW MEETS INNOVATION

Kate Greenwood's Career Shift

Written by Victoria Moss, based on an interview with Kate Greenwood

Kate Greenwood - National Director – Innovation & Communication, Family & Relationship Law, Lander & Rogers

Kate joined Lander & Rogers in 2012 as a family lawyer, practising across all areas of family law for six years. Today, she leads innovation and communication for the Family & Relationship Law team, pioneering process improvements and collaborating with technology providers and designers to streamline service delivery. She also plays a key role in communicating the practice group's strategy, ensuring clarity, alignment, and engagement across teams.

When Kate Greenwood decided she no longer wanted to practise family law, she didn't leave Lander & Rogers. The firm encouraged her to embark on a new role, where she now leads innovation and communication for Australia's largest Family & Relationship Law team.

That bold move shifted Kate's trajectory—from courtroom negotiations to collaborating with technologists and designers. She now sits at a unique intersection, blending legal expertise with process improvement and digital transformation.

A Role Reinvented from Within

Joining the firm's leadership function wasn't about leaving one environment to join another—it was about reinventing the one she was already part of.
"It was a big transition, moving away from the black-letter law into something where your fellow lawyers are actually your clients."

Kate knew the firm's rhythm and culture intimately. That institutional familiarity became her strength in a role defined not by legal precedent, but by creative problem-solving.

Innovation in Practice: Building Better Client Journeys

In her new capacity, Kate's focus lies in streamlining and modernising how legal services are delivered—especially for family clients going through emotionally charged moments.

She now leads innovation for the Family & Relationship Law team, working across technology, design, and service delivery to improve client experiences. Equally important to her is redesigning the team's internal workflows including introducing advanced technologies to ensure working in family law at Landers offers an exciting and engaging experience.

From client onboarding solutions built with Microsoft technology to fixed fee pricing models for family law services, Kate has driven tangible change. She's also played a key role in sponsoring legal tech startups through the firm's LawTech Hub — bringing external innovation into a traditionally conservative space.

Photography provided by Kate Greenwood

Speaking Both Languages: Legal and Technical

Translating between tech and law isn't just metaphorical—it's part of Kate's daily role.

"You have to be able to speak the language of the lawyers but also the language of the technologists. Sometimes you're just the translator between those two worlds."

That translation is crucial not just for project clarity, but for perception—helping legal teams understand what innovation can do, and tech teams appreciate real-world family law challenges.

Introducing change in a large firm requires an understanding of the psychology of lawyers. While we may not like to admit it, scepticism can be a commonly ingrained trait for lawyers, and forcing change doesn't work. Kate emphasizes practical early wins with early adopters:

"*If you can demonstrate a quick win with a sufficient group of lawyers, others will start to see the value. They jump on board. And then it's about keeping that momentum going.*"

These small victories build confidence in new approaches and pave the way for broader adoption.
From Family Law Empathy to Innovation Leadership
Despite moving away from practice, Kate's background remains central to her leadership style.

"In family law, you're dealing with people at some of the most stressful times in their lives," she reflects. You learn to listen, show compassion, and to communicate clearly. Those skills are invaluable when you're trying to guide people through change."
Her experience enables her to champion solutions that are not only functional but emotionally attuned—advancing innovation that genuinely supports families navigating difficult disputes.

Advice for Lawyers Considering a Shift

Kate encourages those in practice to explore different career paths—inside or outside law.

"There's this perception that if you leave practice, you can't come back—and that's not true. Also, the skills you develop as a lawyer are incredibly transferable. If you have a niggle that there might be something else out there for you, don't ignore it. Reach out to lawyers who've had a similar career shift. People love sharing their stories."

She also underscores that innovation isn't a one-shot success—it's iterative.

"You have to be comfortable with not having all the answers straight away. There's a lot of trial and error in innovation."

Looking Ahead: Law Firm Futures

For Kate, the future is one where technology is embedded, not just integrated.

"We're moving towards a future where technology isn't an add-on—it's embedded in how we deliver legal services. Firms that embrace that now will be the ones leading in the years to come."

Kate describes being very aware of technology fatigue and ensuring that innovations she considers are carefully matched to the firm's goals.

"I'm really careful about the tech products we consider because even before AI really got going, I was concerned about innovation fatigue. I have a clear understanding of the group's long-term strategy, and I ensure our innovation decisions align with the group's trajectory We have over 130 people in our Family Law team so there is a real need to focus on those broader team goals."

Leading that shift from within a major firm, Kate describes the work as both a responsibility and a privilege:

"*It's exciting to think about the impact we can have, not just for our clients, but for the profession as a whole.*"

Kate Greenwood's story is a powerful reminder that careers don't have to follow a straight line. Starting out in family law, Kate discovered that her real passion lay in shaping the future of the profession through technology and innovation. When the opportunity arose to create a new role leading legal tech and innovation at Lander & Rogers, she embraced it—proving that the most fulfilling paths are often the ones we carve ourselves. Her journey inspires others to seek work that excites and motivates them, even if it means stepping beyond traditional models of legal practice.

THE CLIENT VIEW

What they remember, long after the matter ends.

"You explained the process without making me feel stupid. No one had done that before."

"You reminded me that it's okay to focus on my child's peace, not just my point."

"You told me I'd done my best. No one had ever said that before."

Clients rarely remember the paperwork or the precedents.

They remember how they were treated, the empathy in your tone, the pause before you spoke, the reassurance that they were still human in the middle of it all.

DISCLOSURE OF LITIGATION FUNDING IN PROPERTY PROCEEDINGS

Written by Stephanie Azzi

Photography provided by Stephanie Azzi

A recurring question in family law is whether a loan obtained from a litigation funder must be disclosed to the other party in property proceedings. The answer lies in the broader principle of full and frank disclosure, which is fundamental to the resolution of such matters.

In property proceedings, each party is required to disclose all material facts relevant to the financial circumstances of the case. This duty is not diminished by mere compliance with court rules or practice directions; it reflects a foundational obligation to ensure transparency in proceedings. As observed in In the Marriage of Briese (1985) 10 Fam LR 642, a proper understanding of each party's financial position lies at the heart of property disputes.

The duty of disclosure is enshrined in Rule 6.06 of the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 and section 71B of the Family Law Act 1975 (Cth). Accordingly, if a party has obtained financial assistance in the form of a litigation funding loan, that liability must be disclosed. This includes disclosing to the other party that a loan has been obtained from a litigation funder, together with the amount advanced. Such disclosure must also be reflected in the financial statement, affidavit material, and any balance sheet filed with the Court. For the avoidance of doubt, there is no requirement to disclose any material or documents that are protected by legal professional privilege.

Such disclosure is essential to ensure the Court can properly assess the effect of any proposed orders, particularly given the funded party's repayment obligations. Absent disclosure, there is a risk that the Court may make orders that fail to account for the existence or impact of the funding agreement.

Ultimately, it is for the Court to determine how such a liability should be treated in accordance with section 79(5)(e) of the Family Law Act 1975. The contractual obligations of a funded party are clearly relevant to the Court's assessment and to the practical implementation of any final orders.

***Stephanie Azzi** is an AMDRAS Accredited Mediator, Family Dispute Resolution Practitioner, and Collaborative Lawyer with extensive experience across parenting and property matters. She holds Masters qualifications in Applied Law (Family Law) and Family Dispute Resolution Practice, and currently works as an In-House Family Lawyer at JustFund while also practising as an FDRP and Parenting Coordinator at Myra Aris & Co. Known for her compassionate, resolution-focused approach, Stephanie helps clients navigate separation with empathy and practical guidance.*

Meet Stephanie at

DISRUPTING TRADITION
Innovative Strategies in Family & Estates Law

KINSHIP BOOKS

Photography provided by Rachel Brace

THE CALM IN THE STORM

How Family Lawyers Can Support Child Wellbeing During Parental Disputes

Written by Rachel Brace

When families have to reorganise themselves following parental separation, children often find themselves caught in the emotional crossfire. Parental separation and disputes about what happens to the family home and 'time spent' arrangements are, understandably, periods of heightened stress and uncertainty for both adults and children. However, amidst the storm, family lawyers hold a unique and powerful position - one that can help to calm the chaos, reduce the intensity of conflict, and support outcomes that promote a child's long-term wellbeing.

It is often said that children are resilient. This is true, but it comes with a caveat: resilience blossoms in environments where children feel safe, seen, heard, have positive relationships with parents and are largely shielded from adult problems. In contrast, exposure to family violence, high levels of parental conflict and ongoing disputes about parenting schedules compromise a child's emotional and psychological development.

Against this backdrop, family lawyers - who are often engaged in the period following separation when parents are unable to reach agreement - are not just legal representatives; they are influential figures who help set the emotional and procedural tone of the separation process. The way they engage with their own clients, the other parent, that parent's legal representative, and the broader legal system can significantly shape how both parents and children experience both the separation and its aftermath. Their approach can also influence the development of a cooperative parental alliance, something children need their mums and dads to build, not as former partners, but as parents.

"Family lawyers hold a powerful position — one that can calm chaos, reduce conflict, and support outcomes that protect a child's long-term wellbeing."

Photography provided by Rachel Brace

The Human Element of Divorce.

From my 18 years' experience as a family consultant, Reg 7 Report Writer and Single Expert Witness, family law is not simply about affidavits, property settlements and parenting orders. At its heart, it is about people, children and families. It's about navigating the complexities of grief, loss, disappointment, anger, hurt and unavoidable change. While legal expertise is vital, the ability to support clients through emotional upheaval with empathy and care ultimately serves the children at the centre.

Family lawyers who approach their work through a family-centred lens recognise that every decision, every negotiation, and every conversation, email or letter has the potential to either reduce or escalate conflict. This means showing up not only as legal advocates but also as empathetic professionals who model how to handle both difficult conversations and big emotions with calm, compassion, and respect.

In negotiations, hearings or strategy meetings, when a family law professional speaks with empathy, listens without judgment, and communicates clearly and calmly, they are not only helping their client feel heard and supported, they are setting the tone for how that client may go on to engage with the other parent. In other words, a lawyer's example can ripple outward into the wider family system.

"A *lawyer can be firm and tough-minded while being unfailingly courteous. Indeed, there is real power that comes from maintaining one's dignity in the face of a tantrum, from returning courtesy for rudeness, from treating people respectfully who do not deserve respect and from refusing in kind to personal insult.*"
-Lander v Council of the Law Society of the Australian Capital Territory [2009] ACTSC 117, [24]

Language Matters.

In family law, the words we use matter. Greatly.

Language can either pour fuel on the fire or help extinguish the flames. Adversarial phrasing such as "fighting for custody," "custody battle" "dispute", "win", "lose" or "battle over access", tends to reinforce a combative mindset. These word positions parents as the opposition and/or enemies and children as the prize. Not only is this deeply unhelpful, but it also undermines the post separation relationship children need their parents to establish to feel safe and secure in both homes.

"Language in family law matters. The words we choose can either deepen divides or create space for understanding."

Lawyers who adopt family-friendly language do more than soften the tone of legal proceedings - they can turn their clients mindset toward one that is cooperative and child-focused. Terms such as “co-parenting arrangements,”, “shared responsibilities,” and “when they are in their other home” (rather than “visit”) encourage parents to view the post-separation family as a new structure rather than a broken one. This reframing also encourages parents to see one another not as adversaries, but as collaborative contributors to their child’s life - a shared investment rather than a competition.

Even subtle language choices both in conversations with the client and other legal representatives can make a meaningful difference. Referring to the other party as “the mother,” “the father,” or “your co-parent,” and using terms like “parenting/family time” instead of “supervised access” or “contact,” can help keep the focus on what truly matters: the child’s ongoing relationship with both parents and a shift toward a businesslike parental relationship. Encouraging parents to use the phrase “our child” instead of “my child” can also gently foster a sense of shared responsibility and help avoid a zero-sum mindset.

Conflict as an Opportunity for Growth.

Conflict is not inherently negative. it is how it is approached and managed that determines whether it becomes harmful or constructive. In the context of separation and family breakdown, conflict can offer an opportunity for growth, reflection, and skill-building. Family lawyers are well-placed to support this shift by helping clients challenge unhelpful thinking patterns such as emotional reasoning, black-and-white thinking, personalization and blaming, extreme thinking and assumptions about the other parent’s thoughts or intentions. By reframing conflict as a chance to improve communication and develop a more functional co-parenting dynamic, lawyers can help clients move from adversarial thinking toward collaborative problem-solving. This does not involve minimising distress, ignoring safety issues or assuming that all separations will be amicable. Rather, it involves supporting clients to engage with conflict constructively, in ways that prioritise their children’s wellbeing and support long-term relational health and safety for all family members.

Encouraging clients to consider their children’s perspective can also be a powerful tool. Questions like, “How might your child feel hearing about this disagreement?” or “What kind of example do you want to set for your child in how you handle this situation?” can be gentle yet effective in shifting focus from blame to responsibility.

Another useful prompt “how much will this particular issue matter to you in two weeks, six months, or five years from now?” can help clients gain perspective, assess the long-term importance of an issue, and decide whether it is truly worth the emotional, financial and relational cost of further conflict and litigation.

Lawyers can also model constructive conflict resolution by:

- Staying calm and composed even when clients are not.
- Acknowledging and validating emotions while guiding toward practical steps.
- Encouraging mediation and other collaborative processes.
- Avoiding inflammatory statements in correspondence or court documents.
- Emphasising the shared goal of child wellbeing.
- Avoiding unnecessary or excessive legal correspondence and refraining from sending communications that demand a response late on a Friday afternoon, recognising the emotional impact and potential to escalate tension over weekends.

In doing these things, lawyers invite their clients to mirror these behaviours - reminding us that even small shifts in how a parent approaches conflict and disagreement can create meaningful momentum toward a healthier, more cooperative relationship ultimately for the benefit of their children.

"Family lawyers can model calm, empathy, and collaboration — guiding parents to do the same for their children."

The Power of Collaboration.

While family law has traditionally been adversarial in structure, more and more lawyers are embracing collaborative approaches. These are not only less emotionally taxing, but also more child-friendly.

Collaborative practice involves both parents and their respective lawyers committing to resolve disputes without court, through a series of structured discussions. Other professionals, such as psychologists, financial advisors, or child consultants, may also be included to provide support and guidance.

This model encourages transparency, cooperation, and long-term thinking. Rather than focusing on who is "right" or "wrong," the emphasis is placed on what arrangements will work best for the child's needs and development.

Family lawyers who practise collaboratively:

- Encourage clients to focus on interests rather than positions.
- Promote openness rather than secrecy.
- Demonstrate respect for the other party and their counsel (even when they disagree).
- Prioritise solutions that serve the family as a whole, not just the individual client.

Such lawyers show that it is possible to advocate without attacking, to negotiate without threats, and to resolve disputes in ways that preserve both dignity and relationships. This is especially important given that, regardless of the outcome at Court, parents who share children will need to continue interacting for many years to come.

Spending years entrenched in litigation, reading affidavits that highlight your worst moments, revisiting painful relationship history, and defending your parenting in writing does little to foster the trust and cooperation needed to co-parent effectively once the legal dust has settled.

"The best outcomes in family law come not from winning, but from working together."

Supporting Children by Supporting Parents.

It is easy to say we want to act in "the best interests of the child." But what does that really mean in practice?

Children tend to do best when their parents are able to maintain consistent and responsive caregiving, even while navigating the emotional challenges of separation. Strong and positive parent-child relationships are particularly protective, especially when each parent can support and respect their child's relationship with the other parent, even if their personal feelings toward that person are complex or strained.

Supporting children in this way begins with ensuring that parents are well-informed, empowered, and guided to place their children's needs above their own personal grievances. When parents are supported to prioritise their child's wellbeing, they are more likely to adopt approaches that promote stability and reduce emotional distress.

Photography provided by Rachel Brace

Photography provided by Rachel Brace

Family lawyers can play a vital role here by:

- Providing clear, accurate information to reduce confusion and anxiety.
- Providing clients with realistic, practical advice about legal processes and likely outcomes, helping to manage expectations and support informed decision-making
- Referring clients to counsellors, parenting courses, or parenting coordinator when appropriate.
- Encouraging the use of a post separation parenting app to communicate and share important parenting information if/when phone calls or face to face conversations prove too difficult.
- Encouraging respectful co-parenting practices, even when relationships are strained.
- Helping clients create structured, predictable parenting arrangements that allow children to feel secure.

By encouraging parents to develop a business-like relationship, that supports them to effectively manage conflict, establish consistent routines across households, and share resources, rights, and responsibilities, lawyers indirectly support children to feel loved, safe, and free to enjoy relationships with both parents.

A Final Word: Walking the Talk.

Children learn how to manage conflict, regulate emotions, and respond to life's challenges by observing the adults around them. If we want children to develop into respectful, emotionally intelligent, and resilient individuals, those of us working with parents and families - especially in the legal space - must be prepared to model these attributes ourselves.

By using language that de-escalates, encourages problem-solving over point-scoring, guides clients toward emotionally intelligent responses to disagreements and promotes compromise and cooperation where possible, lawyers can help shift the tone of a difficult separation toward one that supports child and family wellbeing.

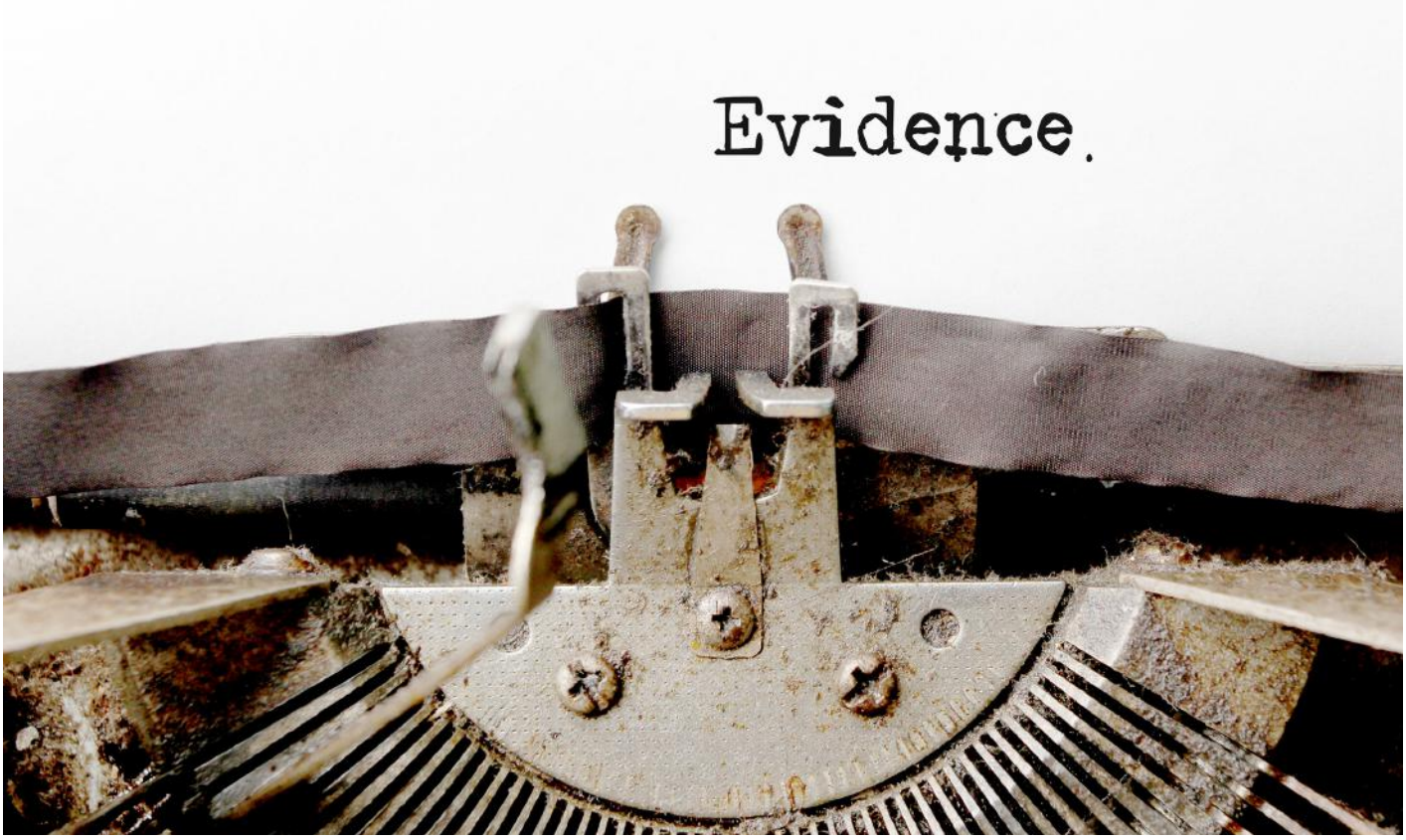
This is not about being idealistic. It is about setting a standard for professional conduct that prioritises outcomes for children and demonstrates to parents that there is a constructive path forward.

To my mind, supporting parents to better support their children may not always be straightforward, but in family law, it is some of the most important and rewarding work we do.

Because tone builds trust. The way we say things shapes how clients feel.

When emotions are high, words can either calm or cut. Every phrase we use as practitioners carries weight — it can open a door or close one. Reframing our language isn't about being softer; it's about being clearer, kinder, and more constructive.

Instead of	Try
"You need to be realistic."	"Let's talk about what's most achievable right now."
"That's not my job."	"Here's who can help with that part, and how we can connect you."
"You're overreacting."	"It sounds like this has been really difficult for you."
"We just have to wait and see."	"While we wait, here's what we can focus on."
"You'll have to compromise."	"Let's look at what feels fair and workable for everyone."
"There's nothing we can do."	"Let's explore what options might still be open."



SECURING ANOTHER TICKET IN THE EXPERT LOTTERY

Tips for obtaining leave for adversarial evidence

Written by Kristy Kerswell

In Persson & Marchand [2024] FedCFamC1F 758 at [51], Schonell J sagely observed that "the choice of expert is very much a lottery" and that "it is for that reason that the Rules permit[s] a party to seek leave to tender and/or adduce evidence from another expert." So, what options are available when your client loses the single expert witness lottery?

Any challenges to the expert's opinion must firstly be framed through questions put to the expert under r 7.26. If these fail to resolve the issue and force a concession, r 7.08(2) provides three grounds for adducing adversarial expert evidence: where there is a substantial body of opinion contrary to the single expert's view; where another expert knows of matters not known to the single expert; or where there is a special reason. Persuading the court to permit a second expert's opinion requires building an argument around one (or more) of these avenues. In exceptional circumstances involving the valuation of an unusual asset and where the court would benefit from a range of opinion, a third option is available under r 7.04(2)(e).

Whether the door to adversarial evidence is barely ajar (or swinging wide open) turns on the facts. The governing principle is that the application must be in the interests of justice. Where the divergence in expert opinions is substantial and the costs proportionate, leave is more readily granted. Conversely, where the gap is narrower, the argument under r 7.08(2) must be more precisely framed. This article outlines the available avenues, common pitfalls, and the factors the court will consider when deciding whether to let your client purchase another ticket for the valuation expert lottery.

The first step: r 7.26 questions

The difference between a 'shadow' and adversarial expert

In Forsburg & Stubbs [2019] FCCA 1884, Betts J refused the applicant wife's application to adduce adversarial evidence. At [45], Betts J held that "what the wife should have done was pose specific questions to the single expert before bringing an application to call adversarial evidence." At [46], it was noted that "the wife […] wants with respect, to have her cake and eat it too. [The wife] wants to engage an expert in a partisan way as a shadow expert and then call them as an adversarial expert. But a shadow expert and an adversarial are two very different experts." Care should be taken to ensure that the independence and impartiality of an adversarial expert is protected, as they must still comply with r 7.18.

Getting the most out of r 7.26 questions

Whilst r 7.26 prescribes that questions serve only to clarify the single expert's report, they should also serve a strategic function. When properly deployed, they can highlight errors, expose flawed assumptions, and lay the groundwork for a later application under r 7.08(2). In addition to merely clarifying a single expert's opinion, practitioners and shadow experts should be mindful that the opportunity to pose questions should be taken advantage of in the following ways:

- To elicit more detailed reasoning from a single expert which will further entrench them in their incorrect position, which can assist with a technical challenge under r 7.08(2)(a);

- To gather fodder for cross-examination. Questions should always be drafted with the possibility of an unsuccessful application in mind. If leave to adduce a second expert is refused and the single expert's report is the only evidence before the court, a well-crafted set of questions will provide the necessary ammunition for cross-examination and allow room for a more favoured valuation to be preferred; and

- To confirm whether certain information has been factored into the valuation, or whether parts of the single expert's opinion may lie outside of their expertise. This can open the door for a r 7.08(2)(b) challenge.

To ensure the questions are maximally utilised, it is prudent to engage a shadow expert witness - particularly when the valuation dispute involves complex or specialised assets. Business interests, commercial properties, and special-purpose real estate often require rigid application of prescribed valuation methodologies and approaches. In these cases, it is considerably easier to mount a credible technical challenge, provided that there is appropriate expert support from the outset.

The second step: the available avenues for adducing and tendering adversarial expert evidence

In circumstances where a single expert's responses to the questions put to them are unsatisfactory, r 7.08(2) allows a party to seek to tender a report or adduce evidence from another expert if they are able to satisfy the court or one (or more) of the following grounds for challenge:

(a) there is a substantial body of opinion contrary to any opinion given by the single expert witness and the contrary opinion is or may be necessary for determining the issue; or
(b) another expert witness knows of matters, not known to the single expert witness, that may be necessary for determining the issue; or
(c)there is another special reason for adducing evidence from another expert witness.

Wilson J explained at [27] in Minke & Minke (No 2) [2024] FedCFamC1F 157 that the appointment of a single expert is primarily focussed on case management, and that the objective is to ensure "efficient and expeditious determination of litigation". Where possible, the single expert's evidence should be the only evidence in front of the court, as this reduces the issues in dispute and contains experts' costs. However, Wilson J goes on to note that ultimately, case management must be "subordinated to the attainment of the justice in the circumstances of the case".

"A shadow expert and an adversarial expert are two very different experts — one advises behind the scenes, the other stands before the Court."

Rule 7.08(2)(a): a substantial body of opinion

Rule 7.08(2)(a) allows for adversarial evidence to be adduced or tendered if the single expert's opinion is contrary to a substantial body of opinion. As Kent J observed in Salmon and Ors & Salmon [2020] FamCAFC 134 at [35], this hurdle can only be cleared when "a contrary opinion is founded upon identified and accepted methodology recognised within the field, or some identified and recognised field of expertise different to that founding the expert single opinion". It was further clarified at [27] that "a mere difference of opinion, particularly in the area of valuation, would not ordinarily be sufficient to engage the discretion to permit expert evidence other than the jointly appointed single expert." An adversarial expert must point to an authoritative source of valuation theory or practice. In circumstances where the boundary between valuation methodology and legal principle is blurred (such as when a business valuation expert must consider the concept of "value to owner"), it should be considered whether a reference to legal authority may suffice.

Wilson J further clarified in Keevers & Keevers [2021] FedCFamC1F 338 at [39] that "the precise issue in respect of which contrary opinion exists must be identified". For this reason, care must be taken to dissect the disagreement between experts into precise, specific technical and factual issues.

Rule 7.08(2)(b): matters not known to the single expert

Rule 7.08(2)(b) provides a basis of adversarial evidence to be tendered when "another expert witness knows of matters, not known to the single expert witness, that may be necessary for determining the issue". It most commonly applies where the single expert overlooks a key comparable sale, misses a relevant characteristic of the asset that is being valued, or makes assumptions outside their qualifications and expertise; for example, a business valuation expert opining on renumeration or specialist taxation issues.

In Bergman & Bergman [2022] FedCFamC2F 1313, O'Shannessy J considered whether an adversarial expert's knowledge of the ranking of series and dams - information not known to the single expert - was a sufficient basis to admit adversarial evidence. Whilst noting at [31] that the ranking may be "immaterial and of little weight," the application was ultimately granted on the basis that it may be necessary to determine value.

Similarly, in Valentina & Malley [2023] FedCFamC2F 1167, five comparable sales relied upon by the adversarial expert but omitted by the single expert were found to engage r 7.08(2)(b). Although O'Shannessy J queried whether cross-examination alone could resolve the issue, his Honour ultimately held it was not efficient for the single expert to learn of these matters for the first time during cross-examination. Bergman and Valentina both affirm that care should be taken to carefully brief a single expert, as any omissions of information that would affect value can be capitalised on to allow to a second opinion.

Rule 7.08(2)(c): a special reason

Rule 7.08(2)(b) permits adversarial evidence to be adduced or tendered where there is a special reason. What constitutes a special reason is not exhaustively defined and will turn on the circumstances of the case. However, existing case law indicates that the court may be persuaded where there is a risk of an evidentiary vacuum, where multiple factors cumulatively support the application (that is, an aggregate of various reasons), and/or where doing so would serve the interests of justice.

The risk of an evidentiary vacuum

In Moretto & Cosola [2022] FedCFamC1F 433 at [30], Riethmuller J accepted the wife's application to tender adversarial evidence on the basis that "it [was] difficult to avoid the conclusion that there is a real risk of an "evidentiary" vacuum arising in [the] case if the [wife's] contentions as to value [were] correct". This was because "the value contended by the [wife] was well outside the range ascribed by the single expert". The difference between the expert opinions was $750k, with the total assets assessed as being at least over $3m. Riethmuller J further noted at [31] that he was persuaded that the wife established a special reason given that there was "a real risk that she will be unable to effectively put her case to the value of the [husband's] property if she is limited to cross-examination of the single expert", reasoning that this point was "reasonably arguable" and "involves an amount so great that the additional litigation costs are not disproportionate".

It should be noted that in Moretto, reference was given by Riethmuller J to a range of values ascribed by the single expert. In circumstances where cross-examination can move the single expert up and down within the 'range' of their comparable sales evidence and/or the range of inputs within their valuation report, it can be arguable that there is no need for adversarial evidence to be put before the court.

When the interests of justice are compromised and the differences are vast: discretion is broader, and an aggregate of reasons can be considered

As Kent J explains in Salmon and Ors & Salmon [2020] FamCAFC 134 at [27], "a mere difference of opinion, particularly in the area of valuation, would ordinarily not be sufficient to engage the discretion to permit expert evidence other than the jointly appointed single expert." However, as the Full Court accepted in Neales & Neales [2022] FedCFamC1A 41 at [40], the "cumulative aspect" of several complaints together combined with a significant divergence between the opinions of two valuers can form the basis for a special reason. In other words, the overall thrust of the argument must be considered, in addition to the individual grounds argued pursuant to r 7.08(2). As Schonell J recently held in Persson at [53], "the Rules are not to be construed as a straitjacket restricting the interests of justice". Where the interests of justice are at stake, an application for adversarial evidence should be accepted.

In Sarka & Sarka [2024] FedC1FamC1F 804 at [37], Schonell J explained that:

"[...] r 7.08 cannot be read in isolation and must be read with r 7.02 and in particular r 7.02(c), which specifically provides:

to ensure that, if practicable and without compromising the interests of justice, expert evidence is given on an issue by a single expert witness."

When it comes to wide interpretation of a special reason, size matters

As Wilson J states in Minke & Minke (No 3) [2024] FedCFamC1F 860 at [14], "the size of discrepancies and the amounts the subject of expert evidence is one issue pointing to the existence of a special reason". Several recent decisions illustrate that significant discrepancies in value, particularly in high-value property pools, have tipped the scales in favour of leave. In each, proportionality has played a crucial role:

- In Neales, the single expert valued the properties between $33.835m and $34.190m, whereas the proposed adversarial expert valued them at $22.465m.

A significant difference in values was also seen in Persson, where the single expert valued one of the properties at $8m on an 'as is' basis, and between $75m and $90m on the assumption that it could be rezoned and subdivided. The adversarial expert subsequently valued the same property at $13.7m on the 'as is' basis, and $126.5m assuming the "as if" basis.

- In Keevers, the single expert assessed a value of $52.97m for the Family Trust. The adversarial expert expressed a range of values between $37.39m to $46.39m.
- In Verdon & Verdon [2020] FamCA 24, the difference between the single expert and adversarial expert's valuations was $8m.

In short: the greater the difference, the more likely it is that excluding adversarial evidence will compromise the interests of justice.

A third option: where it is necessary for the court to have a range of opinion

In Woodcock & Woodcock (No 5) [2023] FedCFamC1F 894, an argument was mounted by the wife's solicitors that an adversarial expert's opinion should be tendered for the valuation of a beneficiary's right to due consideration, pursuant to r 7.04(2)(e). At [2], a summary of the arguments advanced included:

(a)that it was a novel asset;
(b) that there is no Australian valuation authority on the issue;
(c)that there are no comparable sales available;
(d) that the discretionary trusts in issue are "very idiosyncratic", and that it is for this very reason that a value must be assigned to the husband's rights as a beneficiary;
(e)that the valuation of a right may not be "beyond the actuarial arts";
(f) that the beneficiary's right to due consideration is "property" for the purposes of the Family Law Act 1975;
(g)that no presumption exists that a single (or adversarial) expert should be ordered to provide evidence of such a right; and
(h) as opposed to the evidence adduced from a single expert, evidence adduced from one or more adversarial witnesses would allow for the "range of opinion" detailed in r 7.04(2)(e).

At [23] Wilson J ultimately agreed and held that "despite the desirability of such an approach when valuing say, a home, shares, or a company, this case is novel … it is not amenable to a standard single expert." At [8], it was held that on a practical level, there would no disruption to the trial, as the two experts would confer in a conclave and concurrently give evidence in a hot tub.

Key takeaways

- Whilst r 7.26 questions to the single expert must primarily clarify, they should also be drafted with a secondary, strategic objective: to build the foundation for any subsequent application to adduce adversarial evidence.

- As the Court affirmed in Forsburg, the roles are distinct: a shadow expert should assist with formulating questions, and an adversarial expert should provide a competing opinion. One expert cannot perform both roles, as it would comprise the adversarial expert's independence and impartiality.

- Rule 7.08(2) permits leave to adduce adversarial evidence where: there is a substantial body of contrary opinion; the second expert is privy to material not available to the single expert; or there is a special reason.

- Rule 7.08(2)(b) permits adversarial expert evidence where the second expert knows something the single expert doesn't - a missed comparable sale, an important characteristic of an asset, or an assumption beyond expertise. Cases like Bergman and Valentina confirm that even seemingly minor omissions may justify adversarial evidence if the information could be necessary to determine value.

- A "special reason" may include the risk of an evidentiary vacuum, but any such argument is weighed against proportionality.

- The threshold under r 7.08(2)(c) is most often met in high-value matters involving multi-million dollar discrepancies, supported by a combination of factors justifying the need for a second opinion.

- In cases where the valuation of a novel asset must be considered (and where the application of theory is ambiguous, and involves unchartered territory), adversarial evidence may be tendered pursuant to r 7.04(2)(e).

FAMILY LAW
EDUCATION NETWORK

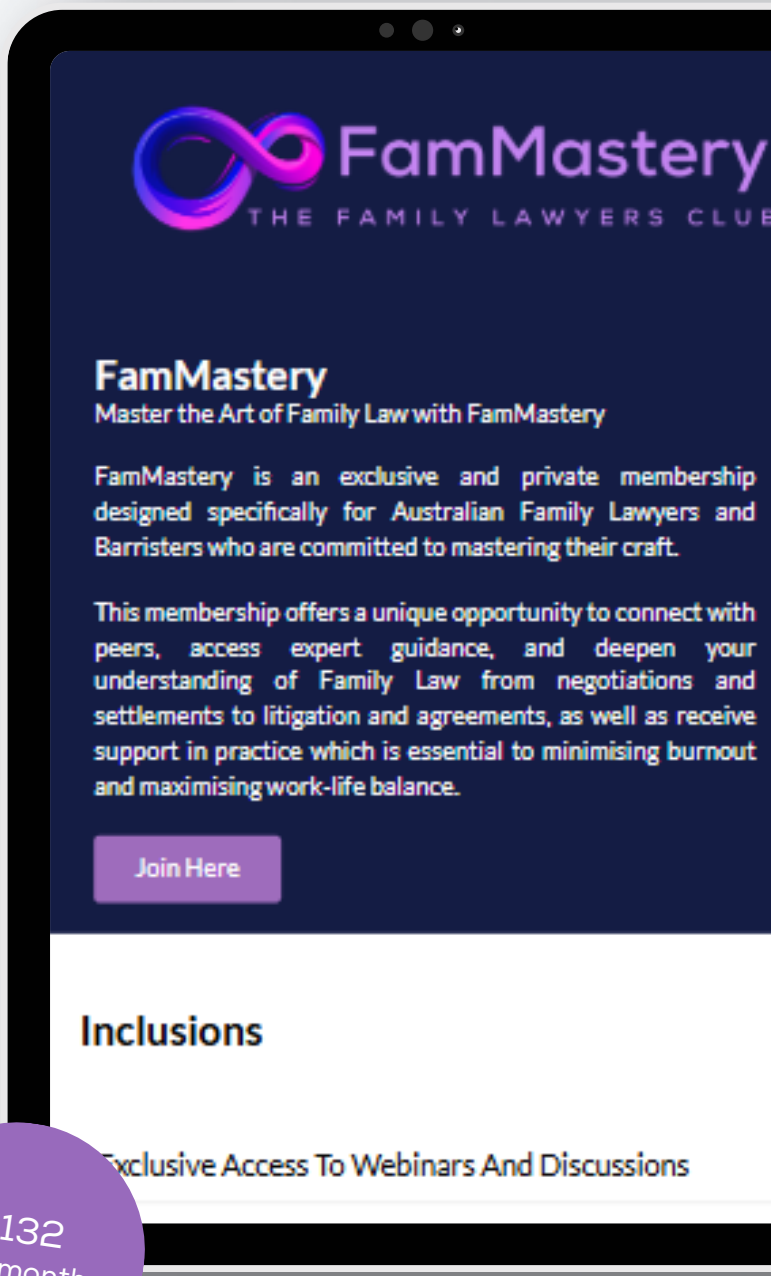
FamMastery

The Membership for Family Law Excellence

- Webinars & discussions on complex family law matters
- Peer networking with top legal professionals
- Expert insights from accredited specialists

Your Family Law career deserves more than just CPD points.

Join FamMastery for $132 per month or $1100.00 per year



$132
per month

www.familylawedu.com.au

Photography provided by Anna Wynne

LISTENING, RESPECT, AND REALISM

Anna Wynne on the Art of Mediation

Written by Victoria Moss, based on an interview with Anna Wynne

"Anna Wynne is a lawyer, nationally accredited mediator, and registered Family Dispute Resolution Practitioner based in Canberra, working with clients all over Australia. She's worked in private practice, at a community legal centre, and at the Federal Circuit and Family Court of Australia, before starting her own practice. Anna is passionate about helping families find a better way through conflict—one that's practical, respectful, and keeps people out of court where possible. She's also a collaborative coach and loves sharing the benefits of dispute resolution, along with the skills that make it work. Her approach is warm, clear, and always client-focused."

A Style Shaped by Listening

Asked to describe her mediation style, Anna hesitates to label it, but she's clear on her guiding principles. Central to her approach is creating space for people to be truly heard. "As lawyers, we tend to focus on the legal issues. But there are always other concerns —emotional, practical, or relational—that matter just as much. Taking the time to listen and acknowledge those is critical."

She emphasises the importance of respecting party autonomy: mediation, she says, is not about forcing agreement. "Sometimes people aren't ready. Our role is to provide the opportunity. The outcome belongs to them." This mindset frees both mediator and participants from the pressure of achieving a settlement at all costs, instead focusing on building trust and clarity.

Common Missteps Lawyers Make

In her thousands of mediations, Anna has observed patterns in how lawyers sometimes miss opportunities to support the process. She identifies two recurring missteps:

1. Minimising concerns: "When a lawyer tells a client, 'that's not important,' it can shut down meaningful dialogue. Even if the issue can't be resolved in the process, acknowledging it respectfully matters."

2. Failing to explain the 'why': Anna stresses that clients should always understand why steps are taken —whether it's obtaining valuations or gathering financial records. "If a client sees a request as an accusation, rather than a practical necessity, mistrust quickly builds. Lawyers need to demystify the process for their clients."

Preparing Clients for the Emotional Journey

Anna insists that intake is key. She spends up to 90 minutes with each party before mediation, asking them why they can't resolve things on their own. "It's a powerful way to uncover the dynamics—whether it's a history of not being able to work together, or a specific breakdown of trust."

For lawyers, she says, preparation should focus on expectation management. "Mediation is negotiation. It involves compromise. That beautifully drafted position paper? That's the dream. Dreams rarely happen. Clients need to be ready for that reality before they walk into the room."

Photography provided by Anna Wynne

Position papers, Anna notes, can either move a mediation forward—or derail it. Her advice: avoid extremes. "If one side insists on 70% of the assets after a short relationship with no children, it just inflames things. Be hopeful, but realistic."

A well-prepared position paper, grounded in law and evidence, can sometimes resolve the matter before the mediation even begins. "I've had lawyers call me and say, 'we'll accept the offer on the paper—let's use mediation just to tidy up the details.' That's when the document has done its job."

Do the Homework

Few things frustrate Anna more than surprises sprung on the day of mediation. "I can't count the times someone has revealed an inheritance or financial contribution during the session that no one else knew about. That's information we should have had months earlier. It's not just about efficiency—it's about fairness and trust."

Her advice to practitioners is simple: do the homework early. Gather documents, clarify details, and prepare the client for difficult conversations in advance. "It sets the stage for constructive negotiation, rather than reactive defence."

Resources

Anna regularly recommends William Ury's "Getting to Yes", but she has become especially fond of his later work "Getting to Yes With Yourself". "Ury himself said he wished he'd written it first. It's about ensuring you, as the negotiator, are in the right mindset before you can negotiate with others. I recommend it to clients and lawyers alike. It helps people move past emotion and focus on interests."

Photography provided by Anna Wynne

"Mediation isn't about winning—it's about helping people move out of fear and into the future."

Shifts in Mediation Culture

Reflecting on her career, Anna has seen mediation shift from a peripheral tool to the centrepiece of family law dispute resolution. With recent changes in family violence considerations, she expects its importance to only grow. "Court processes now require more detailed examination of allegations. For many, mediation offers a safer, quicker, and more empowering alternative."

To lawyers new to mediation, Anna offers clear guidance: "Be curious and respectful. Don't treat the process as adversarial. Think of it as a chance to help your client reach a workable outcome, while learning from the experience yourself. Don't come in defensive and angry—bring openness."

The Reward of the Work

Despite the challenges, Anna remains passionate about mediation. What keeps her inspired? "I love helping people move out of fear and into the future. When someone leaves mediation saying, 'I'm not thrilled, but I have a plan,' that's a success. Clarity, even imperfect, is powerful."

For practitioners, Anna' message is both practical and profound: mediation is about listening deeply, preparing thoroughly, and guiding clients with realism and respect. The rest is theirs to own.

Top Tips from Mediator Anna Wynne

- Listen, don't minimise – acknowledge issues, even if they can't be solved.
- Explain the 'why' – transparency builds client trust.
- Prepare clients for compromise.
- Draft realistic position papers.
- Do the homework – no surprises on the day.
- Use intake well.
- Stay respectful, treat colleagues with respect.
- Get your mindset right – resources like Getting to Yes With Yourself can help.

Hear Anna at

DISRUPTING TRADITION
Innovative Strategies in Family & Estates Law

Family Law Precedents

Smart, Compliant and Built by Family Lawyers for Family Lawyers.

Expertly crafted, automated documents, to streamline your Family Law practice. From consent orders to parenting plans, FamDraft saves you from reinventing the wheel and ensures consistency across your team.

Join FamDraft

www.familylawedu.com.au