



Précis Paper

You Law: A client-centred approach to family law

A discussion of a new approach to family law which puts the goals of the client first and allows that to inform the pathway that the practitioner/client relationship takes.

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You Law: A client-centred approach to family law

1. In this edition of BenchTV, Amy Sanders Robbins (Director and Family Lawyer, Bespoke Family Lawyers) and Chrissy Leontios (Principal Lawyer and Mediator of CLEON Legal and Mediation Services, and Business Coach to Lawyers, and Domestic Violence Educator) discuss a new approach to family law which puts the goals of the client first and allows that to inform the pathway that the practitioner/client relationship takes.

What is a client centred approach?

2. A client centred approach places the client at the very centre of every aspect of the legal issue that is being looked at. This is done through identifying the client's goals, needs, issues and concerns, and also working with the client through a collaboration to achieve a solution that works best for them.
3. This is in contrast to the traditional legal process where the lawyer tells the client what their options are based on the law and then giving advice on a pathway based on what the law says.
4. In order to fully adopt a client centred approach you need to have a certain level of soft skills and interpersonal skills, and to build relationships with your clients. It involves gaining a deeper understanding of the client through open questions exploring the client's story, the dynamic of the relationship, and what they want their life to look like at the end of the process.

Families in litigation

5. The client-centred approach can also be adopted during litigation, or indeed to every matter, from engaging via correspondence to mediation and litigation. It involves constantly coming back to the client and identifying their goals, their needs, their issues and their concerns.
6. Part of this process is also having to think about the other person's goals, needs, issues and concerns. This puts the client in a position where they gain greater insight and understanding that their perspective is their reality, but the other person's perspective is their reality, and that if you can put yourself in the position of thinking about the other person and what is important to them, and why, you can then understand what kind of outcome may enable each to have their family move forward in a positive and respectful way, and something that allows each of the two people who are ending their relationship to create a new life.

Domestic violence

7. Social science and all the evidence tells us that what is fundamentally at the centre of domestic violence relationships is power and control, so the perpetrator has the power and control over the victim. This means that the victim is often left with no self-esteem, no confidence, and without a voice or the ability to shape the way they want their future to be, or what they want their life to look like.
8. The first thing to say to a client who has been through a violent or abusive relationship is 'I want to hear your story'. Explain that their story is important, that they are the expert in the room. This empowers the client.
9. When speaking initially to a client who has been through domestic violence, they need to be made to feel safe, and they should be taken through the legal process of safety.
10. The litigation process can be hard, and it can be confronting when the perpetrator who is known as the respondent in domestic violence proceedings will minimise the violence, or suggest the violence never occurred. It must be gently explained to the client that this is a likely response that they are going to get, and that the legal system is just another avenue for them to abuse.
11. Explaining to the client that this is the objective legal system minimises their experience, because they know that if, for example, a judge or magistrate asks them a particular question, to try and test the evidence, they can rationalise it, and see that it doesn't mean that their experience has not occurred.
12. It is a transformational journey to really acknowledge the person as a victim of domestic violence, and not just another legal client.

Communication with clients and trauma

13. This approach must be embedded in how you and your staff communicate with your clients.
14. Trauma-informed training teaches communication techniques for a person who is in trauma. For example, the practitioner may have to deliver some really difficult legal advice which could cause the client to become hyper-aroused, possibly to the point where they are unable to regulate their emotions, and they may become withdrawn, or they may become aggressive. Practitioners and their staff need to be aware of how communication impacts on a client, and how what is delivered impact on a client.
15. Staff trained in trauma understand what a person actually goes through. The client feels validated and supported. Using empathy creates a safe space for the client.

The client's goals

16. Clients are encouraged to give expression to their own goals from the very first meeting. These can be very different to goals seen from a legal-centric viewpoint.
17. Client goals can be a range of outcomes around practical financial needs, parenting needs and work/life balance, but it can also be such things as emotions and feelings and feeling certainty and clarity.
18. Both male and female clients respond well to goal setting. Their goals are usually very different, but sometimes very similar. There was a husband and wife who both individually identified their biggest goal as to be valued as a parent. Each of them felt that the other perhaps didn't value them, when in fact they both actually valued what the other person was bringing to the table.

Mediation

19. Whether you are a lawyer or a mediator, getting both parties to identify their goals and values can be a very powerful exercise. More often than not, the values of the two parties are similar if not identical.
20. It gives a mediator the capacity to bring together two parties who initially thought that they were as far apart as possible to the realisation that they are actually on the same path, working towards the same values. It can be a powerful way to break down conflict and the assumptions that each had about the other.

Being right

21. There is a difference between a client who is driven by goals and a client who is driven by being right or taking a principled position. A client that is driven by goals is looking towards the future, and is focused on solutions. A client who wishes to be right or on principle is living in the past and ultimately seeking revenge. This will keep a client entrenched in a position that is not leading them forward. It is a litigation space which is only focusing on the negatives. It does not allow a family to move forward beyond the court process, because the damage cannot be undone and it keeps them in conflict.
22. There may not have been much hatred at the beginning, but by the end of the process there is a whole lot more and both parties are angry at each other. If there are children this impacts on them.
23. Clients need to be taken back to their goal, and it needs to be explained to them that if they continue down this path it will end up in trial. They need to understand the cost of litigation, the emotional toll, the financial toll, and they need to have a realistic expectation of what that process will look like.

What to do when there is no domestic violence order

24. A situation where there is no domestic violence order can be quite tricky. The practitioner should ask the client what the person's behaviour is like, and how they will be likely to respond if you proceed with a domestic violence application and the Court does not grant it. Will this then give the perpetrator more power? For example, if the court says that the domestic violence did not happen. It is important that the client truly considers whether or not it is worth pursuing a domestic violence order in that instance.
25. There should also be a consideration of practical matters like safety planning, referring them to a domestic violence service that can assist them with some counseling and some strategies. Practical matters such as upgrading the security of the home and installing security cameras, and thinking of alternative pathways to the legal process.

The holistic approach

26. The client-centred approach is a holistic approach to family law. For instance, law is only one part of a domestic violence victim's story and outcome.
27. In addition to considering a domestic violence order, there is a need to engage with the client, to give them power, to let them believe in themselves. There is the need to refer them to other services and to talk about safety planning.
28. Family lawyers that are going to do well as the legal profession changes and societies expectation of what they want from their lawyers change are those that have developed and harnessed their soft skills and are connecting with their clients at a deeper level, who are no longer simply a trusted adviser but something richer. It is lawyers and clients seeing each other as lawyers.
29. Family lawyers are, at the very core, dealing with the emotions and feelings of people who have just broken up with a loved one, who are hurt and grieving, angry and sometimes resentful. There is confusion and uncertainty, they are worried and overwhelmed. So there is a whole range of human emotions being felt by them, and how lawyers respond to and address those emotions throughout the process is important to the ultimate outcome.

The benefits for the client

30. Adopting this approach means that a client who comes to an initial meeting unsettled and worried about their future, with concerns about parenting and finances, will exit the process and have all the answers to all of those worries, and they will have certainty.

You Law

31. New law is very much about technology and how that can be used to create more efficient services for clients, but ultimately how that can also result in more efficient practices and increase the profitability of firms in a more effective and efficient manner.
32. You Law, on the other hand, is based on experiences in family law, where clients do not necessarily want technology but rather they want connection, and what they are looking for in a lawyer is someone who is connecting and creating relationships with them on a deeper level. This shines through when lawyers are invested in them and their outcomes.

Implementing a client-centred approach

33. Implementing a client centred approach involves keeping clients at the forefront of everything that you do, and remembering them at the core of the process. Remember that it is a person's life that is being dealt with. It involves empathising with client, imagining how they would feel.
34. The client needs to be kept informed and they need to know that their voice matters.
35. This is a much more intensive style of legal practice. Texting the client to keep them informed, calling the client to inform them that, for instance, correspondence has just been received from the other party, to allow them to be completely prepared to meet it. To open it and read it they may choose to be in a cafe or in a family members home.
36. It involves being thoughtful and keeping the client informed.

Mapping out the process with staff

37. The firm follows up the client, not the other way around.
38. Staff are trained in trauma and to understand what a client is feeling like when they walk through the door.
39. They should always remember small details, such as what the children's names are, and they should have permission to be human on the phone and to connect with the client on a human level.
40. Touching base with clients is important, through questionnaires, calling them on significant dates, such as the first Mother's Day or Father's Day after the separation, which can be a difficult time, or on their first Christmas without the children. Have a deeper level of awareness around what the client is experiencing throughout the process, to make it clear that you genuinely care about the outcome that they are trying to achieve, and want to enable them to move forward.

Tips for other practitioners

41. Practitioners implementing a client-centred approach need to see family law as more than just merely transactional. They need to reframe what sort of law they are doing. Family law is human rights law.
42. In the initial consultation, the lawyer should not be doing more speaking than the client. From that point on they need to be constantly checking in with the client, and to understand that they have a lot of information to process.
43. During conversations, time should be taken to check every five or so minutes with the client, that open-ended questions are asked and these questions are explored a little deeper to gain an understanding of the client at a deeper level.

Preparing a client for mediation

44. It is important to be thoroughly prepared for mediation beforehand. When the client enters the mediation room they should not feel overwhelmed or uncertain about what the process is. Creating less anxiety is the first step to being fully prepared.
45. Mind mapping and keeping journals before mediation can be a very useful tool.
46. Send clients questions to reflect on in the weeks and days leading up to mediation about what is important to them, and what is important to the other person, what their issues and concerns are, and how decisions were made during the relationship, how that has continued since the separation, and about whether they want to change that pattern of behaviour.

Initial client meeting

47. When a new client inquiry comes through, a staff member who has been trained to ask about the client's story will phone up the prospective client to ask what has brought them here today. This gives the client a platform to be heard.
48. It may not be a client that eventually converts, but what you still want to make sure is that the client feels heard and valued.
49. Clients are provided with an initial consultation questionnaire, which asks about their goals, their fears, and what they feel could be holding them back. Questions are also asked about the other party, eg. does the other party respond to conflict, what is their communication style. By becoming informed about the dynamic of the relationship, the conflict and the communication, the practitioner can then work with the client in a very informed way to come up with solutions to their input. The client is always made aware that they are the expert. Having read the responses to the questionnaire, the practitioner will have a good idea of the client and have had time to think over some of the issues.

50. The initial client meeting is all about listening to what the client has to say, and then asking them what they want to do about it, giving options on how to achieve this.
51. Ultimately the lawyer's job is to give legal advice, however this can be away from a rigid framework that informs the process. The client informs the pathways that they go down, rather than looking at the Family Law Act and categorically stating that it is a four-step process, and describing exactly what will happen to them based on previous case law. This shifts the client's mindset away from fear and uncertainty about what the process is going to deliver for them, and focuses on them and what they are worth. This makes the work easier for everyone.

BIOGRAPHY

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Amy Sanders Robbins is the Director and Family Lawyer at Bespoke Family Lawyers in Brisbane. She has practiced in family law since beginning her legal career in 2006 and gained recognition as an accredited specialist for her expertise in family law in 2013. Amy is also a member of the Queensland Law Society Family Law Committee where she advocates for legislative reform in family law.

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Chrissy Leontios is the Principal Lawyer, Mediator, and Domestic Violence Coach of CLEON Legal and Mediation Services in Magnetic Island. CLEON was founded by Chrissy for the purpose of creating a different experience for clients going through the justice system, and to do legal business differently. She specialises in domestic violence, family law, Victim Assist Applications, and providing education to the community about domestic violence.