

## Episode 7: Summary

**Episode name:** Invisible Needs - Advising Vulnerable Clients

**Guest(s):** Ali Mojtahedi, Joshua Strutt and Leona Bennett

### What area(s) of law does this episode consider?

The episode doesn't focus on a particular area of law but rather how to advise vulnerable clients generally. Josh and Ali discuss vulnerable clients in the context of migration law, in which they practice. In the same vein, Leona Bennett gives us her perspective as a family law specialist, who often sees vulnerabilities in clients experiencing financial abuse.

### Why is this topic relevant?

There are many types of vulnerable clients who need legal advice. In the 2018 – 2019 financial year, more than 8.8 million temporary visas were granted in Australia, with 179,085 permanent places delivered. Many immigrants seeking asylum are vulnerable, both in regard to their past experiences which they are forced to relive during the process of seeking refuge, but also because of other issues such as language barriers and capacity. From a family law perspective, in 2018-2019, 52% of Family Court applications related to financial matters only and some of those matters involve financial abuse.

Behind these numbers and statistics however, are faces and families, many of whom are burdened with their own vulnerabilities. For example, clients experiencing family violence or fleeing persecution in their home countries. And now, to add to what is usually a challenging and laborious process in either seeking asylum or resolving a family law property settlement, a global pandemic which heightens the emotional and financial pressure on individuals and families during this period of isolation.

### Scenarios discussed

Ali and Josh give us examples of clients they have advised, and talk about the clients' experiences, as well as their personal experiences with the client.

For example:

- Josh was explaining the visa application process to a client, and the deadlines that go with the process. The client was quite unresponsive, which at first was making Josh a bit frustrated. After a 5-minute break, Josh tried a different approach – pushing his laptop to the side and just having a conversation with the client about what was going on in his life. Through this conversation and approach, Josh discovered that his client was suffering from some serious psychological issues due to the trauma he had suffered overseas. His client had a fear that people were following him in the street and thought someone had followed him to his appointment with Josh. Uncovering these fears enabled Josh to understand the client's concerns and flexibly apply the method by which he provided advice to the client.
- Ali speaks about a family he assisted from Pakistan. Ali picked up early on in his interview that the family were having difficulties understanding him. Even when Ali tried a different approach, one which he hoped would make it easier to communicate, the family were visibly having difficulties. He asked if there was anything going on that they wanted to disclose to him. One of the clients, the mother of the family, explained that she had suffered internal bleeding, following events that took place overseas and was turned away from the emergency

department at the hospital as she did not have Medicare. Ali took it upon himself to arrange for her to see a doctor, which was not an easy task.

- Leona shares examples of vulnerable clients that she has observed in her practice as a specialist in family law, in particular during the breakdown of a marital relationship. Leona shares instances of financial abuse, where one spouse or partner manages to exclude the other from making financial decisions. In some instances this results in one party controlling all bank accounts, often providing the other party with a weekly 'allowance'. The majority of cases involving financial abuse are against women and research has shown that around 15% of Australian women have been the victims of financial abuse.

### What are the practical takeaways?

#### Josh and Ali's tips

- Clients who require assistance with immigration matters often have other needs, that are incidental to their need for immigration advice. Health, mental health and family issues, particularly family violence, is not uncommon, and it is important to support people experiencing multiple vulnerabilities.
- This requires practitioners to think laterally and deliver a more holistic service to address these vulnerabilities. You may start out with addressing the client's legal needs, but the final service you deliver might be a much broader one, and could include referring clients to counselling services, financial advisors and other legal practitioners.
- Agility, intuition and empathy are key. If it feels like the messaging isn't getting through, take off the lawyer hat and change your approach. It's okay to have some trial and error - different strategies and approaches will work with different clients. Not all clients will openly discuss the reasons around their vulnerabilities. For some clients, it may take some time.
- Understand the advantages and disadvantages of engaging an interpreter. Language barriers are often a huge vulnerability faced by clients who primarily speak a language other than English, and a barrier to clear communication with lawyer and client. An interpreter, while often an effective tool, can assist in breaking down these language barriers. But be mindful that some clients may shut down and not feel comfortable with an interpreter. An interpreter is often a member of the client's community, so the client may at times feel uncomfortable sharing or communicating any difficulties they're experiencing. The success of the interpreter also lies in their ability to understand. There often isn't a direct translation, particularly for many legal terms or concepts. Explaining this clearly to the interpreter will assist in ensuring that the right information is being conveyed to your client.

#### Leona's tips

- Financial abuse is difficult to identify. Often, perpetrators do not know that they are abusing someone financially and victims do not know that they are experiencing financial abuse.
- Domestic violence can often cease once the victim is separated from their spouse or partner, but financial abuse can continue even after physical separation has

taken place. Controlling spouses can manipulate the court process, or even prevent such a process from commencing, by withholding necessary funds. It is estimated that more than 50% of cases involving domestic violence involve economic abuse.

- One piece of advice Leona shares when dealing with vulnerable clients is to tread softly. Identifying that someone is suffering from domestic or financial abuse is one thing – communicating it to that person is another. People often don't like or appreciate being categorised as a 'victim'. When advising vulnerable clients, take the time to build trust and make the client feel comfortable in opening up about the challenges they are facing.