

FIVE KEY GUIDELINES FOR PROVIDING REMOTE LEGAL AID TO GBV SURVIVORS

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These guidelines are aimed at legal aid practitioners to assist in the provision of legal aid, and therefore take into consideration standards and principles specifically applicable to the legal profession.

At a time when states worldwide are implementing restrictions on movement, and in light of a global increase in gender-based violence (GBV) particularly towards women and girls,¹ leaving them without access to the vital lifesaving services that they need is not an option. In order to ensure that GBV survivors can exercise their human rights effectively, access to legal aid must remain operational and accessible.

Restrictions on movement have not only confined GBV survivors with their abusers in many cases but have posed considerable procedural and representational challenges for legal aid providers. Legal Action Worldwide (LAW) and Norwegian Church Aid (NCA) have developed the following **5 key guidelines** to assist legal aid providers in navigating the difficulties of COVID-19 and what must be considered when providing remote legal assistance, where needed.

NOTE: Given the exceptional circumstances that you are operating in, where certain practical requirements cannot be met you should carefully consider whether it is appropriate to provide legal aid or whether doing so could put you or your client at risk.² It is always essential when providing legal aid to GBV survivors to ensure a survivor-centred approach is taken, incorporating the principle of do no harm.

The following guidelines are not intended to be comprehensive, but rather key tips from LAW's and NCA's on-going legal aid provision and work with GBV survivors during COVID-19.

- **GUIDELINE 1: HOW CAN SURVIVORS KNOW WHAT LEGAL SERVICES ARE AVAILABLE AND WHO SHOULD PROVIDE THEM?**
- **GUIDELINE 2: FIRST CONTACT WITH A CLIENT;³**
- **GUIDELINE 3: CONDUCTING A REMOTE RAPID ASSESSMENT;**
- **GUIDELINE 4: HOW TO PROVIDE REMOTE LEGAL AID SERVICES;**
- **GUIDELINE 5: REFERRAL SERVICES AVAILABLE FOR SURVIVORS DURING COVID-19.**

¹ United Nations Secretary-General António Guterres, 6th April 2020.

² For more information, see the Draft Global Code of Conduct for Investigating and Documenting Conflict-Related Sexual Violence at <https://www.muradcode.com/home>

³ Client is used throughout this document to refer to potential, new, existing or previous clients, and reflects the client/lawyer relationship and relevant privileges.

GUIDELINE 1: HOW CAN SURVIVORS KNOW WHAT LEGAL SERVICES ARE AVAILABLE AND WHO SHOULD PROVIDE THEM?

1.1 LEGAL AID SERVICES

Legal aid providers should ensure that updated information, including contact information, operational times and services available are clearly and widely communicated. Platforms of communication include support helplines, social media; radio; TV broadcasts; posters; women's groups networks; survivor associations; NGOs who are providing key relief services and UN working groups. Current referral systems should be continuously updated on any change in operations.

1.2 POLICE AND JUDICIAL SERVICES

Know what is available in your region: Are GBV-related applications falling within the scope or definition of those permitted by the courts in their jurisdiction? For example, in Lebanon judges are issuing protection orders for domestic violence cases by email. Are the police and emergency services able to respond to GBV or enforce court orders during the crisis? Do you have the contact number of the police station and a focal point for emergency services? If these services are not available, then consider how and with whom you can advocate for them on behalf of your clients.

Where possible, legal aid providers should establish working links with law enforcement to build their capacity and ensure that a gender & trauma sensitive approach is taken when dealing with GBV survivors. This can help to build robust referral systems.

1.3 LEGAL AID HELPLINE

Are there safe and secure helplines available for people to access legal information? If not, firstly, consider whether you (or with others) have the capacity and resources to establish one: Do you have trained staff that can be on call 24 hours a day and can adequately respond to calls received? If the answer is yes, then consider some further key points: Safety and Security – is the mobile network secure; do you have internal procedures which differentiate between emergencies; 24 hours; 48-hour responses and who will advise? Can you quickly respond to complex emergency cases such as gang rape? Ensure services are linked to other GBV helplines, and that your helpline responders have a list of service referrals with them.⁴ See Guideline 5.

1.4 WHO SHOULD PROVIDE LEGAL SERVICE- MENTORING AND SUPERVISION

It is paramount that lawyers and paralegals have been adequately trained and are provided with regular supervision and mentoring. Are your lawyers and paralegals trained to provide GBV legal services, including vulnerable groups such as LGBTIQ? If not, can you or others provide training? Do you have experienced lawyers in your organisation who can supervise and mentor younger lawyers or paralegals? If not, is there a legal NGO in your region that would be willing to assist? For lawyers or paralegals working with GBV survivors, training should include, at a minimum, how to ensure providing services through a survivor-centred approach while ensuring adherence to the principle of Do No Harm.

⁴ For more information on establishing legal aid helplines please contact LAW.



Photo: Håvard Bjelland/NCA

GUIDELINE 2: FIRST CONTACT WITH A CLIENT

The first contact with your client is crucial, and your manner and response must be professional; empathetic and re-assuring. This guideline is not meant to discuss this aspect in detail, only to outline key tips for remote first contact:

2.1 PROVIDING GENERAL INFORMATION

See Guideline 1 and Guideline 5 for guidance on information that should be provided and for relevant referrals where you are contacted by someone seeking non-legal information/services.

2.2 PROVIDING LEGAL ASSISTANCE

If after receiving information the client would like to seek legal assistance, ensure the following:

- Discuss with your client how they want to be contacted and when, as they may be confined with their abuser;
- Assess whether it is possible to meet with the client while maintaining current social distancing rules and if so, where and when you can safely and securely meet them;
- If it is **not possible to meet with them**, is it possible to talk to them by phone?
- If it is **not possible to talk to them by phone**, is it possible to use WhatsApp, SMS or a secure messenger service such as Signal?
- **If none of the above** are possible, can you use a 'trusted intermediary,' who can provide a phone to be used, or to deliver a message. Note that only trusted intermediaries that are known to both you and the client should be used, for example, draw upon your existing networks of community leaders or survivor advocates who are known to you and the client.
- A risk assessment must be undertaken in each individual case, including whether contact with the intermediary will put the client at risk, and whether the intermediary is able to abide by government advice and restrictions on freedom of movement and social distancing.
- If necessary, create code words to indicate that it is not safe to speak, or that the client needs to end the call suddenly;
- Agree times of day or days when you will make contact, if necessary;
- Advise them to store your contact details safely and to delete the messages if their phone is not private or safe and its presence may potentially cause them harm. Manage expectations of the client by clearly setting out when the next contact will be and what the next steps are.

GUIDELINE 3: REMOTE RAPID ASSESSMENT

It will be important to quickly ascertain the urgency and vulnerability of your client. This can be difficult when you may not meet face to face. Some key issues to watch out for:

Identifying your client: You must quickly ensure that your client is who they say they are when you may not meet them or be able to see them on a smart phone or laptop screen. See Guideline 4 for more information on how to do this.

What type of GBV is it? Are they in immediate danger? See Guidelines 1 and 2 for ensuring systems are in place to respond.

Where exactly are they? What is the nearest village/town/city/access? Can they send their location via WhatsApp or Signal if assessed as safe to do so?

Who is the abuser? State or non-state actor? Within the family?

Assess vulnerabilities: Age; illiteracy; psychological health and legal status.

Who do they live with; Where do they live, and can they leave the place they are in?

Have they received legal assistance before? From whom and for what?

⁴ For more information on establishing legal aid helplines please contact LAW.



Photo: Legal Action Worldwide – LAW

GUIDELINE 4: HOW TO PROVIDE REMOTE LEGAL AID SERVICES

It will be imperative that you provide key information to the client and if they require and request legal assistance or representation, that the client provides key information to you. Legal aid providers will have to explore innovative ways of obtaining signatures on documents and receiving documents or evidence from clients.

It is important that you explain to the client why you need to obtain such documents, for what purpose and how their data will be saved/protected.

4.1 OBTAINING A COPY OF THEIR ID

Confirming the identity of your client: If it is not possible to obtain original identifying documents from your client, an effort should be made to set up a video call where possible and when safe. If the client has photograph ID, they can hold it up to the camera next to their face or send a photograph of the ID and themselves via WhatsApp, Signal or SMS if a video call is not possible. If the client does not have official ID, a photograph of any identifying document that they do have should be sent via WhatsApp, Signal or SMS. If none of these options are possible, a trusted intermediary who can confirm the identity of the client should be used.

4.2 OBTAINING INFORMED CONSENT AND POWER OF ATTORNEY (POA) WHEN YOU CANNOT MEET FACE TO FACE

This should be undertaken as soon as possible but if it is not possible, a note should be written to the file explaining why this was not possible immediately.

Scenario 1: If the client cannot give written consent, they may provide verbal consent. The consent form can be sent to the client as a photograph, either using WhatsApp or a secure messenger service such as Signal. After the client has read the form, (only when confirmed it is safe to do so) you can phone the client and make sure they have understood the form. You can then record the client giving verbal consent. Alternatively, the client can send an audio file containing their verbal consent. The file must be attached to their online client file. The client must be asked to come to the office in person as soon as possible.

Scenario 2: The client is illiterate with access to a phone or smart phone: You must call the client only when it has been determined it is safe to do so, and go through the form with them, fully explaining each form of consent or POA, and making sure the client has understood. You can then record verbal consent by reading out the list of consents and asking the client to say yes or no. Alternatively, the client may record and send an audio file specifying which forms of consent they are willing to give. The file must be attached to their online client file. The client must be asked to come to the office in person as soon as possible.

Scenario 3: The client is literate or illiterate but with no access to a phone: A trusted intermediary could be used. A trusted intermediary can use their phone to contact the lawyer for the client, whereby the above methods can be used, or the intermediary can record themselves reading the form to the client and confirming the client's consent to each element.

What you must tell the client:

1. Your contact details or the details of your colleagues in case the client needs to contact you or your team urgently.
2. Reassurance that you are still mindful of their case and will follow up with next steps as soon as is practicable. (if necessary, during the timeframe and days agreed upon under Guideline 2)
3. Be clear that face-to-face legal advice may not be possible during COVID-19 and that legal services are likely to be affected. Ensure that you are always open and honest, providing accurate updated information to your client on what services are available in their particular situation.
4. Advise the client to store your contact details safely and to delete the message if their phone is not private and its presence may cause them difficulties.

4.3 STORAGE OF CASE FILES

All legal aid providers should follow their established internal policies regarding the storage of case files. Where it may not be possible to access your office, all client files must be photographed immediately and stored on a secure database that you have access to. Consider the security situation of your client; your office and your home, and after an internal risk assessment, consider the following:

- Storage of original documentation: If possible, ask the client to maintain these documents (if they are already in their possession and when safe to do so).
- If you do obtain documents, such as POA, which you require but cannot store at the office, you will need to agree with your client how and where these documents can be safely secured.
- Levels of security of the database and who has access;
- Levels of security within your home and how this can be improved.

4.4. CONDUCTING REMOTE INTERVIEWS

It is possible to conduct interviews of clients remotely, however this poses particular challenges when interviewing survivors of GBV. A rapid assessment to establish the clients' ability to endure a remote interview is essential. Where it is assessed that the client can withstand remote interviewing, psycho-social support must be available both before and after. Where possible, recording the interview should be considered to prevent the client having to repeat their testimony at a later date.

LAW is undertaking remote interviews and taking witness statements for international crimes during COVID-19 lockdown and has developed a methodology for overcoming the challenges posed by COVID-19 when interviewing survivors of GBV. For more information on this methodology, please contact LAW.

GUIDELINE 5: REFERRAL SERVICES AVAILABLE FOR SURVIVORS DURING COVID-19

It is essential for legal aid providers to have strong referral systems in place and to know what services are available in their area at any given time. Referral systems should feed into existing GBV referral pathways which will include providers of the below mentioned services.

A detailed list should be prepared for each geographical area that you are working in and you will need to have key contact numbers and operational information available. Make sure that you have tested these contact numbers recently and spoken to service providers before referring your client:

Safe spaces: Are there safe spaces that are open and accepting new clients? When are they open? If they are not, when might they open?

GBV and Medical Services: What is available? When? Where? Who is providing them; state or NGO?

Cash, Shelter, Food and WASH assistance: Many clients will ask for non-GBV services and it is important that you know what is available and have considered in advance what sort of support cannot be provided where they may impact the delivery of any legal assistance provided (for example whether provision of assistance will encourage false reporting by others in order to obtain non GBV support or services).

When responding to a disclosure of a GBV incident or providing legal aid services, it is important to act in ways that respect the safety, dignity and rights of the survivor. Organisations and individuals must ensure a survivor-centred approach is adhered to, incorporating the principle of Do No Harm.

Legal Action Worldwide (LAW) and Norwegian Church Aid (NCA) hope that these guidelines and tips assist legal aid providers to continue providing fundamental and life-saving services in the difficult circumstances caused by the COVID-19 pandemic, or similar emergency circumstances.



Photo: Håvard Bjelland/NCA



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