

Culturally Competent Lawyering

FACT SHEET

What is culturally competent lawyering?

Identifying how a client speaks and behaves from a cultural perspective to ensure communications between the lawyer and client are mutually understood and productive.

What is culture?

Culture is developed and reinforced by membership in groups. These groups can be defined by nationality, race, ethnicity, language, religion, education, profession, socio-economic status, age, gender, geography and many other factors.

Within each main culture, there are also subcultures.

What culturally competent lawyers do

- ✓ Find out about the client's background when building a rapport
- ✓ Think in terms of "different" cultures rather than "better" or "worse"
- ✓ Increase cultural knowledge
 - become familiar with common cultures and subcultures that you encounter in practice and study how they differ from your cultural background. Do your research or consult cultural leaders.
 - cultural knowledge alerts lawyers to possible differences, problems and issues that may arise and allows them to develop a strategy to address them including determining the most productive way to interact
- ✓ Provide proactive explanations
 - advise the client why certain information would be useful to minimise any offence they may otherwise take being asked to provide it
- ✓ Use normalising statements for clients whose culture is not as direct
 - for example, by saying: "Many people have found doing X to be helpful to them, what do you think?" rather than: "Will you do X?"
- ✓ Paraphrase a client's instructions to confirm understanding and ask clients to do the same with your advice

What culturally competent lawyers avoid

- Slang and idioms
- Assumptions around courtesy, for example failing to make eye contact or nodding could be a sign of respect rather than meaning the client is being deceptive or is saying "yes".
- Prematurely judging a client's decision-making process, for example, a client may wish to consult a family member or a religious leader before making a decision
- Offending a client by not understanding what is considered rude in their culture
- Assuming cultural similarities: instead observe indications of cultural difference
- Stereotyping – this may offend the client or overlook individual difference

Using translators

It is important to use an independent translator if a client has limited English language proficiency or the lawyer does not speak the language of the client. Lawyers should not rely on family or friends of a client to translate to avoid the risk of their client's instructions not being directly translated.

When using a translator, ensure that there are pauses in a client's instructions every minute or two to allow the translator to directly translate your client's words.

