



 BRITISH COLUMBIA
LAW INSTITUTE

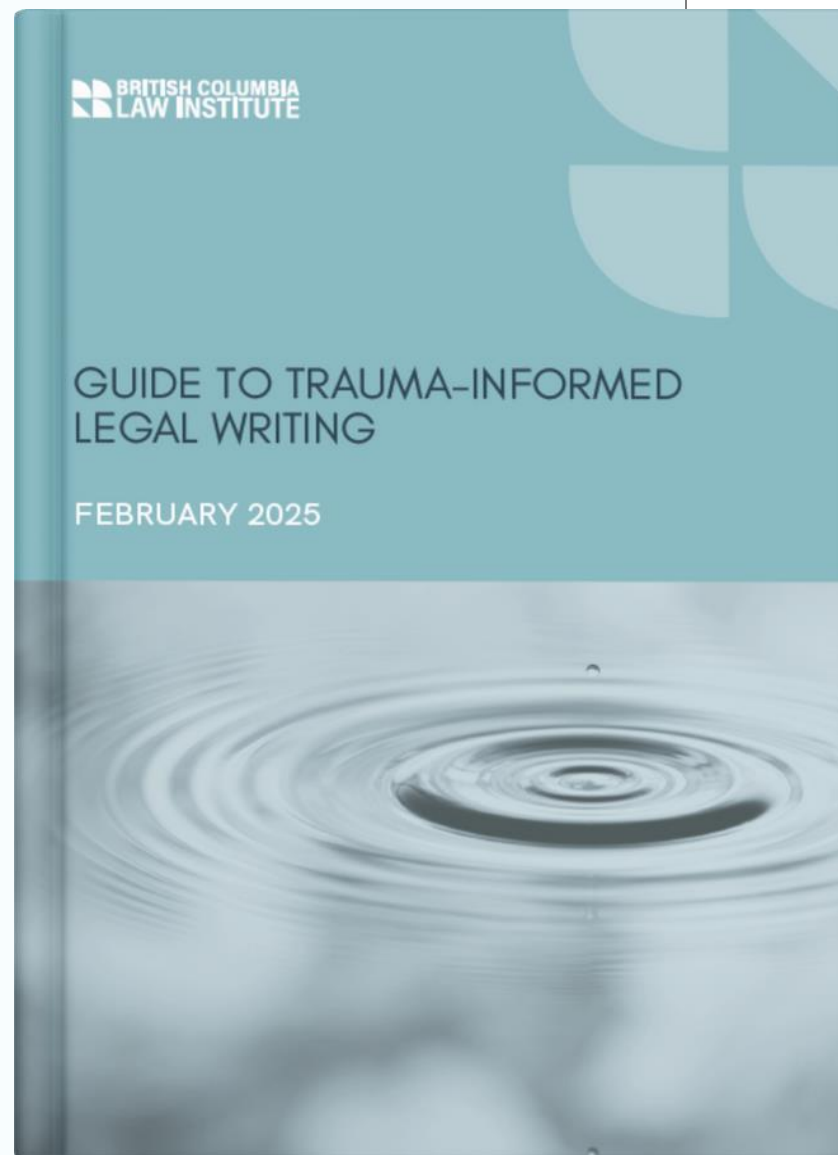
Trauma-Informed Legal Writing



About the British Columbia Law Institute (BCLI)

- BCLI is BC's independent, not-for-profit law reform agency
- Formerly the BC Law Reform Commission, BCLI has worked to improve and modernize the law since 1997
- Our work is intended to strengthen laws, develop just and innovative solutions, and increase access to justice in BC

Guide to Trauma-Informed Legal Writing



A person can experience long-lasting physical, behavioural, cognitive, and emotional effects when they are constantly in a fight, flight, freeze, or fawn state. A person in one of these states is not able to engage their prefrontal cortex, which is required for reasoning.²⁰ The chart below lists common responses and lasting adverse effects that people experience when they have unresolved trauma.

Common Reactions to Traumatic Events ²⁰	
Physical	Observable Behaviors
<ul style="list-style-type: none"> • Pain and discomfort (e.g., headaches, stomachaches) • Irritated or disturbed sleeping (e.g., nightmares, insomnia) • Muscle aches or weakness • High blood pressure or heart rate • Shallow breathing 	<ul style="list-style-type: none"> • Habit changes (e.g., sleeping, eating, hobbies) • Decreased self-care (e.g., personal hygiene) • Avoidance • Dissociation or shutting down • Increased use of substances • Compulsive behaviors (e.g., shopping, overeating, gambling)
Cognitive	
<ul style="list-style-type: none"> • Difficulty focusing on tasks • Intrusive and unwanted thoughts or memories • Impaired decision making • Memory (generally or with respect to traumatic event) • Difficulty concentrating or worrying about the traumatic event 	
Social	
<ul style="list-style-type: none"> • Difficulty trusting or forming relationships • Social withdrawal • Inappropriate behavior in social situations • Difficulty assisting with self in social situations 	

III. BEST PRACTICES FOR TRAUMA-INFORMED LEGAL WRITING

The goal of trauma-informed legal writing is to make written communication more accessible, supportive, and responsive. This section provides recommendations to integrate a trauma-informed lens into your legal writing.

Best Practices for a Trauma-Informed Approach to Legal Writing

- Avoid assumptions, biases, and myths.** Legal reasoning must be based on facts and evidence. Lawyers must examine and confront unconscious biases that impair our competence and impartiality.
- Use clear and accessible language.** Avoid legal jargon and complex terms. Write in a plain and accessible way to ensure that your message is easily understood.
- Be aware of triggers.** Be mindful of language that could trigger a trauma response. This includes avoiding graphic descriptions or terms that might evoke or trigger an emotional response.
- Be empathic and respectful.** Recognize that your reader may have experienced trauma. Approach your writing with compassion and sensitivity to your reader to avoid triggering or re-traumatizing them. This may require striking a balance between writing simply and not bluntly stating activating facts.
- Offer support and seek feedback.** Include information on support services, and if possible, seek feedback from trauma-informed professionals to ensure your writing is sensitive and supportive.

33

“This guide not only educates legal professionals and the judiciary about trauma but also encourages us to rethink and reexamine the ways we communicate . . . In doing so, it underscores the essential message that it is long overdue for our profession to do better and to cause no further harm.”

- Myrna McCallum (Foreword)

Agenda



1. What is trauma?
2. Why is a trauma informed approach to law important?
3. What are some trauma informed tools or practices you can adopt?



1.

What is trauma?



Defining Trauma



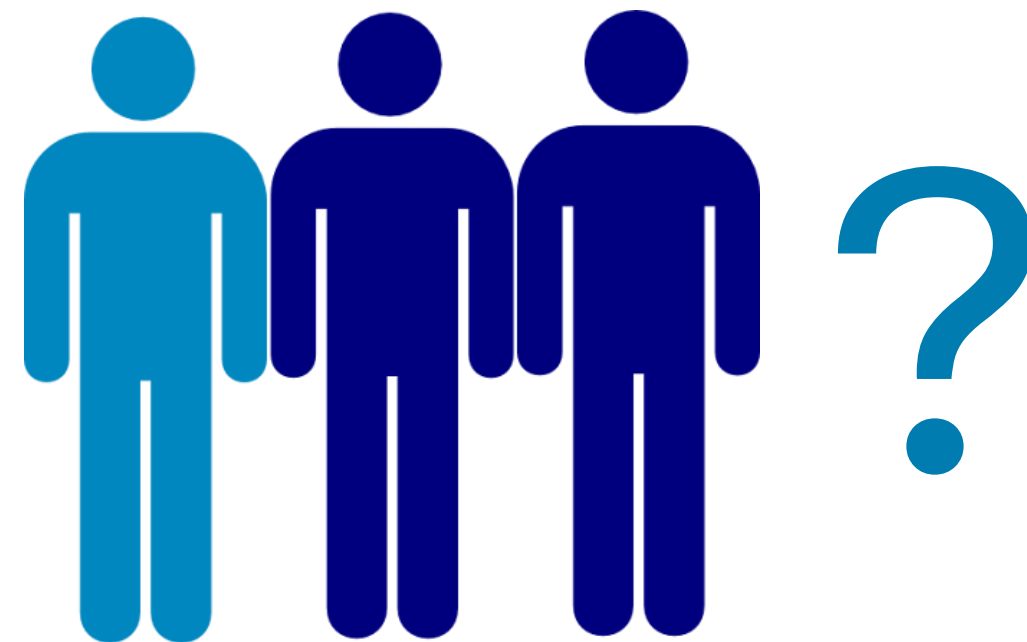
Individual trauma “results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual’s functioning and mental, physical, social, emotional, or spiritual well-being.”

- Substance Abuse and Mental Health Services Administration

Prevalence of Trauma



According to a 2024 survey by the Government of Canada, 64.9% of adults reported experiencing at least one traumatic event.



Prevalence of Trauma



*“People are walking around with trauma. Don’t assume that because you’re communicating to another lawyer that you don’t have to be trauma informed. Don’t say that because I’m dealing with a civil or a corporate matter, I don’t need to be trauma informed. All human beings have trauma. And so . . . that would be the first principle . . . **speak to that trauma and spend time creating the environment of safety even in your writing.**”*

- Interview participant (social worker)

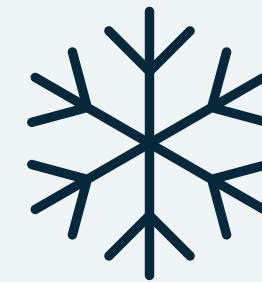
Common Responses to Traumatic Events



- Combative
- Outbursts of anger



FIGHT



FREEZE

- Disengaged or disassociated
- Unable to process or remember information

- Avoidant
- Misunderstood as lazy or complacent



FLIGHT



FAWN

- People pleasing
- Inability to set boundaries or identify personal needs

Impacts of Trauma in Legal Settings



A person experiencing...	May present by....
Avoidance	Missing deadlines
Difficulty sleeping or disassociation	Appearing disinterested
Fear	Showing reluctance to provide information
Impulsive behaviours	Engaging in behaviours that have short-term benefits but are harmful in the long term
Memory disturbance	Having challenges with sequences, blending events together, and making inconsistent statements
Skepticism	Demonstrating an unwillingness to trust or engage meaningfully with the process



2.

**Why is a trauma-
informed
approach to law
important?**



What Is a Trauma-Informed Approach to Law?



- A call to apply universal precautions, to approach our practices in a way that avoids doing further harm to others
- Requires a shift in perspective:

What's wrong with you? → *What happened to you?*
(deficit-based approach) (non-judgmental approach)

Key Principles



1. Trauma awareness
2. Emphasis on safety and trustworthiness
3. Providing opportunities for choice, collaboration, and connection; and
4. Empowering individuals by recognizing and building upon their own strengths and skills.

Benefits of Trauma-Informed Legal Writing



- More effective than traditional legal writing
- Helps reduce confusion and anxiety
- Avoids the risk of causing further harm
- Promotes access to justice by ensuring written communications are more clear, supportive, and responsive
- Aligns with our obligations as legal professionals

Alignment with Ethical Obligations



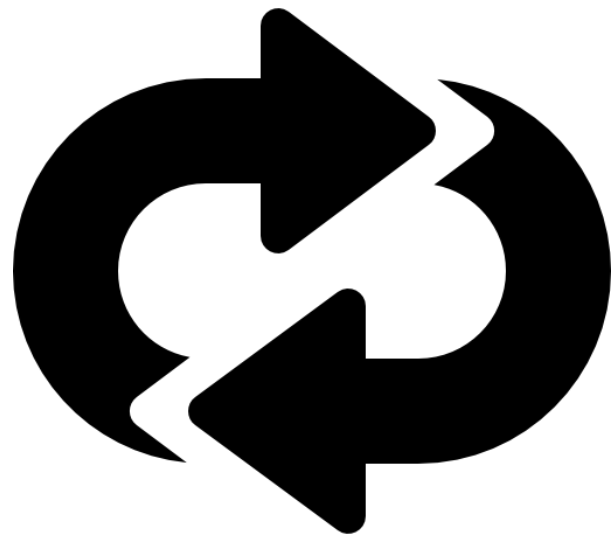
Code of Professional Conduct for British Columbia

- Rule 2.2-1: A lawyer has a duty to carry on the practice of law and discharge all responsibilities ...honourably and with integrity.
- 2.2-2 A lawyer has a duty to uphold the standards and reputation of the legal profession.
- 3.1-2 A lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer.

Alignment with Truth and Reconciliation



Ways that a trauma informed approach is aligned with these calls to action – ongoing + interdependent:



- Recognize historic and intergenerational trauma
- Enable holistic support
- Recognize self-determination
- Create safe and trusting environments
- Call for systemic change and reform

Cultural Competence + Humility



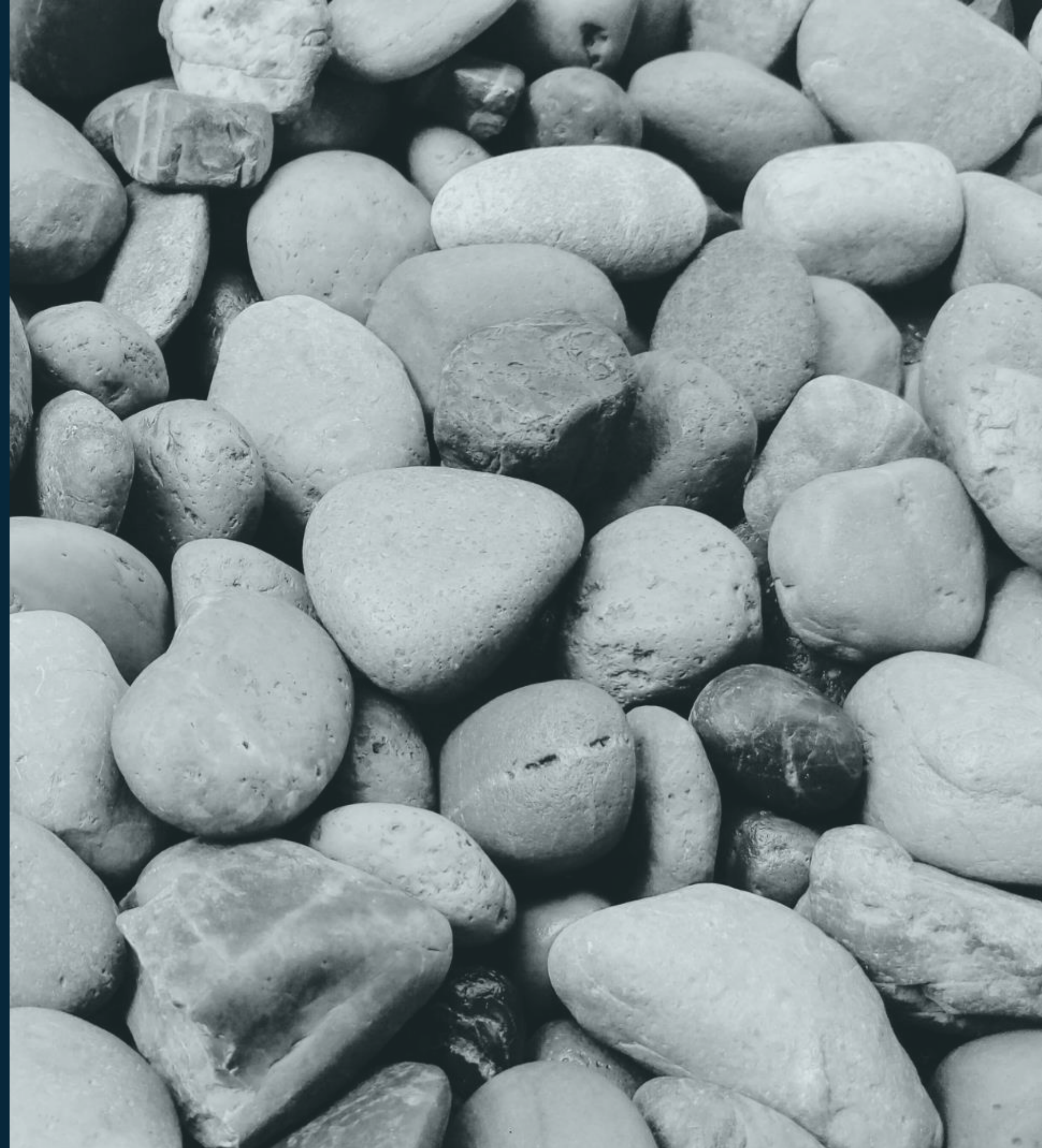
“**Cultural competence** addresses the ability of a person to effectively work with and across different groups of people and positions in the role of an expert in another person’s culture. **Cultural humility** is an ongoing process of recognizing that the person in front of you is the expert.”

- Myrna McCallum (in CLAS’s “SHARP Workplaces Reference Manual for Lawyers”)



3.

**What are some
trauma-informed
tools or practices
you can adopt?**



1. Avoid assumptions, biases, and myths



- What lived experience, lenses, assumptions, prejudices and trauma am I bringing to my written work?
- How often do I commit fundamental attribution errors, attributing others' behaviours to their character rather than the situation?

1. Avoid assumptions, biases, and myths



Instead of seeing...	Ask...
Avoidance	Why does this person feel unsafe to participate?
Aggression	What is this person perceiving as a threat or an attack?
Manipulation	Why does this person feel it is unsafe to be direct?
Dishonesty	What is unsafe about sharing the truth?
Disassociation	What about this situation is making the person feel unsafe to be mentally present?
Negative behaviours	How does this behaviours help this person cope? In what ways are these behaviours serving this person? How might these behaviours be adaptations?

2. Use clear and accessible language



Use plain language

- Remove unnecessary words
- Use the active voice. Be clear who is doing what.
- Provide the information in different formats (e.g., numbered or bulleted lists)
- Focus on practical details. Clearly include any next steps or deadlines.
- Avoid jargon and technical language if the recipient will not understand it.



2. Use clear and accessible language



Before I get to this, I would like to make two short comments. First of all, I want to say something about the style of this decision. For those who have read some of my past judgments, the reader may notice a change. For Jesse Armitage, I have tried to say what I wanted to say in very plain language. I believe that this is very important for judges to do in every decision. However, judges often do not do a good job of this. I would describe myself as one of the worst sinners. As lawyers first and then judges, we get used to using words that are long and complicated. This only muddies the message we are trying to say.

Justice Nakatsuru in R v Armitage

3. Be aware of triggers



Be careful when using descriptions of abuse and violence. Always consider:

- Is it necessary to include this information?
- If so, is it necessary to add a signpost or a warning statement?

Avoid using everyday phrases that convey violence (e.g., “adding insult to injury”, “taking a stab at it”).

3. Be aware of triggers



I will not detail in my decision the trauma you have suffered. Physical, sexual, and emotional trauma. Even when you were so young. A child. To do so in such a public way as in a judicial decision will not help you heal. I will say this though. Ms. Hughes testified that in the years she has worked as a Parole Officer she has never met anyone who has faced so much death in her personal life as you. The suicides. The loss. That really struck me. I will also say that you are a Residential School survivor. You are not ready to reveal all that went on.

Justice Nakatsuru in R v Pelletier

4. Be empathetic and respectful



- Avoid deficit-based language which labels something or someone as a problem
- Avoid euphemisms
- Use first and second person
- Show respect for identity (preferred names/gender inclusive)

4. Be empathetic and respectful



“Researchers have examined the user experience in the court system and found that the public’s trust in the justice system is driven far more by whether their interaction with the courts was positive or negative, i.e., whether they were treated with respect and felt heard, rather than whether they win or lose.”

- The National Association for Court Management

5. Offer support and seek feedback



Be aware of **support resources** (not just for others, but also for yourselves!)

Consider including support services in your documents whenever you can

Engage in **debriefs** regularly



Thank you

