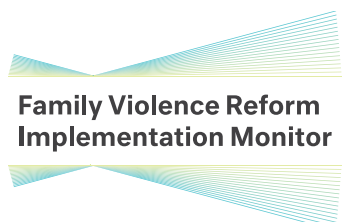


**Legislative review of family
violence information sharing
and risk management:
reviewing the effectiveness
of Parts 5A and 11 of the
*Family Violence Protection
Act 2008 (Vic)***

May 2023



Acknowledgement of Traditional Owners

The Victorian Government proudly acknowledges Victorian Aboriginal people as the First Peoples and Traditional Owners and custodians of the land and water on which we rely.

We acknowledge and respect that Aboriginal communities are steeped in traditions and customs built on an incredibly disciplined social and cultural order. This social and cultural order has sustained up to 60,000 years of existence.

We acknowledge that Aboriginal communities includes both Aboriginal and Torres Strait Islander people living in Victoria.

We acknowledge the ongoing leadership role of the Aboriginal community in addressing and preventing family violence and join with our First Peoples to eliminate family violence from all communities.

Recognition of victims and survivors of family violence

We acknowledge the terrible impact of family violence on individuals, families and communities, and the strength and resilience of the children and adults who have, and are still, experiencing family violence.

We pay respect to those who did not survive and to their family members and friends.

Family violence services and support

If you are concerned for your safety or that of someone else, please contact the police in your state or territory, or call Triple Zero (000) for emergency assistance.

If you have experienced family violence and need support or assistance, contact:

- **National Sexual Assault and Domestic Violence hotline**
1800 RESPECT (1800 737 732)
- **Safe Steps 24/7 family violence response line**
1800 015 188
- **Victims of Crime Helpline** (victims of crime including men experiencing family violence) 1800 819 817 or by texting 0427 767 891 from 8am to 11pm, seven days per week
- **Rainbow Door** specialist LGBTIQ+ support, advice and referral line
1800 729 367 (10am–5pm)
- **Kids Helpline 24/7**
1800 551 800 and **WebChat**.

If you are concerned about your behaviour and its impact on your family, contact the **Men's Referral Service** on 1300 766 491 (24/7 service).

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Legislative review of family violence information sharing and risk management: reviewing the effectiveness of Parts 5A and 11 of the *Family Violence Protection Act 2008 (Vic)*

May 2023

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Foreword

In April 2022 the Victorian Government entrusted this office to conduct an independent review of the legislation underpinning three vital elements of the Victorian family violence reforms – the Family Violence Information Sharing Scheme, the Central Information Point and the Family Violence Multi-Agency Risk Assessment and Risk Management (MARAM) Framework. These reforms aim to better protect family violence victim survivors and hold perpetrators accountable by supporting information sharing and promoting system-wide consistency in the treatment of family violence risk. These specific foundations of the change agenda are described by some as ‘game changers’ for the system.



Jan Shuard PSM
Family Violence Reform
Implementation Monitor

This review considered how effective the legal framework in Parts 5A and 11 of the *Family Violence Protection Act 2008* (Vic) (the Act) has been in achieving its objectives and whether any changes are required to improve its effectiveness. The framework underpins all the work being done in practice to share relevant information, collaborate and coordinate services, and assess and manage family violence risks. It is therefore critical that the legal framework is clear and provides sufficient authority and incentive for services to share information and treat risk in a consistent manner.

It is not possible to assess the effectiveness of the legal provisions without considering their application and operation in practice. The review examined the practices that give effect to this legislation because these are what will determine the efficacy of the legislation. In some cases we found that issues arise not from the legislation itself but its application in practice.

This report highlights the significant positive impact the legal framework has had in the family violence system. The Act has been effective in enabling a positive cultural shift away from perpetrators’ privacy towards sharing information to keep victim survivors safe and hold perpetrators accountable. More information is being shared than ever, and there is greater service coordination and collaboration to support risk assessment and management. However, while greater access to information is supporting services to make better-informed decisions about risk, more work could be done to support the proactive sharing of relevant information. The MARAM Framework has also promoted a shared language for family violence, a greater focus on keeping perpetrators in view and consistency in understanding and managing risk.

This report also identifies some areas of the legal framework that could be strengthened. It proposes ways to further support practitioner understanding of their obligations, ensure the timely sharing of risk-relevant information, promote victim survivor agency over the sharing of their information, and support organisations to align their practice with the MARAM Framework. Our recommendations do not imply there are flaws in the Act but should be regarded as measures to further increase its effectiveness.

We acknowledge and thank the stakeholders who gave up their time to meet with us and/or make a submission. Consultations and submissions supplied valuable insights into aspects of the schemes that are working well and have been effective in achieving their aims, as well as barriers and challenges that services and practitioners face in practice.

We are also indebted to the survivor advocates who shared their experiences and views, which was critical in helping us understand how information sharing impacts on victim survivors. As always, their insights were invaluable.

The small team who worked tirelessly on this report are to be commended on the quality and thoroughness of their research, their diligent exploration of the issues and the high standard of reporting.

We recognise the complexity and scale of these reforms and acknowledge the ongoing work of specialist family violence services, universal services and government agencies in progressing these critical reforms.

Jan Shuard PSM
Family Violence Reform Implementation Monitor

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Summary

Following publication of the Royal Commission into Family Violence's final report in 2016, the Victorian Government introduced new provisions into the *Family Violence Protection Act 2008 (Vic)* (the Act) to better protect family violence victim survivors and hold perpetrators accountable. Parts 5A and 11 of the Act provide the basis for the Family Violence Information Sharing Scheme (FVISS), the Central Information Point (CIP) and the Family Violence Multi-Agency Risk Assessment and Risk Management (MARAM) Framework. These reforms support information sharing between agencies (known as information sharing entities or ISEs) and promote system-wide consistency in identifying, assessing and managing family violence risks.

The Act requires that Parts 5A and 11 be reviewed, with the focus for Part 5A being on the third to fifth years of its operation and the focus for Part 11 being on its first five years of operation. This report outlines the findings of the legislative review. We aimed to determine the extent to which the legal framework has been effective in achieving its objectives and whether there have been any adverse effects, including for diverse communities. As our focus was on the legal framework, we did not examine the effectiveness of the Act's implementation by government agencies. However, we have been informed by how the legal provisions are operating and being applied in practice.

Our review approach incorporated stakeholder and survivor advocate consultations, a public call for submissions process, and a review of organisational information and legislative materials. In conducting the review, we examined the provisions in Parts 5A and 11 and related material such as the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (the Regulations), guidelines required to be issued in relation to the FVISS (the Ministerial Guidelines) and the legislative instrument approving the MARAM Framework.

An overview of the report's chapters is set out below. A summary of recommendations is also provided at the end of this section to outline the key changes we recommend to each aspect of the legal framework. A full list of numbered recommendations, by chapter, is included at the end of the report.

Chapter overview

Chapter 1: Clarity of information sharing legislative framework

This chapter begins by examining the clarity of the legal provisions underpinning the FVISS. We found that Part 5A of the Act is sufficiently clear in setting out the legal requirements to share information, while the Act's information sharing principles support ISEs to make decisions in practice.

However, we identified practitioner confusion and uncertainty in relation to aspects of the Act's terminology, including the lack of a definition for 'relevant' information and inconsistent terminology between the Act and the MARAM Framework. Although this can lead to inconsistent practices, we do not recommend changing the Act's terminology because doing so may undermine the Act's objectives and have a negative impact on victim survivor safety. We recognise the value in the Act's approach in giving practitioners maximum scope to assess relevancy based on the specific circumstances of each case and allowing for the greatest amount of information to be shared.

The role of court personnel and bodies as ISEs was also identified as an area of practitioner uncertainty. Noting there is little guidance available on the role of courts, we recommend that the Ministerial Guidelines include further guidance about the courts' participation in the FVISS.

This chapter also examines the extent to which the Ministerial Guidelines support clarity and practitioner understanding. We found that although the Ministerial Guidelines satisfy the Act's requirements, they are difficult to navigate and are not readily understood by some practitioners. They are not always meeting their purpose of assisting ISEs to understand their obligations to ensure information is shared appropriately and responsibly. This limits their overall effectiveness. We recommend amendments to the Ministerial Guidelines to increase utility and improve understanding.

The final section in this chapter explores the approach in the Regulations to prescribing organisations as ISEs. This approach is complex but comprehensive, and we believe it should be maintained. However, we identified challenges relating to the prescription of some non-legal programs within legal services that operate under a multidisciplinary approach. Although we do not make any recommendations on this matter, we support ongoing dialogue between the Victorian Government and community legal services to balance the aims of equal access to relevant family violence information with providing holistic services to clients.

Chapter 2: Effectiveness of Part 5A in achieving its objectives

In looking at how effective Part 5A has been in achieving its objectives, this chapter examines the extent to which Part 5A has promoted cultural change, facilitated information sharing and service coordination and supported better informed decision making about family violence risk.

We found that Part 5A is supporting a positive cultural shift away from maintaining perpetrators' privacy towards sharing information to keep victim survivors safe and hold perpetrators accountable. The legislative basis of the FVISS in Part 5A, and the protection for information sharing done in good faith, have increased practitioner confidence in requesting and disclosing information and helped remove barriers to information sharing.

Reflecting this cultural shift, the volume of information sharing in response to a request ('reactive' sharing) has increased in the third to fifth years of Part 5A's operation, with very little unauthorised information sharing being reported. Although some ISEs face challenges obtaining information in response to a request, the obligations under Part 5A are strong enough to support organisations to advocate for greater access to information. Increased information sharing has also had a positive impact in supporting ISEs to make better informed decisions about family violence risk.

However, while voluntary or 'proactive' information sharing has also increased, it is not occurring as often as it should. This is limiting the effectiveness of Part 5A. We recommend that the Ministerial Guidelines highlight the ability of ISEs to voluntarily share relevant information with other services and provide further guidance on when and how to do so. A greater focus on proactive information sharing will also strengthen collaborative and coordinated practice.

This chapter also examines adverse effects identified in relation to Part 5A. Some organisations implementing Part 5A have introduced new processes and forms for information sharing to support compliance with the Act. This has sometimes contributed to delays in services receiving critical information, negatively impacting on the ability of services to assess risk and prepare safety plans. For information sharing to be effective in protecting victim survivors, it is critical that services receive information in a timely manner. To promote timely information sharing, we recommend that the Act be amended to require ISEs to respond to a request within a reasonable timeframe. We also recommend that the Ministerial Guidelines emphasise the importance of sharing information in a timely manner and include guidance on responding to requests within a reasonable timeframe.

Chapter 3: Impact of Part 5A on victim survivors

This chapter looks at the impact of Part 5A's provisions on victim survivors. We found that although victim survivors are apprehensive about sharing their confidential information with services, the introduction of Part 5A has not increased their concerns about information sharing.

Victim survivor agency was a significant issue raised by survivor advocates, with some concerned that the consent provisions are not being applied such that victim survivors have agency over the sharing of their confidential information. We found that the principles and consent provisions in Part 5A appropriately recognise the factors that should be considered as part of sharing adult and child victim survivors' confidential information, with no changes to the Act required. Although victim survivors supported the broader sharing of perpetrator information under Part 5A, we heard that ISEs are not always sharing perpetrators' confidential information in a way that supports victim survivor knowledge and agency. To highlight its importance, we recommend that the Ministerial Guidelines incorporate information from the MARAM Framework on victim survivor agency and self-assessment of risk.

The interaction between Part 5A and Victoria's broader privacy regime is also discussed in this chapter, reflecting that other privacy laws apply to some aspects of family violence-related information sharing. We identified two key aspects of Victoria's privacy laws that we recommend should be expressly outlined in Part 5A to support practitioner understanding of, and compliance with, privacy obligations. These are the obligation for an ISE to inform a victim survivor about when and how their information may be disclosed under the FVISS when collecting their information, and the ability for an ISE to disclose a victim survivor's confidential information, with consent, to reduce the trauma associated with a victim survivor needing to retell their story.

Chapter 4: Effectiveness of the Central Information Point in achieving its objectives

This chapter examines the extent to which the legal provisions establishing the CIP are sufficiently clear. Although mostly clear, we identified two areas in which the Act could be amended to improve transparency. We found that the Act does not fully address the way in which information sharing by the CIP differs from other information sharing under the FVISS, or how information is used within the CIP team to further the intent of providing consolidated and up-to-date information to a CIP requester (those who can request a CIP report). Further, CIP requesters are not readily identifiable, and the decision making about who is a CIP requester lacks transparency. We recommend that Part 5A be amended to clarify that a purpose of the CIP is to collate information from data custodians (those who provide information for a CIP report) and provide a consolidated report to CIP requesters. We also recommend that CIP requesters be prescribed in regulations to promote transparency.

This chapter also addresses the effectiveness of CIP reports. We found that complete CIP reports that contain consolidated information allow CIP requesters to effectively establish, assess and manage family violence risk. However, the delayed delivery of CIP reports impacts negatively on their effectiveness. To ensure the timely delivery of reports, we recommend that the Act be amended to include timeliness as an object of Part 5A, to require the CIP to respond to CIP requests within a reasonable timeframe and to include factors for the CIP to consider in determining what constitutes a reasonable timeframe. We recognise that ongoing efforts to automate processes within the CIP will also help ensure the timely delivery of CIP reports.

In considering questions of effectiveness, we also found that CIP reports provide less information relevant to risk assessment and management than in the past and that some inconsistencies exist between reports. We do not recommend legislative change to address this issue. Rather, to promote consistency, we suggest a continued focus in ongoing discussions between the CIP data custodians and Family Safety Victoria on developing a shared understanding of information that is relevant for a family violence assessment or protection purpose.

Access to CIP reports is also discussed in this chapter. We found that although CIP requesters' on-sharing of information from CIP reports with other ISEs can be inconsistent, legislative change is not required because the Act supports the on-sharing of CIP report information in appropriate cases. However, noting that inconsistencies may result from practitioner uncertainty, we recommend that the Ministerial Guidelines provide guidance about on-sharing risk-relevant information. We also found that limited access to CIP reports affects the service response for some victim survivors who do not access services through The Orange Door or other CIP requesters. Although we don't make any recommendations on this issue, we suggest consideration of expanding access to CIP reports to services that support family violence victim survivors who may be unlikely to access mainstream, government-led programs.

The chapter concludes that the CIP is not meeting its purpose of providing updated information about perpetrators to CIP requesters. Although, again, we do not recommend legislative change on this matter, we suggest that the government continues to look for opportunities to collect and share updated risk-relevant information with CIP requesters in appropriate cases.

Chapter 5: Clarity of legal provisions for the MARAM Framework

In considering the clarity of Part 11, this chapter outlines our finding that the legal provisions are mostly clear. However, the MARAM legislative instrument lacks clarity about what organisations must do to align their policies, procedures, practice guidance and tools with the MARAM Framework, with some stakeholders unclear on what MARAM alignment requires. To provide greater clarity and ensure a consistent understanding of MARAM alignment across sectors, we recommend that the MARAM legislative instrument be amended to outline steps and activities that organisations must take to align.

This chapter also explores the approach in the Regulations to prescribing organisations that must align with MARAM (known as framework organisations). We found that consistency in the prescription of organisations as both ISEs and framework organisations is important to ensure information sharing is informed by an understanding of family violence and relevant risk factors. We recommend that the Act be amended to remove the limitation on government's ability to prescribe individuals as framework organisations. We also suggest further consideration of the current list of prescribed organisations in light of the need to promote consistency.

We also found that provisions in the Act that require relevant government contracts to include an obligation to align with MARAM have not been used in the way intended. This is because relevant organisations are prescribed in regulations rather than relying solely on contractual agreements. We support this approach and do not make any recommendations on this matter.

Chapter 6: Effectiveness of Part 11 in achieving its objectives

This chapter addresses the extent to which Part 11 has been effective in promoting consistency in identifying, assessing and managing family violence risks. We found that, through introducing the MARAM Framework, Part 11 has supported a shared language for family violence and a focus on keeping perpetrators in view. Where services align with MARAM, there is also greater consistency in risk identification, assessment and management.

However, framework organisations' inconsistent alignment and a lack of alignment progress is limiting the overall effectiveness of Part 11. To ensure framework organisations are actively working towards alignment and taking specific actions to embed MARAM within their organisation in a timely manner, we recommend that the legislative instrument authorising MARAM be amended to introduce a timeline for alignment activities.

The effectiveness of MARAM annual reporting is also examined in this chapter. We found that annual reporting in its current form does not provide meaningful information or accountability for framework organisations' alignment with MARAM. We therefore recommend that the Regulations be amended to require annual reporting about framework organisations' progress against key alignment steps, activities and timeframes.

The chapter notes that we found no adverse impacts relating to the legal provisions in Part 11.

Chapter 7: Other issues and implementation challenges impacting on the Act's effectiveness

This chapter outlines challenges and concerns raised by stakeholders that were not directly connected to the provisions in the Act but that nonetheless impacted on the Act's effectiveness. This includes concerns about the MARAM Framework and associated tools, other laws that affect the FVISS, the non-prescription of certain organisations as ISEs and/or framework organisations, and other challenges in implementing the Act. We do not make any recommendations on these matters.

Summary of recommendations

The report makes 16 recommendations aimed at strengthening the legal framework and improving the Act's effectiveness. Six amendments are proposed to Part 5A and one to Part 11 of the Act. The Ministerial Guidelines require review and simplification, plus some additional guidance covered by six recommendations. There is one proposal to amend the Regulations and another two to expand the legislative instrument authorising MARAM.

Our recommendations focus on five key issues:

- encouraging timely information sharing
- promoting transparency in relation to the CIP
- supporting victim survivor agency
- providing clear and targeted guidance for practitioners
- introducing clearer requirements, timelines and accountability for MARAM alignment.

An overview of the recommendations is provided in Figure 1 below.

Figure 1: Summary of recommendations

That Part 5A of the Act be amended to:

- require ISEs to respond to a request for information within a reasonable timeframe and include factors for ISEs to consider in determining what constitutes a reasonable timeframe
- expressly require an ISE that collects family violence-related information from a victim survivor to, at the time of or before collecting that information, take reasonable steps to ensure the victim survivor is aware of when, and to whom, their confidential information may or must be disclosed under Part 5A
- confirm that an ISE may disclose a victim survivor's confidential information, with consent, for the purpose of reducing the trauma associated with needing to retell their story
- clarify that a purpose of the CIP is to collate information from data custodians and provide a consolidated report to a CIP requester
- define a CIP requester as an ISE that is prescribed in regulations to be a CIP requester for the purposes of the Act
- include timeliness as an object of Division 6, require the CIP to respond to a CIP request within a reasonable timeframe and include factors for the CIP to consider in determining what constitutes a reasonable timeframe.

That the Ministerial Guidelines be amended to:

- increase utility and improve understanding
- include an explanation of the courts' participation in the FVISS
- highlight the ability of ISEs to proactively share relevant information with other services and provide guidance on when and how to appropriately and responsibly share information proactively
- emphasise the importance of sharing information in a timely manner – a case study should illustrate how ISEs can share information verbally in urgent cases, and record information after the fact
- include guidance to support ISEs to implement the recommended changes requiring a response to requests for information within a reasonable timeframe
- incorporate information from the MARAM Framework on victim survivor agency and self-assessment of risk
- provide guidance about on-sharing risk-relevant information. This should include a case example with CIP report information.

That Part 11 of the Act be amended to:

- allow both people and bodies to be prescribed as framework organisations.

That the Regulations be amended to:

- require MARAM portfolio ministers' annual reports and the consolidated annual report to include information about framework organisations' progress against key alignment steps and activities and timeframes.

That the legislative instrument authorising MARAM as the approved framework under Part 11 of the Act be amended to:

- clearly set out the steps and activities that framework organisations must take to align with MARAM and to introduce a timeline for alignment activities linked to timeframes determined based on an organisation's date of prescription as a framework organisation.

Note: A full list of numbered recommendations is provided at the end of this report.

Background

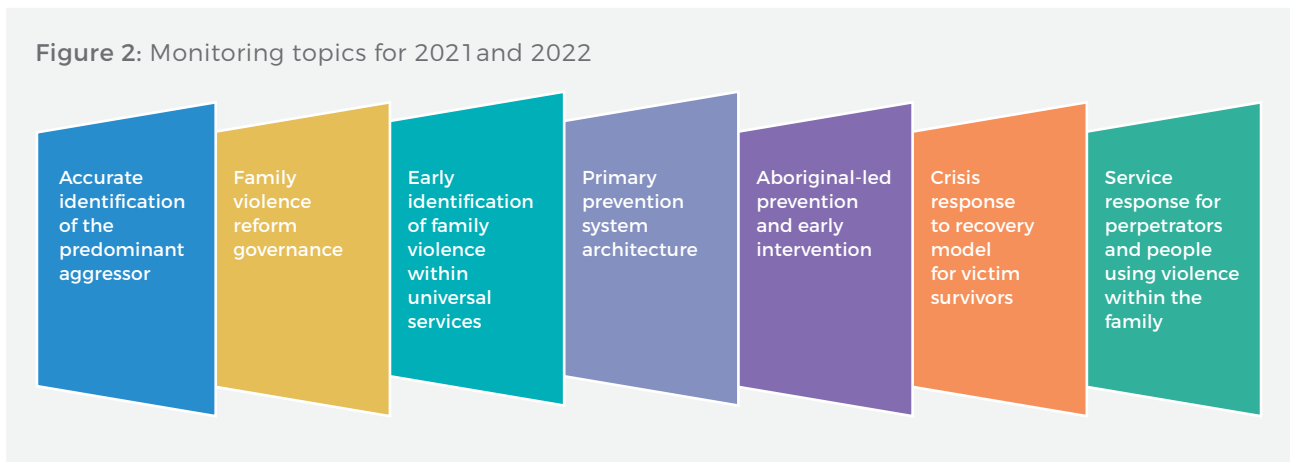
About the Family Violence Reform Implementation Monitor

Former Victorian Corrections Commissioner Jan Shuard PSM was appointed as the Family Violence Reform Implementation Monitor (the **Monitor**) on 1 August 2019. Jan took up her role on 2 October 2019 replacing Tim Cartwright APM, the inaugural Monitor.

The Monitor was formally established in 2017 as an independent statutory officer after the Royal Commission into Family Violence (the **Royal Commission**) released its report in 2016. The role was responsible for monitoring and reviewing how the Victorian Government and its agencies deliver the family violence reforms as outlined in the government's 10-year implementation plan Ending Family Violence: Victoria's Plan for Change.

The Monitor provided annual implementation reports to the Victorian Parliament from 2018 to 2021, as required under the *Family Violence Reform Implementation Monitor Act 2016* (Vic). In May 2021 the Monitor's function was extended to the end of December 2022. This enabled the continued monitoring of reforms as implementation matured and remaining Royal Commission recommendations were implemented. The Monitor produced seven topic-based reports in 2021 and 2022, as shown in Figure 2.

Figure 2: Monitoring topics for 2021 and 2022



On 12 April 2022 the Governor in Council extended the Monitor's appointment so the Monitor could conduct an independent legislative review of Parts 5A and 11 of the *Family Violence Protection Act 2008* (Vic) (the **Act**), using the powers set out in the Family Violence Reform Implementation Monitor Act. The Monitor's appointment ends on 31 May 2023.

Language used in this report

We recognise that some service providers and communities prefer the terms 'person using family violence' and 'person experiencing family violence'. However, for consistency with the Royal Commission, this report uses the term '**perpetrator**' to describe people who use family violence and '**victim survivor**' to describe people who are subjected to family violence. Family violence is deeply gendered, with men making up the majority of perpetrators, while victim survivors are overwhelmingly women and children. While acknowledging this reality, we employ the gender-neutral terms 'perpetrator' and 'victim survivor' throughout to be inclusive of all communities experiencing family violence.

This report uses the term '**survivor advocate**' to refer to the victim survivors of family violence who we consulted for this review.

Bolded terms are defined in the glossary at the end of this report.

Overview of legislative framework

Family Violence Information Sharing Scheme

Part 5A of the Act provides the legal basis for the Family Violence Information Sharing Scheme (**FVISS**), which aims to better protect family violence victim survivors and hold perpetrators accountable.¹ The FVISS operates within the context of Victoria's existing privacy regime while modifying some privacy laws to facilitate family violence information sharing.

Part 5A enables prescribed people or organisations, known as information sharing entities (**ISEs**), to share **confidential information** for a **family violence protection purpose**. This is the purpose of managing a risk of a person committing or being subjected to family violence. It includes the ongoing assessment of the risk of the person committing or being subjected to family violence. Information can also be shared with a subset of ISEs, known as risk assessment entities (**RAEs**), for a **family violence assessment purpose**. This is the purpose of establishing or assessing the risk of a person committing or being subjected to family violence.

Relevant information can be voluntarily and proactively shared between ISEs or shared in response to a request. Information can also be shared with victim survivors to help them manage their risk.

Other relevant provisions in Part 5A:

- specify certain information that is excluded from the FVISS
- outline consent requirements for ISEs to share confidential information
- require ISEs to comply with record-keeping obligations in the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (the **Regulations**)
- make the unauthorised sharing of information an offence while protecting information that is shared in good faith and with reasonable care
- explain the interaction between Part 5A and other privacy and secrecy laws.



To support appropriate information sharing practices, the Act requires the Minister for Prevention of Family Violence (the **Minister**) to issue guidelines in relation to the FVISS and the requirements that ISEs must comply with to show their capacity to handle confidential information responsibly and appropriately. Although sitting outside the Act, these guidelines (referred to in this report as the **Ministerial Guidelines**²) are binding on ISEs.

The Regulations outline which individuals and organisations are ISEs and RAEs.³ Prescribed individuals and organisations cover a wide range of workforces, from specialist family violence services and child and family services to universal services such as schools and public hospitals. The Regulations also specify the record-keeping obligations that apply to ISEs.⁴

ISEs were prescribed under regulations at different times, as shown in Table 1.

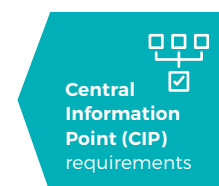
Table 1: Stages of the FVISS reforms

Initial tranche: 26 February 2018	Phase 1: 27 September 2018	Phase 2: 19 April 2021
<p>Prescribed organisations in the initial tranche included:</p> <ul style="list-style-type: none"> • Victoria Police • Court Services Victoria • Corrections Victoria • Child Protection • specialist family violence services • counselling services • Child and Family Information Referral and Support Team (Child FIRST) services • sexual assault services • victims' services 	<p>New organisations added as ISEs included:</p> <ul style="list-style-type: none"> • youth justice • out-of-home care services • child and family services • alcohol and other drug services • mental health services • community housing and homelessness services • tenancy advice and advocacy services • financial counsellors • maternal and child health services 	<p>Further organisations, including universal services, prescribed as ISEs, for example:</p> <ul style="list-style-type: none"> • education and care services (such as schools, before- and after-school care, kindergartens and long day care) • health services (such as general practitioners, community health services, public hospitals, state-funded aged care services and ambulance services) • migrant and refugee case work and the Refugee Minor Program

Source: Family Violence Protection (Information Sharing) Regulations 2018; Family Violence Protection (Information Sharing) Amendment (Risk Management) Regulations 2018; Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2020.

Central Information Point

The Central Information Point (**CIP**) is also established under Part 5A of the Act. The CIP is responsible for consolidating information about a perpetrator or **alleged perpetrator** of family violence from key government agencies into a single CIP report. The CIP report is then shared with certain ISEs to support their family violence risk assessment and management practices.



Multi-Agency Risk Assessment and Risk Management Framework

Part 11 of the Act provides the legal basis for the Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework. The MARAM Framework aims to achieve system-wide consistency in identifying, assessing and managing family violence risk.

The Act empowers the Minister to approve a risk assessment and management framework, which is set out in a **legislative instrument**. It also requires certain organisations (known as **framework organisations**) to align their policies, procedures, practice guidance and tools with that framework. The current MARAM Framework came into operation as the approved framework under the Act on 27 September 2018.⁵

Part 11 of the Act also:

- requires government departments and agencies to incorporate the obligation to align with the MARAM Framework into relevant State contracts and agreements with organisations providing services relevant to family violence risk assessment or risk management
- sets out annual reporting requirements in relation to the implementation and operation of the MARAM Framework.



The Regulations outline which organisations are framework organisations.⁶ The list of framework organisations is mostly the same as the list of ISEs, with some variations due to the role and function of specific organisations. Similarly to ISEs, framework organisations were prescribed at different times, with 'phase 1' organisations being prescribed when the MARAM Framework commenced on 27 September 2018 and 'phase 2' organisations being prescribed on 19 April 2021.⁷

Royal Commission findings

Parts 5A and 11 of the Act were inserted by the *Family Violence Protection Amendment (Information Sharing) Act 2017* (Vic) in response to recommendations made by the Royal Commission.

The Royal Commission highlighted the importance of organisations sharing relevant information to assess risks to a victim survivor's safety, prevent and reduce the risk of further harm, and hold perpetrators accountable.⁸ It identified barriers that prevented organisations across the service system from routinely and systematically sharing information, including a complex legal and policy environment.⁹ To address these barriers, the Royal Commission recommended introducing a legislative family violence information sharing scheme, to be contained within the Act.¹⁰

The Royal Commission also noted the importance of timely information sharing and recognised that new system infrastructure was required in addition to legislative reform.¹¹ It therefore recommended establishing a CIP, to consist of a co-located multi-department team that would be responsible for consolidating relevant information from agency databases into a single report.¹²

In relation to risk assessment and management, the Royal Commission recognised that:¹³

Assessing the risk that a person will be subjected to family violence and then appropriately managing that risk, underpins all efforts to uphold safety for victims of family violence and to hold perpetrators of family violence to account.

The Royal Commission considered the effectiveness of the family violence risk assessment and risk management framework that was in place at the time of its report (known as the Common Risk Assessment Framework, or CRAF). It identified a range of issues in relation to risk assessment and management, including inconsistencies in applying the CRAF in the absence of a strong authorising and monitoring environment, challenges determining the level of risk in the absence of an actuarial or tiered tool, and gaps in the CRAF relating to children and victims of non-intimate partner violence.¹⁴

The Royal Commission made four recommendations to improve risk management practices in Victoria.¹⁵ Of relevance to this review, it recommended legislative reform to empower the relevant minister to approve a family violence risk assessment and risk management framework and to require certain organisations to align their policies, procedures, practices and tools with that framework.¹⁶

Review scope

This legislative review provided an opportunity to examine the legal framework underpinning the FVISS, CIP and MARAM reforms. We sought to determine whether the legal provisions are being applied as intended and are effective in meeting their objectives. The review also allowed us to consider whether further reform is required to protect victim survivors, prevent and reduce family violence to the extent possible, and hold perpetrators accountable.

The review satisfies a legal requirement under the Act, as shown in Table 2.

Table 2: Review requirements under the Act

Section 144SA	Section 195
This section provides that an independent review of the third to fifth years of operation of Part 5A must be conducted. The review must consider any adverse effects of the Part and may include recommendations on any matter addressed in the review.	This section provides that a review of the operation of Part 11 must be conducted within five years of its commencement. The review must assess the extent to which Part 11 is achieving the objective of providing a framework for achieving consistency in family violence risk assessment and family violence risk management. The review must also recommend the changes required (if any) to improve the effectiveness of the Part in achieving that objective.

Source: *Family Violence Protection Act 2008 (Vic)*, sections 144SA and 195.

In conducting the review, we considered the effectiveness of the provisions in Parts 5A and 11 as well as related materials, insofar as they impact on the Act's effectiveness. This included examining the Regulations, Ministerial Guidelines and MARAM legislative instrument.

The six key questions that guided the review are shown in Box 1.

Box 1: Review questions

- Q1. To what extent has Part 5A been effective in facilitating the sharing of confidential information for the purposes of establishing, assessing and managing risks of family violence?
- Q2. To what extent has Part 5A promoted the coordination of services to maximise the safety of people who have experienced family violence, prevent and reduce family violence to the extent possible, and promote the accountability of perpetrators of family violence for their actions?
- Q3. To what extent has Part 5A enabled certain information sharing entities to obtain consolidated and up-to-date information from a central information point for the purposes of establishing, assessing and managing risks of family violence?
- Q4. To what extent has Part 11 been effective in providing a framework for achieving consistency in family violence risk identification, assessment and management?
- Q5. Have there been any adverse effects associated with the provisions in Part 5A or Part 11?
- Q6. Are there any legislative amendments that would improve the operation of Part 5A or Part 11 of the Act?

Unlike the Monitor's ordinary functions, we have not reviewed or monitored how government agencies have implemented the provisions. However, we recognise the importance of implementation activities in supporting the effectiveness of any legislative reform. We also acknowledge the inherent challenge in distinguishing between the impact of legal provisions themselves and the impact of implementation activities in supporting organisational understanding and application of the provisions.

In seeking to answer our review questions, we have been informed by how the legal provisions are operating and being applied in practice. We discuss relevant practice issues throughout the report to highlight how effective the provisions have been and to identify adverse effects that have arisen. Practitioner and survivor advocate experiences and views have also informed our consideration of potential amendments to improve the Act's operation, noting that our recommendations may relate to any matter addressed during the review.

Reflecting the review scope, our recommendations are directed at the legal framework for the FVISS, CIP and MARAM reforms and not at matters of implementation. Stakeholder feedback that related solely to matters of implementation was beyond scope for the review. This feedback is highlighted in Chapter 7. However, in addition to our recommendations, we have made some suggestions throughout this report where we identified existing practices that we believe should continue and/or potential changes that could be made to support practitioners to implement the reforms and thereby promote the effectiveness of Parts 5A and 11. These suggestions should not be considered recommendations because they relate to matters beyond our scope.

A review of the MARAM Framework itself, and associated tools and practice guidance, was also outside scope for the legislative review. Under the Act, the MARAM Framework must be reviewed every five years to assess whether it reflects the current evidence of best practices.¹⁷ A MARAM best practice evidence review has been commissioned by Family Safety Victoria in the Department of Families, Fairness and Housing and is due to be completed by the end of 2023. The best practice evidence review will examine:

- the MARAM Framework legislative instrument and accompanying framework policy document
- key aspects of the MARAM Practice Guides for working with adults in the victim survivor-focused MARAM Practice Guides, assessment tools and supporting resources.

Review approach

The FVISS, CIP and MARAM reforms affect thousands of people and organisations across multiple sectors in Victoria. We aimed to capture as many views and experiences as possible from a broad cross-section of these sectors. We reached out to more than 100 organisations, peak bodies, professional representative bodies, government departments/agencies and family violence governance groups to invite contributions to the review.

Stakeholders contributed to the review by taking part in individual consultations, making a submission in response to the public call for submissions campaign and/or providing data and information. We offer our sincere thanks to all those who took the time to share their views and experiences or otherwise contribute to the review.

Stakeholder and survivor advocate consultation

From June to October 2022, we met with 55 organisations and peak bodies representing the following:

- ambulance services
- child and family services
- Child Protection and care services
- community health services
- community housing services
- community legal services
- corrections and other justice services
- courts
- financial counselling services
- general practitioners
- government departments and agencies
- public hospitals
- schools
- sexual assault services
- specialist family violence services
- Tenancy Advice and Advocacy Program
- Victoria Police.

We also met with three individual practitioners who shared their experiences confidentially.

We actively sought to include user experience and the voices of victim survivors in the review. We spoke to survivor advocates from established survivor advocacy groups to:

- explore victim survivors' lived experience of the FVISS and MARAM schemes
- understand survivor advocates' views on information sharing and risk assessment and management more broadly.

We heard from 12 survivor advocates, including a male survivor advocate, survivor advocates who identified as LGBTIQ+, a survivor advocate from a regional area and survivor advocates who experienced family violence as children. Feedback from survivor advocates reflected their wide range of experience with service providers as well as the experiences of other victim survivors in their networks.

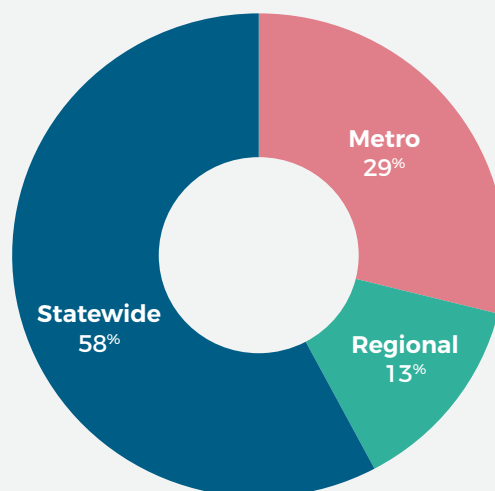
A list of organisations and survivor advocate groups consulted during the review is at Appendix 1.

Call for submissions campaign

Our public call for submissions campaign ran from 21 June 2022 to 12 September 2022 through the Engage Victoria platform. The campaign sought submissions from those impacted by Parts 5A and 11 and organisations that represent and advocate for family violence victim survivors. We asked submitters to address the six key review questions (outlined above). To further guide responses, we also provided additional consultation questions. These questions are at Appendix 2.

We received 45 submissions during the campaign including six submissions from individuals and 39 submissions from organisations. Figure 3 shows the areas serviced by the individuals and organisations that made submissions.

Figure 3: Areas serviced by submitters



Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

A list of submissions received, and the sectors represented by those who made submissions, is illustrated in Appendix 3.

Some submissions responded to the consultation questions directly through the Engage Victoria platform, while other submissions uploaded a document addressing matters of relevance to the review. In our analysis of submissions, we incorporated direct answers to consultation questions as well as submission responses that provided sufficient evidence to identify an appropriate answer. This analysis is included in submission graphs in relevant sections of this report. Because not all submissions addressed each question, submission graphs differ in the total number of responses received.

Review of organisational information and legislative materials

In addition to hearing directly from stakeholders, we sought data and information from organisations to support the review. We received data and information covering matters such as:¹⁸

- the volume and type of information sharing occurring between organisations, including who information is being shared with, how often information about an adult victim survivor is shared without consent and the amount of proactive information sharing occurring
- the volume of requests for information that are declined, and the reasons for this
- complaints related to information sharing under the FVISS
- status reports and annual report contributions in relation to MARAM implementation
- anecdotal reflections on whether there has been a cultural change around information sharing and/or greater consistency in family violence risk identification, assessment and management.

We attended two ‘deep dive’ presentations by Family Safety Victoria on the legislative provisions, as well as a presentation on the CIP report delivery process. We also undertook our own review and analysis of the legal provisions in Parts 5A and 11 and related materials such as the second reading speech, explanatory memorandum, Ministerial Guidelines, the Regulations and the MARAM legislative instrument.

In considering potential legislative amendments and recommendations, we reviewed legislative approaches to family violence information sharing and risk management from other Australian and international jurisdictions.

We also drew on our earlier monitoring reports¹⁹ and reviewed previous research and evaluations in relation to FVISS and MARAM. This included:

- a review of the first two years of operation of the FVISS conducted by Monash University²⁰
- a process evaluation of the MARAM reforms conducted by the Cube Group.²¹

A list of documents that informed the review is at Appendix 4.

1: Clarity of information sharing legislative framework

Introduction

Part 5A of the *Family Violence Protection Act 2008* (Vic) (the **Act**) provides the legal basis for the Family Violence Information Sharing Scheme (**FVISS**). For any legislative reform to be effective, it is important that the legal provisions outlining individuals' and organisations' rights and responsibilities are clear and understood by those impacted by the provisions. Clarity helps provide certainty to organisational leaders and practitioners and improves consistency in practice.

To support clarity, the Act requires the Minister for Prevention of Family Violence (the **Minister**) to issue guidelines (the **Ministerial Guidelines**) that specify the requirements that information sharing entities (**ISEs**) must comply with to demonstrate their capacity to handle information responsibly and appropriately under Part 5A.²²



This chapter addresses the extent to which the legal provisions in Part 5A are sufficiently clear to support the operation of the FVISS. It also discusses the extent to which the Ministerial Guidelines and the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (the **Regulations**) support clarity and practitioner understanding of the Act's requirements.

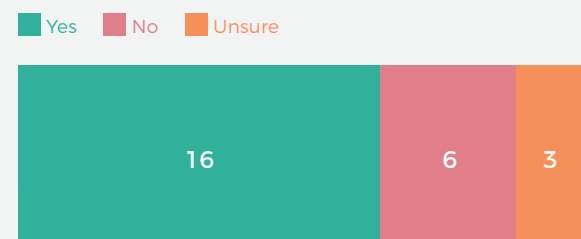
The effectiveness of Part 5A in achieving its objectives is discussed further in Chapter 2, while the impact of information sharing on **victim survivors** is outlined in Chapter 3. The clarity and effectiveness of the legal provisions in Division 6 of Part 5A, which provide the legal framework for the Central Information Point (**CIP**), are discussed in Chapter 4.

Clarity of Part 5A

The legal requirements in the Act are sufficiently clear, although some terminology is confusing for ISEs and is inconsistent with terminology used in the MARAM Framework and in practice

Most stakeholders view the legal provisions in Part 5A as clear. As shown in Figure 4, 64 per cent of submission responses to this question agreed that the Act is sufficiently clear. Some submissions indicating that the provisions are clear also identified points of confusion in relation to some of the Act's terminology. This is discussed further below.

Figure 4: Submission responses addressing consultation question 1



Q1. Are the legal requirements in the Act sufficiently clear?

Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

In responding to this question, The Sexual Assault and Family Violence Centre noted:²³

[P]ractitioners' experience ... highlights that the legal requirements in The Act are sufficiently clear in relation to the meaning of key terms, the circumstances in which confidential information can be requested or disclosed, and record-keeping requirements.

In our submission analysis, it was evident that both phase 1 and phase 2 organisations find the legislation clear, suggesting that the length of prescription as an ISE was not a factor in stakeholder views on clarity. Separately, during consultations, several stakeholders expressed the view that the legislation is clear. We agree with this view and consider that Part 5A is sufficiently clear in outlining the requirements associated with information sharing.

Although many stakeholders reflected that the Act is sufficiently clear in providing a legal framework for FVISS, a number of stakeholders highlighted a lack of understanding or clarity regarding some of the Act's terminology. Other stakeholders raised concerns that Part 5A's terminology does not align with the Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework. Key issues raised by stakeholders are outlined below.

Relevancy of information to sharing purposes

The Act's purposes are to maximise safety for children and adults who have experienced family violence, prevent and reduce family violence, and promote the accountability of **perpetrators**.²⁴ The Act aims to achieve these purposes in part by "providing for the sharing of information that is relevant to assessing and managing a risk of family violence".²⁵

Under Part 5A, information can be shared for a **family violence assessment purpose** or a **family violence protection purpose**.²⁶ These terms are explained in Figure 5. We heard from some stakeholders that these purposes can be difficult to fully understand and to distinguish in practice. Stakeholders also highlighted challenges in assessing the relevance of different types of **confidential information** to either an assessment or a protection purpose.²⁷ Although confidential information is defined in legislation,²⁸ relevancy is undefined. Practitioners are guided to assess the relevance of confidential information by exercising professional judgement using their understanding of the MARAM Framework.²⁹

Figure 5: Meaning of 'family violence assessment purpose' and 'family violence protection purpose'

A family violence assessment purpose means the purpose of establishing or assessing the risk of a person committing family violence or a person being subject to family violence.



A family violence protection purpose means the purpose of managing a risk of a person committing family violence or a person being subject to family violence, including the ongoing assessment of the risk of the person committing family violence or being subjected to family violence.



Source: Family Violence Protection Act 2008 (Vic), section 144A.

The lack of definition may contribute to an inconsistent interpretation and application of the provisions. Stakeholders reported that information sharing can vary greatly when ISEs request or share information because of differing interpretations of relevance.

Data provided by the Department of Education for the Information Sharing and MARAM Enquiry Line also showed that in the 2021–22 financial year, ISEs continued to ask questions about sharing different types of information. This supports the view that there is still uncertainty in practice about what information can be shared.

Difference between information sharing entities and risk assessment entities

Some stakeholders identified uncertainty regarding the terms ISE and risk assessment entity (**RAE**) and the difference between these in practice. Victoria Police reflected that this may be largely because all agencies tend to be assessing risk in some capacity and therefore ISEs often assume they are prescribed as an RAE. Victoria Police also noted that, although the Ministerial Guidelines note the difference between ISEs and RAEs,³⁰ in practice this contributes to ongoing confusion and inefficiencies.

Determining what is perpetrator or victim survivor information

Under the Act, ISEs may share confidential information about perpetrators or **alleged perpetrators** without their consent.³¹ Generally, ISEs must not share information about adult victim survivors without their consent, unless it is necessary to lessen or prevent a serious threat or if the confidential information relates to a victim survivor who is a child.³² Consent is discussed further in Chapter 3.

Some stakeholders noted that there can be uncertainty in determining who information relates to and, therefore, whose consent is required to share the information. Although we recognise that this uncertainty arises under general privacy laws and does not result from the specific provisions in Part 5A, we acknowledge stakeholder feedback of this issue in the context of information sharing under Part 5A.

Consistency of language with the MARAM Framework

Some terminology in Part 5A is inconsistent with the terminology used in the MARAM Framework. This is shown in Table 3. We note that, unlike the Act, the Ministerial Guidelines and relevant practice guidance and training use terms that are consistent with the MARAM Framework.³³ However, stakeholders noted this inconsistency as a point of confusion that negatively impacts on the clarity of the legal provisions and on services' understanding of their responsibilities under the FVISS. Stakeholders also noted that 'person of concern', 'primary person' and 'linked person' are not terms regularly used by practitioners.

Table 3: Different terminology used in the Act and MARAM Framework

Description	Term used in the Act	Term used in MARAM Framework
A person that an ISE reasonably believes is at risk of committing family violence	Person of concern	Perpetrator
A person that an ISE reasonably believes is at risk of being subjected to family violence	Primary person	Victim survivor
A person whose confidential information is relevant to a family violence assessment purpose or protection purpose	Linked person	Third party

Source: Family Violence Protection Act 2008 (Vic), sections 144A, 144B, and 144E; Victorian Government, Family Violence Multi-Agency Risk Assessment and Management Framework: A Shared Responsibility for Assessing and Managing Family Violence Risk (June 2018), pp. 56, 58.

Additional concerns about terminology

Some stakeholders identified other terminology in the Act that they felt required clearer definitions or guidance to support interpretation and use in practice. These terms included **'excluded information'**, 'reasonable belief', and 'good faith'. Given the small number of stakeholders who raised concerns about these terms, we do not consider that they are creating broad confusion or uncertainty.

Although confusion regarding specific terminology in the Act can lead to inconsistency and uncertainty in practice, changing the Act's terminology may undermine the Act's objectives and negatively impact on victim survivor safety

Stakeholders reflected that uncertainty regarding terminology can lead to practitioner confusion about the requirements for sharing information under the Act. When ISEs interpret terminology differently, it can also create inconsistencies in practice. For example, although The Sexual Assault and Family Violence Centre noted that the Act is clear, they also highlighted that there were occasions when organisations they worked with interpreted key terms differently.³⁴ This view was shared by other stakeholders, with many reflecting that inconsistent interpretation is particularly evident within some universal services regarding their obligation to respond to requests.

We considered whether any changes to the Act would improve clarity and support practitioners' understanding of the Act's terminology. For example, we contemplated adding a definition for relevant information and/or providing examples of what may constitute relevant information or victim survivor confidential information. We also considered whether the Act should be amended to directly align the terminology in the Act with the MARAM Framework.

After consideration, we do not recommend amending any terminology in the Act. We recognise the value of not defining relevant information in allowing practitioners maximum scope to assess the relevancy of information based on the specific circumstances of each case. In our view, this allows for the greatest amount of information to be shared. There is also a significant risk that including examples of relevant information or victim survivor information could result in practitioners failing to share information that is not expressly set out in the examples. This may lead to a reduction in information sharing, thereby compromising victim survivor safety and undermining the objectives of Part 5A.

This view was supported by our review of other jurisdictions' information sharing schemes. Other Australian states and territories do not provide examples in their legislation and either do not define relevant information at all or provide a broad definition that lacks sufficient clarity or specificity to address the concerns raised during the legislative review.³⁵

We also note that the Act was introduced before developing the MARAM Framework, with the terms 'person of concern' and 'primary person' being used in the Act due to legal drafting constraints. For example, we understand that the term 'perpetrator' is not used in the Act because the term is used in a criminal justice context to mean a person who has been convicted of a crime. We agree that using the term 'perpetrator' in the Act may lead to ambiguity across Victorian legislation and may result in some ISEs wrongly believing that they can only share information under Part 5A without consent where the perpetrator has family violence or criminal convictions. We therefore do not recommend the use of 'perpetrator' in Part 5A.

Although we acknowledge the challenges faced by some ISEs when interpreting the Act's terminology, we believe that these challenges are best addressed through a strong implementation program. In Chapter 7, we address some of the implementation challenges raised by stakeholders and provide suggestions for addressing these issues.

The Act's principles for information sharing support decision making in practice

The Act outlines principles in relation to the collection, use or disclosure of confidential information under Part 5A. The principles are set out in Box 2 below. Additional principles apply to the handling of a child's confidential information.³⁶

Box 2: Information sharing principles

Information sharing entities (ISEs) should:

- work collaboratively to coordinate services in a manner that respects the functions and expertise of each ISE
- give precedence to the right to be safe from family violence over the right to privacy
- only collect, use or disclose a person's confidential information to the extent necessary to assess or manage a risk of family violence or to hold perpetrators accountable
- handle an Aboriginal person's information in a way that promotes the right to self-determination, is culturally sensitive and considers their familial and community connections
- have regard to and respect a person's cultural, sexual and gender identity and religion.

Source: Family Violence Protection Act 2008 (Vic), section 144J(2).

The Act does not require organisations to embed these principles within their policies or processes. Rather, the principles aim to guide ISEs in their decision making under the Act. Most submission responses to the **Monitor** addressing this question indicated that the principles are nonetheless reflected in organisational policies and are used to support decision making. As shown in Figure 6, 65 per cent of submission responses indicated that the principles are either fully or mostly reflected in relevant policies and procedures, while 82 per cent of responses indicated that principles, combined with the Ministerial Guidelines, support practitioners to make decisions under the Act.

Some submission responses indicating that the principles are not fully reflected in policies identified the need for clear, accessible practice guidance. In our view, this is the role of the Ministerial Guidelines, which provide direction to ISEs on how to apply Part 5A. The Ministerial Guidelines are discussed further below. Other submissions noted that their organisation has adopted additional processes to further support decision making. For example, Monash Health noted that secondary consultations and escalation processes have been embedded in their work to help weigh up the principles related to privacy, agency and risk.³⁷

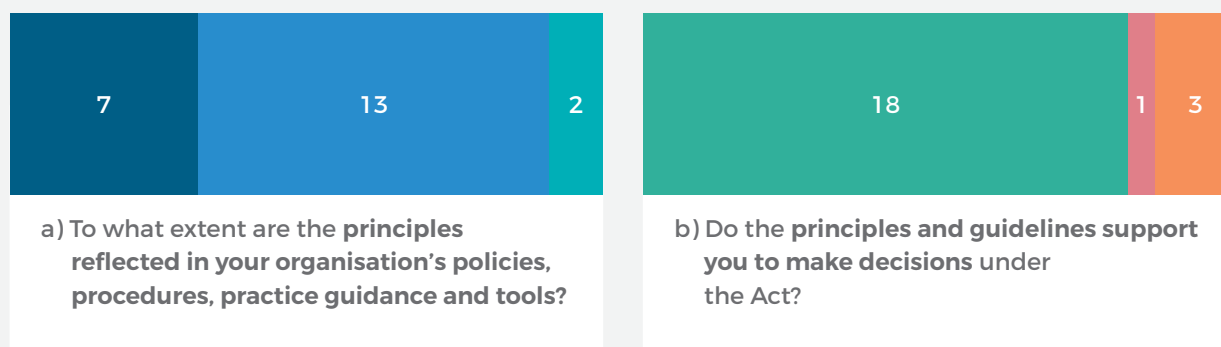
We also heard examples of the principles being used to support information sharing. A representative of the Strengthening Hospital Responses to Family Violence Initiative shared their experience of having a conversation with a mental health worker in a public hospital. They explained to the worker how the principles can inform decision making about how to move forward with engaging another ISE and considering what information to share with them. The ability for the principles to inform decision making when faced with a resistance to share information was also highlighted in some submissions.

In our view, the principles are a useful mechanism to support ISEs to make decisions while exercising their professional judgement. They reflect the benefits of service coordination, the need to prioritise victim survivor safety over perpetrator privacy, and the importance of considering the needs of Victoria's diverse communities. We do not consider that any changes to the principles are required.

Figure 6: Submission responses addressing consultation question 2

■ Fully
 ■ Mostly
 ■ Somewhat
 ■ Not at all
 ■ Unsure
 ■ Yes
 ■ No
 ■ Unsure

Q2. The Act outlines principles, and requires the Minister to issue guidelines, to guide decision making in relation to the collection, use or disclosure of confidential information.



Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

The role of court personnel and bodies as ISEs is not well understood by some other ISEs, and there is little guidance currently available on the role of courts

Part 5A of the Act applies differently to courts and tribunals. Section 144I of the Act, which is set out in Box 3 below, provides that Part 5A does not apply to courts and tribunals insofar as they are exercising judicial or quasi-judicial functions.³⁸ Obligations in the Act to disclose confidential information for family violence assessment and protection purposes, and to comply with the Ministerial Guidelines, also do not apply to courts.³⁹ These provisions are “intended to ensure that the information sharing scheme does not affect the independence of courts and tribunals”.⁴⁰



Box 3: Section 144I of the Act

If any of the following persons or bodies are prescribed to be information sharing entities, nothing in this Part applies to the collection, use or disclosure of confidential information by those person or bodies in relation to, or for the purposes of, their judicial or quasi-judicial functions:

- a) a court or tribunal
- b) the holder of a judicial or quasi-judicial office or other office pertaining to a court or tribunal in their capacity as the holder of that office
- c) a registry or other office of a court or tribunal
- d) the staff of such a registry or other office in their capacity as members of that staff.

Source: Family Violence Protection Act 2008 (Vic), section 144I.

Staff known as 'court officials' for the Magistrates' Court of Victoria and the Children's Court of Victoria were prescribed as ISEs under phase 1 of the reforms.⁴¹ As noted in Chapter 2, the Magistrates' Court of Victoria responds to a significant number of information requests under Part 5A each month.

It was evident from our consultations and submissions that the courts' role as an ISE is not clear to some. For example, one stakeholder provided an example in which they stated that a court considering issuing a family violence intervention order should have requested confidential information. As this is a judicial function, we do not believe that Part 5A authorises a court to make this request. Another stakeholder raised concerns that information disclosed in response to requests from court personnel, regardless of function, may subsequently be shared with perpetrators as part of required court processes. This stakeholder was reluctant to respond to these requests fearing negative impacts on victim survivor safety. Staff from the Magistrates' Court of Victoria similarly told us that the application of Part 5A to courts is not well understood across the sector.

There is little guidance available to assist stakeholders to understand how Part 5A applies to the courts and court staff. For example, the Ministerial Guidelines state that "Courts and tribunals' participation in the [FVISS] is voluntary"⁴² but otherwise include no information on the prescription of court officials as ISEs, the limitations on courts requesting or sharing confidential information, or what constitutes a judicial or quasi-judicial function.

In our view, further guidance is needed to support ISEs to request information and respond to information requests from the courts in line with the Act. We believe that this guidance is best provided through updates to the Ministerial Guidelines, noting that the role of the Ministerial Guidelines is to help ISEs to understand their obligations under Part 5A. We therefore recommend amending the Ministerial Guidelines to provide guidance on how the courts can and cannot participate in the FVISS. We suggest that this guidance includes an explanation of a judicial and quasi-judicial function, noting that many ISEs are likely unfamiliar with these legal concepts. We also note that consultation with the courts will be required in developing guidance.

Recommendation 1: That the Ministerial Guidelines be amended to include an explanation of the courts' participation in the FVISS.

Clarity of the Ministerial Guidelines

The Ministerial Guidelines satisfy the Act's requirements but are difficult to navigate and are not readily understood by some practitioners, which limits their effectiveness

Part 5A requires the Minister to issue guidelines in relation to the operation of the Part.⁴³ Under the Act, the guidelines must:⁴⁴

- specify the requirements that ISEs must comply with to demonstrate their capacity to handle confidential information responsibly and appropriately
- address child consent to the collection, use or disclosure of their information.



The Ministerial Guidelines are intended to "assist [ISEs] to understand their obligations under ... Part 5A and ensure that information is shared in a way that appropriately balances the safety needs of family violence victims with individuals' rights to privacy".⁴⁵ When handling confidential information, all ISEs (except for court personnel and bodies) must comply with the issued guidelines.⁴⁶

The Ministerial Guidelines were first released in December 2017. They were updated in September 2018 and April 2021 as new organisations and individuals were prescribed as ISEs. The current Ministerial Guidelines are 152 pages long and provide extensive information about using the Act in practice. The Ministerial Guidelines include figures, case studies, checklists and sample forms to support understanding of Part 5A. They have chapters that explain the collection, use and disclosure of children's information and the associated consent provisions.⁴⁷

In our analysis, we found that the Ministerial Guidelines satisfy the Act's requirements. They provide all the information necessary for ISEs to understand what they must do to legally participate in the FVISS under Part 5A. The Ministerial Guidelines also address child victim survivor consent to information sharing.

We heard mixed views from stakeholders about the extent to which the Ministerial Guidelines support understanding of the Act's requirements. As shown in Figure 6 above, 82 per cent of submission responses to the Monitor addressing this question indicated that, combined with the Act's principles, the Ministerial Guidelines support decision making. For example, Safe and Equal reflected that the Ministerial Guidelines provide invaluable support to ISEs and are relied upon at all levels of service delivery.⁴⁸ Other stakeholders noted that the Ministerial Guidelines were initially challenging to use in practice but that familiarity with them leads to a better understanding of the requirements of Part 5A.

In contrast, the comprehensiveness of the Ministerial Guidelines has proved overly dense for many stakeholders. We heard from several stakeholders that the Ministerial Guidelines are overly complex, inaccessible, too lengthy and do not support practitioners to apply the Act. Some submission responses indicating that the principles and Ministerial Guidelines support decision making nonetheless highlighted that in their view the guidelines are too complex.

Some stakeholders also noted the need for the Ministerial Guidelines to be supplemented by targeted or tailored advice and guidance for practitioners in different sectors. For example, Ambulance Victoria explained that they had created a quick reference matrix for information sharing criteria based on the Ministerial Guidelines, while the Department of Health has developed materials at a higher level than the Ministerial Guidelines to support practitioners to understand their day-to-day obligations. Submission responses similarly highlighted the need for sector-specific information.

We recognise the enormity of, and inherent challenges involved in, crafting Ministerial Guidelines that specify the requirements that ISEs must comply with to demonstrate their capacity to handle confidential information responsibly and appropriately, and which are useable for practitioners from a range of disciplines. We also acknowledge that the current Ministerial Guidelines were informed by stakeholder feedback through a comprehensive public consultation process, with **Family Safety Victoria** receiving 34 submissions and other feedback from a range of sectors.

However, we are concerned that, although the Ministerial Guidelines may fulfil the legal requirements of the Act, they are not always meeting their purpose of assisting ISEs to understand their obligations to ensure information is shared appropriately and responsibly.

The Ministerial Guidelines are difficult to navigate and are not readily understood by all ISEs that must apply them. Stakeholders told us that the language in the Ministerial Guidelines is not accessible and does not provide practitioners with the clear information they need to understand how to request and disclose confidential information responsibly and appropriately in accordance with the Act. Although explanatory information, checklists and case studies are included, they are not presented in a format that is easily understood. The summary version of the Ministerial Guidelines, while shorter, is written in the same language as the full guidelines, and we consider it is similarly difficult to grasp. We also believe that the one-page overview of the FVISS, which is intended to provide a clear and brief description, is hard to follow and interpret.⁴⁹

The Ministerial Guidelines are intended to “provide direction to ISEs on how to apply Part 5A”.⁵⁰ They also include “guidance to ISEs on internal policies, systems and practices to ensure that information is shared appropriately and responsibly”.⁵¹ It is therefore important that the Ministerial Guidelines outline information sharing requirements in a way that is easy for ISEs, including organisational leaders and practitioners, to understand. Many stakeholders highlighted the need for clear and simple guidance to support organisations to comply with their obligations under the Act. This is necessary to support the implementation of Part 5A in practice, and thereby promote the objectives of Part 5A and the Act.

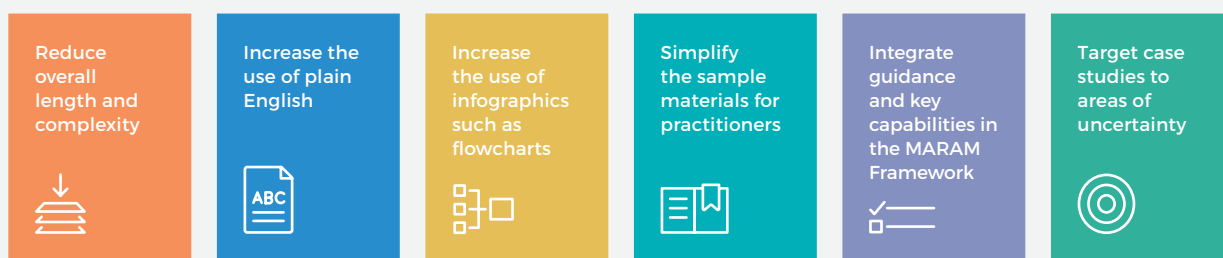
We therefore recommend that the Ministerial Guidelines be amended to improve understanding. We suggest that amendments focus on the matters set out in Figure 7 below. We have made other recommendations in this report to provide further practitioner guidance in the guidelines. Simplifying the language and structure of the Ministerial Guidelines will enable this additional guidance to be provided while still reducing overall length and complexity. We also suggest that the case studies in the guidelines be reviewed with a view to ensuring case studies focus on identified areas of practitioner confusion and uncertainty, including those highlighted in this report. This will maximise the guidelines’ utility for practitioners.

As discussed in Chapter 5, the Ministerial Guidelines outline an expectation that ISEs will refer to the MARAM Framework when sharing information under Part 5A.⁵² Recognising the need to understand aspects of the MARAM Framework to share information responsibly and appropriately, and that not all ISEs are prescribed as **framework organisations**, we believe the Ministerial Guidelines would benefit from greater referencing and integration with the guidance and key capabilities required of professionals contained in the MARAM Framework resources and practice guides. The Ministerial Guidelines regularly state that ISEs should refer to the MARAM Framework for advice and information on certain matters relevant to sharing information.⁵³ However, there is no summary of the relevant advice and information, and specific reference points within MARAM materials are not provided. This may make it challenging for practitioners to identify relevant sections within the MARAM resources to refer to and/or to identify relevant advice to inform their practice.

In our view, a more helpful approach would be for the envisaged information from MARAM resources to be summarised within the Ministerial Guidelines themselves, and relevant sections of MARAM materials cross-referenced. Greater referencing and integration into the Ministerial Guidelines would allow practitioners to easily access and incorporate required information in MARAM materials to support their information sharing practices. It would also reduce the need for practitioners to source the information themselves, which is particularly important given the volume and length of some MARAM materials. Although we acknowledge that various aspects of MARAM materials may be relevant to integrate into the Ministerial Guidelines, we suggest a particular focus on content relating to MARAM Responsibility 6.

Recommendation 2: That the Ministerial Guidelines be reviewed and amended to increase utility and improve understanding.

Figure 7: Suggestions to improve clarity of Ministerial Guidelines



Approach to prescribing ISEs under the Regulations

Although Victoria's approach to prescribing ISEs is complex, it is also the most comprehensive approach and should be maintained

Part 5A provides that ISEs are people or bodies prescribed as such in regulations.⁵⁴ This was done in response to the Royal Commission into Family Violence's recommendation that organisations be prescribed to ensure the organisations that could share information under the FVISS would be easily identifiable.⁵⁵ The **Royal Commission** also preferred the flexibility of prescribing organisations by regulation in allowing for organisations to be added or removed from the FVISS as necessary and to ensure information sharing would be limited to a discrete number of organisations relevant to family violence.⁵⁶

In determining which organisations and programs should be prescribed as ISEs, government considered the effectiveness of prescribing organisations in meeting the intended objectives of Part 5A, the risk of inappropriate practice and the costs to entities.⁵⁷ This resulted in primarily organisations that are engaged or funded under Victorian State contracts being prescribed. In contrast, certain organisations and services that have similar functions to some ISEs have not been prescribed. This includes many Commonwealth-funded services such as service providers funded by the National Disability Insurance Scheme, and private providers such as private mental health services.

Stakeholders reported confusion with understanding what organisations and programs have been prescribed as ISEs, even within their own agencies. Stakeholders also told us that the available guidance does not always resolve the confusion. For example, Merri Health noted:⁵⁸

While [the Regulations] are plainly regulated for state government funded programs, it becomes less clear as to whether Commonwealth-funded programs that are implemented in Victoria fall under the same legislative requirements. This has caused confusion when trying to request information from Commonwealth-funded programs for the purpose of managing family violence risk, and for organisations ... to provide clear guidance to staff around their obligations based on their program's funding stream.

Another stakeholder working with older family violence victim survivors, including those experiencing elder abuse, similarly stated:⁵⁹

The core aged care services which older people access ... are not information sharing entities. This can contribute to confusion within organisations that are within scope of FVISS, such as a Health network about what can be shared between which program, creating further complexity that may adversely impact the assessment of risk and safety of older people.

In Chapter 7, we suggest fresh consideration of prescribing some Commonwealth-funded agencies and private service providers as ISEs. Regardless of whether this approach is adopted, it is important that ISEs have a clear understanding of who is prescribed.

We considered whether alternative approaches to prescribing individuals and organisations would increase clarity and reduce complexity. This included considering the approach in other jurisdictions that have family violence information sharing provisions. Some of the different approaches used in other jurisdictions are set out in Table 4.

Although we acknowledge the complexity of Victoria's regulations, we believe the Victorian approach is preferable to other models we examined. The Regulations provide the most comprehensive approach to prescribing organisations that can share family violence information. We also support the functional approach, noting that many organisations undertake a broad range of services and that it is important to limit information sharing to those parts of an organisation that require access to information for a family violence assessment or protection purpose. This is discussed further below in relation to legal services.

Table 4: Other approaches to defining organisations that can share information

Jurisdiction	Approach to defining who can share information
New South Wales	Expansive definition of specialist family violence service providers. For example, <i>domestic violence support services</i> are defined as “services (including welfare, health, counselling, housing and accommodation and legal assistance services) provided to persons in relation to the commission or possible commission of domestic violence offences against those persons”.
Queensland	Expansive definitions for both specialist family violence service providers and universal services. For example, a <i>support service provider</i> is defined as a “non-government entity ... that provides assistance or support services to persons who may include persons who fear or experience domestic violence or who commit domestic violence”. Examples of assistance or support services are provided, including counselling, disability services, health services and housing and homelessness services.
Western Australia	Definitions connected to State funding. For example, a <i>non-government provider</i> is defined as a service provider or “a person who provides social services under a contract or other agreement (excluding an agreement for a monetary grant) entered into between the person and a prescribed authority or an officer or employee of a prescribed authority”.
Northern Territory	Organisations are expressly named in enabling legislation, with additional organisations needing to apply to be prescribed as information sharing entities.

Sources: *Crimes (Domestic and Personal Violence) Act 2007 (NSW)*, section 98A; *Domestic and Family Violence Protection Act 2012 (Qld)*, section 169C; *Children and Community Services Act 2004 (WA)*, section 28A; *Domestic and Family Violence Act 2007 (NT)*, section 124B; *Northern Territory Domestic and Family Violence Information Sharing Guidelines (updated August 2020)*, p. 15.

Further, given that many thousands of organisations are prescribed in Victoria, it is not feasible to name organisations as under the Northern Territory model. We also recognise the benefit of using legal criteria to define prescribed individuals and organisations rather than adopting an expansive approach, as is the case in Queensland for example. Although potentially adding complexity, using legal criteria is important to provide certainty about who can share information. Without such certainty, the risk of inappropriate and unauthorised information sharing would significantly increase.

However, we believe there would be benefit in producing clearer guidance for stakeholders about which organisations are prescribed as ISEs, how to determine if organisations are ISEs, and how best to coordinate family violence identification, assessment and management with service providers that are not prescribed. We understand that Family Safety Victoria has drafted a ‘ready reckoner’ to support understanding of which organisations have been prescribed as ISEs. We support the public release of this document, subject to a review to ensure its user-friendliness.

We also acknowledge the work of government departments and agencies in preparing and maintaining the ISE list website, which is a publicly searchable list of organisations and programs that are prescribed.⁶⁰ We believe this list is a valuable resource and we understand it is widely used by some ISEs in responding to information requests. The list is also updated regularly. For example, we understand that every six months departments audit the list and contact ISEs to confirm their details. However, we note that many stakeholders appeared to be unaware of the ISE list and how to access or update it, if needed. We therefore suggest an ongoing focus for portfolio departments on maintaining this list and ensuring ISEs are aware of how to access it.

The prescription of non-legal programs within legal services has created uncertainty for some ISEs and poses challenges for organisations that operate under a multidisciplinary approach due to different information sharing rules applying in different parts of the service

Prescribing organisations based on function has created some uncertainty and challenges for services that have specific programs prescribed, but not the entire organisation. These challenges are heightened for services that provide a multidisciplinary service approach. This was mostly raised with us by legal services. Legal services are not prescribed under Part 5A (or Part 11) in recognition of the need to protect the privileged nature of client-lawyer communications. However, some non-legal programs within legal services have been prescribed. As the Ministerial Guidelines explain:⁶¹

ISEs are prescribed to the extent that they provide the specified service. For example, an ISE that provides both a family violence service and a legal service should only share information from the family violence service as legal services are not prescribed. If a perpetrator discloses information to the family violence service, then that information could be shared. However if the perpetrator discloses information to the legal service only, that information cannot be shared under Part 5A because the legal service is not part of the ISE's functions that are prescribed.

In consultation, some community legal centres explained that their services provide an integrated service delivery model (sometimes referred to as a holistic or multidisciplinary model) in which it is not possible to compartmentalise or separate the work of lawyers and other service providers in meetings with clients, or to maintain separate case records and notes. Some centres expressed concern around confidentiality and client legal privilege, notwithstanding the Act's protection of privileged information. Legal service providers also noted that because they are not prescribed, they have not received comprehensive information and training to fully understand FVISS. Some expressed that, without training, it is difficult for legal service providers to advise clients on information sharing.

We also heard that some ISEs are uncertain about whether prescribed non-legal programs within legal service providers were also ISEs and whether they could request information from them.

We understand that the primary reason for prescribing specific programs (such as a specialist family violence program) within some legal organisations is to avoid a disparity in information sharing between programs offering similar services. We acknowledge the importance of ensuring services have equal access to relevant information to assist in assessing and managing family violence risks, and that excluding non-legal programs within legal service organisations may undermine comprehensive information sharing and result in critical risk indicators being missed. However, we also recognise that prescribing non-legal programs within certain legal services may have a negative impact and result in some clients being unable to engage in services in a holistic way.

The prescription or non-prescription of individual services is ultimately beyond the scope of our review so we do not make any recommendations on this matter. However, we support ongoing dialogue between government and community legal services to ensure due consideration is given to the need to balance the aim of ensuring equal access to relevant family violence information with ensuring clients receive holistic services.

2: Effectiveness of Part 5A in achieving its objectives

Introduction

Part 5A of the *Family Violence Protection Act 2008* (Vic) (the **Act**) aims to create a cultural shift away from maintaining **perpetrator** privacy and towards information sharing to keep perpetrators in view and promote **victim survivor** safety.⁶² The objects of Part 5A as set out in the Act are to:⁶³

- provide for the sharing of **confidential information** between specified people and bodies for the purposes of establishing, assessing and managing risks of family violence
- promote the coordination of services by those people and bodies to further the purposes of the Act, which are to maximise safety for children and adults who have experienced family violence, prevent and reduce family violence to the greatest extent possible, and promote the accountability of perpetrators of family violence for their actions
- enable certain information sharing entities (**ISEs**) to obtain consolidated and updated information from the Central Information Point (**CIP**) for the purposes of establishing, assessing and managing risks of family violence.



This chapter addresses the extent to which Part 5A has been effective in creating a cultural shift, facilitating increased information sharing between ISEs, supporting informed decision making in managing family violence risk, and promoting service coordination. This chapter also discusses adverse effects reported in relation to Part 5A.

The impact of information sharing on victim survivors is discussed in Chapter 3. The effectiveness of Part 5A in enabling ISEs to obtain information from the CIP is discussed in Chapter 4.

Cultural change in information sharing practices

Part 5A has been effective in supporting a positive cultural shift away from maintaining perpetrators' privacy towards sharing information to keep victim survivors safe and hold perpetrators accountable

A key principle under the Act is that ISEs should give precedence to the right to be safe from family violence over the right to privacy.⁶⁴ Many stakeholders observed that since Part 5A commenced, there has been a positive cultural shift around family violence information sharing in line with this principle, with some stakeholders describing the reforms as a 'game changer'. For example, we heard about a strong push away from withholding information to protect privacy towards recognising the safety purposes of sharing information, along with a greater awareness and desire to share information.

It was pleasing to see a cultural change observed in relation to some organisations prescribed under phase 2 of the Family Violence Information Sharing Scheme (**FVISS**). For example, some education and care stakeholders reported a positive culture change and an increased willingness to share information between early childhood education and care services and schools.

We heard competing views about the extent to which there has been cultural change within the health and mental health sectors. These sectors have historically held information closely to maintain patient confidentiality and trust to support the provision of health care. We heard of a significant paradigm and practice shift occurring in public hospitals and some community health services but that many general practitioners are still operating under a 'cone of silence' that prioritises patient confidentiality. Similarly, some stakeholders told us that mental health services are still reluctant to share information, while other stakeholders cited increased information sharing with such services.

It is important to acknowledge that it will take time to fully embed cultural change within organisations and across sectors. The impact of the COVID-19 pandemic and related challenges must also be acknowledged in considering the pace of cultural change, particularly in the health sector. These issues are discussed further in Chapter 7.

The need for cultural change was stronger in some sectors and organisations than others. Some stakeholders who reported not observing a cultural change reflected that they already had positive relationships and arrangements in place with other organisations that supported information sharing. This was particularly the case for services working in regional areas, with specialist family violence services reporting strong collaborative and information sharing practices that existed within local communities.

We also heard that information relevant to family violence risk assessment or management has been frequently shared under other legislation, with such practices often continuing today. Examples of this are included in Table 5.

Table 5: Family violence information sharing that occurs under other legislation

Youth Justice	Corrections	Child Protection	Community housing	Disability	Child and family services
Information is freely shared between Youth Justice and members of a young person's care team to assess and manage general and family violence risk under the <i>Children, Youth and Families Act 2005</i> (Vic)	Information has been shared with Victoria Police under the <i>Corrections Act 1986</i> (Vic) – for example, when an offender named as the respondent on a Family Violence Intervention Order breaches the order	Most information sharing by practitioners continues to be done under the <i>Children, Youth and Families Act</i>	Information continues to be shared under the <i>Housing Act 1983</i> (Vic)	Information is frequently shared between members of the care team of a Multiple and Complex Needs Initiative (MACNI) client, in the client's best interests, under the <i>Human Services (Complex Needs) Act 2009</i>	Services have always shared information for the best interests of children and families under the <i>Children, Youth and Families Act</i>

Source: Family Violence Reform Implementation Monitor, based on information provided in stakeholder consultations.

Given that Part 5A was intended to complement existing privacy laws and arrangements, it is not surprising that Part 5A has had less impact where the information sharing culture was already strong or there were existing laws that authorised information sharing. The lack of observed culture change in such cases does not reflect negatively on the effectiveness of Part 5A; rather, it highlights the success of pre-existing arrangements in supporting information sharing for family violence risk assessment and management.

In considering drivers to support cultural change, stakeholders highlighted the importance of the FVISS having a legislative foundation. For example, Victoria Police told us that Part 5A was a key enabler and critical factor in improving information sharing practices and creating a pro-share rather than pro-privacy culture. The Salvation Army similarly noted:⁶⁵

Legislative changes to information sharing have been instrumental in keeping the perpetrator in view and ensuring the ongoing safety of women and children.

The good faith protection in Part 5A⁶⁶ was also highlighted as an important factor in supporting information sharing in good faith and with reasonable care. The Royal Australian College of General Practitioners told us that this protection is highlighted in training with general practitioners and has addressed general practitioners' concerns about liability. Representatives from Victoria Police's Inter-agency Information Sharing Service similarly reported that their staff are empowered to make decisions about information sharing under the protection of the good faith principle.

Although cultural change remains a work in progress in some sectors, in our view Part 5A has had, and will continue to have, a significant positive impact in changing the culture of family violence information sharing. The legislative basis of the FVISS, and the good faith protection, have increased practitioner confidence in requesting and disclosing information and helped to remove barriers to information sharing. We do not consider that any legislative changes are required to support further culture change at this time.

Facilitating increased information sharing

Confidential information can be shared under the Act either in response to a request (referred to in this section as 'reactive' sharing) or voluntarily (referred to in this section as 'proactive' sharing), provided that the information is not **excluded information** and that relevant consent thresholds have been met. This is shown in Box 4 below.

Box 4: Information sharing obligations under Part 5A

Reactive sharing: An ISE must disclose confidential information to a risk assessment entity (RAE) who has requested the information for a family violence assessment purpose. An ISE must disclose confidential information to another ISE who has requested the information for a family violence protection purpose, if the responding ISE reasonably believes that disclosing the information is necessary for that purpose.

Proactive sharing: An ISE may voluntarily disclose confidential information to a RAE for a family violence assessment purpose, or to another ISE for a family violence protection purpose.

Source: Family Violence Protection Act 2008 (Vic), sections 144KA, 144KC, 144LA and 144LC.

The volume of reactive information sharing is increasing, and although some organisations face challenges in obtaining information, the obligations under Part 5A are sufficiently strong to support organisations to advocate for greater access to information in response to a request

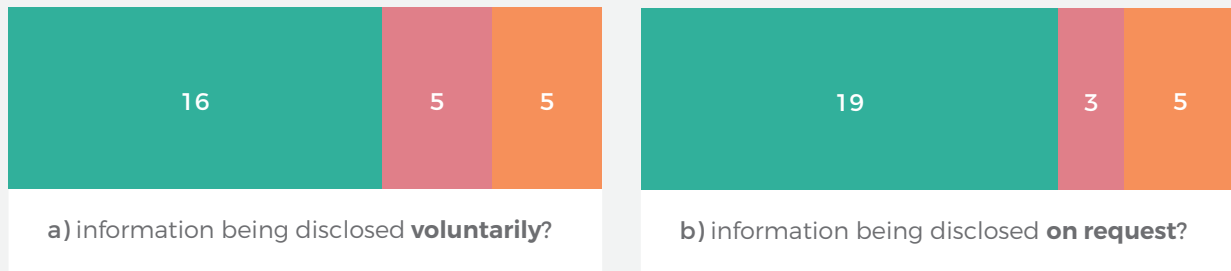
Most stakeholders observed that the volume of reactive information sharing has steadily increased throughout the third to fifth years of operation of Part 5A. As shown in Figure 8, 70 per cent of submission responses to the **Monitor** addressing this question indicated they had observed an increase in reactive sharing.

Increased reactive sharing was noted in relation to various sectors. For example, the Municipal Association of Victoria reported that Part 5A is “being used extensively in the service sector enabling the [maternal and child health] and children’s services to request and obtain information”.⁶⁷ Family violence peak bodies similarly reported increased reactive information sharing from organisations to specialist family violence services, while Monash Health noted that the number of requests they received had doubled from 2021 to 2022.⁶⁸

Figure 8: Submission responses to consultation question 5

Yes No Unsure

Q5. Have you observed an increase in the level of information sharing, including:



Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Organisational data about the volume of requests received from July 2020 to June 2022 reinforced stakeholder observations. Although a small number of organisations recorded a relatively constant volume of information sharing requests, most organisations reported a steady increase during this period. This is illustrated in Figure 9.

Figure 9: Information sharing requests received per month



Source: Family Violence Reform Implementation Monitor, based on information provided by the Magistrates' Court of Victoria, the Department of Justice and Community Safety and the Department of Families, Fairness and Housing.

Notwithstanding the increased volume of reactive information sharing, we heard mixed views from stakeholders about whether organisations consistently receive the information requested.

Some organisations shared positive experiences. For example, practitioners from Uniting Vic.Tas in Shepparton told us that they often request information from Victoria Police and other services working with their clients, with workers able to obtain the information they need. The organisational data we reviewed also tends to support the view that organisations are generally receiving the information they request, with relatively low percentages of requests being declined. However, most of this data was from government departments and agencies, which generally handle high volumes of requests and are therefore more likely to be familiar with the Act's requirements. It is therefore not possible to extrapolate that the same is true across the service sector more broadly.

Other stakeholders cited challenges in receiving information in response to a request. Challenges included organisations refusing to provide information without justification or not responding to a request at all. These examples highlight that some organisations may not be fully complying with the Act's requirements, including the obligation to disclose relevant information and the obligation to provide reasons for any failure to comply with an information request.⁶⁹ Organisational noncompliance may limit the effectiveness of Part 5A in achieving its objectives in the absence of any recourse where an ISE does not share information as required.

To maximise the effectiveness of Part 5A, we considered whether the Act should be amended to include a stronger monitoring or compliance approach to address these challenges and promote compliance with the Act. For example, this could include a conflict resolution mechanism to resolve disagreements between services about an information request, or a penalty where ISEs fail to provide requested information without a proper justification.

However, we do not recommend these approaches. In our view, this may unnecessarily increase the regulatory burden on ISEs by requiring them to take part in a conflict resolution process and/or justify at length why they have not provided information in a particular case. This would take practitioner time away from direct service provision or responding to other information requests, which could create delays in the sharing of relevant information. This approach may also foster an adversarial culture between organisations, which is contrary to the Act's objective to promote service coordination.

Further, we believe that challenges faced by stakeholders in obtaining information most likely stem from a lack of knowledge or understanding about the obligations under Part 5A within some organisations, rather than deliberate noncompliance. Legislative change is unlikely to address these issues. We consider that a better approach is a continued focus on education and training for all ISEs on the legal requirements under the Act and how compliance supports victim survivor safety and perpetrator accountability. We also strongly support an active role by departments in supporting their funded agencies that are experiencing challenges, including by helping them to work through challenges and advocate for access to relevant information where appropriate.

Some case studies shared by stakeholders illustrated that an initial reluctance to share can sometimes be overcome by referring to the existing obligations in Part 5A. For example, we heard about a stakeholder managing a high-risk perpetrator who contacted a housing organisation for a perpetrator's address. The worker at the housing organisation initially did not want to share the information. After some discussions and an explanation about the information sharing requirements, the worker shared the information with the requester.

This supports the view that the existing obligations in Part 5A are sufficiently strong without an additional compliance mechanism. As explained by The Women's Services Network, the provisions support organisations to advocate for access to information:⁷⁰

While information sharing activities have always occurred, refuge staff can now more strongly advocate when requesting information as a Risk Assessment Entity, if they need to do so. The scheme adds weight to their request and provides a common language with which to talk about the benefits of having the information.

Advocacy of this kind is likely to further support compliance with the Act in future as organisations increasingly understand their obligations under Part 5A. As with cultural change, this will likely take more time to be fully realised.

Although proactive sharing of relevant information is increasing, it is not occurring as often as it should, which is limiting Part 5A's effectiveness

Many stakeholders also reported an increase in proactive information sharing from July 2020 to June 2022. Although slightly lower than the percentage of responses that reported an increase in reactive sharing, 62 per cent of submission responses observed an increase in proactive information sharing during this period. This is shown in Figure 8 above.

This observation was shared by several stakeholders we consulted during the review. For example, the Victim Services, Support and Reform unit in the Department of Justice and Community Safety noted a gradual increase in proactive sharing from other ISEs, particularly as trust increased and communication became more streamlined. We also heard that proactive sharing happens frequently between services within the same organisation or services from different organisations that are co-located. For example, a practitioner we consulted shared that within their organisation, services in the alcohol and other drugs (AOD) and children, youth and families programs use the FVISS in a proactive way to support a 'shared client' approach.

Proactive information sharing also occurs in the broader context of an information request. For example, Victoria Police staff explained that when they respond to a request, they sometimes share information that was not specifically requested but is nonetheless highly relevant for a family violence assessment or protection purpose.

However, many stakeholders told us that, in their experience, proactive information sharing is still developing or is rarely occurring. For example, we were told that most public hospitals are still building the concept of proactive sharing and being open-minded about when and what information can be proactively shared, with this being an area of ongoing capability building. Other stakeholders similarly reflected that services nearly always need to request information, with little proactive information sharing occurring between services.

Stakeholders also identified barriers to proactive information sharing. For example, the Statewide Family Violence Integration Advisory Committee told us that some family violence services are working to develop the infrastructure to support proactive sharing. We also heard from stakeholders that although there is a genuine desire to proactively share information, it is often difficult for services to know who to share information with.

In part, this may result from a misunderstanding within some organisations (including services supporting victim survivors) about the role of perpetrator services in keeping victim survivors safe. For example, Relationship Matters Counselling and Mediation highlighted the need for a greater understanding of the role of men's behaviour change programs in supporting ongoing risk assessment and management.⁷¹

When this role is not fully understood, organisations may be less likely to contact perpetrator services to discuss their role in supporting the victim survivor and to enable proactive information sharing between the two services. Challenges can also be compounded where a victim survivor moves home and seeks services in a different geographical location, where local providers do not know the perpetrator or hold perpetrator information.

Proactive information sharing is an important part of managing a victim survivor's safety. Services should have access to all relevant information to assess and manage a family violence risk, including information they may not know to ask for. The importance of proactive information sharing is reflected in the Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework, with one of the 10 responsibilities for risk assessment and management referring to proactive information sharing.⁷² This is shown in Figure 10.

Figure 10: MARAM Framework - responsibility 6

Responsibility 6	Contribute to information sharing with other services (as authorised by legislation) Ensure staff proactively share information relevant to the assessment and management of family violence risk and respond to requests to share information from other ISEs under the FVISS, privacy law or other legislative authorisation.
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Source: Adapted from Victorian Government, *Annual Report on the Implementation of the Multi-Agency Risk Assessment and Management Framework: Victorian Government 2020–21 (report, December 2021)*, p. 78.

On balance, we believe proactive sharing is not occurring as often as it should, which is limiting the effectiveness of Part 5A in facilitating information sharing. We considered options for legislative change to further strengthen proactive sharing. This included introducing an obligation (rather than a permission) for an ISE to proactively share confidential information, in appropriate cases and to the extent possible. For example, this could apply where a service holds relevant information and is aware of another service that could use the information to assess or manage a family violence risk.

Although we believe this would send a strong message to ISEs about the importance of proactive sharing, we do not recommend changing the Act in this way. Noting our understanding that barriers to proactive sharing predominantly stem from a lack of knowledge of who to share information with – and not a lack of desire to share information – we do not believe this reform would be effective in increasing proactive sharing.

However, we believe it is important to support organisations to proactively share more frequently. We therefore recommend that the Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities (the **Ministerial Guidelines**) be amended to reinforce the ability of ISEs to proactively share information and to note the policy basis for including proactive sharing in the Act. Although the Ministerial Guidelines currently refer to the ability of ISEs to proactively share (and include a case study on this),⁷³ there is little guidance available to ISEs on when proactive sharing may be appropriate, or how to proactively share information. As noted above, the Ministerial Guidelines are intended to provide guidance to ISEs on internal policies, systems and practices to ensure information is shared appropriately and responsibly. In our view, appropriate and responsible information sharing includes proactively sharing relevant information to the extent possible to support risk assessment and management activities. We believe that adding further commentary to the Ministerial Guidelines would emphasise that the Act supports proactive sharing.

As part of these changes, we consider it would be beneficial to note that ISEs, when reactively sharing in response to a request, may also include relevant information about services that the victim survivor and perpetrator are engaged with. Although we acknowledge this will not always be relevant information and practitioners will always need to exercise their professional judgement, we believe this would support services in understanding who they may be able to proactively share information with. Changes to the Ministerial Guidelines could also be supported through further training and other implementation activities.

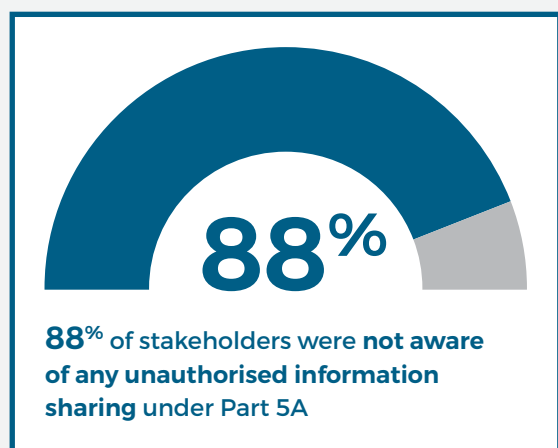
Recommendation 3: That the Ministerial Guidelines be amended to highlight the ability of ISEs to proactively share relevant information with other services and provide guidance on when and how to appropriately and responsibly share information proactively.

There has been very little unauthorised information sharing under Part 5A

A key principle under Part 5A is that organisations should only share information to the extent that it is necessary to assess or manage a family violence risk or to hold a perpetrator accountable.⁷⁴ This is important to avoid arbitrarily interfering with an individual's right to privacy and reputation under the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.⁷⁵ To promote this principle, the Act makes the unauthorised use or disclosure of confidential information an offence.⁷⁶

It was pleasing that stakeholders overwhelmingly reported not being aware of any unauthorised information sharing under Part 5A. As shown in Figure 11, 88 per cent of submission responses to the Monitor addressing this question noted this. This was also reinforced through our stakeholder consultations and our analysis of organisational data about complaints under Part 5A, although we acknowledge that the absence of complaints does not necessarily mean there has been no unauthorised information sharing.

Figure 11: Submission responses addressing consultation question 8



Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Where inappropriate information sharing was noted in submission responses or during consultations, stakeholders cited concerns that some organisations:

- share more information than is required, such as clinicians providing entire patient files rather than redacting information that is not relevant
- make overly broad 'fishing' requests for information that do not identify the relevant risk information being sought, such as requests for an entire client file
- seek information for other purposes unrelated to family violence risk assessment or management – for example, seeking confidential information to use in legal proceedings or seeking information about a person's capacity to parent a child where there were no current or historical concerns about family violence
- request information when they are not prescribed as an ISE, such as receiving requests directly from a patient or from a legal practitioner.

As some stakeholders recognised, it is likely that services that share more information than required are doing so in good faith. A less developed understanding of family violence dynamics and risks may also contribute to this, particularly for services that are yet to fully align with the MARAM Framework. We also acknowledge that views about the relevance of information can reasonably differ between different practitioners exercising their professional judgement.

Further, although it is a concern to hear of overly broad requests or requests made for inappropriate purposes, we were pleased to hear that most organisations recognised these requests as being outside the scope of Part 5A and they therefore did not share the information. This supports the view that there has been relatively little unauthorised information sharing under Part 5A. Some stakeholders also told us that the frequency of these types of requests is reducing.

In our view, increasing MARAM alignment across the service sector will assist with achieving consistency in organisations' understanding of what information is risk-relevant and can be requested or shared under Part 5A. MARAM alignment is discussed further in Chapters 5 and 6.

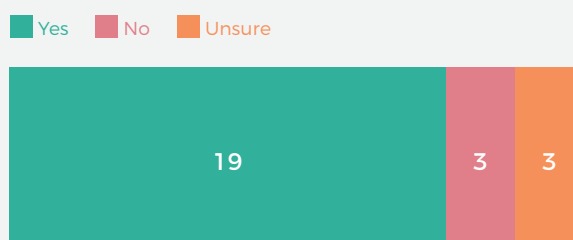
Supporting informed decision making

By increasing services' access to relevant information, Part 5A is supporting services to make more informed decisions about family violence risk

A key objective of facilitating greater information sharing is to ensure services can make better informed decisions to promote victim survivors' safety. Most stakeholders agreed that the Act provides enough scope and authority for services to collect, request, use and disclose relevant information to establish, assess and manage family violence risks. Of the 25 submission responses to the Monitor addressing this question, 19 responses (76 per cent) said there is sufficient scope and authority in the Act. This is illustrated in Figure 12.

Of those responses that did not consider that the Act provides sufficient scope and authority, submissions cited a failure of services to share information as the problem. In our view, these challenges relate to noncompliance with the Act rather than a legislative barrier to information sharing. We have discussed issues associated with noncompliance above. The non-prescription of most private service providers and Commonwealth-funded services (such as aged care and disability services) was also cited in submissions as a limitation in the Act. This is discussed further in Chapter 7.

Figure 12: Submission responses addressing consultation question 3



Q3. Does the Act provide sufficient scope and authority for you to collect, request, use or disclose all information you feel is needed to effectively establish, assess, and manage risks of family violence?

Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Most stakeholders told us that, combined with MARAM (discussed further in Chapters 5 and 6), Part 5A has supported better decision making about family violence risk. It has allowed services to better understand a family's situation by painting a clearer and more comprehensive picture of perpetrators, including their patterns of behaviour. It has also supported staff to have more in-depth conversations about risk and allowed for better judgements about risk and safety.

These benefits were particularly noted by specialist family violence services. For example, Safe and Equal explained that greater access to perpetrator information has supported more accurate and detailed risk assessments and resulted in better risk management.⁷⁷ Organisations working with perpetrators similarly highlighted the value of information in supporting their work.

The impact of information sharing on risk mitigation is further illustrated in the case study in Box 5 below.

Box 5: Case study – Information sharing being used to mitigate risk

Jonny is a perpetrator of family violence and a participant of inTouch's Motivation for Change program. His ex-partner Larissa has been connected to inTouch's main victim survivor case management program. A staff member acts as the family contact worker between the perpetrator and victim survivor program areas. Jonny's case manager became concerned about his behaviour after outbursts in one of the group sessions. He contacted the family contact worker and shared relevant information about Jonny's behaviour and potential risks to Larissa. The family contact worker shared this information with Larissa's case manager to ensure the risks to Larissa were mitigated.

Source: Family Violence Reform Implementation Monitor, based on a case study provided by inTouch Multicultural Centre Against Family Violence.

Improved risk management was noted as a positive development in relation to supporting older victim survivors experiencing abuse. For example, one submission noted that information sharing under Part 5A has, in some cases, provided the first opportunity to identify and name elder abuse for a victim survivor, thereby enabling them to access specialist assistance and support.⁷⁸

We also heard that increased information sharing has had a positive impact on court processes and proceedings. The Magistrates' Court of Victoria reported the following:

- Many of the agencies participating in regular coordination and planning meetings are ISEs. These agencies are better informed about risk and therefore in a stronger position to provide clear information to support planning for the safety of litigants coming to court.
- Family violence practitioners working at the court are having more purposeful engagement with applicants, particularly when MARAM risk assessments are shared with them.
- Parties are better informed and can submit more comprehensive risk information to the court, including information about a person's history and connection with services.

However, we heard contrasting examples of a lack of information sharing in practice between organisations involved in proceedings before the Children's Court of Victoria. Victoria Legal Aid provided two case studies where family violence information held by Victoria Police and the Magistrates' Court of Victoria was either not requested by Child Protection or the information was requested but not put before the court. In our view, these examples may illustrate inconsistencies with Child Protection's family violence practices more than limitations within the Act. We discussed stakeholder concerns about Child Protection in our previous reports, and it is not necessary to comment further here. We also note that other parties may similarly have an obligation to put relevant information before the Children's Court.

Overall we consider that the provisions in Part 5A have helped services to make better informed decisions about the identification, assessment and management of family violence risks. We do not consider that any legislative changes are required to improve the Act's effectiveness in this regard.

Service coordination and collaboration

Part 5A is supporting collaboration and service coordination, and a greater focus on proactive information sharing will further strengthen collaborative and coordinated practice

Part 5A aims to promote service coordination to further the purposes of the Act, which include to promote the safety of victim survivors and hold perpetrators to account. It was beyond the scope of the legislative review to consider whether any increased service coordination has led to increased victim survivor safety and greater accountability for perpetrators. This section therefore focuses on the extent to which Part 5A has supported increased collaboration and coordination.

We highlighted the importance of service coordination in our report, Crisis Response to Recovery Model for Victim Survivors. As noted in that report, some stakeholders highlighted a lack of coordination between sectors, including the mental health, AOD, housing and family violence sectors.⁷⁹

Some stakeholders reiterated this sentiment during this review. For example, the Municipal Association of Victoria noted the need for case sharing between family violence programs and other partners such as AOD services, mental health services and corrections.⁸⁰ Other stakeholders similarly highlighted their experience of a continuing siloed approach to service delivery. The need for services beyond the family violence sector to fully implement the FVISS and MARAM reforms was also raised in consultations as a barrier to services collaborating effectively, as was a lack of resourcing.

However, it was pleasing to hear that many other stakeholders believe there has been greater collaboration between services across sectors in the past few years. This was reflected both in stakeholder consultations and submission responses. As shown in Figure 13, 73 per cent of submission responses addressing this question had observed increased collaboration to support the delivery of coordinated services. For example, The Salvation Army noted:⁸¹

Since the inception of the FVISS and CIP we have seen a noticeable difference in how we are able to collectively coordinate high quality care for the families we work with. The previous fragmented system has been sidelined for one that now works together to collate information in relation to risk and safety, allowing us to advocate strongly for our clients.

Figure 13: Submission responses addressing consultation question 6



Q6. Have you observed an increase in the level of **collaboration between organisations** to support the delivery of coordinated services?

Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Increased coordination and collaboration were noted across various sectors, including in phase 2 sectors such as education and care services and health services. For example, Monash Health noted increased coordination between schools and mental health services and reflected that the capacity to collaborate and share information had also helped with discharging patients to general practitioner care.⁸² The Royal Australian and New Zealand College of Psychiatrists Victorian Branch similarly highlighted that:⁸³

[I]nformation sharing has been paramount to strengthening how mental health services have interacted with others, creating a more holistic approach to the prevention and early intervention of [family violence], and subsequent recovery.

The branch went on to express the view that Part 5A has sufficiently enhanced service coordination by improving services' response to information requests.⁸⁴

Berry Street's Take Two Therapeutic Family Violence Services also noted the impact and importance of increased information sharing in supporting coordination, reflecting that:⁸⁵

The information sharing schemes have made information more accessible and once that channel is open there continues to be collaboration and voluntary sharing of information regarding the assessment of risk and safety.

Some stakeholders said that although they had observed greater collaboration, this was often based on pre-existing relationships rather than being a new development related to Part 5A. For example, although The Sexual Assault and Family Violence Centre's practitioners identified greater collaboration with schools, they noted that "the level of collaboration and the effectiveness of sharing information is still based on relationships built with school professionals and not consistent across schools in general".⁸⁶ As discussed earlier in relation to cultural change, we also heard about strong pre-existing relationships in regional communities, with these relationships supporting collaboration and a whole service system response to family violence.

Although there is more to be done to achieve a fully coordinated service system, we consider that Part 5A will continue to support collaboration and service coordination in the same way that it is supporting cultural change and facilitating information sharing. We believe our recommended changes to the Ministerial Guidelines to promote proactive information sharing will also support greater collaboration. We do not recommend any further legislative reform.

Adverse effects of Part 5A

Formalised information sharing processes introduced as part of implementing Part 5A have sometimes contributed to delays in services obtaining critical information and negatively impacted on services' ability to assess risk and safety plan

Many organisations have introduced new processes and forms as part of implementing Part 5A. For example, this has included a centralised email inbox or information sharing team that handles requests and/or a requirement for requests to be made in writing through a request form. The Act does not mandate these processes, enabling both written and verbal information sharing. However, these processes have often been introduced to support organisations to comply with the Act. For example, Victoria Police explained that its processes allow for the appropriate release of information and proper record keeping, which helps ensure consent requirements are met and documented and therefore protects individuals' right to privacy.

In some cases, increased formality has contributed to delays in services receiving critical information. Stakeholders reflected that, whereas in the past they could obtain information (under existing privacy authorisations) via established relationships through a quick phone call, this was no longer possible because services are now required to go through formal processes. The resulting delay in receiving information has impacted on the ability of services to effectively assess risk and prepare safety plans, which can put victim survivors at increased risk of harm. For example, Safe and Equal noted in relation to delays generally:⁸⁷

We are aware of delays of up to a month after a FVISS request has been made, which can significantly hinder risk management and victim-survivor safety. This is particularly true for the periods when victim survivors are engaging with specialist family violence services because these are often the time of increased and dynamic risk.

Although not a requirement of the Act, the increased formality that has been introduced as a consequence of Part 5A may undermine this objective. However, it is also important to acknowledge that increased formality is likely only one contributing factor to delays in providing information. Stakeholders noted that connected challenges include:

- substantial information for an ISE to review before responding to a request
- a high volume of information requests being received by ISEs
- difficulties understanding what information to share or what an ISE's obligations are
- lack of resources and staff to respond to requests.

We considered options for legislative reform to address challenges related to delays. This included considering amendments to the record-keeping requirements in the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (the **Regulations**), noting that these requirements may have contributed to the adoption of formal processes and that they take staff time to comply with. The general record-keeping requirements are outlined in Figure 14.

Figure 14: Record-keeping requirements for information sharing entities (ISEs)



Source: Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, regulation 10.

Additional obligations apply to confidential information shared about adult and child victim survivors and third parties, and where ISEs decline a request or receive a complaint.⁸⁸ For example, when sharing information about an adult victim survivor, an ISE must record whether information was disclosed with the victim survivor's consent, and if consent was not obtained, the reason for this and whether the victim survivor's views were sought in relation to the information sharing.⁸⁹

The record-keeping requirements were the subject of a comprehensive Regulatory Impact Statement (RIS) in 2017.⁹⁰ According to **Family Safety Victoria**, most of the feedback they received in response to the RIS supported the intent of the record-keeping obligations, although some stakeholders were concerned that the obligations may be onerous and discourage information sharing. In drafting the Regulations, Family Safety Victoria sought to balance competing policy considerations, including having the record-keeping obligations reflect existing good practice, promoting the agency of victim survivors, avoiding confusion around what information has been shared, and assisting ISEs to respond to complaints.

In our view, the Regulations strike an appropriate balance between minimising the administrative burden on ISEs while ensuring transparent and accountable information sharing practices. We also support the intent of the Regulations in promoting victim survivor agency where information sharing occurs without consent, including the requirements for records to be kept about whether an ISE sought a victim survivor's views on information sharing and the reasons for not obtaining consent. These requirements ensure ISEs can justify why consent was not obtained or why a victim survivor's views were not sought before sharing information. This is particularly important in light of the feedback we received from **survivor advocates** during the review (discussed further in Chapter 3). We therefore do not recommend any amendments to the record-keeping obligations in the Regulations.

However, we believe there would be value in encouraging ISEs to consider how to balance compliance with their record-keeping obligations with the need to share information promptly. The Ministerial Guidelines currently state:⁹¹

An ISE should always prioritise requests for information under Part 5A and respond to requests in a timely manner. In particular, where a serious threat has been identified, ISEs should respond to those requests for information without delay.

Although we support these statements, we consider that further guidance is needed to ensure information is provided while it has the greatest value. In our view, part of sharing confidential information appropriately and responsibly is ensuring the information can effectively contribute to risk assessment and management activities. We therefore recommend that additional information be included in the Ministerial Guidelines to emphasise the importance of sharing information in a timely manner. We suggest that a case example be used to show how ISEs could share information verbally in urgent cases and record the necessary information after the fact. We believe there would be benefit in the case example providing guidance to ISEs that have adopted central information sharing teams or other formal processes. Case examples should be developed in conjunction with ISEs that receive a high volume of requests, such as the Magistrates' Court of Victoria, Victoria Police and Corrections and Justice Services within the Department of Justice and Community Safety.

Recommendation 4: That the Ministerial Guidelines be amended to emphasise the importance of sharing information in a timely manner. A case study should illustrate how ISEs can share information verbally in urgent cases, and record information after the fact.

We also considered potential amendments to the Act to further promote timely responses. Some stakeholders we consulted supported introducing a maximum timeframe in which information sharing requests would need to be responded to, although this was not supported by others. We do not support the inclusion of a maximum timeframe. The period within which an ISE can share information will likely differ depending on the size of the organisation, the volume of requests they receive and the level of practitioner understanding about family violence risk. Further, the urgency of information requests will differ depending on the circumstances, and a maximum timeframe may limit the extent to which services can prioritise urgent requests.

An alternative option is to introduce a requirement for ISEs to share information in response to a request within a reasonable period. We recommend the Act be amended to include a requirement of this nature. We consider it is appropriate to include this obligation in the Act rather than the Regulations or Ministerial Guidelines, recognising that anything that imposes an obligation on an individual or organisation should be contained in primary legislation.

Requiring information to be provided in a reasonable timeframe will provide enough flexibility to reflect organisational capacity and urgency while still sending a strong message about the importance of prioritising information sharing that is needed to effectively manage family violence risks. In considering reasonableness, we recommend that ISEs be required to consider various factors. For example, this could include the reason for the request, the urgency of the request and whether information sharing may result in an assessment that a victim survivor is at serious risk of harm.

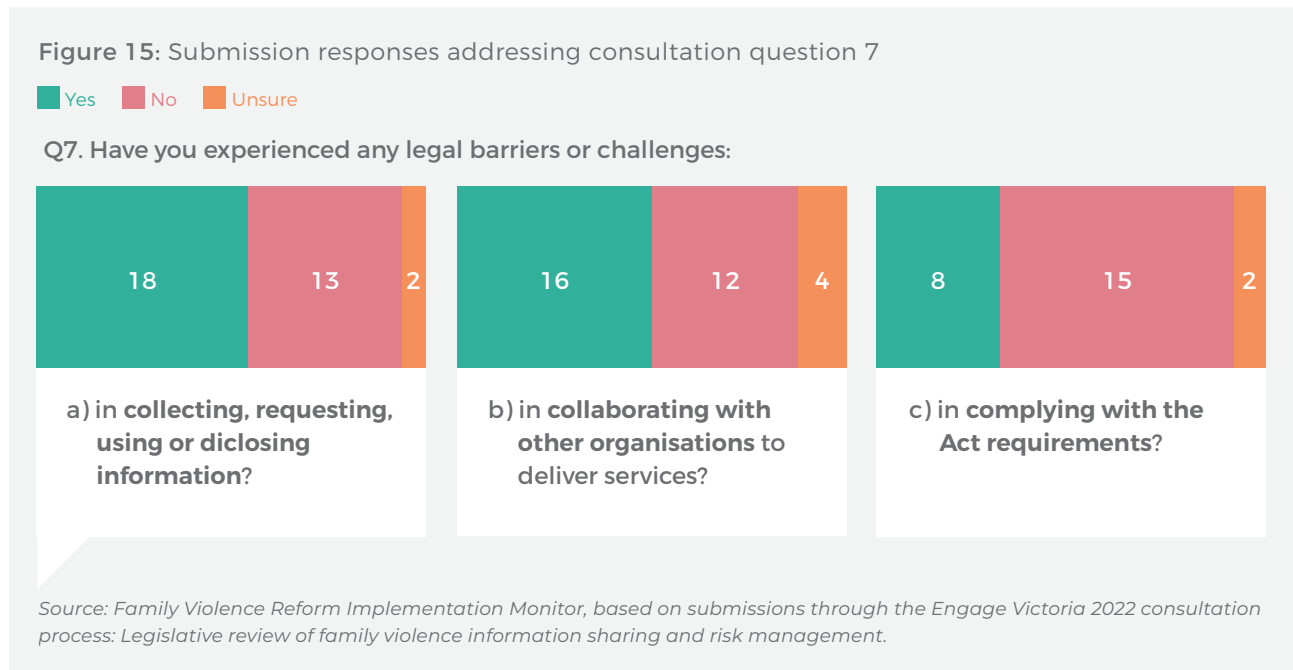
We also recommend that the Ministerial Guidelines include guidance to support ISEs to understand the timeliness obligation. While acknowledging that what is reasonable will ultimately depend on the individual circumstances and that professional judgement will be required, we consider that general guidance could be provided to support the implementation of our recommended provision in the Act. For example, case studies could be developed illustrating what may be a reasonable timeframe in different circumstances. These should be developed in consultation with stakeholders. By way of illustration only, guidance may suggest that where information is urgently needed to determine whether to put a victim survivor into emergency accommodation, a reasonable timeframe may be within 24 hours.

We acknowledge that introducing a timeliness requirement into the Act would be most effective if coupled with a new monitoring or compliance approach, which we do not support for the reasons noted above. Notwithstanding this, we believe there would be value in introducing a standalone timeliness requirement as a way of strongly reinforcing the importance of timely information sharing. We also acknowledge the need for ISEs to be adequately resourced to respond to requests in a reasonable timeframe, and that this may require an examination of funding in conjunction with legislative change.

Recommendation 5: That Part 5A of the Act be amended to require ISEs to respond to a request for information within a reasonable timeframe and include factors for ISEs to consider in determining what constitutes a reasonable timeframe. The Ministerial Guidelines should also be amended to include guidance to support ISEs to implement this change.

Other stakeholder feedback

Submission responses identified barriers and challenges in sharing information, collaborating with others and complying with the Act's requirements. This is shown in Figure 15.



Although submissions cited legal barriers or challenges, in our view most of the barriers or challenges detailed were operational or practical challenges or issues related to implementation rather than stemming from the provisions in Part 5A. The identified issues are discussed further in Chapter 7.

3: Impact of Part 5A on victim survivors

Introduction

The *Family Violence Protection Act 2008* (Vic) (the **Act**) aims to maximise **victim survivor** safety, prevent and reduce family violence to the greatest extent possible and hold **perpetrators** accountable for their actions.⁹² Victim survivors are key intended beneficiaries under the Act, including the information sharing reforms in Part 5A. These reforms were introduced to “allow greater access to relevant information to better protect victims and hold perpetrators to account”.⁹³

This chapter looks at the impact of the provisions in Part 5A on victim survivors, both from the perspective of **survivor advocates** and, where relevant, information sharing entities (**ISEs**) that work to support victim survivors. It addresses the impact of the Act on victim survivor reluctance to share information, the application of the consent provisions for disclosing victim survivor information, and survivor advocates’ experiences of information about perpetrators being shared with them. This chapter also discusses the interaction between Part 5A and general privacy laws, including the obligation on ISEs to inform victim survivors about Part 5A when collecting their information, and the ability of ISEs to share information with consent to reduce victim survivor trauma. Additional views and experiences shared by survivor advocates are also highlighted at the end of this chapter.

Survivor advocates’ views and experiences related to the Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework are highlighted in Chapter 6.

We are enormously grateful to the survivor advocates who spoke to us; they generously shared their time, experiences and views. They have greatly enhanced our knowledge and represented many different circumstances. However, it is important to recognise that the survivor advocates we spoke to represent a fraction of all victim survivors in Victoria. Therefore, we also acknowledge the many victim survivors who have not had the opportunity to take part and who may hold other views.

Victim survivor reluctance to share information

Victim survivors are apprehensive about sharing their confidential information with services; however, the introduction of Part 5A has not increased their concerns about information sharing and they support the broader sharing of perpetrator information under Part 5A

In sharing general views and reflections about information sharing, many survivor advocates highlighted the importance of keeping their information safe to protect themselves and their children. One survivor advocate told us that, at the time of seeking services, concerns of information sharing were not on her radar because she so desperately needed help. But most survivor advocates we spoke to highlighted a general reluctance to share information with others. This was primarily due to fears about how the information they shared would be recorded and stored and who would have access to that information. Most survivor advocates told us of fears that sharing **confidential information** could lead to:

- police involvement
- reports being made to Child Protection
- information being reported back to the perpetrator, thereby increasing risks to their safety.

Victim survivors' circles of trust are greatly reduced because they have had their trust broken so many times by people and systems.

- View of a survivor advocate

Survivor advocates also described sharing information with services without disclosing the true extent of family violence offending or disclosing information gradually once they had determined that the service provider could be trusted. One survivor advocate described her reluctance to sharing openly with service providers by explaining that victim survivors have greatly reduced circles of trust.

We reviewed the provisions and aims of Part 5A in our consultations with survivor advocates. It was pleasing to hear that survivor advocates generally support the Family Violence Information Sharing Scheme (FVISS), with no survivor advocates expressing that the scheme had a negative impact on their pre-existing views. That is, Part 5A neither eased nor exacerbated their reluctance to share confidential information with services.

This view was generally reinforced by stakeholders who work with victim survivors. Although we heard a small number of examples of clients disengaging from services due to information sharing, most stakeholders told us that victim survivor reluctance to share information has not increased since the introduction of Part 5A.

Overall, survivor advocates support the requirements under Part 5A, including the Act giving precedence to their right to safety over perpetrators' right to privacy, and the increased ability for services to share perpetrators' information without consent. Many survivor advocates viewed this as an important change because they believe organisations often place greater importance on perpetrators' right to privacy over victim survivors' right to be safe. They also described a previous imbalance in access to information, feeling that perpetrators could access victim survivors' confidential information to use against them in court proceedings, but victim survivors could not access information about perpetrators to promote their safety. Concerns related to the use of legal processes to obtain victim survivor information are discussed further in Chapter 7.

Information sharing to promote victim survivor agency

Overview of consent provisions under Part 5A

Part 5A outlines the circumstances in which consent is, and is not, required to collect, use or disclose confidential information. General consent provisions for disclosing confidential information are shown in Table 6.⁹⁴

While a child victim survivor's confidential information can be collected, used and disclosed without their consent, Part 5A's principles make clear the importance of promoting the agency of children by "ensuring their wishes are taken into account having regard to the appropriateness of doing so and the child's age and maturity".⁹⁵

There are two exceptions to the requirement that information about adult victim survivors and third parties only be collected, used or disclosed with their consent. These are:

Table 6: General consent rules for sharing confidential information under Part 5A

Person's age and identification	Consent	
Perpetrators and alleged perpetrators	No consent required	<input type="checkbox"/>
Adult victim survivors	Consent required*	<input checked="" type="checkbox"/>
Child victim survivors	No consent required	<input type="checkbox"/>
Third parties	Consent required*	<input checked="" type="checkbox"/>

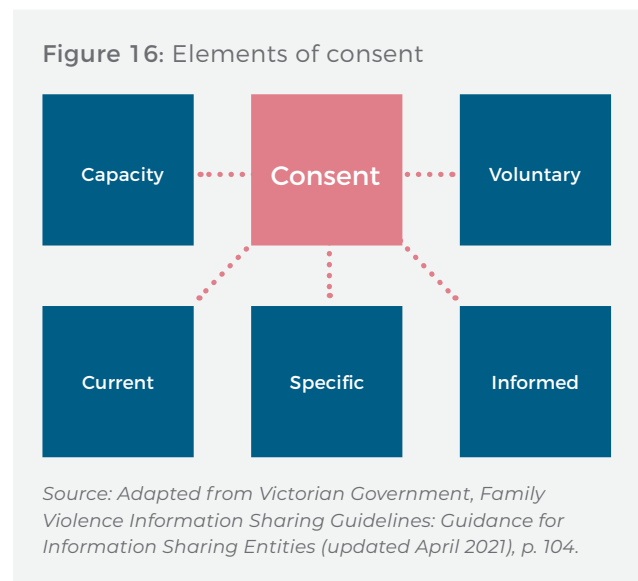
*These general rules are subject to the serious threat and protection of a child exceptions.

Source: Family Violence Protection Act 2008 (Vic), Part 5A Division 5.

- when an ISE reasonably believes that the collection, use or disclosure of the confidential information is necessary to lessen or prevent a serious threat to an individual's life, health, safety or welfare (commonly referred to as the serious threat exception)⁹⁶
- when the collection, use or disclosure of confidential information about an adult victim survivor or **third party** relates to confidential information about a child victim survivor and is used for a family violence assessment or protection purpose relating to that child (which we will refer to as the protection of a child exception).⁹⁷

The Act defines consent to mean either express or implied consent.⁹⁸ The definition of consent in the Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities (the **Ministerial Guidelines**) is “[p]ermission for something to happen, or agreement to do something, after being provided all relevant information”.⁹⁹ The Act also outlines requirements for ISEs to determine whether a person has the capacity to consent based on their understanding and communication of consent.¹⁰⁰

The Ministerial Guidelines include additional information about Part 5A’s consent provisions in the chapters on sharing information about perpetrators, adult victim survivors or third parties, and child victim survivors.¹⁰¹ A separate chapter on consent is dedicated to describing the elements of consent, the giving, refusing and withdrawing of consent, and documenting consent.¹⁰² The Ministerial Guidelines expand on what is stated in the Act, explaining that consent must be voluntary, informed, specific and current, and the person must have capacity to consent.¹⁰³ This is shown in Figure 16.



Some victim survivors are concerned that the consent provisions are not being applied such that they have agency over the sharing of their confidential information

As noted above, ISEs must generally obtain an adult victim survivor’s consent before disclosing their information. Survivor advocates provided the strongest feedback on ISEs’ application of the consent provisions for disclosing their confidential information. In this and following sections, unless otherwise noted, a reference to victim survivor consent should be read as referring to adult victim survivors only, noting that consent is not required to share child victim survivor information under Part 5A.

Adult victim survivors are concerned that ISEs infrequently obtain their informed consent to disclose their confidential information

Survivor advocates most often reflected positive experiences of consenting to an ISE sharing their confidential information when information was being disclosed as part of a referral process and meant they did not need to retell their story. In these cases, survivor advocates said service providers clearly explained the reasons for information sharing and obtained consent before sharing. One survivor advocate who told us of being referred from a specialist family violence service to a sexual assault service explained how the practitioner had a discussion with her and sought their consent for each element of information sharing, including how the information would be framed and conveyed. This allowed the survivor advocate to feel in control of her information and empowered to make their own decisions.

The same survivor advocate told us they had to explain to a different practitioner over and over the reasons why they did not want their information shared, including serious concerns that the perpetrator was accessing their confidential information when it was shared with other ISEs and increasing the risk of harm. Despite explaining the history of an ISE sharing confidential information with her perpetrator, the survivor advocate still experienced a family violence service sharing their information with that ISE contrary to her instructions.

The burden of protecting information security should not be falling on victim survivors and their victim-peer-advocates.

– View of a survivor advocate

It was concerning to hear from one survivor advocate that they had been told by a specialist family violence service that she could not receive assistance unless she gave consent for their information to be shared. The survivor advocate explained that this was reflective not only of her own experience but of other victim survivors in their support group, with consent to the sharing of confidential information bundled together with other matters that victim survivors must agree to in order to use the service and receive assistance.

In discussing consent with survivor advocates, they expressed the following views:

- Services must have proactive discussions with victim survivors in which practitioners clearly explain who victim survivors' confidential information will be shared with, the reason for the sharing, what rights and options victim survivors have for their information being shared and possible adverse impacts of their confidential information being shared.
- Because blanket consents require victim survivors to give up too much control over their own information without the opportunity for feedback, consent should be iterative and practitioners should have a new conversation with victim survivors every time they want to share information.

Survivor advocates were anxious about their confidential information being shared without their consent, and about not being informed when their information was shared. One survivor advocate who shared both positive and negative experiences of how ISEs shared their confidential information told us that the legislation had come from a good place but the application of the FVISS needed to be further considered. In our discussions with survivor advocates, they also shared with us repeatedly that after being in relationships in which they often felt powerless and in which another person attempted to or did control their decision making, it was critical that they retain the right to make their own decisions about information sharing.

Services need to be open and transparent with adult victim survivors.

– View of a survivor advocate

One survivor advocate supported the serious threat exception to consent but emphasised the need for ISEs to actively seek consent from victim survivors when possible. Another survivor advocate agreed that confidential information about adult victim survivors should be able to be shared without their consent where necessary to protect children. However, she strongly believed that any adult victim survivors or protective parent in the child's life should be notified about the sharing.

It was promising that most ISEs we consulted agreed in principle with the survivor advocates' views. They recognised the importance of obtaining consent before disclosing victim survivors' information. For example, inTouch Multicultural Centre Against Family Violence shared:¹⁰⁴

[A]s is appropriate, inTouch case managers continue to seek client consent when sharing information with other agencies – and that most times this consent is granted. Case managers continue to uphold client confidentiality very seriously and use robust systems and processes when there is a requirement to share information with other agencies or workers, and where seeking client consent is not appropriate or possible.

However, it also seems that under certain circumstances, ISEs will use the consent exceptions quite broadly. For example, we heard that the serious threat exception is used by some ISEs that request perpetrator information from the Central Information Point (**CIP**). We understand that practitioners at The Orange Door commonly name a victim survivor when requesting a CIP report and seek information about a perpetrator's behaviour and history of family violence in relation to that victim survivor. This is often done using the serious threat exception rather than with the victim survivor's consent, noting that our understanding is that CIP reports are often requested at the time of referral (most often by Victoria Police), before any engagement with the victim survivor.

Victim survivors had mixed views on Part 5A's provisions for sharing the confidential information of children without consent

The survivor advocates we spoke with who experienced family violence as children understood why it may be important to share children's confidential information without their consent in some situations. However, they also found it concerning that children's consent to share information was never required. One survivor advocate said that information sharing about children without their knowledge or consent could sometimes put children at higher risk of family violence, especially when the perpetrator was a parent given the potential for the confidential information to be shared with that parent.

The adult survivor advocates we spoke to understood why Part 5A does not require consent to share a child's confidential information. However, they expressed the view that the protective parent is in the best position to present information sharing to children and that protective parents must be included in the process.

Victim survivor agency should be promoted wherever possible

In reflecting on the views and experiences of survivor advocates, we considered whether Part 5A appropriately recognises victim survivor agency, victim survivors' own perspectives on their safety and privacy, and how to address circumstances in which victim survivors and ISEs may have different views on whether sharing victim survivor information supports victim survivor safety.

We considered whether a new principle should be added to Part 5A to reflect that ISEs should promote adult victim survivors' agency when exercising powers under the Act. We also considered whether the consent provisions should be amended to provide stronger support of the right for all victim survivors to determine when and how their confidential information is shared. This could include options such as removing an ISE's ability to rely on implied consent to share information or expressly requiring consent to be obtained for each instance of information sharing.

In our view, the principles and consent provisions in Part 5A appropriately recognise the factors that should be considered as part of sharing adult and child victim survivors' confidential information. We appreciate the serious concerns that ISEs have for the safety of victim survivors and their interest in accessing and sharing information to assess and manage risks. It is important that the Act provides services with full capacity to provide family violence-related services under the wide range of conditions and levels of risk in which services can be sought. We also acknowledge and support the principle in Part 5A that ISEs should give precedence to the right to be safe from family violence over the right to privacy,¹⁰⁵ and recognise the need for the consent provisions to support this principle. We therefore do not recommend any amendments to the Act.

We note that the MARAM Framework's principles include respecting the agency, dignity and intrinsic empowerment of victim survivors and the need to partner with victim survivors as active decision-making participants in risk assessment and management.¹⁰⁶ The Ministerial Guidelines' section on

the serious threat exception also states that it is “best practice to involve victim survivors at every step of the process, wherever possible, so that the victim survivor has a clear understanding of, and confidence in, the process”.¹⁰⁷

We endorse these views and support careful consideration of a victim survivor’s views, and promotion of victim survivor agency, in all decision making about sharing information without consent. We encourage the Victorian Government and ISEs to continue efforts to seek the views of victim survivors and to appreciate the importance of this to them as part of service provision.

ISEs are not always sharing perpetrators’ confidential information with victim survivors in a way that supports victim survivor knowledge and agency

In addition to information sharing between ISEs, the Act provides for ISEs to voluntarily share information with victim survivors.¹⁰⁸

ISEs may disclose confidential information (other than **excluded information**) about a perpetrator to adult and child victim survivors for a **family violence protection purpose**.¹⁰⁹ Victim survivors may only use or on-share information that has been shared with them to manage their family violence risk.¹¹⁰



It was concerning that survivor advocates reflected that perpetrators’ information is rarely shared with them. For example, one survivor advocate stated that she received services over a period of 12 years, both before and after the introduction of the FVISS, engaging with police, specialist family violence services, health service providers (including general practitioners) and courts. She could not think of a time when perpetrator information was ever shared with her to help her assess and manage safety risks. Other survivor advocates similarly told us that they had never received any information from ISEs about their perpetrators, had never been assisted by ISEs when trying to obtain perpetrators’ information, and did not know there was a process to obtain such information.

More than one survivor advocate told us about needing to get legal help to attempt to access information about their perpetrator relevant to family violence protection purposes (such as the perpetrator’s location), with some reflecting that services continue to focus on protecting perpetrator privacy. Another survivor advocate reflected how, if done more frequently, sharing perpetrators’ information could provide an opportunity to shift the power imbalance between victim survivors and perpetrators, noting that the level of knowledge that a perpetrator has about a victim survivor supports an ongoing power imbalance and creates an environment for ongoing emotional and psychological abuse.

Information is power.
Information is everything in giving a victim survivor the tools to leave family violence.
– View of a survivor advocate

Greater harm is done when children are not told what is happening.

– Views of survivor advocates who experienced family violence as children

Our consultations with survivor advocates who experienced family violence as children revealed similar concerns that service providers do not share information with child victim survivors and that this directly affects their ability to assess and manage risks to their safety. One of the strongest messages conveyed by two 19-year-old survivor advocates we consulted with was that information about family violence must be shared with children. They said that too often adults decide that it would be ‘too much’ for children to know what is going on but that, in fact, children need to know.

We were gratified to learn that some survivor advocates felt that information sharing with victim survivors about perpetrators to help manage their risks may be increasing. For example, survivor advocates discussed finding it difficult to learn whether family violence intervention orders (FVIOs) had been served or whether a perpetrator had been released from custody. One survivor advocate who received services before the introduction of Part 5A told us that she could not imagine information about a perpetrator being shared with a victim survivor and that being able to find out whether an FVIO had been served on their perpetrator would have made a huge difference in her safety planning for attending other ongoing court proceedings. A different survivor advocate with more recent experience of the system shared how beneficial it was when police contacted her to say they were going to serve an FVIO, allowing the survivor advocate time to ensure her children were in a safe location in case the perpetrator's response created risk.

In considering what survivor advocates shared with us about their lack of access to perpetrator information and the need for victim survivors to have agency in assessing and managing their own safety, we considered whether ISEs should be mandated rather than allowed to share confidential information about perpetrators with victim survivors for a family violence protection purpose. While we believe this would maximise victim survivor agency when making risk protection decisions, we do not recommend this approach. We believe that removing service providers' professional judgement would fail to recognise the role that service providers play in managing victim survivor risk by, at times, limiting what information is shared with them.

The Ministerial Guidelines currently provide a brief explanation and a case study on ISE's sharing information with victim survivors to support them in managing their risk.¹¹¹ In our view, this section does not sufficiently highlight the importance of supporting victim survivor agency and decision-making through information sharing. We therefore recommend that this content be expanded to include further discussion of these matters. We consider that this should include greater integration of content included in the MARAM Framework policy document's discussion of structured professional judgement, victim survivor's self-assessment of level of risk, and victim survivor agency in decision making for family violence assessment and protection purposes.

Recommendation 6: That the Ministerial Guidelines be amended to incorporate information from the MARAM Framework on victim survivor agency and self-assessment of risk.

Interaction between Part 5A and other privacy laws

As previously noted, Part 5A of the Act operates within the context of Victoria's broader privacy regime. This means that some sharing of family violence information may occur under other laws.¹¹² This may include, for example, information sharing in accordance with the Information Privacy Principles and the Health Privacy Principles (collectively referred to as the Privacy Principles in this section).¹¹³

Some of the key issues raised in our consultations with survivor advocates related to the application of these broader laws to family violence information. Our discussions revealed two key concerns related to:

- victim survivors' limited knowledge of the FVISS when ISEs were collecting their information, noting the extreme stress they were under when engaging with services
- the need to reduce victim survivor trauma through confidential information sharing.

Although these issues do not stem from the legal provisions in Part 5A, they were relevant to our consideration of potential legislative amendments that could improve Part 5A's operation. Each of these issues is discussed below.

It is important that victim survivors understand how their information may be used under the FVISS, noting that adult survivor advocates described experiencing extreme stress when engaging with services that affected their capacity to think clearly

Under the Privacy Principles, an organisation that collects personal or health information from an individual must take reasonable steps to ensure the person is aware of certain matters such as:¹¹⁴

- the purposes for which the information is collected
- the types of individuals or organisations to which the organisation usually discloses that kind of information.

For many victim survivors, confidential information related to family violence may be collected by an ISE from the point of their first engagement. In line with the Privacy Principles, we consider that an ISE is required in such circumstances to take reasonable steps to ensure the victim survivor is aware of when, and to whom, their confidential information may be disclosed under the FVISS. This should include informing victim survivors that their information may, or in some cases must, be disclosed without their consent under either the serious threat or the protection of a child exception.

Victim survivors are often engaging in services while in a highly traumatised state and have to decide whether to share confidential information with great uncertainty about what would happen with that information.

– View of a survivor advocate

In our view, it is important for ISEs to not only inform victim survivors about the FVISS but also to ensure victim survivors understand the information provided to them. This is necessary to support victim survivor agency and empower victim survivors to make an informed decision about what information to share with an ISE.

In ensuring that victim survivors have a full understanding of the FVISS, it is important for ISEs to also consider the stress that victim survivors may be under when engaging with services. We heard that engaging with service providers can be an extremely daunting and overwhelming process for victim survivors, with some describing this as a time of crisis, even when voluntarily seeking support. Survivor advocates also described how the extreme stress they were under at the time impacted on their capacity to think clearly.

Most of the survivor advocates we consulted, including those who had received support and/or services from ISEs since Part 5A commenced, did not recall being told about the FVISS when their information was collected. None of the survivor advocates we spoke with understood, at the time they shared confidential information with a collecting ISE, that the collecting ISE could or may be obligated to disclose their information to other ISEs and that this may occur with or without their consent. Nor were they made aware that the other ISEs with which their information may or must be shared includes a range of justice, health, human services, child protection and education and care services.

One survivor advocate who was told about the FVISS shared that the practitioners she met with read her a 'script' about information sharing, while another survivor advocate recalled signing a piece of paper when first engaging with a service but having no idea what she was signing, assuming it may be about the organisation's duty of care or some type of consent form.

Other survivor advocates suggested that government should create fact sheets for victim survivors that clearly show that ISEs are held to the same legal requirements as each other. Survivor advocates suggested that fact sheets be available in plain English and multiple languages and contain information on where to get legal advice on whether to share confidential information with ISEs.

Victim survivors should be provided with more information about the scheme and this information should be provided in multiple formats.

- **View of a survivor advocate**

It was concerning to us that so few survivor advocates we spoke with said they were told about the FVISS when their information was collected. This suggests that some ISEs may not be complying with their obligations under the Privacy Principles as often as they should, or the advice is not being understood in the context of the crisis the victim survivors were experiencing. While we do not think it is necessary that all victim survivors can identify the FVISS by name, we consider that victim survivors should have a clear understanding of how ISEs may share their confidential information.

Reflecting the importance of promoting victim survivor agency and control over their information, we considered potential amendments to Part 5A of the Act to promote compliance with the Privacy Principles for collecting information, insofar as that information relates to a victim survivor's experience of family violence. We recognise the value in not carving out aspects of the general privacy regime in other legislation, noting that the privacy regime reflects best practice and is often consistent with approaches in other Australian and international jurisdictions. However, in the context of introducing specific information sharing powers and obligations in Part 5A of the Act that both modify and replicate aspects of general privacy laws,¹¹⁵ we believe there would be value in Part 5A providing for an ISE's obligations when collecting information from a victim survivor.

This approach would have the advantage of bringing this key aspect of dealing with victim survivor information into scope for the FVISS. Although we were not expressly told why some ISEs may not be informing victim survivors about the FVISS as required under the Privacy Principles, we consider that it is a strong possibility that practitioners are focused on applying the provisions in Part 5A when dealing with family violence-related information. As a consequence, they may be less mindful about other privacy obligations that sit outside the FVISS. By bringing privacy obligations for collecting information into Part 5A, practitioners will be able to primarily look to one piece of legislation when dealing with key aspects of victim survivor information sharing.

We also note the considerable effort that continues to be given to developing guidance and providing training for ISEs about the FVISS. We believe that bringing the collection of victim survivor information by ISEs into Part 5A would enable this existing work to be leveraged and increase ISEs' understanding of, and compliance with, their privacy obligations.

We therefore recommend that Part 5A be amended to expressly require ISEs to inform victim survivors about the FVISS when collecting their confidential information. The new provision should reflect the existing obligation under the Privacy Principles. It should require an ISE, when collecting confidential information from a victim survivor that relates to their experience of family violence, to take reasonable steps to ensure the victim survivor is aware of the circumstances in which, and the types of individuals and organisations to which, their information may or must be disclosed under Part 5A, including without consent.

Because this issue was raised in the context of our discussions with survivor advocates, we have not considered the appropriateness or otherwise of extending this requirement to third parties. We suggest that the government consider this option further in the course of developing legislative amendments.

Recommendation 7: That Part 5A of the Act be amended to introduce a requirement for an ISE that collects family violence-related information from a victim survivor to, at the time of or before collecting that information, take reasonable steps to ensure the victim survivor is aware of when, and to whom, their confidential information may or must be disclosed under Part 5A.

Sharing of a victim survivor’s confidential information, with consent, to avoid the retraumatisation associated with a victim survivor retelling their story is not occurring as consistently or widely as needed

In our consultations with survivor advocates and service providers, we were regularly told that reducing the need for victim survivors to retell their stories is a vital part of minimising their trauma. We were also told that this could be best achieved from better service coordination through sharing confidential information. While this confidential information may be contained in materials such as Victoria Police family violence reports, we were most often told that MARAM risk assessments are the most relevant type of confidential information to share to reduce victim survivor retelling of their story and associated trauma. For example, inTouch Multicultural Centre Against Family Violence stated:¹¹⁶

The information sharing provisions and the MARAM have improved efficiency and collaboration across agencies and has also been useful for clients. Where a robust risk assessment has been conducted, clients no longer have to repeat their story to a new worker. Upon referral, clients are often relieved that they don't have to retell their story, with the risk of retraumatising them or taking up more valuable time.

The ability for information sharing to reduce trauma is also highlighted in the MARAM Framework policy document, which states that effective information sharing can “keep victim survivors from having to repeat their experiences to multiple services, which can be discouraging, disempowering and re-traumatising”.¹¹⁷

One survivor advocate relayed a positive experience when referred from The Orange Door to a social worker. The survivor advocate shared that she may not have met with the social worker were it not for information sharing because she found it too exhausting to retell her story. In contrast, one survivor advocate told us that his fear of ISEs improperly sharing his confidential information was so strong that he would prefer to be retraumatised by retelling his story rather than risk information getting into the wrong hands and living with the consequences.

Having to constantly ‘hash over’ everything was demoralising and difficult.

– View of a survivor advocate

Several survivor advocates told us that they wanted ISEs to share their MARAM risk assessments upon referral to new services to avoid having to retell their stories. But the ISEs declined because, for example, the risk factors in the assessments were viewed as ‘out of date’ and a new risk assessment was required to determine a victim survivor’s current level of risk.

As explained earlier in this report, confidential information can be shared under Part 5A for a family violence assessment or protection purpose. A family violence protection purpose is defined as the purpose of managing a risk of a person committing family violence or a person being subject to family violence, and includes the ongoing assessment of the risk of the person committing or being subject to family violence.¹¹⁸ Although the MARAM Framework policy document and practice guides support a broad interpretation of risk management,¹¹⁹ we understand that Part 5A does not support information sharing for the sole purpose of preventing victim survivors from having to repeatedly tell their story, thus avoiding trauma.

However, we note that MARAM risk assessments and other victim survivor confidential information can currently be shared, with consent, under general privacy laws. The Privacy Principles provide that an individual's personal or health information may be disclosed with their consent.¹²⁰ In light of this, it was concerning to hear that some ISEs had declined to share MARAM risk assessments, even when requested by a victim survivor to do so.

In our view, Part 5A should promote information sharing, with consent, to reduce a victim survivor's trauma. We recognise and agree with the concerns of victim survivors and stakeholders that ISEs are not effectively sharing confidential information as often as they should to achieve this objective. As discussed above, we believe this may partly be a consequence of practitioners solely or primarily focusing on the provisions in Part 5A when dealing with family violence-related information. This may create uncertainty, or a lack of consideration, as to whether MARAM risk assessments and other information can be shared under general privacy laws, with consent, for the primary purpose of reducing trauma.

We have explained earlier in this chapter the benefits of outlining key family violence-related information sharing obligations in Part 5A, including in supporting practitioner understanding of, and compliance with, their obligations. For the same reasons, we recommend that Part 5A be amended to provide that a victim survivor's confidential information may be disclosed, with their consent, for the purpose of reducing trauma. We believe this would be consistent with one of the objects of Part 5A, being to promote service coordination to further the Act's purposes.¹²¹

Recommendation 8: That Part 5A of the Act be amended to confirm that an ISE may disclose a victim survivor's confidential information, with consent, for the purpose of reducing the trauma associated with needing to retell their story.

Additional survivor advocate reflections on information sharing

Survivor advocates shared other reflections and views on information sharing and general service provision. This section outlines these reflections.

Information sharing should be used to promote the positive activities of adult victim survivors to keep themselves and their children safe

Survivor advocates told us that information sharing between ISEs should be used to support the actions of adult victim survivors to manage risk to themselves and children. Two survivor advocates used the example of reports made to Child Protection. One survivor advocate said that ISEs should share not only perpetrators' behaviours that were identified as family violence risk factors but also how protective parents were managing risk to ensure a more complete understanding of what was occurring. This view was supported by another survivor advocate who relayed two different experiences of reports to Child Protection by a hospital. This experience is outlined in Box 8 in Chapter 6.

As noted above, relevant information for a family violence protection purpose includes all activities that keep victim survivors safe. There is nothing in Part 5A that prevents ISEs from sharing information, with appropriate consents, to provide a more complete picture of both risk and risk management.

ISEs should hold perpetrators to account and better support protective parents

Adult survivor advocates with children shared with us that in their view ISEs do not hold perpetrators to account for their violence, sometimes making them feel that they are entirely responsible for the care and safety of their children. For example, one survivor advocate shared that when she reported a breach of an FVIO by the perpetrator that caused risk to their children, Child Protection did not take any steps to protect the children from the perpetrator, closing the case on the basis that the adult survivor advocate was denying the perpetrator access to the children. Although we recognise that the threshold for investigation may not have been met in this case,¹²² and that other agencies such as Victoria Police also have a role in investigating the FVIO breach, we acknowledge the adult survivor advocate's view that Child Protection did not do anything to make the perpetrator accountable for putting the child victim survivors in an unsafe situation.

Survivor advocates we spoke to who had experienced family violence as children shared a similar position about the lack of perpetrator accountability. For example, we heard from two survivor advocates that, in their view, a child was more likely to face consequences for minor property damage in a residential care facility than a perpetrator was for their family violence.

Another survivor advocate discussed the importance of whole family solutions that include victim survivor safety, perpetrator accountability, and preventing any further trauma to adult and child victim survivors.

Information sharing should be used more often to accurately identify the predominant aggressor

Survivor advocates told us that the fear of misidentification as the predominant aggressor stops victim survivors from trusting authorities and reporting to police while also creating added trauma for those who seek help. Survivor advocates shared with us that the fear of providing confidential information to ISEs is particularly heightened when victim survivors had criminal records (even if for minor offences or false charges as part of perpetrator abuse), alcohol and other drugs (AOD) issues, or previous mental health treatment.

Misidentification of victim survivors as predominant aggressors continues to be a pain point causing traumatisation and must be addressed urgently.

- View of a survivor advocate

Some service providers gave us similar feedback. For example, No to Violence identified the correct and appropriate identification of the predominant aggressor as a notable inconsistency in organisational approaches to risk identification, assessment and management.¹²³

We have previously reported on the progress made to support key workforces in accurately identifying predominant aggressors and have noted the grave consequences of misidentification for victim survivors and the challenges of rectifying misidentification.¹²⁴ We understand that government departments and agencies led by Victoria Police are taking action in response to our previous report and are working to address the causes and remedies for misidentification.

Part 5A supports information sharing to ensure the accurate identification of predominant aggressors and victim survivors. The Ministerial Guidelines also provide guidance for determining whether a person is a perpetrator or victim survivor, resolving disagreements between ISEs, and steps to take following misidentification.¹²⁵ While we do not believe legislative amendment or changes to the Ministerial Guidelines are necessary, we considered how information sharing could further support accurate identification.

In Chapter 4, we discuss how limited access to CIP reports has resulted in different service responses for victim survivors. As stated in that chapter, expanding the list of declared **CIP requesters** is beyond the scope of our legislative review. However, we note that broader access to CIP reports may help address misidentification and alleviate victim survivor fears. For example, the Victims of Crime Helpline, being the recipient of Victoria Police referrals for adult male victim survivors of family violence, may benefit from having access to CIP reports. We understand that part of the helpline's role is assessing adult male victim survivors to ensure misidentification has not occurred. However, they told us that without access to CIP reports, their ability to make accurate assessments is limited. Allowing the helpline access to CIP reports may support greater accurate identification and benefit the accurate identification of predominant aggressors across the system.

Other reflections

Survivor advocates also shared the following views:

- Child victim survivors often do not know that support services are available. But when they do find services, they are concerned that adults will not believe them or take them seriously.
- Some larger agencies need to do more to ensure family violence information is shared internally with consent to avoid needing to repeat information about previous incidents of violence, with information also needing to be accurately recorded.
- Victims of violence perpetrated by neighbours often have similar experiences to victims of family violence in terms of feeling unsafe in their own homes.
- Allied health professionals such as sports coaches and trainers should be given the required skills to do a version of the MARAM appropriate for them because they are on the frontlines of daily violence and most are not currently trained to identify or respond appropriately.

4: Effectiveness of the Central Information Point in achieving its objectives

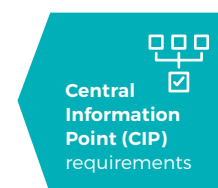
Introduction

The Central Information Point (**CIP**) was established with the aim of providing certain information sharing entities (**ISEs**) with consolidated, up-to-date information relevant to family violence risk identification, assessment and management.¹²⁶ The Royal Commission into Family Violence (the **Royal Commission**) recognised that “timely information sharing is crucial to effectively managing the risk posed by the **perpetrator** and to ensuring strategies are in place to keep victims safe”.¹²⁷ The CIP was envisioned, and is viewed by many, as one of the key enablers for effective and timely information sharing.¹²⁸

The CIP is established under Division 6 of Part 5A of the *Family Violence Protection Act 2008* (Vic) (the **Act**). Division 6 contains the legal framework for the CIP and describes the CIP’s purposes as:¹²⁹

- receiving and responding to CIP requests
- providing **CIP requesters** and CIP **data custodians** with new or updated information about people in relation to whom CIP requests have at any time been made
- doing anything necessary for the first two purposes.

The Act authorises ISEs that are prescribed in regulations as data custodians to share information with the CIP, provided that the information could otherwise be shared under Part 5A.¹³⁰ The current data custodians are Victoria Police, the Department of Families, Fairness and Housing (Child Protection), the Department of Justice and Community Safety (Corrections Victoria), the Magistrates’ Court of Victoria and the Children’s Court of Victoria.¹³¹



An ISE that is declared by the Minister for Prevention of Family Violence (the **Minister**) to be a CIP requester can request information from the CIP for a **family violence assessment purpose** (where the CIP requester is a risk assessment entity) or a **family violence protection purpose** (in any other case).¹³² Reflecting the Royal Commission’s recommendation,¹³³ CIP requesters currently include The Orange Door, Berry Street,¹³⁴ Risk Assessment and Management Panels (**RAMPs**), No to Violence (Men’s Referral Service) and Safe Steps. All current CIP requesters are risk assessment entities (**RAEs**).¹³⁵

This chapter addresses the extent to which the legal provisions establishing the CIP are clear, the CIP purposes are being met and the legislative objective of enabling ISEs to obtain consolidated and up-to-date information from the CIP has been achieved.

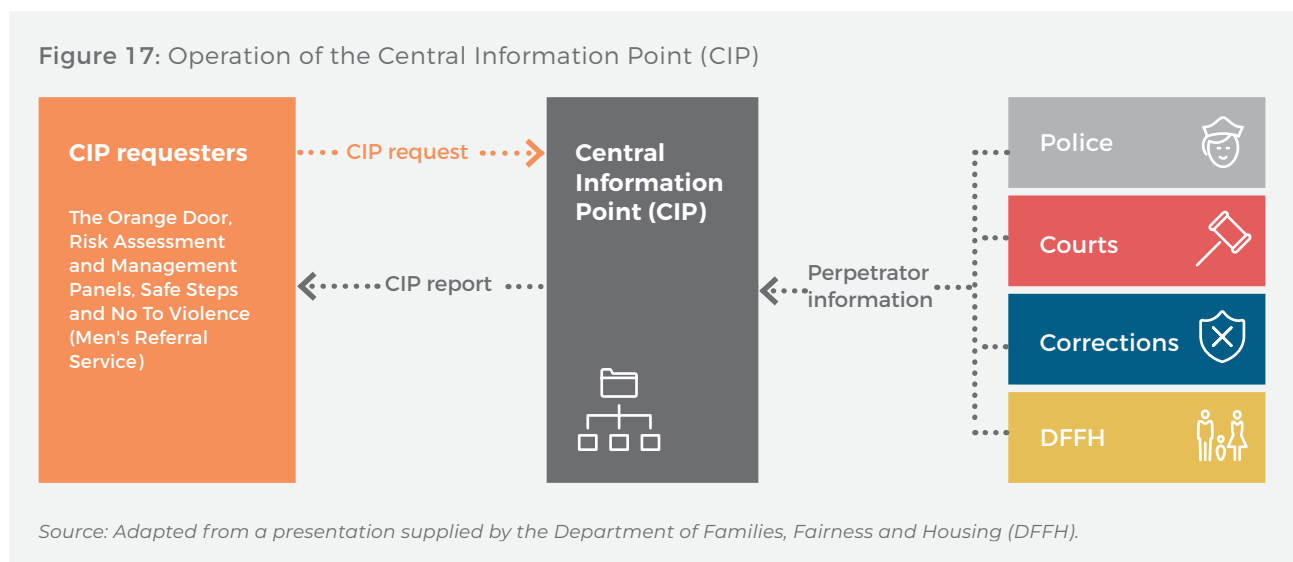
Clarity of the legal provisions

As noted in Chapter 1, it is important that the legal provisions in the Act are sufficiently clear to support understanding and consistency in practice. Because the legal provisions for the CIP primarily affect the agencies involved in CIP operations, we did not canvass all stakeholder views about the clarity of the CIP provisions but rather substantially relied on our independent analysis.

The legal provisions supporting the CIP are mostly clear, but the Act does not address the way in which information is used within the CIP to further the intent of providing consolidated information to CIP requesters

Although complex, we consider that the CIP provisions are clear in describing the ability of the CIP, data custodians and CIP requesters to share information with one another for the purposes of a CIP request.

However, we consider that the Act does not fully address the way in which information sharing by the CIP differs from other information sharing under the Family Violence Information Sharing Scheme (**FVISS**), or how information is used within the CIP team to further the intent of providing consolidated and up-to-date information to a CIP requester. As shown in Figure 17, in practice, the CIP team consolidates information provided by the data custodians into a single report and provides this report to the CIP requester. Although this is permissible under the Act – which enables the CIP to ‘use’ **confidential information**¹³⁶ – it is not clear on the face of the Act that this is how the CIP operates. With the exception of the objects of Part 5A, the Act does not refer to the consolidation of information to inform a CIP report.



Although we acknowledge that the CIP provisions only affect a small number of organisations, we consider it important that the Act is transparent around the intent and operation of the CIP. The CIP requires separate legal provisions from ISEs primarily because of its consolidation function. We therefore recommend that the Act be amended to confirm that a purpose of the CIP is to collate information from data custodians and provide a consolidated report to a CIP requester. We note that this provision may require careful drafting to ensure it does not impact on operational flexibility within the CIP. For example, we consider that the new purpose should be drafted such that it enables the CIP to provide a CIP report that only includes information from some (but not all) data custodians.

We understand that **Family Safety Victoria** is in the process of establishing a CIP evaluation process. We note that, in our view, including consolidation as a CIP purpose would not require any changes to current CIP processes or practices. However, we suggest that any legislative changes be progressed at the conclusion of that process to allow the evaluator to further consider any impacts of this amendment and enable other issues that may be identified in that evaluation to be addressed concurrently.

Recommendation 9: That Part 5A of the Act be amended to clarify that a purpose of the CIP is to collate information from data custodians and provide a consolidated report to a CIP requester.

Declared CIP requesters are not readily identifiable and the decision making for ministerial declarations lacks transparency

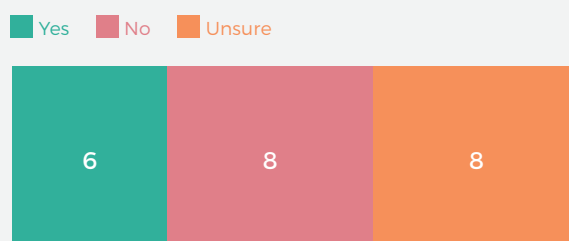
Part 5A provides that CIP requesters are ISEs that are declared as CIP requesters by the Minister.¹³⁷ In our review, we could not readily find a public record of the full list of declared CIP requesters. There is a single reference within the Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities (the **Ministerial Guidelines**) to CIP report access being limited to practitioners working in The Orange Door, Berry Street pilot locations and selected RAMPs coordinators.¹³⁸ However, the Ministerial Guidelines do not refer to these organisations as 'CIP requesters' and the list is currently incomplete. The government webpage dedicated to the CIP similarly refers to CIP reports providing a service to practitioners working in The Orange Door but does not list the other CIP requesters.¹³⁹

We believe this may have contributed to confusion and uncertainty among ISEs about which organisations and individuals are authorised to request CIP reports. As shown in Figure 18, over a third of submission responses addressing consultation question 4 did not know whether they could obtain information from the CIP. These responses came from various sectors including specialist family violence services, community services, health/community health services, education and care services and legal services. We note that some of these services cannot request CIP reports, which may account in part for their uncertainty.

We understand that a key determination in having CIP requesters designated by ministerial declaration was to maximise flexibility.¹⁴⁰ While we appreciate the need for flexibility, we consider that this should not come at the cost of transparency. It is critical for all ISEs to understand whether they are eligible to access consolidated information about perpetrators and **alleged perpetrators** from the CIP. The Victorian community should also be able to ascertain what resources and services are available to organisations working to end family violence. Further, it is important that there be transparent decision making about which organisations can – and cannot – request CIP reports. A ministerial declaration process lacks this transparency.

The approach to declaring CIP requesters is at odds with other provisions in the Act, which provide for data custodians, ISEs and RAEs to be prescribed in regulations. In our view, prescribing CIP requesters through regulations is a preferable approach because it would ensure there is greater transparency through the regulation-making process. Regulations (and associated material) must be laid before each House of Parliament and notice of their making published in the Victorian Government Gazette.¹⁴¹ This provides public visibility of government decisions. Further, prescribing CIP requesters through regulations may provide a greater opportunity for government to consider the impact of adding any additional ISEs as CIP requesters in the future. Although a Regulatory Impact Statement may not be required for regulations prescribing CIP requesters,¹⁴² we consider that a form of impact assessment and associated stakeholder consultation remains best practice in developing any new regulations that affect the community.

Figure 18: Submission responses addressing consultation question 4*



Q4. Have you been able to obtain consolidated and up-to-date information from the CIP about perpetrators of family violence to support your organisation to assess and manage risks of family violence?

*Responses received from organisations that can and cannot request CIP reports

Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Considering the limited number of times that ISEs have been declared CIP requesters to date, and are likely to be declared in the future, a prescription process would not be unduly burdensome. The process would also retain sufficient flexibility to enable expanded CIP access.

We therefore recommend that the Act be amended to require that CIP requesters be prescribed in regulations. In the event that this recommendation is not accepted, we strongly suggest that, as a minimum requirement, declared CIP requesters be publicly identified. Options for achieving this include listing the CIP requesters on the public-facing government CIP webpage¹⁴³ or including this information as a category on the webpage that identifies ISEs and RAEs.¹⁴⁴

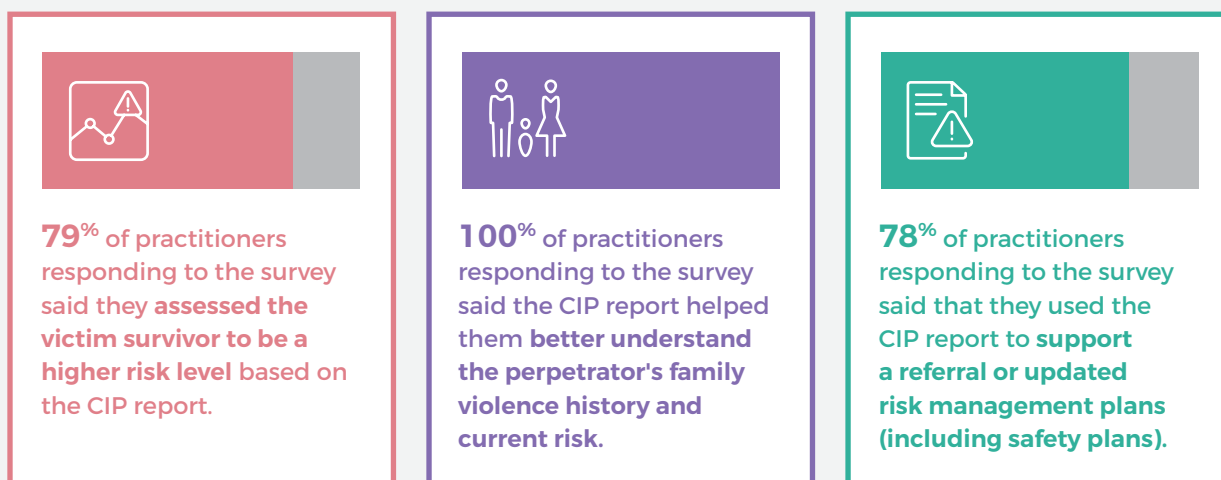
Recommendation 10: That Part 5A of the Act be amended to define a CIP requester as an ISE that is prescribed in regulations to be a CIP requester for the purposes of the Act.

Effectiveness of CIP reports

Complete CIP reports that contain consolidated information allow CIP requesters and other services to effectively establish, assess and manage family violence risk

CIP requesters told us that, when complete and timely, CIP reports provide critical information that supports risk identification, assessment and management. For example, practitioners working with family violence **victim survivors** reported that CIP reports make a significant difference to identifying the level of risk to adult and child victim survivors and provide for greater understanding of what is happening. This is consistent with findings from a survey of practitioners highlighted in the 2019–20 Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework annual report. In that survey, 100 per cent of respondents said the CIP report was either useful, significant or essential, with 72 per cent of respondents saying that the CIP report had changed their risk assessment level.¹⁴⁵ Similar results were reported in the 2020–21 MARAM annual report based on a survey of The Orange Door practitioners in June and July 2021. This is shown in Figure 19.

Figure 19: Impacts of Central Information Point (CIP) reports



Source: Adapted from Victorian Government, *Annual Report on the Implementation of the Multi-Agency Risk Assessment and Management Framework: Victorian Government 2020–21 (report, December 2021)*, p. 37.

The benefits of CIP reports were identified by both CIP requesters with direct access to reports as well as organisations that receive on-shared information from a CIP requester. For example, Safe and Equal noted that the use of CIP reports within RAMPS (a CIP requester) has had a significant positive impact, with timely access to risk-relevant information leading to effective advocacy and risk assessment and management.¹⁴⁶

The Women's Services Network also highlighted that:¹⁴⁷

The ability to request and receive information from Central Information Point – for those services who do not have direct access – has been extremely useful, especially in complex cases where Child Protection, Corrections and Police have extensive history about the perpetrator (including previous relationships) or where child wellbeing concerns are an ongoing part of the family's situation in addition to family violence risk.

Another benefit noted by stakeholders was that CIP reports assist services in working collaboratively and keeping perpetrators in view. Organisations providing services to perpetrators explained the role of CIP reports in their work and noted their importance when working with perpetrators. The Salvation Army, a partner agency at The Orange Door, further explained that its Men's Behaviour Change Program (MBCP) staff have found the CIP (and the FVISS more broadly) incredibly valuable, reflecting that:¹⁴⁸

The MBCP was previously more reliant on the perspective of the perpetrator and often received a one-sided version of events. Since the commencement of information sharing, the MBCP is now able to receive information from the Victorian Police and Corrections, the Orange Door and other risk or information sharing entities. This has assisted greatly when managing and informing the risk of perpetrators as our case managers are seeing the full-scale of events.

A limited number of CIP requesters and organisations that receive on-shared CIP report information said they find CIP reports overwhelming. These stakeholders reported that it can be challenging for specialist family violence practitioners to receive many new pieces of information about a perpetrator's family violence history and determine how best to use it with clients.

Notwithstanding these concerns, on balance we consider that, through CIP reports, CIP requesters have been able to access consolidated information that is relevant for risk assessment and protection purposes. We do not believe that any legislative change is required to support the CIP to provide consolidated reports to CIP requesters.

Delayed delivery of CIP reports negatively impacts on their effectiveness in supporting risk assessment and management activities, while ongoing efforts to automate processes within the CIP will help ensure the timely delivery of CIP reports

The primary area of stakeholder concern about the CIP related to the importance of receiving CIP reports in a timely manner. Stakeholders, including CIP requesters and practitioners with whom CIP reports are on-shared, told us that CIP reports are regularly provided past the time in which they could most effectively be used in critical risk assessment and management work with clients.

We heard from stakeholders that they often experience considerable delays in receiving information from the CIP, with some noting that wait times have significantly increased as more branches of The Orange Door have opened. For example, we understand that some practitioners at The Orange Door have reported that CIP requests take an average of three to four weeks to be processed and that some requests are not returned within eight weeks.

As discussed in Chapter 2, delays in receiving information can impact on decision making about risk assessment and management for both victim survivors and perpetrators. The Salvation Army noted that “delays in wait time are problematic as it causes case drift and often prolongs the time that we can respond to the victim-survivor, they are especially concerning where this is an assessment of serious risk”.¹⁴⁹ Similarly, some practitioners at The Orange Door reflected that “[b]y the time the CIP report is received, the information is often no longer useful for informing the victim survivor’s assessment of risk or the victim survivor is no longer engaged with The Orange Door”.¹⁵⁰

Delays in receiving CIP reports have impacted on some organisations’ information sharing processes. For example, we heard from Primary Care Connect representatives that they only request CIP reports for clients who have been previously identified as high risk. The Sexual Assault and Family Violence Centre also reflected that some of their practitioners working at The Orange Door are less likely to make CIP requests and instead request information directly from the individual agencies that are CIP data custodians. They also shared their understanding that the criteria to make a CIP request had changed and that, while previously requests could be made for all clients, now only requests for identified high-risk cases were allowed.¹⁵¹ However, we note that relevant practice guidance does not require a high-risk identification, stating that CIP reports can be requested “when information in relation to a perpetrator or alleged perpetrator of family violence is required to inform and support family violence risk assessment and management”.¹⁵²

Data provided by Family Safety Victoria on the delivery of CIP reports sharply contrasts what we heard from some CIP requesters. Family Safety Victoria reported that between July 2021 to June 2022 the average time to deliver a CIP report fluctuated from as low as 2.5 days to as high as 15.5 days. In the same period, Family Safety Victoria stated that the shortest delivery time for a CIP report was 16 minutes, while the longest delivery time was about 28 days. We understand that the CIP aims to deliver reports within 24 hours of a request being made, although there may be times where this is not always the case such as during periods of peak demand.¹⁵³ We also understand that the CIP operates a process to categorise requests as ‘urgent’ and prioritise these CIP requests.

We were unable, in the course of this review, to resolve the disparity between the reported stakeholder experience of CIP delivery timeframes and the data provided by Family Safety Victoria, noting this data was drawn directly from the CIP platform. We suggest that Family Safety Victoria consults with stakeholders to explore the discrepancy between stakeholder perceptions and the CIP data to better understand the issue.

Regardless, we consider that the perception of stakeholders regarding CIP report delays and subsequent decisions to not request CIP reports may contribute to less thorough family violence risk assessment and management practices. This may limit the effectiveness of the CIP in supporting victim survivor safety and holding perpetrators to account for their actions.

We considered whether any changes to the Act would support the timely delivery of CIP reports. For example, we contemplated the potential to mandate the time in which a CIP report must be delivered. For the reasons outlined in Chapter 2 related to volume and urgency of requests, we do not support introducing a maximum timeframe.

As with the broader information sharing provisions in Part 5A, we support introducing a requirement for CIP reports to be provided in a reasonable timeframe. We believe introducing a timeliness element in the Act is even more important for the CIP provisions because the CIP was established with the specific aim of being “an effective and timely conduit of information sharing for core agencies”.¹⁵⁴ The Act should recognise both the timely delivery of information and the consolidation of information into a single report as key CIP purposes. We therefore recommend that timeliness be recognised as a specific object of Division 6.

As with all ISEs, and in recognition of Family Safety Victoria's development process, we acknowledge the need for the CIP to be adequately resourced to respond to requests within a reasonable timeframe. We recognise this may require an examination of funding in conjunction with our recommended legislative change.

In making this recommendation, we considered that the CIP has been developed and delivered through an incremental, multistage approach while facing uncertain funding streams. We also recognised that Family Safety Victoria and CIP data custodians have worked to explore opportunities for automated integration of information to become less reliant on time-consuming manual information collection processes. We support continued efforts to identify and explore the factors that contribute to the timely delivery of CIP reports including prioritisation models and technological enhancements. However, noting that CIP reports are most effective when delivered in a timely manner, we believe that a requirement for the CIP to provide a report in a reasonable period should be included in the Act.

Recommendation 11: That Part 5A of the Act be amended to: include timeliness as an object of Division 6; require the CIP to respond to CIP requests within a reasonable timeframe; and include factors for the CIP to consider in determining what constitutes a reasonable timeframe.

CIP reports provide less information relevant to risk assessment and management than in the past, with some inconsistencies between reports

We understand from our consultations with CIP staff that, in practice, CIP data custodian staff identify information held by their agencies that is most commonly relevant to family violence risk assessment and management. They then review this information to determine what information should be included in a CIP report based on relevancy to each specific request.

Stakeholders with direct access to CIP reports told us that this process can lead to inconsistencies in CIP report quality. We were told that CIP reports contain less relevant information than in the past and that there are inconsistencies around the relevance and quality of information received.

Some ISEs that receive on-shared information from CIP reports provided similar views, although we acknowledge that the experience of these ISEs may result from limited information being on-shared with them. For example, Djirra raised concerns about the adequacy of information shared with them, referring to it as a 'basic' summary and noting they would prefer to be provided with more information and detail.¹⁵⁵

Submission responses to the **Monitor** tended to support this view. As shown in Figure 18 (pg 58), fewer than half of responses addressing consultation question 4 said they had been able to obtain information from the CIP to support the assessment and management of family violence risk. However, we acknowledge that some organisations that provided a submission are not CIP requesters and therefore could only access CIP report information when on-shared by another organisation. This may, in part, account for the submission responses to this question.

Our consultations with the CIP operations and policy teams and CIP requesters provided insights into differences in the information included in CIP reports. This is shown in Box 6.

We acknowledge that each agency has made determinations to ensure that only information relevant to a family violence assessment or protection purpose is provided and to protect the confidential information of victim survivors and third parties. However, inconsistencies in how CIP data custodians share information may contribute to confusion for practitioners.

Box 6: Different information included in CIP reports

A significant number of CIP reports are delivered without information from Child Protection as a demand management strategy. This may occur with CIP reports provided to The Orange Door (who has Child Protection embedded in the service) if no children have been identified in the CIP request.

Some agencies have different approaches for how to share information about victim survivors and third parties, including how they are identified within CIP reports.

Source: Family Violence Reform Implementation Monitor, based on information provided in stakeholder consultations.

We considered whether any changes to the Act could support greater consistency and relevancy in the information included in CIP reports. However, as noted in Chapter 1, we do not recommend defining relevancy for the purposes of sharing information, either under the FVISS or in relation to the CIP.

We understand that Family Safety Victoria and CIP data custodians have ongoing discussions to maintain a shared understanding around the Act's interpretation. We support a continued focus in these discussions on developing a shared understanding of information that is relevant for a family violence risk assessment or protection purpose. This may require re-examining the MARAM Framework risk factors and reconsidering what information is about perpetrators, victim survivors and third parties. We believe this will enhance consistency in information delivery and support a truly consolidated report. We further suggest that this information is communicated to CIP requesters and all ISEs to set clear expectations for all scheme participants of what information will be contained in CIP reports.

Access to CIP reports

As noted above, only a limited number of ISEs are CIP requesters. This means that other ISEs must get the same or similar information from other information sharing processes, including through the on-sharing of CIP reports or by requesting information directly from each agency that has been prescribed as a data custodian.

The on-sharing of information from CIP reports with other ISEs can be inconsistent

The Royal Commission envisaged that other ISEs would obtain relevant information through the on-sharing of CIP reports from The Orange Door rather than directly accessing the CIP.¹⁵⁶ Stakeholders told us that this type of on-sharing does occur in some cases. Information provided by Family Safety Victoria supported this view, with a recent survey confirming that most respondents had shared information from CIP reports with other ISEs.

However, we heard that on-sharing of CIP reports is inconsistent. Stakeholders told us that different Orange Door locations, and even different practitioners at the same Orange Door, have diverse approaches to on-sharing information from CIP reports. For example, Primary Care Connect reported:¹⁵⁷

The Orange Door is selective in what they share with [specialist family violence services] and do not share the full CIP report but a shortened version (which means the CIP may not be as helpful as it is missing valuable information). [Specialist family violence services] being able to directly access CIP reports would greatly enhance [family violence] risk assessment and management.

We acknowledge that CIP requesters must, before on-sharing information from a CIP report, assess what information is relevant to on-share in the individual circumstance of the case. This may account, in part, for variations experienced by stakeholders. However, inconsistencies in the on-sharing of CIP report information may also result from practitioner uncertainty. One stakeholder organisation reported consistent feedback from its practitioners that there is confusion about what information obtained from the CIP can and cannot be on-shared, with this uncertainty resulting in information not being shared as a precaution. We are concerned that this has resulted in practitioners who receive on-shared information from CIP reports losing confidence that they receive all relevant information.

Another cause of inconsistent on-sharing of CIP reports may be platform-related. CIP reports are accessible to CIP requesters through a portal that allows reports to be viewed but not downloaded. To share information from CIP reports, practitioners must either retype or copy and paste the relevant information into a new document. While this may ensure practitioners review information for relevance prior to on-sharing, it is time consuming and administratively burdensome.

In our view, the Act enables information in CIP reports to be on-shared with other ISEs, provided the information is relevant for a family violence assessment or protection purpose. We do not consider any legislative change is required to support on-sharing of CIP reports.

However, we consider that there would be benefit in providing additional guidance to clarify the ability of CIP requesters (and other ISEs) to on-share information. We recommend that the Ministerial Guidelines be amended to include a specific section that deals with the on-sharing of information. We consider that this section should include a case example that looks at on-sharing information from a CIP report.¹⁵⁸ Noting the Royal Commission's findings outlined above, we suggest that the updated content in the Ministerial Guidelines should be drafted in a way that supports the on-sharing of as much information from the CIP report as is appropriate and relevant in the circumstances. We believe this will improve practitioner confidence that all relevant information from CIP reports is being on-shared. We also suggest that the government continues to explore options to make on-sharing CIP reports quicker and easier.

Recommendation 12: That the Ministerial Guidelines be amended to provide guidance about on-sharing risk-relevant information. This should include a case example with CIP report information.

Limited access to CIP reports affects the service response for some victim survivors who do not access services through The Orange Door or other CIP requesters

Many stakeholders who are not CIP requesters noted the value of CIP reports and reflected that their inability to directly access them meant that their clients are not provided with the same service as clients who initially receive services through The Orange Door. While we acknowledge that all ISEs can request the same information under Part 5A, we also recognise the distinct benefits of CIP reports in providing consolidated and up-to-date information about perpetrators and alleged perpetrators.¹⁵⁹ The value of CIP reports is discussed further above.

In recommending an expansion of CIP services, Safe and Equal explained that:¹⁶⁰

[A] lack of state-wide consistency in access, process and information provided means that CIP's purpose is sometimes misunderstood and poorly utilised and can lead to unnecessary tensions between services, as well as to potentially inequitable service responses for victim survivors.

Organisations that provide services to family violence victim survivors and perpetrators shared that their clients may be reluctant to access The Orange Door for various reasons. For example, inTouch Multicultural Centre Against Family Violence told us that some migrant and refugee clients may fear saying the 'wrong' thing with the potential for their visa status to be affected or Child Protection to be notified.

The potential for different service responses was also highlighted in relation to victim survivors from **Aboriginal** communities, as well as for male victim survivors. Aboriginal victim survivors may be reluctant to work with mainstream services such as The Orange Door because of a lack of trust in such services and a preference to receive support from Aboriginal Community-Controlled Organisations (ACCOs) that have been identified as culturally safe. While male victim survivors may initially access services through The Orange Door, the Victims Assistance Programs accessed through the Victims of Crime Helpline are the primary support service for adult male victim survivors of family violence in Victoria.¹⁶¹

Two specialist family violence ACCOs recommended that CIP reports be available to all specialist family violence services. The Victorian Aboriginal Child Care Agency told us that when a family is not engaged with The Orange Door it is difficult to obtain historical information to identify patterns of behaviour of the person using violence. Djirra similarly noted that “[w]hether via CIP or other means, Djirra must be able [to] access all the information needed to effectively support Aboriginal women who have experienced, and remain at risk of, family violence”.¹⁶²

The Department of Justice and Community Safety similarly highlighted the importance of the Victims of Crime Helpline having direct access to CIP reports as the referral point for male victim survivors. We agree that as the point of entry to family violence services for male victim survivors, it is important that the Victims of Crime Helpline has the opportunity to provide the same comprehensive risk assessment and management as that provided to female victim survivors who seek services through The Orange Door.

We acknowledge that the CIP has defined resources and must be managed to maximise information sharing in a way that benefits the most victim survivors. However, we are concerned about the disparity in options for relevant information sharing based on how victim survivors access services. The Victorian Government has promoted a service delivery model that emphasises it “aims to ensure there is no wrong door to access high quality, consistent and effective support for family violence”.¹⁶³ By allowing only certain ISEs to access CIP reports, there may be better doors for clients to walk through when accessing family violence services. This inequality in access to consolidated and up-to-date information may be heightened for those who bypass The Orange Door due to a lack of trust in government programs and services or any other reason.

Although consideration of expanding the list of declared CIP requesters is ultimately beyond the scope of our legislative review, we strongly support a detailed consideration by government of the costs and benefits of expanding access to CIP reports to other specialist family violence services. We suggest that consideration for expanded access should be given to programs that provide services and support to family violence victim survivors who may be unlikely to look to a mainstream, government-led program for assistance, such as Aboriginal people, male victim survivors, culturally diverse communities, LGBTIQ+ populations and older victim survivors.

Voluntary information sharing

Although the CIP is not meeting its purpose of providing updated information about perpetrators to CIP requesters that have previously received a CIP report about that individual, legislative change will not address this

The Royal Commission envisaged that the CIP would serve two primary functions:¹⁶⁴

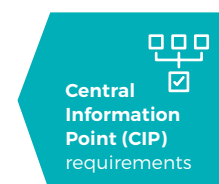
- to respond to requests for family violence risk assessment and protection purposes
- to provide updated information to CIP requesters when it received new relevant information about perpetrators for whom they had already provided CIP reports.

As stated in the Royal Commission's final report:¹⁶⁵

[T]he Central Information Point should provide information to a hub when a perpetrator is approaching release from prison or is the subject of an L17 referral with respect to a different victim. This means that the Central Information Point needs to have the capacity to run searches on individuals who have previously been the subject of a request for information, and to have a mechanism for flagging important dates such as the expiry of a family violence intervention order and the end of a prison sentence. The hub should in turn share this information with the agencies working with the victim(s) when it is necessary to manage risks to the victim's safety.

Reflecting this, the Act provides that the second purpose of the CIP is to provide CIP requesters and CIP data custodians with new or updated information about people who have previously been the subject of a CIP request.¹⁶⁶ To support this type of voluntary or proactive sharing, the Act enables a CIP data custodian or a CIP requester to disclose confidential information to the CIP on its own initiative, where:¹⁶⁷

- the purpose of the disclosure is to provide the CIP with updated information relevant to a previous CIP request
- the CIP data custodian could have disclosed the information to another CIP data custodian or a CIP requester in response to a request under the Act.



We heard from CIP staff that the CIP does sometimes share information that has not been specifically requested at the time a CIP request is made.¹⁶⁸ We also understand that the CIP can share updated information where that information is pending a short time after the CIP report is delivered. For example, if a CIP report indicates an imminent court case or release from custody, CIP staff can contact the CIP requester once that event has occurred to provide a verbal update. CIP requesters can also request an updated CIP report in relation to a perpetrator who has been the subject of a previous request.

However, in our view the CIP has not implemented voluntary information sharing in the way envisioned by the Royal Commission and supported by the Act. The CIP does not currently have a mechanism for 'flagging' new or updated risk-relevant information about a perpetrator who has been the subject of a request in the absence of a further CIP request being received. As such, we consider that the CIP is not meeting its purpose of providing updated information about perpetrators to CIP requesters who have previously received a CIP report about that individual.

Unlike with general proactive information sharing under the FVISS (as discussed in Chapter 2), the lack of voluntary information sharing from the CIP does not stem from a lack of knowledge about who to share information with. Rather, we understand that it primarily results from resourcing challenges and information technology limitations that result in CIP data custodian staff being unable to easily identify updated information within their organisation's databases. We also understand that the volume of CIP requests is higher and the time it takes to deliver a complete CIP report is longer than originally anticipated.¹⁶⁹ We do not believe changes to the Act would address these limitations.

Although the CIP purpose for voluntary sharing is not being achieved, we do not recommend removing this purpose of the Act. We suggest that the government continues to look for opportunities for collecting and sharing updated risk-relevant information so it may be provided to CIP requesters and victim survivors. This may include consideration of increased automation and notification or 'flagging' capabilities for data held in CIP data custodian databases, although we recognise the significant technical development work that would be required to support this.

5: Clarity of legal provisions for the MARAM Framework

Introduction

Part 11 of the *Family Violence Protection Act 2008 (Vic)* (the **Act**) provides the legal basis for the Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework. It empowers the Minister for Prevention of Family Violence to approve a family violence risk assessment and management framework and requires organisations prescribed as **framework organisations** to align their policies, procedures, practice guidance and tools with that framework.¹⁷⁰



As explained in Chapter 1, a clear legislative framework is necessary to support services to understand and comply with their legal responsibilities.

This chapter considers the extent to which the legal provisions in Part 11 of the Act are sufficiently clear to support the MARAM reforms. It also discusses the clarity of related subordinate legislation, including the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (the **Regulations**) and the **legislative instrument** which codified MARAM as the approved framework.¹⁷¹

The effectiveness of Part 11 in promoting consistency in family violence risk identification, assessment and management is discussed further in Chapter 6. Stakeholder concerns about aspects of the MARAM Framework and associated resources and tools are outlined in Chapter 7.

Clarity of Part 11

The legal provisions in Part 11 are mostly clear, but the MARAM legislative instrument lacks clarity about what organisations must do to align their policies, procedures, practice guidance, and tools with the MARAM Framework

Most stakeholders considered that the legal provisions in Part 11 are clear. As shown in Figure 20, 77 per cent of submitters addressing this question believed that the Act is clear.

Submission responses that did not consider the Act to be sufficiently clear cited the need for awareness raising and tailored guidance to assist understanding of the Act's requirements. Submissions also noted that the approach to prescribing framework organisations by reference to funding sources created confusion. This is discussed further below and in Chapter 1.

Berry Street – Take Two Therapeutic Family Violence Services suggested that the terms 'information sharing entity' (**ISE**) and 'risk assessment entity' (**RAE**) should be used to describe organisations that must align with MARAM, reflecting the terminology used in the sector.¹⁷² We agree that the terms ISE and RAE appear to be more commonly understood by stakeholders. This was evident during our consultations and in responses to our call for submissions campaign, with many respondents failing to identify themselves as a framework organisation notwithstanding that they are prescribed as such. In contrast, nearly all stakeholders who are ISEs or RAEs were able to identify this.

Notwithstanding this, we do not recommend any legislative change to the definition of framework organisation. We recognise the need to legally distinguish between ISEs/RAEs and framework organisations.

This is important because some individuals or organisations are currently only prescribed under either Part 5A or Part 11. This is discussed further below. In our view, any confusion about the meaning of framework organisation is best addressed by government through ongoing training and education.

Some stakeholders who reflected that the Act is clear nonetheless highlighted challenges or confusion about MARAM alignment. Although stakeholders understand they are required to align with MARAM, they are unclear on what alignment itself requires. This was particularly raised by organisations prescribed under phase 2, although some phase 1 organisations identified similar concerns.

Common feedback indicated uncertainty about:

- how the MARAM Framework applies to a specific organisation, or to individual prescribed programs within a broader organisation that includes non-prescribed programs
- the specific actions that are required to align with the MARAM Framework
- where a specific organisation should be in their alignment journey.

For example, we heard from Ambulance Victoria that, as a unique service, interpretation and contextualisation is required to implement MARAM. Without clear guidance or a compliance framework outlining minimum standards it is challenging to understand **Family Safety Victoria's** alignment expectations. Other stakeholders reflected that because alignment is not defined in the Act, and in the absence of anything concrete in the Act or a specific contractual obligation regarding alignment, there was significant leeway in the steps organisations could take to align resulting in organisations having different views about whether an organisation has aligned.

A degree of uncertainty about alignment was reflected in the results of the most recent MARAM Framework Annual Survey conducted by Family Safety Victoria in 2022, as shown in Figure 21.

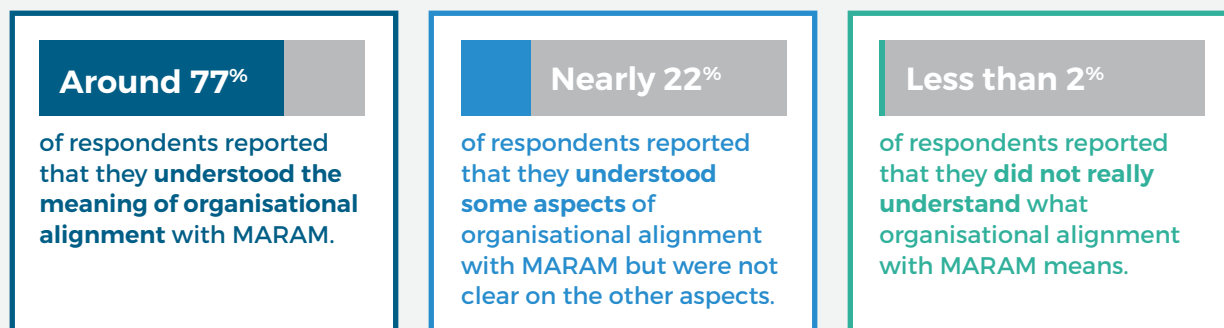
Figure 20: Submission responses addressing consultation question 9



Q9. Are the legal requirements under the Act sufficiently clear, including in relation to the meaning of framework organisation and section 191 agency?

Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Figure 21: 2022 MARAM Framework Annual Survey results



Source: Adapted from information provided by Family Safety Victoria.

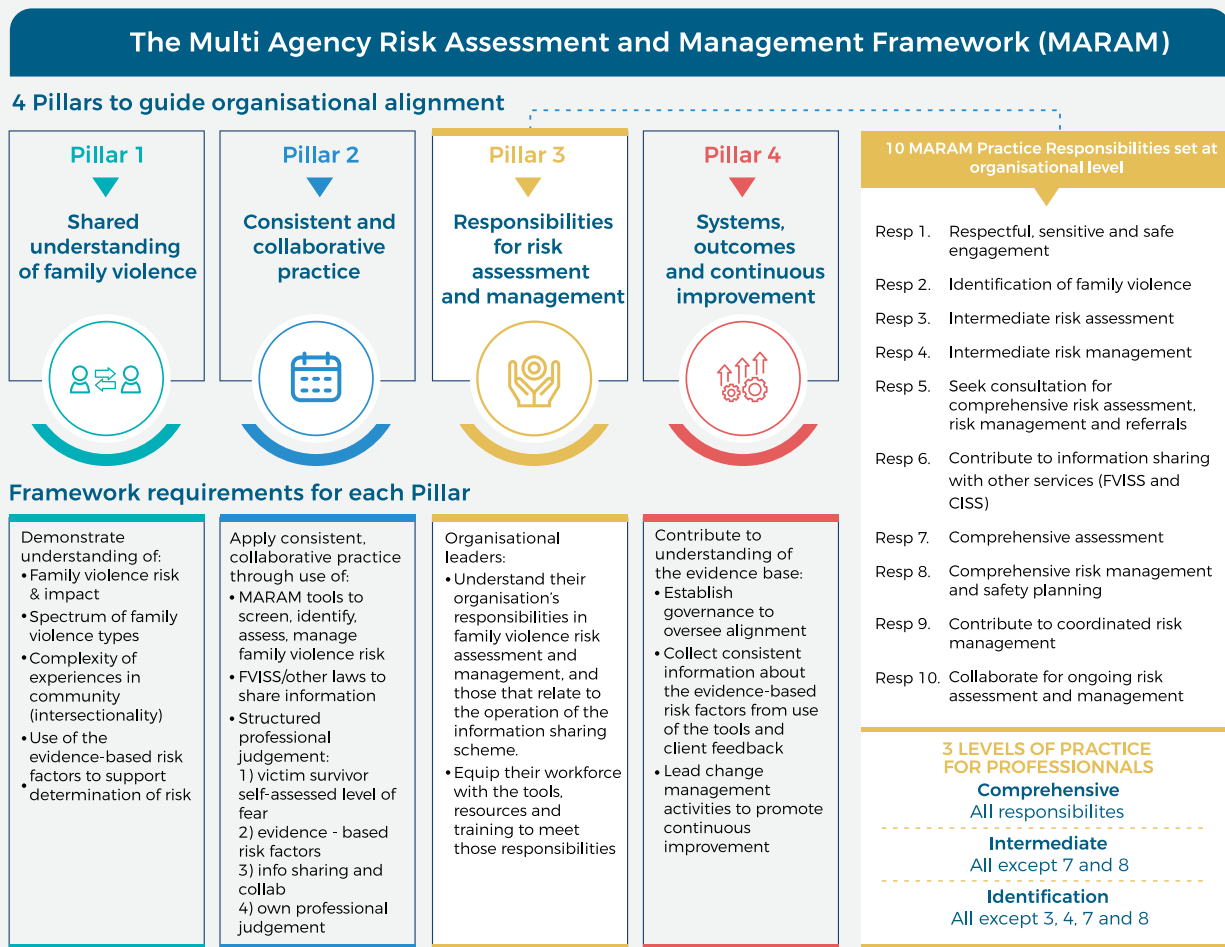
Although it was pleasing to see a high proportion of respondents reflecting their understanding of MARAM alignment, we consider there is still a significant number of respondents who do not fully understand what alignment requires. We also note that as this survey involved self-reporting by organisations, the results do not

necessarily show a consistent understanding of what alignment requires across the sector. As noted, we heard that some organisations have different views on whether an organisation is, or is not, aligned with MARAM.

In our view, uncertainty about MARAM alignment is at least partly a result of the way in which the Act and legislative instrument describe the requirement to align with MARAM. Under the Act, framework organisations must align their relevant policies, procedures, practice guidance and tools with the MARAM Framework as set out in the legislative instrument.¹⁷³ As shown in Figure 22, the legislative instrument:¹⁷⁴

- outlines 10 principles that underpin the MARAM Framework
- specifies framework requirements that apply under four pillars
- outlines 10 responsibilities for risk assessment and management, including expectations of framework organisations under each responsibility.

Figure 22: MARAM pillars, framework requirements, principles and responsibilities



10 Principles to guide the service system



Source: Adapted from Victorian Government, Annual Report on the Implementation of the Multi-Agency Risk Assessment and Management Framework: Victorian Government 2020–21 (report, December 2021), p. 16.

The legislative instrument also lists recognised family violence risk factors, including high-risk factors. More information about the 10 principles underpinning MARAM and the 10 responsibilities for risk assessment and management is set out in Appendix 5.

One of the purposes of the legislative instrument is to “support framework organisations ... to understand their roles and responsibilities”.¹⁷⁵ However, the legislative instrument is silent on how framework organisations meet their obligation to align. There are no references within the legislative instrument to how or when framework organisations should align their policies, procedures, practice guidance or tools with the MARAM principles, pillars, risk factors and responsibilities.

We acknowledge the considerable work undertaken by Family Safety Victoria to provide guidance to framework organisations, including through a MARAM Framework policy document.¹⁷⁶ The policy document defines alignment as “[a]ctions taken by Framework organisations to effectively incorporate the four pillars of the [MARAM] Framework into existing policies, procedures, practice guidance and tools, as appropriate to the roles and functions of the prescribed entity and its place in the service system”.¹⁷⁷ There are also many tools and guides available to support understanding of MARAM alignment.¹⁷⁸ This includes checklists for organisational readiness and MARAM alignment, a MARAM responsibilities decision guide and mapping tool, a guide for embedding tools into existing practice, MARAM policy and procedure examples, family violence leave policy considerations, and a guide to build external partnerships.

Family Safety Victoria also developed an organisational embedding guide, which comprises various resources and tools that outline specific actions framework organisations can take to align with MARAM. The embedding guide includes:

- a MARAM organisation self-audit tool to support framework organisations to assess their current progress towards MARAM alignment
- a project implementation plan, to be based on activities identified through the self-audit
- an implementation review guide to support organisations to review the success of implementation activities.

We also recognise that Family Safety Victoria is currently developing a MARAM alignment ‘maturity model,’ as recommended in the June 2020 process evaluation of the MARAM reforms.¹⁷⁹ The maturity model will build on the organisational embedding guide and provide a means for framework organisations to assess their level of progress in alignment with MARAM.

Notwithstanding the volume of available guidance and support, our view remains that it is difficult for organisations to ascertain from the Act and legislative instrument what steps they are legally required to take to align with MARAM. Recognising that phase 2 organisations are still early in their alignment journey, and that work is underway on the maturity model, we considered whether the best approach would be to leave the Act and legislative instrument as currently drafted. Although this would allow organisational understanding of MARAM alignment to continue to develop over time, it would not address current stakeholder concerns about the lack of clarity about alignment. It could also lead to inconsistencies if the maturity model is not adopted by all framework organisations, noting that the maturity model would not have any legal status or be binding on organisations.

Further, we believe that where legislation imposes a requirement on an individual or organisation, it is best practice that the requirement be sufficiently clear and specific. We therefore considered legislative options to provide greater clarity and specificity to ensure a consistent understanding of MARAM alignment across the sector.

We considered amending the Act to introduce specific activities that organisations must do to align their policies, procedures, practice guidance and tools with the MARAM Framework. Although this would provide certainty, we do not recommend this approach. Noting that the MARAM Framework will be reviewed every five years to ensure it continues to reflect best practice, we believe the Act needs to be sufficiently flexible to accommodate ongoing changes to MARAM as the evidence base around family violence risk continues to grow.

We believe that a better approach is to amend the legislative instrument authorising MARAM as the approved framework so it better supports framework organisations to understand their roles and responsibilities. As legislative instruments can be more readily amended than Acts, this approach will enable changes to be made more quickly.

We recommend that the legislative instrument clearly sets out steps and activities that organisations must take to align with MARAM. These steps and activities would then become mandated as part of a framework organisation's obligation to align with MARAM. This approach has several advantages. It provides a clear obligation and certainty about what is required. It also promotes greater compliance by imposing a legal obligation to take certain steps, rather than relying on guidance provided through non-binding policy materials. This will ensure a consistent approach across all framework organisations and therefore promote consistent risk assessment and management practices across sectors.

We acknowledge the need for flexibility within the legislative instrument to account for the vast differences in roles and responsibilities among framework organisations. The way in which one sector or organisation aligns with MARAM will look different from the way another sector or organisation aligns, recognising that there is not a 'one size fits all' approach. However, we believe that greater specificity is possible and would support organisational understanding and consistency of MARAM alignment.

It is beyond the scope of this review to determine exactly what steps and activities should be included in the legislative framework, noting that this will require further consultation with stakeholders. We also note that careful drafting will be required to ensure the legislative instrument is sufficiently clear and does not impose vague obligations, noting the importance of clarity in the law. Where possible, we suggest that specific actions be drawn from the existing guidance available to framework organisations such as the milestones and examples listed in the MARAM alignment organisation self-audit tool.¹⁸⁰ The development of the maturity model provides a further opportunity for Family Safety Victoria to consider specific actions that show progress in MARAM alignment, and that could be incorporated into the legislative instrument.

As previously noted, a MARAM best practice evidence review is currently underway and will include consideration of the evidence base in the MARAM Framework legislative instrument. We suggest that changes to the legislative instrument be progressed after the best practice evidence review is complete. This will enable any recommended changes made in that review to be implemented concurrently, thereby minimising the impact on stakeholders. Given our suggestion that the updated legislative instrument draw from the maturity model, we note that changes to the legislative instrument should also be progressed after the maturity model is developed. We recognise that this will not provide immediate clarity but consider it important that alignment requirements are considered in detail before amending the legislative instrument.

Recommendation 13: That the legislative instrument authorising MARAM as the approved framework under Part 11 of the Act be amended to clearly set out the steps and activities that framework organisations must take to align with MARAM.

Clarity regarding who must align with MARAM

The Regulations specify which organisations are prescribed as framework organisations and must therefore align with MARAM. In Chapter 1, we noted stakeholder feedback that Victoria’s approach to prescribing ISEs had caused confusion in practice, including due to the functional approach to prescription and the fact that some organisations are prescribed based on their funding source. Similar issues were raised in relation to the prescription of framework organisations. For the reasons outlined in Chapter 1, we support Victoria’s functional approach to prescribing organisations.

Consistency in the prescription of organisations as ISEs and framework organisations is important to ensure information sharing is informed by an understanding of family violence and relevant risk factors

As previously noted, although the list of framework organisations is substantially the same as the list of ISEs, there are some variations. As shown in Box 7, some people or bodies are prescribed as ISEs but not framework organisations.¹⁸¹

Box 7: People or bodies prescribed as ISEs but not framework organisations

- Commission for Children and Young People
- Disability Services Commissioner
- Disability Worker Registration Board of Victoria
- General practice nurses
- General practitioners
- Victorian Curriculum and Assessment Authority
- Victorian Disability Worker Commission
- Victorian Institute of Teaching
- Victorian Registration and Qualifications Authority

Source: Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, Schedules 1 and 3.

The two Regulatory Impact Statements (RIS) for the regulations that prescribed framework organisations did not explain the basis for not prescribing some of these bodies.¹⁸² The only exception was in relation to general practitioners, where one RIS noted that individuals cannot be prescribed under the Act.¹⁸³ This issue is discussed further below.

In our view, it is important that there be as much consistency as possible between organisations prescribed as ISEs and organisations prescribed as framework organisations. For a person to effectively share relevant information under Part 5A of the Act, it is important that they understand family violence risk factors and what information may be relevant to share for a family violence assessment or protection purpose. This is reflected in the Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities (the **Ministerial Guidelines**), which outline an expectation that “persons authorised to request or share information under Part 5A should be trained in and refer to the MARAM Framework or policies, tools, frameworks or programs aligned to it”.¹⁸⁴ Without this understanding, the risk of inappropriate information sharing increases.

Some submissions identified the benefit of MARAM alignment in supporting an understanding of when to request and share information under Part 5A. For example, The Australian Association of Social Workers cited practitioner views that “success of the information sharing scheme is predicated on the ability of professionals to identify the information that should be collected, then shared”.¹⁸⁵ The importance of a

sector-wide understanding of family violence and risk to support information sharing was also identified in the submission from No to Violence, which stated:¹⁸⁶

Some practitioners note concerns about sharing information with other professionals as they are not confident that the information will be appropriately used or that the other professional/service has a sufficiently deep understanding of the context of family violence.

We acknowledge that some professions that are not prescribed as framework organisations have nonetheless developed guidance based on the MARAM Framework. For example, we recognise the work of the Royal Australian College of General Practitioners in updating its guidance, Abuse and Violence – Working With our Patients in General Practice (commonly referred to as the ‘White Book’) to include information about MARAM and the Family Violence Information Sharing Scheme (FVISS).¹⁸⁷ However, providing guidance about the MARAM Framework is quite different from a legal obligation to align policies, procedures, practice guidance and tools with MARAM.

We considered whether the Act should be amended to mandate that all ISEs are also prescribed as framework organisations. Although this would ensure consistency, we do not recommend this approach. We recognise that there may be some limited circumstances in which it is appropriate to prescribe an organisation as an ISE but not a framework organisation, and we support retaining flexibility in the Act to allow for this. However, we suggest that the government further considers the current list of prescribed organisations in light of the need to promote consistency and support information sharing based on an understanding of what is risk-relevant information.

The definition in section 188 of the Act limits government’s ability to prescribe individuals as framework organisations

As noted above, we understand that general practitioners are not prescribed as framework organisations because individuals cannot be prescribed under the Act. This stems in part from the Act’s language, which defines a framework organisation as a ‘body’ prescribed as a framework organisation.¹⁸⁸ We note that this would also currently preclude the prescription of others identified in Box 7 above, such as general practice nurses and the Disability Services Commissioner.

To ensure all ISEs can be prescribed as framework organisations in the future, we considered whether the Act should remove the current restriction on prescribing individuals. We recognise the legal complexity in prescribing individuals as framework organisations, including that some individuals would not have relevant policies, procedures, practice guidance or tools that could be aligned with the MARAM Framework. However, we note that many individuals will, in their professional capacity, rely on policies and tools in the course of their work. In our view, it is important that such policies and tools are MARAM-aligned when considering the assessment or management of family violence risk. Further, we note that the obligation to align with MARAM applies to relevant policies, procedures, practice guidance and tools and that the obligation will therefore only apply to the extent that an individual has such materials.

We recognise that the burden to align with MARAM would be greater for individuals than organisations, and that funding would inevitably be required to minimise this burden. However, we note that an individual would only be prescribed after a thorough consideration of the costs and benefits of prescribing them – for example, through a RIS process. In our view, this acts as a sufficient safeguard for individuals.

We therefore recommend that the Act be amended to allow individuals to be prescribed as framework organisations. We note that this amendment will require careful drafting to ensure individuals are only required to align their policies, procedures, practice guidance and tools to the extent applicable to them in their professional capacity.

Recommendation 14: That Part 11 of the Act be amended to allow both people and bodies to be prescribed as framework organisations.

All organisations that are required to align with MARAM are prescribed in the Regulations rather than relying solely on contractual agreements under section 191 of the Act, with this approach providing the greatest clarity and transparency

Section 191 of the Act requires government departments and agencies to include a requirement to align with MARAM in any new or renewed contract or agreement for providing services related to family violence risk assessment or management.¹⁸⁹ This reflected a recommendation from the Royal Commission into Family Violence (the **Royal Commission**), which appeared to envisage that contracts and funding agreements would be used as a mechanism to ensure consistent practice, along with prescribing additional non-funded agencies.¹⁹⁰

We understand that government has not used section 191 in this way. Although we understand that departments have updated contracts and agreements with service providers as required under the Act, these updates have simply reiterated an organisation's obligations as a prescribed framework organisation. That is, the obligation to align does not arise independently of an organisation's prescription, with contracts and agreements reflecting the legal requirements that exist under the Act and Regulations.

We support the approach of prescribing all organisations required to align with MARAM as framework organisations. In our view, including the obligation to align in contracts and agreements alone – without also prescribing the relevant organisations – is likely to cause confusion and uncertainty in practice and lacks the transparency of current practice. Further, the process of prescribing organisations generally requires the preparation of a RIS, which affords an opportunity for government to consider the costs and benefits of requiring certain organisations to align with MARAM.

Although section 191 of the Act may be seen as somewhat redundant in light of the government's current approach, we do not recommend repealing it at this time. Combined with prescription, contracts and funding agreements provide an important lever for government to ensure organisations are complying with their obligation to align with MARAM. They also provide a mechanism for government to monitor or review an organisation's progress in their alignment journey, noting there is no monitoring approach within the Act. We support retaining section 191 so it can be used in line with current practice.

Other stakeholder feedback

Many stakeholders described the MARAM resources and practice guides as overly complex. We also heard frequently that the MARAM reforms can be overwhelming for some organisations, with organisations requiring specialist support and funding to implement. Stakeholder concerns about the government's approach to implementing the MARAM reforms are highlighted further in Chapter 7.

Although we agree that MARAM is an incredibly complex reform, ultimately it is beyond the scope of this legislative review to make any findings or recommendations on this matter. We note that the MARAM best practice evidence review is due to be completed at the end of 2023 and we suggest that this review considers how to reduce complexity within MARAM wherever possible.

6: Effectiveness of Part 11 in achieving its objectives

Introduction

Part 11 of the *Family Violence Protection Act 2008* (Vic) (the **Act**) aims to strengthen system-wide approaches to family violence risk assessment and management and ensure consistency of such approaches to support **victim survivors**.¹⁹¹ As previously noted, Part 11 provides the authorising environment for the Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework and the obligation on prescribed **framework organisations** to align their policies, procedures, practice guidance and tools with MARAM.¹⁹²

Part 11 also requires **portfolio ministers** to report annually to the Minister for Prevention of Family Violence (the **Minister**) on the implementation and operation of MARAM by framework organisations for which they are responsible, with the Minister required to provide a consolidated annual report to the Victorian Parliament.¹⁹³ Although not specified in the Act, we understand that the purpose of the annual reporting requirements is to promote accountability and transparency regarding framework organisations' alignment efforts.



This chapter addresses the extent to which Part 11 has been effective in promoting consistency in identifying, assessing and managing family violence risks. It also considers the effectiveness of the annual reporting requirements as an accountability mechanism for the MARAM reforms. The last section in this chapter explores any adverse effects identified in relation to Part 11.

Consistency in risk identification, assessment and management

Through the introduction of the MARAM Framework, Part 11 has supported a shared language for family violence and a focus on keeping perpetrators in view

Many submissions reflected that MARAM has supported a shared language around family violence. Submissions highlighted that using the MARAM Framework language supports cohesive collaborative practice by helping to establish a common language to discuss family violence risks across different sectors and disciplines.

As explained by The Women's Services Network:¹⁹⁴

The MARAM ... is a very effective way of making non-[specialist family violence] agencies aware of their responsibilities and providing a map of how to manage [family violence] risk in the community. It is very apparent in case coordination activities that more and more external agencies are aware of what [family violence] is, what their role might be in identifying, assessing and managing risk, and how the [specialist family violence service] can lead this work.

Our stakeholder consultations reinforced this view, with many stakeholders commenting that MARAM has supported organisations to talk about family violence in more consistent ways. An increased understanding of family violence was evident in an experience shared with us by a **survivor advocate**. The survivor advocate reported a significantly improved experience when attending the same hospital due to violence inflicted by their partner, describing the two experiences as 'night and day'. This is explained in the case study in Box 8.

Box 8: Case study – Improved family violence response by a public hospital

When the victim survivor first attended hospital, her experience was not trauma-informed. They felt dehumanised and powerless. She was asked to discuss the violence in public spaces, resulting in the entire waiting room being aware that they were a victim of family violence. Because of the public discussion, she did not disclose that she had also been raped. Her children were also asked in public whether they had witnessed any of the violence. A notification of the violence was made to Child Protection and the victim survivor was terrified that the violence had been reported in a way that they would lose their children. Her information was also shared with Victoria Police against her wishes.

Two years later, after Parts 5A and 11 of the Act were introduced, the victim survivor attended the same hospital due to further violence. Hospital staff took her into a separate room and privately discussed what had happened and keeping the victim survivor's information protected. The staff's attitude was supportive and helpful rather than judgemental and punitive. The victim survivor felt safer and more empowered and so shared more information about the family violence they were experiencing. While the hospital again notified Child Protection, this time they identified the victim survivor as a protective parent.

Source: Family Violence Reform Implementation Monitor, based on an account shared with us by a survivor advocate.

Stakeholders also told us that the MARAM Framework has supported organisations to keep **perpetrators** in view. For example, a specialist family violence practitioner explained that Part 11 has allowed organisations to 'flip the switch' to focus on keeping perpetrators in view. Other stakeholders agreed, explaining that the Act has raised awareness for non-specialist family violence workers about the need to keep perpetrators in view.

Organisations working with perpetrators also reflected there is now a greater awareness and acceptance of perpetrator services, with discussions no longer solely on a victim survivor needing to leave their home to be safe and a greater focus on the changes that the perpetrator needed to make.

Where services align with MARAM, there is greater consistency in risk identification, assessment and management; however, inconsistent alignment and a lack of alignment progress is limiting the overall effectiveness of Part 11

Most stakeholders reflected that, where organisations have aligned, the MARAM Framework has increased consistency in family violence risk identification, assessment and management. As shown in Figure 23, 64 per cent of submission responses addressing this question observed greater consistency.

Submissions reporting increased consistency highlighted their experiences of greater service collaboration, an increase in referrals being received with a completed MARAM risk assessment attached and a greater recognition or visibility of family violence across organisations. For example, The Sexual Assault and Family Violence Centre stated:¹⁹⁵

Since the introduction of the MARAM framework, it appears that professionals across a range of services are being more pro-active in considering and identifying family violence risk much earlier, and throughout their practice ... With the introduction of different levels of risk assessment; from screening and identification, through to brief and intermediate or comprehensive risk assessments, this has assisted with acknowledging that everyone has a role to play in assessing family violence risk.

In contrast, many submission respondents noted they had not observed greater consistency in risk identification, assessment or management. This was often noted to result either from inconsistencies in the way that organisations had aligned with MARAM, or a lack of alignment progress across sectors or within organisations. Submissions cited various concerns including:

- inconsistent knowledge and awareness of MARAM across organisations
- a lack of action or change in risk assessment or management practices
- underutilisation of the MARAM Framework outside of specialist family violence services
- inconsistent quality of risk assessments received from some organisations
- gaps in accurate risk identification and management for some groups in the community including older victim survivors, children and culturally diverse victim survivors
- gaps in perpetrator accountability.

In highlighting concerns, many stakeholders noted the need for training, guidance and resourcing to support consistency in practice. This is discussed further in Chapter 7.

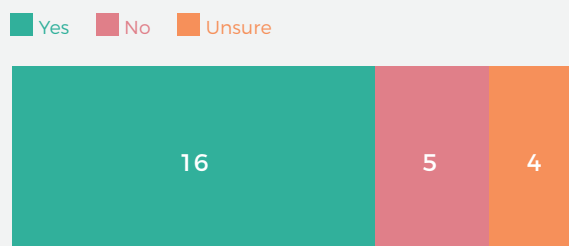
Some submissions recognised the potential for MARAM to achieve consistency but considered this had not yet been achieved. For example, the Victorian Aboriginal Child Care Agency stated:¹⁹⁶

MARAM's aims and objectives are clear, and when properly implemented should see an increased safety for people experiencing family violence, but we acknowledge the significant amount of work left to do to ensure alignment with the Framework across organisations and sectors who have responsibility to identify, assess and respond to family violence risk.

Other submissions similarly reflected that although MARAM had been effective in achieving consistency where services had aligned with MARAM, alignment itself has been inconsistent. For example, The Salvation Army stated:¹⁹⁷

Overall, the MARAM as a tool and framework has been effective in achieving consistency in family violence risk identification, assessment, and management ... Risk assessment is one component of the MARAM and while there is consistency in training for risk assessment, the MARAM as a framework is not consistently embedded in organisations.

Figure 23: Submission responses addressing consultation question 10



Q10. Have you observed greater consistency in organisations' approaches to family violence risk identification, assessment, and management?

Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

The Salvation Army went on to explain that not all organisations obtained the same information for risk assessments, with this often depending on the individual practitioner.¹⁹⁸ Inconsistent alignment was also observed across organisations within the same sector and between different program areas within the same organisation. For example, the Early Childhood Australia Victoria Branch noted that organisational alignment varied across the early childhood sector, while Merri Health identified differences between programs within organisations.¹⁹⁹

The Statewide Family Violence Integration Advisory Committee (SFVIAC) explained the importance of alignment in achieving service coordination, noting that services that are aligning with MARAM remain reliant on other services they interface with to also align. They noted this can be challenging in the absence of clear accountability about when services need to be at a certain level in their alignment journey. Some SFVIAC representatives considered that organisations should be required to demonstrate that they are aligning with MARAM, with suggestions including a timeline for alignment, a monitoring system for alignment and potentially greater accountability through service agreements or accreditations.

In our view, inconsistent alignment and a lack of alignment progress is limiting the effectiveness of Part 11 of the Act. We consider that inconsistent alignment likely stems from a lack of clarity regarding what alignment requires and specific steps and activities that organisations need to take. This issue is discussed in Chapter 5. We believe that our recommended changes to add specific steps and activities into the legislative instrument authorising MARAM as the approved framework (the **legislative instrument**) will support greater alignment consistency.

However, maximising consistency in risk identification, assessment and management also requires that framework organisations align with MARAM in a timely manner. We acknowledge that MARAM alignment progress has in some cases been impacted by external factors such as the COVID-19 pandemic, workforce shortages and resourcing constraints. These issues are discussed further in Chapter 7. We also recognise that it is to be expected that some phase 2 organisations are less progressed in aligning with MARAM given they were only prescribed for 18 months at the time of consultation. However, we also heard concerns about a lack of progress in some phase 1 organisations. Some phase 1 organisations also explained that they were still in the early stages of their alignment journey, despite being prescribed for approximately four years at the time of consultation.

We consider that a lack of alignment progress within some organisations stems, at least in part, from the lack of a compliance or accountability mechanism within the Act. We considered whether the Act or the legislative instrument should be amended to introduce a timeline for alignment or a monitoring or compliance mechanism to oversee alignment. We acknowledge that it is likely that **Family Safety Victoria** considered these options at the time of drafting the Act and legislative instrument. We also recognise that the Act was not designed as a regulatory scheme, noting the enormous goodwill across the sector to implement the reforms. However, this legislative review provides an opportunity for fresh consideration, noting we have had the benefit of the MARAM Framework being in operation for a number of years and have been able to observe alignment progress within this time.

Introducing a timeline for alignment would have several benefits. It would send a strong message to framework organisations that they need to be actively working towards alignment and taking specific actions to embed MARAM within their organisation. Legislated timeframes would also promote compliance with the Act, noting that proposed guidance such as the maturity model would not be binding on framework organisations. By ensuring timely alignment activities, a timeline would also promote consistent practices in risk identification, assessment and management, thereby increasing the Act's effectiveness. Conversely, without a timeline, there is no incentive or obligation on framework organisations to prioritise MARAM alignment. This can contribute to very little progress being made, with little consequence for those organisations that are not actively working towards alignment.

We therefore recommend that a timeline for MARAM alignment be introduced. In our view, it is more appropriate that the timeline be specified in the legislative instrument rather than the Act, reflecting the purpose of the legislative instrument in outlining the framework that organisations must align with. This approach also provides greater flexibility because legislative instruments can be more readily amended.

We believe that the proposed timeline should be linked to the new steps and activities to be added to the MARAM legislative instrument. We also suggest that timelines be based on an organisation's date of prescription as a framework organisation to reflect the phased implementation approach to the MARAM reforms. This approach recognises the different levels of family violence literacy within different sectors and ensures organisations prescribed later are given enough time to align with MARAM.

In our view, it is important that timeframes be sufficiently broad to recognise that different types of framework organisations may need more or less time to undertake certain activities. This could depend on factors including an organisation's size or functions. We suggest that timelines be expressed broadly to account for this. For example, certain activities could be required within the first year of prescription, with others required within the first one to three years. Recognising that MARAM alignment is an ongoing obligation, we note that some steps and activities could also be required periodically, such as training new staff members within a certain time after they commence employment. We also note the need for careful drafting to satisfy the requirements of a legislative instrument and to ensure there is enough clarity for framework organisations regarding timeframes.

We recognise there may be particular challenges in introducing a timeline in relation to the MARAM Framework's continuous improvement pillar. We note that an organisation's policies, procedures, practice guidance and tools may need to be periodically reviewed and updated to ensure they reflect current best practice approaches. However, we believe that a timeline could be flexible enough to account for this, such as by setting an appropriate timeframe to review materials within an agency. This would also support the ongoing nature of the obligation to align with MARAM.

It is beyond the scope of this review to suggest appropriate timeframes for undertaking different alignment activities and steps. This requires detailed consideration, and we suggest timeframes be developed in further consultation with framework organisations. We also strongly support providing appropriate funding, resources and training to support framework organisations in complying with the new timeline.

A timeline for alignment would be most effective if combined with an additional compliance mechanism. For example, this could include a penalty for failing to meet the specified timelines. For the reasons discussed in Chapter 2 regarding a compliance approach for the Family Violence Information Sharing Scheme (**FVISS**), we do not recommend this approach. Rather, we support increased monitoring of alignment progress through the MARAM annual report. As discussed below, greater accountability through the annual report will provide a mechanism for the community to assess how organisations are tracking with MARAM alignment. In our view, this will provide enough incentive for framework organisations to meet required timelines.

Recommendation 15: That the legislative instrument authorising MARAM as the approved framework under Part 11 of the Act be amended to introduce a timeline for alignment activities. The steps and activities to be incorporated into the legislative instrument under Recommendation 13 above should be linked to the timeline, with timeframes determined based on an organisation's date of prescription as a framework organisation.

Annual reporting requirements

Under the Act, each portfolio minister must prepare an annual report on the implementation and operation of the MARAM Framework by framework organisations for which they are responsible.²⁰⁰ The report is required to include the prescribed matters, which are currently:²⁰¹

- actions taken by a public entity or a public service body to support framework organisations in relation to the implementation and operation of the MARAM Framework
- a summary of implementation progress by framework organisations
- proposed future actions to be undertaken by public entities or public service bodies to support ongoing implementation and operation by framework organisations.



After receiving these portfolio reports, the Minister must prepare a consolidated annual report addressing the same matters, with the consolidated report to be tabled in parliament.²⁰²

Annual reporting in its current form does not provide meaningful information or provide accountability for framework organisations' alignment with MARAM

The tabling of the consolidated report in parliament is intended to provide an opportunity for the government to outline to the Victorian community the progress of MARAM alignment across different sectors. This supports transparency around the implementation of the family violence reforms. Some departments told us that the reporting processes are also valuable in raising the profile of the MARAM reforms internally and as a way of reflecting on alignment progress.

As noted in the June 2020 process evaluation of MARAM, the consolidated report is intended to be used "as a mechanism to oversee alignment to the approved framework (MARAM) and to set accountability expectations for Ministers".²⁰³ If used as an accountability mechanism, annual reporting can assist in monitoring MARAM alignment and ensure that:

- framework organisations are progressing MARAM alignment to the extent possible
- barriers or challenges to alignment are identified and potential solutions are considered
- government departments are providing appropriate support to framework organisations, reflecting their role in supporting ministers to administer their portfolios.

In examining the 2018–19 consolidated report, the process evaluation found that the report was insufficient in providing accountability.²⁰⁴

We agree that the annual reporting process should be a mechanism for providing accountability for ministers (through their departments) and framework organisations. As Part 11 and the legislative instrument include no other compliance measures, annual reporting is the only process that ensures framework organisations are meeting their legal obligations. After analysis of various ministerial portfolio annual reports and the 2019–20 and 2020–21 consolidated reports, we consider that current reporting remains insufficient in providing accountability.

We believe that the consolidated reports do not meaningfully explain framework organisations' progress in aligning with MARAM, nor do they identify where challenges have arisen with MARAM alignment and how these challenges will be addressed. Some consultation stakeholders share this view. The Statewide Family Violence Integration Advisory Committee also reflected that there could be a greater focus in the report on the multi-agency nature of the reforms, and that ideally the report could include a section addressing mechanisms for measuring the effectiveness of alignment.

In part, the lack of accountability and transparency provided by the consolidated report stems from a lack of clarity in the Act and legislative framework regarding the steps that organisations must take to align with MARAM, how progress is measured, and the timeframe in which steps should occur. Similar findings in the process evaluation led to a recommendation for Family Safety Victoria to develop a maturity model for MARAM alignment,²⁰⁵ with this work now underway.

We have recommended above that the MARAM legislative instrument be amended to provide greater specificity for actions that framework organisations should take to align with MARAM, and a timeline for alignment. We also considered whether the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (the **Regulations**) should be amended to require reporting of progress against these specific activities and timeframes, once developed. This would provide greater accountability and act as a monitoring mechanism for MARAM alignment. Although it is difficult to recommend specific changes to the Regulations until alignment actions and timeframes have been determined, we recommend refocusing the consolidated annual reporting requirements around the alignment activities and timeframes.

Departments raised concerns with us about the reporting burden on framework organisations. We acknowledge the substantial amount of work that some framework organisations undertake to provide information for the reports. We do not consider that any additional administrative burden should be placed on individual framework organisations. Rather, we propose a reconsideration of what information they provide to departments to support reporting.

We also believe that some of the current burden likely stems from challenges in reporting on alignment progress in the absence of clear alignment actions. Our recommended changes to the legislative instrument may help reduce the burden on framework organisations.

We heard from departments that the annual reporting process is burdensome and takes time away from other core functions including client-facing work and other MARAM alignment activities. We also heard that the timeframes for providing portfolio minister reports present challenges in preparing the consolidated report for tabling in parliament. Under the Act, portfolio reports must be provided to Family Safety Victoria by 30 September, and the consolidated annual report must be tabled in parliament within six sitting days of 1 January the following year.²⁰⁶

We recognise the amount of resourcing required for portfolio departments to prepare reports and brief ministers. In our view, portfolio reports are an important mechanism in ensuring departments play an active role in supporting agencies within their portfolio to align with MARAM. Although we recognise the burden on departments, and associated challenges relating to the timeframe to develop a consolidated report, we consider that portfolio reports should be retained. In our view, the burden associated with annual reporting is outweighed by the accountability that will be provided through a report that clearly articulates how framework organisations are progressing in their MARAM alignment journey.

However, we note that there may come a point at which the benefits of annual reporting no longer outweigh the burden. For example, when all or most framework organisations have fully aligned with the MARAM Framework, the need for monitoring and accountability may be reduced. At this point, we suggest that the government considers reducing the frequency of reporting. In our view, reporting would remain necessary where framework organisations are required to further update policies, procedures, practice guidance or tools – for example, to incorporate any changes to the MARAM Framework as a result of the five-yearly evidence base reviews.

Recommendation 16: That the Regulations be amended to require portfolio ministers' annual reports and the consolidated annual report to include information about framework organisations' progress against key alignment steps and activities and timeframes. These amendments should be progressed after the legislative instrument has been amended in accordance with recommendations 13 and 15.

Adverse effects of Part 11

No adverse impacts were identified relating to the legal provisions in Part 11

Stakeholders did not identify any adverse effects stemming from the legal provisions in Part 11 of the Act. However, we heard concerns about aspects of the MARAM Framework itself, and associated resources, tools and practice guidance. These concerns are outlined in Chapter 7.

7: Other issues and implementation challenges impacting on the Act's effectiveness

Introduction

During the legislative review, stakeholders raised various challenges and concerns that were not directly connected to the provisions in Parts 5A or 11 of the *Family Violence Protection Act 2008* (Vic) (the **Act**), but which nonetheless impacted on the Act's effectiveness. These included:

- concerns about the Family Violence Multi-Agency Risk Assessment and Risk Management (**MARAM**) Framework and associated tools
- other laws that impact on the Family Violence Information Sharing Scheme (**FVISS**)
- the non-prescription of certain organisations as information sharing entities (**ISEs**) for the purposes of the FVISS or **framework organisations** for the purposes of the MARAM Framework
- challenges related to the implementation of the Act.

This chapter discusses these issues.

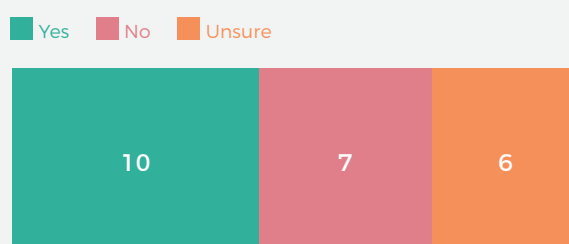
Concerns about the MARAM Framework and associated tools

Stakeholders consider that aspects of the MARAM Framework do not adequately address risks for diverse communities and that MARAM risk assessments are time consuming to administer

We acknowledge the available guidance in the MARAM Practice Guides regarding the experiences of family violence across Victoria's diverse communities. This includes guidance and information in relation to diversity, cultural safety and intersectionality, and the experiences of older **victim survivors**, LGBTIQ+ communities, victim survivors from culturally diverse backgrounds, people with a disability, and male victim survivors.²⁰⁷

However, we also acknowledge that many stakeholders raised significant concerns about the suitability of components of the MARAM Framework for risk assessment and management across diverse communities. As shown in Figure 24, less than half of submission respondents to the **Monitor** believed that the Act sufficiently provides for the needs and characteristics of diverse communities. Although this question was asked in relation to Parts 5A and 11, most of the concerns raised related to the MARAM Framework.

Figure 24: Submission responses addressing consultation question 12



Q12. Do the provisions sufficiently provide for the needs and characteristics of diverse communities?

Source: *Family Violence Reform Implementation Monitor*, based on submissions through the Engage Victoria 2022 consultation process: *Legislative review of family violence information sharing and risk management*.

Submissions raised concerns that MARAM is not culturally safe for members of the **Aboriginal** community. Services explained their need to adopt tailored approaches to increase cultural safety while working within the MARAM Framework. For example, the Victorian Aboriginal Child Care Agency noted their work to “deepen the cultural lens of mainstream MARAM tools and guidance to contextualise for both the Aboriginal community members we work with as well as Aboriginal staff”.²⁰⁸ This was reinforced in stakeholder consultations. For example, a Gippsland Family Violence Alliance representative noted that in their organisation’s work with the Aboriginal community, practitioners would have conversations with clients and then take the information discussed in that conversation to complete a MARAM risk assessment at a later time.

Submissions also identified gaps in MARAM in relation to refugee, migrant and other culturally diverse communities. For example, The Sexual Assault and Family Violence Centre and The Salvation Army highlighted their views that the MARAM risk assessment does not adequately deal with issues such as forced marriage, dowry abuse and the different extended family structures within culturally diverse communities.²⁰⁹

Although not specifically stated to result from MARAM, another submission noted a lack of understanding about elder abuse across sectors. The submission explained that this can lead to the identification of risk factors being minimised or dismissed as ‘ageing’, which can increase the risk of harm for older victim survivors.²¹⁰ Monash Health agreed, stating that “older people have specific needs and risks that are not adequately addressed in the MARAM guides and assessment tools”.²¹¹ Some community legal centres similarly reflected their view about the need for a greater focus on elder abuse within the MARAM Framework given the unique dynamics of this form of family violence.

Concerns about the suitability of MARAM for diverse communities were also raised in stakeholder consultations. In addition to the concerns noted above, stakeholders also expressed their views that MARAM does not support effective risk identification, assessment or management for people with a disability, members of the LGBTIQ+ community or male victim survivors.

Another common concern raised by stakeholders was that MARAM risk assessments are time consuming to administer, which has an impact on client services and has the potential to cause delays in a victim survivor’s access to support. For example, inTouch Multicultural Centre Against Family Violence explained:²¹²

Another important issue to note is the amount of time the MARAM takes to complete for clients from migrant and refugee backgrounds. The questions that are listed on the MARAM, require nuance and care in delivery depending on the cultural and faith background of the client. Perceptions and discussions of safety, family relationships, sexual relationships and consent, can vary depending on the client’s cultural background. Furthermore, where a client also requires an interpreter present for the risk assessment, the length of time for the completion of the MARAM can be quite extensive.

The time-consuming nature of completing MARAM risk assessments has also affected the experience of victim survivors. As noted by The Sexual Assault and Family Violence Centre, “some clients can find it triggering and overwhelming to complete a MARAM, and ... there have been instances where some clients have been unable to complete the MARAM process”.²¹³

Given the number of stakeholders who identified issues with aspects of the MARAM Framework, and in light of the gravity of concerns raised, we strongly suggest that the five-year MARAM best practice evidence review consider these issues and consult further with stakeholders to address concerns.

Other laws and legal processes impacting on the FVISS

New laws that restrict information sharing may limit the ability of ISEs to share risk-relevant information under Part 5A

Many Victorian laws, often called 'secrecy' laws, restrict a person's ability to share information. Part 5A of the Act expressly overrides some of these secrecy laws to enable an ISE to share relevant information for a family violence assessment or protection purpose.²¹⁴ However, because new laws are not captured by this override provision, there is the potential for new laws to impact on information sharing under Part 5A.

An example of this occurring was evident in stakeholder feedback about the *Spent Convictions Act 2021* (Vic). Many stakeholders reflected that the Spent Convictions Act has limited the ability of the courts to share relevant **perpetrator** information, namely criminal outcome information, that was previously being shared before the Spent Convictions Act commenced. Stakeholders spoke of this having a negative impact on risk assessment and management activities, with specialist family violence services reporting challenges obtaining information needed for safety planning.

Key aspects of the Spent Convictions Act are set out in Box 9. The Spent Convictions Act reflects the principle that "people who have worked hard to turn their lives around deserve the opportunity to move on from minor historical offending".²¹⁵ While we support this principle, we consider this should not be at the expense of victim survivor safety. We understand that the Department of Justice and Community Safety is working with **Family Safety Victoria** to identify options to carve out Part 5A from the operation of the Spent Convictions Act and to resolve the issues identified by stakeholders during the review. We support ongoing work to achieve this objective.

Box 9: The Spent Convictions Act

The Spent Convictions Act establishes a scheme under which a person's criminal convictions can become 'spent', either automatically or by application. Certain convictions automatically become spent, either on the day the person is convicted or after a certain period.

Once a conviction has become spent, it can only be disclosed in limited circumstances provided for in the Spent Convictions Act.

Source: Spent Convictions Act 2021 (Vic), in particular sections 7–10, and 20–23.

To safeguard against new legislation limiting Part 5A's effectiveness, we considered whether the Act should be amended to include a broader override provision. This would mean that Part 5A would operate regardless of any new information sharing restrictions or secrecy laws introduced in the future, unless those new laws were expressly stated in the Act to override Part 5A. A similar approach has been adopted in other jurisdictions. For example, under child wellbeing and family violence information sharing provisions in Western Australia, agencies can disclose relevant information despite any law that prohibits or restricts its disclosure.²¹⁶ However, we understand based on advice from Family Safety Victoria that this approach was considered during the drafting of the Act but was deemed not possible in the Victorian context. We therefore do not recommend further consideration of this approach.

We also note that there is a well-established Cabinet process for departmental consultation in developing new legislation. Cabinet submissions involving legislative proposals must generally go through a 'coordination' process in which the submission is distributed to all departments for comment before Cabinet consideration.²¹⁷ We reiterate the importance of a thorough coordination process within and between departments in developing any legislation that may impact on the Act, including ongoing consultation during the drafting of any new laws, and the provision of legal advice if required.

Stakeholders are concerned that victim survivor confidential information may be disclosed through legal processes such as subpoenas and freedom of information requests

There are some legal processes under which an ISE may be required to disclose **confidential information** they hold about an individual, including a perpetrator or victim survivor. This includes subpoenas and freedom of information (FOI) requests, as shown in Figure 25.²¹⁸

Figure 25: Legal processes requiring the disclosure of information

A **subpoena** is a court order that can require a person or organisation (including an ISE) to produce documents to the court.



Freedom of information laws give individuals the right to access certain documents held by public sector agencies such as departments, public hospitals or public schools. This may include information relating to the individual seeking access.



Source: Family Violence Reform Implementation Monitor

Stakeholders cited uncertainty about the application of subpoenas and FOI requests to information collected and shared by ISEs for family violence assessment and protection purposes under Part 5A. We also heard concerns about the potential for a victim survivor's confidential information to be disclosed through such processes and about the need to engage lawyers to respond to requests.

For example, as The Sexual Assault and Family Violence Centre explained:²¹⁹

[W]e are aware that in some instances, perpetrators are continuing to abuse their victims through the use of information sharing legislation. For example, we are aware of an instance where [Department of Families, Fairness and Housing] Child Protection requested information from our practitioners about MARAM assessments and that information had then been the subject of a subpoena from a perpetrator's lawyer to Child Protection. This can lead to continued abuse by the perpetrator and in this instance, the client disengaged from our services.

Another stakeholder reflected that when services are not notified that confidential information they have shared with another organisation is subsequently subpoenaed from that organisation, it is difficult to effectively safety plan with victim survivors.

The Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities (the **Ministerial Guidelines**) provide guidance for ISEs on responding to subpoenas and FOI requests. In relation to subpoenas, they highlight the importance of organisations seeking legal advice before producing documents, set out the grounds on which a subpoena may be challenged and suggest steps ISEs can take when they have received a subpoena.²²⁰ In relation to FOI requests, the guidelines highlight an exception to providing information in response to an FOI request where disclosing a document would unreasonably disclose information about the personal affairs of another person. In considering this exception, agencies must consider whether disclosing information to an **alleged perpetrator** or a perpetrator would increase the risk to a victim survivor. The Ministerial Guidelines provide an example of when this may occur, including where disclosing a document may identify a victim survivor as a source of information about the perpetrator.²²¹

In our view, the Ministerial Guidelines provide sufficient guidance for ISEs in responding to subpoenas and FOI requests, noting that an appropriate response will always need to be considered based on the circumstances of the case and, in the case of subpoenas, should be informed by appropriate legal advice. We do not consider that any changes to the Ministerial Guidelines are required.

A related challenge was raised by some stakeholders in relation to including victim survivor information on a perpetrator's medical or clinical file. For example, the Royal Melbourne Hospital explained that victim survivors may disclose family violence to staff when visiting perpetrators who are receiving care. Sometimes hospital staff will create a separate medical record for the victim survivor to enable the hospital to record this information while protecting it from an FOI request from the perpetrator.

However, we heard that this practice is not widespread, with other hospital representatives indicating that most health services would not open a new file for the victim survivor in such circumstances. A Strengthening Hospital Responses to Family Violence Initiative representative explained that this was due in part to the absence of clear guidance on how to separate third-party family violence risk-relevant information within patient files. Creation of new medical records is usually tied to an episode of care and requires the consent of the person to create one. Hospital staff have raised concerns about ensuring the security of third-party information being included in a perpetrator's medical record if the medical record is subpoenaed or an FOI request is made. There are not consistent guidelines from Department of Health available for hospitals to follow (that also incorporate the episode creation rules).

We considered whether the Ministerial Guidelines could be amended to provide guidance around this issue. However, noting the need for the Ministerial Guidelines to be of general application across all ISEs, and our findings in Chapter 1 about the need to reduce length and complexity, we do not recommend this approach. We understand that the Department of Health is planning to work with Family Safety Victoria and the Strengthening Hospital Responses to Family Violence Initiative to develop guidance for health and other relevant workforces regarding this issue. We support this work.

One stakeholder also identified concerns about information stored within the Mental Health Tribunal and the potential for information to be shared with perpetrators.²²² Concerns about the disclosure of information through Mental Health Tribunal processes were also raised in the two-year review of the FVISS. The two-year review recommended that the government communicates with the Mental Health Tribunal about risks associated with disclosing a file to a perpetrator where the file indicates that family violence risk information has been shared without their knowledge under the FVISS.²²³ This recommendation was accepted in full by the government.²²⁴ We do not consider that any further recommendations are necessary in relation to this issue.

Some stakeholders find it challenging to navigate the different requirements of the FVISS and the Child Information Sharing Scheme

The Child Information Sharing Scheme (**CISS**) is established under Part 6A of the *Child Wellbeing and Safety Act 2005* (Vic) (CWS Act). Key aspects of Part 6A are set out in Box 10.

Stakeholders had mixed views about whether the different requirements of the FVISS and CISS posed challenges in practice. Some stakeholders reflected that they had not experienced any challenges resulting from being prescribed under both schemes. Others told us that it was sometimes challenging to understand how to apply both the FVISS and CISS. During consultations, inTouch Multicultural Centre Against Family Violence representatives gave an example of requesting information under the FVISS and receiving information that the perpetrator had a previous allegation of sexual assault against a child. In this case, it was unclear whether it was appropriate to share this information (and to whom) when their client did not have children or contact with children.

Box 10: CISS requirements

Organisations prescribed as information sharing entities can disclose and request confidential information for the purpose of promoting the wellbeing or safety of a child or a group of children.

Recognising the inherent intersection between information that may be relevant for a family violence assessment or protection purpose and information that may be relevant to promote child wellbeing or safety, the CWS Act expressly provides that organisations that are prescribed as ISEs under both Part 5A of the Act and Part 6A of the CWS Act can share confidential information under either the FVISS or the CISS.

Source: Child Wellbeing and Safety Act 2005 (Vic), sections 41V(a), 41W(1) and 41ZD.

The Victorian Aboriginal Child Care Agency reflected that the staging of the FVISS and CISS reforms has resulted in an uncoordinated approach to the two schemes, with this being compounded by responsibility for the schemes sitting with different government departments.²²⁵ The Centre for Excellence in Child and Family Welfare also spoke of a lack of understanding about the intent and purposes of the CISS in comparison with the FVISS, and that the prioritisation of the FVISS over the CISS can mean that child abuse, neglect and sexual abuse of a child can be subsumed into a family violence rather than a child wellbeing framework.

The CWS Act requires the relevant minister to issue guidelines in relation to the operation of Part 6A (the CISS Guidelines).²²⁶ The CISS Guidelines include a chapter on sharing information in the context of family violence, which provides guidance for organisations prescribed under the CISS and either or both of the FVISS and MARAM reforms.²²⁷ For example, they note the relevance of the MARAM Framework working alongside other frameworks in guiding information sharing under the CISS to assess and respond to child wellbeing or safety more broadly within a family violence context.²²⁸

A detailed review of the legal provisions in Part 6A of the CWS Act and the CISS Guidelines was beyond scope for the legislative review. We acknowledge that similarly to Part 5A of the Act, Part 6A of the CWS Act must be reviewed within five years of its commencement.²²⁹ We consider that the CISS review will provide an opportunity for stakeholder views about the CISS to be explored and considered in detail. In the meantime, we support a continued focus on education and training for those workforces that are prescribed under both the CISS and the FVISS and that regularly engage with children.

Approach to prescribing organisations

The non-prescription of many Commonwealth-funded agencies and private providers as ISEs and framework organisations has resulted in a gap in family violence information sharing and risk assessment and management

In Chapters 1 and 5, we highlighted stakeholder uncertainty resulting from Victoria's approach to prescribing organisations as ISEs and/or framework organisations. In addition to concerns about clarity, stakeholders also identified that the non-prescription of some organisations has created a gap in service provision. This was particularly raised in relation to Commonwealth-funded organisations providing disability and aged care services and private providers. We heard concerns that the non-prescription of such organisations has negatively impacted on risk assessment and management activities, increased the risk of relevant information not being shared across services and limited services' ability to keep perpetrators in view. Particular concerns are highlighted below.

Commonwealth-funded services

Although some Victorian state-funded disability and aged care services are prescribed as ISEs and framework organisations, most services that are funded by the Commonwealth Government are not.

Notably, service providers funded through the National Disability Insurance Scheme are not ISEs or framework organisations under the Act. This means they cannot share risk-relevant information under Part 5A and are not required to align with MARAM under Part 11. Many stakeholders reflected that this has created a significant gap for victim survivors who have a disability. Stakeholders noted the importance of family violence information sharing and risk assessment for people with disability, particularly given “the intersection of women with disabilities and higher rates of their experience of family violence”.²³⁰ As explained by the Office of the Public Advocate:²³¹

[G]iven that the funding and regulation of disability and aged care services has largely shifted to the Australian Government, it is concerning that no Australian Government agencies or funded services have yet been prescribed as information-sharing entities in respect of the MARAM Framework. Ultimately, prescribing them in respect of the FVISS and MARAM Frameworks is important to ensure early and accurate risk assessment and responses when concerns are raised about at-risk adults.

Safe and Equal agreed, highlighting the “strong need for a disability sector that has requisite family violence knowledge and the ability to appropriately share risk relevant information”.²³²

Stakeholders also highlighted the negative impact of non-prescription of certain services on older people experiencing family violence. For example, one stakeholder reflected that the non-prescription of aged care services “can create barriers to accessing relevant information about both victim/survivor and perpetrator, and may unintentionally expose older victims to higher risk of harm”.²³³

Private providers

Similar concerns were raised about the non-prescription of private service providers such as psychologists and psychiatrists. As noted by the Australian Psychological Society, non-prescription “appears to create a gap with information sharing and the ability for a psychologist to practically manage these issues from a legal perspective”.²³⁴ Monash Health similarly highlighted the potential negative impact on the safe discharge or transfer of care from a hospital setting to a private psychologist.²³⁵

We also heard concerns about the potential for the non-prescription of private providers to be used by some perpetrators to avoid accountability. This was best explained in the submission from No to Violence:²³⁶

[P]rivate professionals (such as counsellors) are exempt from the Act. While they may have the same role in addressing presenting needs of a perpetrator, they are not subject to the same legislation. It is important to consider that their clients are more likely to be comprised by those with higher incomes. When considering the principles of the Act in holding perpetrators accountable and in view of the service system, a risk exists that we are disproportionately monitoring those perpetrators with lower incomes (or with court mandated requirements through contact with the criminal justice system) while others with greater access to resources can keep themselves ‘out of view’. When we consider the intersections of economic class and other communities, it is important to consider how we don’t replicate existing oppressive structures.

Other concerns

Other concerns raised by stakeholders included that the non-prescription of financial institutions has impacted on the ability to investigate cases of financial elder abuse. Although not always raised in the context of the non-prescription of organisations, we note that some stakeholders also raised concerns about the lack of a family violence lens being applied by the Federal Circuit and Family Court of Australia. Stakeholders noted the potential for court orders permitting perpetrators to have continued access to child victim survivors. We have highlighted victim survivor concerns about the family law system in previous reports, including most recently in *Crisis Response to Recovery Model for Victim Survivors*.²³⁷

Rationale for not prescribing agencies

As part of phase 2 of the FVISS and MARAM reforms, the government considered prescribing a broader range of disability services, private allied health services, private aged care services, private hospitals, private psychiatrists, private psychologists and private education and care services.²³⁸ An analysis of the Regulatory Impact Statement that considered this option indicates that the decision not to prescribe such organisations was based on the following factors:²³⁹

- A significant number of organisations and services that would have limited readiness to comply with the requirements under the FVISS and MARAM reforms would be included.
- Organisations and their workforces would not have capacity to update their policies and attend training under the implementation timeframe for the reforms, which would increase the risk of inappropriate information sharing and potentially compromise victim survivor safety.
- Significant funding would be required over a short period to train workforces.
- Organisations not funded by the state government may have competing organisational priorities and different processes in updating policies and procedures, which may produce unknown and unintended costs if prescribed under the FVISS and MARAM.
- There are added legal, regulatory and other complexities in prescribing private providers and Commonwealth services that will require time and resources to resolve, with the costs incurred likely to be higher than usual due to the short timeframes.

As is evident from this analysis, much of the rationale for not prescribing additional organisations stems from constraints relating to the implementation timeline for the FVISS and MARAM reforms. We recognise these as important and valid factors in the decision not to prescribe organisations as part of phase 2 of the reforms. However, we equally note that these factors would not prevent organisations being prescribed in the future provided there was enough time for training and readiness activities.

We note that some other jurisdictions have prescribed Commonwealth-funded organisations for the purposes of their family violence information sharing laws. For example, in Queensland, information can be shared by and with a non-government entity funded either by the State or the Commonwealth to provide services to people who fear or experience family violence or who commit family violence.²⁴⁰

As previously noted, the prescription (or non-prescription) of organisations is ultimately beyond the scope of this legislative review. However, we consider it important that there be consistency regarding the prescription of organisations or programs that provide the same or similar services, and we are concerned about the negative impacts identified by stakeholders as a result of the non-prescription of certain organisations. We suggest that the government reconsiders the possibility of prescribing relevant Commonwealth-funded organisations and private providers to promote consistency and address gaps in information sharing and risk assessment and management.

Implementation of the FVISS and MARAM reforms

Stakeholders considered that some implementation issues have impacted on their ability to fully implement the Act

As previously noted, this legislative review focuses on the effectiveness of the legal provisions in Parts 5A and 11 of the Act, and we have not reviewed how government agencies have implemented the FVISS or MARAM reforms. However, many stakeholders spoke of several implementation issues that have impacted on their ability to implement the Act. These issues are noted below.

Funding and resourcing

Many stakeholders highlighted challenges related to the funding and resourcing needed to implement the reforms. Workforce challenges were also identified as issues negatively impacting on organisations' ability to implement the reforms, including workforce shortages, high staff turnover, reform fatigue and the impact of COVID-19, as well as increased demand for services across the sector.

Some stakeholders expressed the view that funding had been insufficient for services to meet the requirements of Parts 5A and 11. Particular concerns were raised in relation to short-term funding cycles. For example, the Victorian Aboriginal Child Care Agency explained that this creates "significant challenges which hinders implementation and genuine embedment of MARAM as a whole of organisation".²⁴¹ Safe and Equal similarly reflected that "the lack of consistent and ongoing resourcing has hindered the efficient implementation and alignment at times, which has in turn impacted the capacity of the reforms and the Act being safely and fully realised".²⁴²

The Royal Australian College of General Practitioners highlighted a particular funding challenge, noting that because there is no Medicare Benefits Schedule item number for family violence work, the time required for general practitioners to assess family violence risk and share relevant information is unpaid work. We highlighted this issue in our report *Early Identification of Family Violence Within Universal Services* and reiterate our suggestion that the Victorian Government advocates to the Commonwealth for creating Medicare items relating to family violence.²⁴³

Some stakeholders highlighted the need for extra staff to respond to information sharing requests, with common concerns including that responding to requests takes much longer than was originally anticipated and that it can be challenging to prioritise such responses over other client work. Similarly, stakeholders commented on the importance of having specialised staff to assist organisations to align their policies, procedures, practice guidance and tools with the MARAM Framework. For example, Merri Health reflected:²⁴⁴

For a large organisation, the time and resources required to map responsibilities and training requirements for staff and update policies, procedures and position descriptions, is well beyond internal capacities and requires the investment of a dedicated worker to oversee MARAM alignment.

We heard positive examples from organisations that had received MARAM alignment funding. For example, Primary Care Connect shared that they could employ a full-time consultant to map roles and responsibilities across their program and found this to be incredibly valuable. However, they noted that they could not have done the MARAM alignment work without the funding. We also heard that many other services did not have the resources to employ dedicated staff to progress MARAM alignment in this way.

In highlighting potential approaches to address funding and resourcing challenges, some stakeholders suggested that the extra time required for organisations to meet the requirements of the FVISS and MARAM reforms should be reflected in services' funding models. We support ongoing efforts to ensure adequate funding and support for ISEs and framework organisations, including through funding agreements where appropriate.

Practice guidance, training and professional development

As previously noted, Family Safety Victoria has developed resources and tools to support organisations to align with the MARAM Framework. They have also developed practice guides to support practitioners in understanding and applying their responsibilities under MARAM at a practice level, as shown in Box 11.

These guides were released at various stages. The Foundation Knowledge Guide and victim survivor-focused guides were released in 2019. An updated Foundation Knowledge Guide, incorporating new perpetrator-focused practice concepts, was released in 2021 together with perpetrator-focused practice guides for non-specialists. Comprehensive perpetrator-focused practice guides were not made available to specialist workforces until February 2022. New practice guides and tools for working directly with children and young people experiencing and using family violence are still being developed.

Stakeholders raised concerns about the phased approach to, and delays in, developing practice guidance. For example, the Victorian Aboriginal Child Care Agency reflected that the phased rollout had “presented barriers to the smooth implementation and embedment of MARAM”.²⁴⁵ The delay in releasing the perpetrator-focused guidance and guidance for adolescents who use violence in the home posed particular challenges in working with, and assessing the risks associated with, such individuals. Other stakeholders told us about challenges associated with the need to continually update policies and practices, and retrain staff, every time new guidance is released. Although we acknowledge the likely impact of COVID-19 in contributing to delays in developing practice guidance, we support ongoing efforts to ensure guidance and resources are developed in a timely manner.

We also heard mixed views about the quality and availability of training for practitioners. Some stakeholders reflected that quality often depended on the individual training provider, while others considered that training quality has improved over time and has supported understanding of the Act’s requirements. We heard that it was challenging for some organisations to coordinate staff attendance at training, while others had difficulty accessing training. Concerns were also raised about the ability of services to progress MARAM alignment before receiving MARAM training.

Many stakeholders saw ongoing/refresher training and professional development as a key element in ensuring organisational understanding of, and compliance with, the provisions in Parts 5A and 11. Stakeholders also highlighted the importance of specialised and sector-specific training and resources to support implementation. For example, Early Childhood Australia Victoria Branch noted that there “is a demonstrated need to develop simple, practical, sector-specific resources for the early childhood sector”.²⁴⁶ Other stakeholders agreed that general training was insufficient and that specialist, tailored training was needed for individual sectors.

Some organisations that were not prescribed under the FVISS or MARAM also highlighted the benefit of broader access to MARAM training. For example, some community legal centres considered that legal services (and the justice sector more broadly) should have access to MARAM training to ensure best practice family violence service delivery that aligns with the family violence support system.

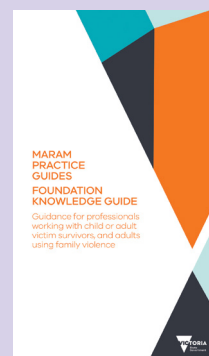
Box 11: MARAM practice guides

The Foundation Knowledge Guide is to be used by all practitioners to support a shared understanding of family violence across the service system.

The adult and child victim survivor-focused MARAM practice guides are to be used by practitioners supporting victim survivors.

The adult perpetrator-focused MARAM practice guides are to be used by practitioners working with perpetrators of family violence.

Source: Victorian Government, MARAM Practice Guides: Foundation Knowledge Guide: Guidance for Professionals Working With Child or Adult Victim Survivors, and Adults Using Family Violence (February 2021).



Client referrals

The availability of referral pathways in regional and rural areas, capacity limits within services and other challenges in referring clients to services were raised as additional constraints on effective risk management for victim survivors. For example, Sexual Assault Services Victoria reported that:²⁴⁷

[T]he overall pressure on the family violence response system in Victoria means there is often no one ... to refer victim/survivors to when the potential service user is assessed as not in crisis but is not yet safe enough to engage in counselling. This leaves victim-survivors at risk and perpetrators unaccountable.

Particular challenges were highlighted in relation to victim survivors who use alcohol and other drugs (**AOD**), including due to the abstinence policy adopted in crisis accommodation services. As explained by the Victorian Alcohol and Drug Association:²⁴⁸

[V]ictim survivors that use alcohol and other drugs are routinely denied crisis accommodation due to their alcohol and drug use. This is a great concern as it places the victim survivor back in the household of the person using violence, and further disenfranchises them from the service system.

The Royal Melbourne Hospital similarly reflected that it can be challenging to provide referrals for people with multiple issues, such as mental health and AOD issues, presenting alongside family violence. Victoria Legal Aid also identified challenges referring adolescents who use violence in the home.

Information technology and secure storage of information

Services' use of different information technology (IT) and case management systems was also highlighted by some stakeholders as a barrier to implementation of the FVISS and MARAM reforms.

Concerns about the adequacy of IT systems were also raised in the context of stakeholder confusion and concern about the secure storage of confidential information obtained under Part 5A. The Royal Melbourne Hospital noted particular challenges relating to information security in a hospital context, where family violence information may be contained in a patient's file outside their room to support patient care on busy wards. The hospital has put in place measures to mitigate such risks. Sexual Assault Services Victoria also noted that "services are having to invest in developing their own IT systems to manage and store data, in order to meet legislative and funding requirements".²⁴⁹

As recognised in the Ministerial Guidelines, keeping information safe and secure is a "critical part of managing risks to people's safety".²⁵⁰ As noted in Chapter 3, **survivor advocates** also highlighted the importance of protecting their information in keeping them safe. We note that under the Act all ISEs must ensure they handle personal information under Part 5A in line with either Victorian or Commonwealth privacy laws such as the *Privacy and Data Protection Act 2014* (Vic).²⁵¹ That Act requires the Information Commissioner to develop a Victorian protective data security framework and enables the Information Commissioner to issue standards for the security, confidentiality and integrity of data.²⁵²

Implementing reforms of the scale of the FVISS and MARAM takes time and requires ongoing and dedicated effort, noting that this legislative review was only able to measure that Act's effectiveness after less than two years of operation for many ISEs and framework organisations

Many stakeholders commented on the scale of the FVISS and MARAM reforms and highlighted that, although progress has been made, full and effective implementation requires significant cultural and organisational change and will take time to achieve. Stakeholders also highlighted the importance of all prescribed organisations having implemented the FVISS and MARAM in maximising the effectiveness of the reforms. We heard that the reforms will only be effective if the entire system is working together.

The intent of the five-year review of Parts 5A and 11 of the Act was to enable an assessment of the effectiveness of the provisions after five years of operation. Noting the phased approach to implementing the reforms and the impact of COVID-19 on implementation timelines, we acknowledge that many organisations had only been prescribed for approximately 18 months at the time of our stakeholder engagement. This has meant that many organisations, particularly universal services, remain early in their organisational change journey. As a result, we have only been able to consider the extent to which the Act has been effective on the basis of a considerably shorter period than the five years that was envisaged.

In our view, it is important that there be a further review of the operation of Parts 5A and 11 once organisations have had time to fully implement the reforms. Noting the varied and significant implementation issues raised by stakeholders, we believe it would be beneficial for a further review to focus on the implementation of the reforms by ISEs and framework organisations. We therefore strongly suggest that the FVISS, Central Information Point (**CIP**) and MARAM reforms be reviewed again by the end of 2026.

Recommendations

List of recommendations – grouped by report chapters

Clarity of Part 5A

1. That the Ministerial Guidelines be amended to include an explanation of the courts' participation in the Family Violence Information Sharing Scheme.
2. That the Ministerial Guidelines be reviewed and amended to increase utility and improve understanding.

Effectiveness of Part 5A

3. That the Ministerial Guidelines be amended to highlight the ability of ISEs to proactively share relevant information with other services and provide guidance on when and how to appropriately and responsibly share information proactively.
4. That the Ministerial Guidelines be amended to emphasise the importance of sharing information in a timely manner. A case study should illustrate how ISEs can share information verbally in urgent cases, and record information after the fact.
5. That Part 5A of the Act be amended to require ISEs to respond to a request for information within a reasonable timeframe and include factors for ISEs to consider in determining what constitutes a reasonable timeframe. The Ministerial Guidelines should also be amended to include guidance to support ISEs to implement this change.

Impact of Part 5A on victim survivors

6. That the Ministerial Guidelines be amended to incorporate information from the MARAM Framework on victim survivor agency and self-assessment of risk.
7. That Part 5A of the Act be amended to introduce a requirement for an ISE that collects family violence-related information from a victim survivor to, at the time of or before collecting that information, take reasonable steps to ensure the victim survivor is aware of when, and to whom, their confidential information may or must be disclosed under Part 5A.
8. That Part 5A of the Act be amended to confirm that an ISE may disclose a victim survivor's confidential information, with consent, for the purpose of reducing the trauma associated with needing to retell their story.

Effectiveness of the Central Information Point (CIP)

9. That Part 5A of the Act be amended to clarify that a purpose of the CIP is to collate information from data custodians and provide a consolidated report to a CIP requester.
10. That Part 5A of the Act be amended to define a CIP requester as an ISE that is prescribed in regulations to be a CIP requester for the purposes of the Act.
11. That Part 5A of the Act be amended to: include timeliness as an object of Division 6; require the CIP to respond to CIP requests within a reasonable timeframe; and include factors for the CIP to consider in determining what constitutes a reasonable timeframe.
12. That the Ministerial Guidelines be amended to provide guidance about on-sharing risk-relevant information. This should include a case example with CIP report information.

Clarity of Part 11

13. That the legislative instrument authorising MARAM as the approved framework under Part 11 of the Act be amended to clearly set out the steps and activities that framework organisations must take to align with MARAM.
14. That Part 11 of the Act be amended to allow both people and bodies to be prescribed as framework organisations.

Effectiveness of Part 11

15. That the legislative instrument authorising MARAM as the approved framework under Part 11 of the Act be amended to introduce a timeline for alignment activities. The steps and activities to be incorporated into the legislative instrument under Recommendation 13 above should be linked to the timeline, with timeframes determined based on an organisation's date of prescription as a framework organisation.
16. That the Regulations be amended to require portfolio ministers' annual reports and the consolidated annual report to include information about framework organisations' progress against key alignment steps and activities and timeframes. These amendments should be progressed after the legislative instrument has been amended in accordance with recommendations 13 and 15.

Appendix 1: List of stakeholders consulted during the review

The Family Violence Reform Implementation Monitor would like to thank the following stakeholders for their time in consulting on this topic:

- Aboriginal Housing Victoria
- Ambulance Victoria
- Anglicare
- Beyond Housing
- Centre for Excellence in Child and Family Welfare
- Child and Family Services Ballarat
- Children's Court of Victoria
- cohealth
- Common Equity Housing Limited
- Community Housing Limited
- Community services practitioner
- Cultura
- Department of Education
- Department of Families, Fairness and Housing
- Department of Health
- Department of Justice and Community Safety
- Eastern Community Legal Centre
- Evolve Housing
- FamilyCare
- Federation of Community Legal Centres
- Gippsland Family Violence Alliance
- Goulburn Valley Centre Against Sexual Assault
- Government agency practitioner
- Haven: Home, Safe
- HousingFirst
- inTouch Multicultural Centre Against Family Violence
- Magistrates' Court of Victoria
- Mallee Family Care
- Marian Community, VincentCare
- McAuley Community Services for Women
- NEXUS Primary Health
- No To Violence
- Office of the Victorian Information Commissioner
- Primary Care Connect
- Quantum Support Services
- Relationships Australia Victoria
- Royal Australian College of General Practitioners Victoria
- The Royal Melbourne Hospital
- The Royal Women's Hospital
- Rumbalara
- Safe and Equal
- Seniors Rights Victoria
- South East Community Links
- South-East Monash Legal Service
- Specialist family violence practitioner
- Statewide Family Violence Integration Advisory Committee
- Strengthening Hospital Responses to Family Violence Initiative representatives
- The Orange Door Goulburn
- Unison Community Housing
- Uniting Vic.Tas
- Victoria Legal Aid
- Victoria Police
- Victorian Aboriginal Child Care Agency
- Victorian Principals Association
- WEstjustice
- Wintringham Housing
- Women's Legal Service Victoria
- Women With Disabilities Victoria

Survivor advocacy groups

- CREATE Foundation
- Safe and Equal's Expert Advisory Panel
- Safe Steps Survivor Advocate Program
- Victim Survivors' Advisory Council

Appendix 2: Call for submissions - consultation questions

The Family Violence Information Sharing Scheme and Central Information Point

Please reflect on your experience in collecting, requesting, using or disclosing confidential information in the past 3 years when responding to the following questions.

1. Are the legal requirements in the Act sufficiently clear?

In responding to this question, please consider whether you feel the Act is sufficiently clear in relation to the meanings of key terms (such as person of concern, primary person, confidential information and excluded information), the circumstances in which confidential information can be requested or disclosed, record-keeping requirements and any other matter.

Yes No Unsure *If no, how do you think they could be made clearer?*

2. The Act outlines principles, and requires the Minister to issue guidelines, to guide decision-making in relation to the collection, use or disclosure of confidential information.

a. To what extent are the principles reflected in your organisation's policies, procedures, practice guidance and tools?

Fully Mostly Somewhat Not at all Unsure *How could this be improved?*

b. Do the principles and guidelines support you to make decisions under the Act?

Yes No Unsure *If no, what changes to the principles and guidelines would improve that?*

3. Does the Act provide sufficient scope and authority for you to collect, request, use or disclose all information you feel is needed to effectively establish, assess and manage risks of family violence?

Yes No Unsure *Where are the gaps?*

4. Have you been able to obtain consolidated and up-to-date information from the CIP about perpetrators of family violence to support your organisation to assess and manage risks of family violence?

Yes No Unsure *If no, what were the barriers or challenges?*

5. Have you observed an increase in the level of information sharing, including:

a. information being disclosed voluntarily?

Yes No Unsure *If no, what were the barriers or challenges?*

b. information being disclosed on request?

Yes No Unsure *Please make any additional comments.*

6. Have you observed an increase in the level of collaboration between organisations to support the delivery of coordinated services?

Yes No Unsure *Please make any additional comments.*

7. Have you experienced any legal barriers or challenges in:

a. collecting, requesting, using or disclosing information?

Yes No Unsure *If yes, what were the legal barriers or challenges?*

b. collaborating with other organisations to deliver coordinated services?

Yes No Unsure *If yes, what were the legal barriers or challenges?*

c. complying with the Act's requirements?

Yes No Unsure *If yes, what were the legal barriers or challenges?*

8. Are you aware of any instances of the unauthorised use or disclosure of confidential information under the FVISS or CIP provisions?

Yes No Unsure *Please make any additional comments.*

Family Violence Risk Assessment and Risk Management Framework

Please reflect on your experience in aligning your organisation's policies, procedures, practice guidance and tools with the MARAM Framework when responding to the following questions.

9. Are the legal requirements under the Act sufficiently clear, including in relation to the meaning of framework organisation and section 191 agency?

Yes No Unsure *If no, how could they be made clearer?*

10. Have you observed greater consistency in organisations' approaches to family violence risk identification, assessment and management?

Yes No Unsure *Please make any additional comments.*

General

11. Have you observed any adverse effects of the provisions for particular groups, such as children and young people, adolescents who use violence in the home, or members of the Aboriginal community?

Yes No Unsure *What types of adverse effects have you observed?*

12. Do the provisions sufficiently provide for the needs and characteristics of diverse communities?

Yes No Unsure *If no, please indicate why.*

13. Do you have any other comments about the operation of the provisions, including any suggestions for improvement?

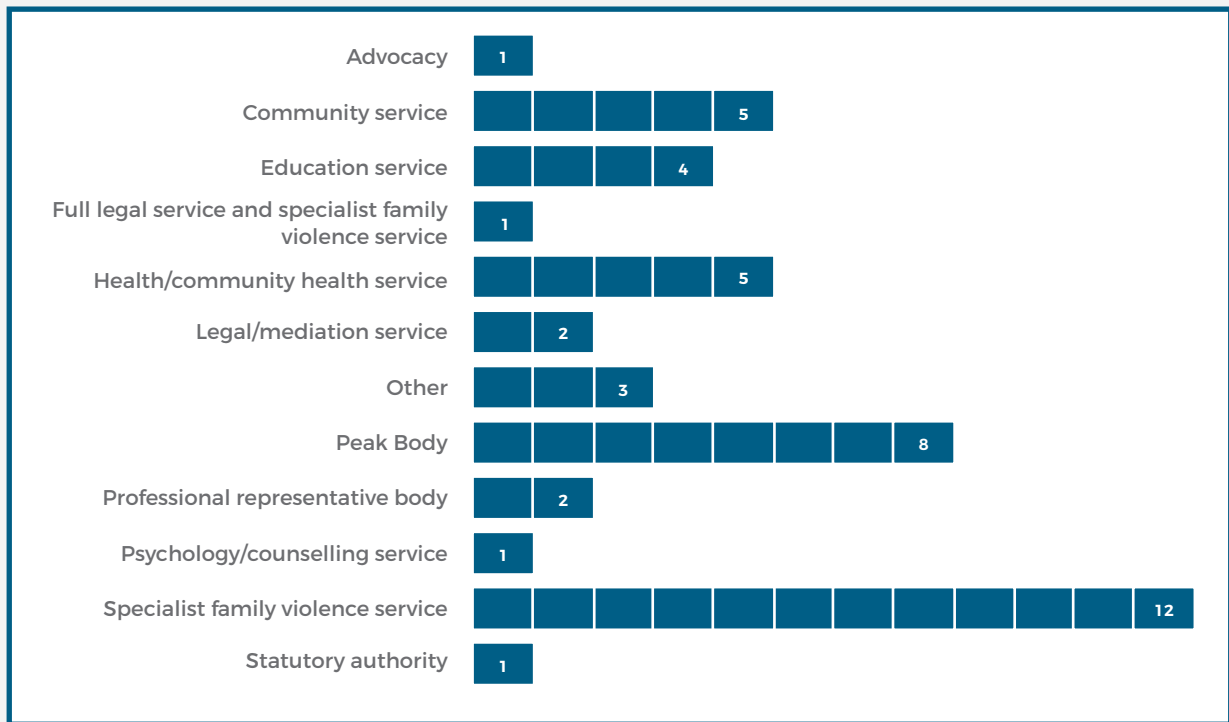
Appendix 3: List of submissions received by the Monitor

#	Organisation or respondent/sector type	#	Organisation or respondent/sector type
1	Specialist family violence practitioner *	25	Berry Street – Take Two Therapeutic Family Violence Services
2	Community service practitioner*	26	No To Violence
3	Early Childhood Australia Victoria Branch	27	The Sexual Assault and Family Violence Centre
4	Berry Street	28	Specialist family violence service
5	Health/community health service	29	Peak body
6	Specialist family violence service	30	The Salvation Army
7	Community service	31	Community service
8	Education practitioner *	32	Office of the Public Advocate
9	Education service	33	Victorian Aboriginal Child Care Agency
10	Jo Millard*	34	Peak body
11	Relationship Matters Counselling & Mediation	35	Australian Association of Social Workers
12	Primary Care Connect	36	Other*
13	Monash Health	37	Royal Australian and New Zealand College of Psychiatrists (Victorian Branch)
14	Education service	38	Municipal Association of Victoria
15	Health/community health service	39	Australian Psychological Society
16	No To Violence on behalf of the Specialist Family Violence Advisor capacity building program in mental health and AOD	40	Djirra
17	Other	41	inTouch Multicultural Centre Against Family Violence
18	Victorian Alcohol and Drug Association (VAADA)	42	Sue Leake – Elder Abuse Liaison Officer (EALO) on behalf of the EALO's part of the Integrated Model of Care for Responding to Suspected Elder Abuse (IMoC)
19	GenWest	43	Specialist family violence practitioner*
20	Eastern Community Legal Centre	44	Safe and Equal
21	Merri Health	45	Community service
22	Women's Services Network (WESNET)		
23	Legal/mediation service		
24	Sexual Assault Services Victoria (SASVic)		

*Submission made by an individual practitioner as opposed to an organisation.

Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Number of submissions by sector



Source: Family Violence Reform Implementation Monitor, based on submissions through the Engage Victoria 2022 consultation process: Legislative review of family violence information sharing and risk management.

Appendix 4: List of material that informed the review

Legislative approaches to information sharing and risk management

Victoria

- Child Wellbeing and Safety (Information Sharing) Regulations 2018 (Vic)
- Explanatory Memorandum, Family Violence Protection Amendment (Information Sharing) Bill 2017 (Vic)
- *Family Violence Protection Act 2008* (Vic)
- Family Violence Protection (Information Sharing and Risk Management) Regulations 2018 (Vic)
- Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, 930 (Martin Pakula, Attorney-General)
- Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018, 1

Other jurisdictions

- *Children and Community Services Act 2004* (WA)
- *Crimes (Domestic and Personal Violence) Act 2007* (NSW)
- Department for Child Protection and Family Support (WA), *Western Australian Family and Domestic Violence Common Risk Assessment and Risk Management Framework* (2nd edn, 2015), available at <https://www.wa.gov.au/government/document-collections/western-australian-family-and-domestic-violence-common-risk-assessment-and-risk-management-framework>
- Department for Child Protection and Family Support (WA), *Working Together for a Better Future for at Risk Children and Families: A Guide on Information Sharing for Government and Non-Government Agencies* (updated October 2015), available at <https://www.wa.gov.au/government/document-collections/multi-agency-case-management>
- Department of Communities, Child Safety and Disability Services (Qld), *Domestic and Family Violence: Information Sharing Guidelines* (May 2017), available at <https://www.publications.qld.gov.au/dataset/domestic-and-family-violence-prevention/resource/06796d15-6f8a-4556-b0ba-ea7a16cdbf1e>
- Department of Communities, Child Safety and Disability Services (Qld), *Domestic and Family Violence Services: Practice Principles, Standards and Guidance* (July 2020), available at <https://www.publications.qld.gov.au/dataset/service-providers-resources-for-violence-prevention/resource/366f94a8-1122-42ff-9c19-d968fd21c173>
- Domestic Abuse Act 2021 (United Kingdom)
- *Domestic Abuse: Draft Statutory Guidance Framework* (United Kingdom, July 2022)
- *Domestic and Family Violence Act 2007* (NT)
- *Domestic and Family Violence Protection Act 2012* (Qld)
- *Family Violence Act 2004* (Tas)
- *Family Violence Act 2016* (ACT)
- *Family Violence Act 2018* (New Zealand)
- Ministry of Justice (New Zealand), *Family Violence Risk Assessment and Management Framework: A Common Approach to Screening, Assessing and Managing Risk* (2017), available at <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/addressing-family-violence-and-sexual-violence/work-programme/risk-assessment-management-framework/>

- Northern Territory Government, *Northern Territory Domestic and Family Violence Information Sharing Guidelines* (updated August 2020), available at <https://tfhc.nt.gov.au/domestic,-family-and-sexual-violence-reduction/informationsharing>
- Northern Territory Government, *Northern Territory Domestic and Family Violence Risk Assessment and Management Framework*, available at https://tfhc.nt.gov.au/domestic,-family-and-sexual-violence-reduction/ramf?SQ_VARIATION_940869=0
- NSW Department of Justice, *Domestic Violence Information Sharing Protocol* (September 2014), available at <https://www.facs.nsw.gov.au/download?file=583245>
- Office of the Coordinator-General for Family Safety (ACT), *ACT Domestic and Family Violence Risk Assessment and Management Framework: Supporting an Integrated Domestic and Family Violence Service System* (July 2022), available at <https://www.communityservices.act.gov.au/domestic-and-family-violence-support/what-is-act-government-doing/dfv-risk-assessment>
- South Australia Police, *Domestic Violence Disclosure* (webpage) <https://www.police.sa.gov.au/your-safety/dvds>

FVISS, CIP and MARAM guidance and resources

- *Information Sharing and MARAM Reforms* (webpage) <https://www.vic.gov.au/information-sharing-schemes-and-the-maram-framework>
- *ISE List* (webpage) <https://iselist.www.vic.gov.au/ise/list/>
- Office of the Victorian Information Commissioner, *Family Violence Information Sharing Scheme and Privacy: Guidance for Practitioners* (January 2019), available at <https://ovic.vic.gov.au/privacy/resources-for-organisations/family-violence-information-sharing-scheme-and-privacy/>
- Victorian Government, *Child Information Sharing Scheme Ministerial Guidelines: Guidance for Information Sharing Entities* (updated 2021), available at <https://www.vic.gov.au/child-information-sharing-scheme-ministerial-guidelines>
- Victorian Government, *Embedding Tools into Existing Practices* (June 2020), available at <https://www.vic.gov.au/embedding-tools-existing-practices>
- Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), available at: <https://www.vic.gov.au/family-violence-information-sharing-scheme>
- Victorian Government, *Family Violence Multi-Agency Risk Assessment and Management Framework: A Shared Responsibility for Assessing and Managing Family Violence Risk* (June 2018), available at <https://www.vic.gov.au/maram-practice-guides-and-resources>
- Victorian Government, *MARAM Alignment Checklist* (September 2018), available at <https://www.vic.gov.au/maram-practice-guides-and-resources>
- Victorian Government, *MARAM Alignment Organisation Self-Audit Tool* (June 2020), available at <https://www.vic.gov.au/maram-practice-guides-and-resources>
- Victorian Government, *MARAM Framework on a Page* (2022), available at <https://www.vic.gov.au/maram-practice-guides-and-resources>
- Victorian Government, *MARAM Practice Guides: Foundation Knowledge Guide: Guidance for Professionals Working With Child or Adult Victim Survivors, and Adults Using Family Violence* (February 2021), available at <https://www.vic.gov.au/maram-practice-guides-foundation-knowledge-guide>
- Victorian Government, *Summary of the Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021)
- Victorian Government, *The Central Information Point: Practice Guidance for The Orange Door* (August 2022)

MARAM annual reports

Reports tabled in the Victorian Parliament

- Victorian Government, *Annual Report on the Implementation of the Multi-Agency Risk Assessment and Management Framework: Victorian Government 2020–21* (report, December 2021), available at <https://www.vic.gov.au/maram-annual-reports>
- Victorian Government, *Report on the Implementation of the Family Violence Risk Assessment and Management Framework: 2018–19 Victorian Government* (report, February 2020), available at <https://www.vic.gov.au/maram-annual-reports>
- Victorian Government, *Report on the Implementation of the Family Violence Risk Assessment and Management Framework: 2019–20 Victorian Government* (report, December 2020), available at <https://www.vic.gov.au/maram-annual-reports>

Portfolio minister reports for 2020–21

- Attorney-General and Minister for Emergency Services, *Report on Implementation of the Family Violence Multi-Agency Risk Assessment and Management Framework – MARAM 2020–21* (statement from the minister)
- Minister for Ambulance, *MARAM Annual Report 2020/2021* (report)
- Minister for Child Protection, *MARAM Annual Report 2020–21* (report)
- Minister for Consumer Affairs, Gaming and Liquor Regulation, *Report on Implementation of the Family Violence Multi-Agency Risk Assessment and Management Framework – MARAM 2020–21* (statement from the minister)
- Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice, and Minister for Victim Support, *Report on Implementation of the Family Violence Risk Assessment and Management Framework MARAM 2020–21* (statement from the minister)
- Minister for Disability, Ageing and Carers, *MARAM Annual Report 2020–21* (report)
- Minister for Health, *MARAM Annual Report 2020/2021* (report)
- Minister for Housing, *MARAM Annual Report 2020–21* (report)
- Minister for Mental Health, *MARAM Annual Report 2020/2021* (report)
- Minister for Multicultural Affairs, *MARAM Annual Report 2020–21* (report)
- Minister for Police, *Report on Implementation of the Family Violence Risk Assessment and Management Framework 2020–2021* (statement from the minister)
- Minister for Prevention of Family Violence, *Portfolio Annual Report: MARAM Implementation 2020–21* (report)

Other information and data

- Cube Group, *Process Evaluation of the MARAM Reforms* (final report, 26 June 2020)
- Data and information provided to the Monitor by government departments/agencies and other organisations, including:
 - [Adult Parole Board](#)
 - [Department of Education](#)
 - [Department of Families, Fairness and Housing](#)
 - [Department of Health](#)

- Department of Justice and Community Safety
- Magistrates' Court of Victoria
- The Royal Melbourne Hospital
- The Royal Women's Hospital
- Victoria Police
- Victoria Legal Aid
- Victorian Equal Opportunity and Human Rights Commission
- Eastern Community Legal Centre, *The MARAM Framework and the Legal Assistance Sector* (outcomes report), available at <https://eclc.org.au/what-we-do/partnerships-and-projects/maram/>
- Eastern Metropolitan Regional Family Violence Partnership, *MARAM Alignment and Systems Integration Survey* (report, 2022)
- Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Accurate Identification of the Predominant Aggressor* (final report, December 2021), available at <https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-accurate-identification-predominant-aggressor>
- Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Early Identification of Family Violence Within Universal Services* (final report, May 2022), available at: <https://www.fvrim.vic.gov.au/monitoring-victorias-family-violence-reforms-early-identification-family-violence-within-universal>
- McCulloch J, et al, *Review of the Family Violence Information Sharing Legislative Scheme* (final report, 30 May 2022), available at <https://www.vic.gov.au/review-family-violence-information-sharing-legislative-scheme-final-report>
- Office of the Public Advocate, *Line of Sight: Refocusing Victoria's Adult Safeguarding Laws and Practices* (report, 18 August 2022), available at <https://www.publicadvocate.vic.gov.au/opa-s-work/research/503-line-of-sight-refocussing-victoria-s-adult-safeguarding-laws-and-practices>
- Royal Australian College of General Practitioners, *Abuse and Violence: Working with our Patients in General Practice (The White Book)* (5th edn, 13 April 2022), available at <https://www.racgp.org.au/clinical-resources/clinical-guidelines/key-racgp-guidelines/view-all-racgp-guidelines/abuse-and-violence/preamble>
- *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), available at <https://www.rcfv.com.au/Report-Recommendations>
- Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing) Regulations 2017* (final report, 15 September 2017), available at <https://www.vic.gov.au/regulatory-impact-statements-2017>
- Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2018* (final report, 8 June 2018), available at <https://www.vic.gov.au/regulatory-impact-statements-2018>
- Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2020* (final report, 17 October 2019), available at <https://www.vic.gov.au/regulatory-impact-statements-2019>
- Victorian Government, *Victorian Government Response to Review of the Family Violence Information Sharing Legislative Scheme* (August 2020), available at <https://www.vic.gov.au/government-response-review-family-violence-information-sharing-legislative-scheme>

Appendix 5: MARAM Framework principles and responsibilities for risk assessment and management

MARAM Framework principles

1. Family violence involves a spectrum of seriousness of risk and presentations, and is unacceptable in any form, across any community or culture.
2. Professionals should work collaboratively to provide coordinated and effective risk assessment and management responses, including early intervention when family violence first occurs to avoid escalation into crisis and additional harm.
3. Professionals should be aware, in their risk assessment and management practice, of the drivers of family violence, predominantly gender inequality, which also intersect with other forms of structural inequality and discrimination.
4. The agency, dignity and intrinsic empowerment of victim survivors must be respected by partnering with them as active decision-making participants in risk assessment and management, including being supported to access and participate in justice processes that enable fair and just outcomes.
5. Family violence may have serious impacts on the current and future physical, spiritual, psychological, developmental and emotional safety and wellbeing of children, who are directly or indirectly exposed to its effects, and should be recognised as victim survivors in their own right.
6. Services provided to child victim survivors should acknowledge their unique experiences, vulnerabilities and needs, including the effects of trauma and cumulative harm arising from family violence.
7. Services and responses provided to people from Aboriginal communities should be culturally responsive and safe, recognising Aboriginal understanding of family violence and rights to self-determination and self-management, and take account of their experiences of colonisation, systemic violence and discrimination and recognise the ongoing and present day impacts of historical events, policies and practices.
8. Services and responses provided to diverse communities and older people should be accessible, culturally responsive and safe, client-centred, inclusive and non-discriminatory.
9. Perpetrators should be encouraged to acknowledge and take responsibility to end their violent, controlling and coercive behaviour, and service responses to perpetrators should be collaborative and coordinated through a system-wide approach that collectively and systematically creates opportunities for perpetrator accountability.
10. Family violence used by adolescents is a distinct form of family violence and requires a different response to family violence used by adults, because of their age and the possibility that they are also victim survivors of family violence.

Source: adapted from Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018, pp. 1-2

MARAM responsibilities for risk assessment and management

Risk assessment and management responsibilities	Expectations of framework organisations
Responsibility 1: Respectful, sensitive and safe engagement	Ensure staff understand the nature and dynamics of family violence, facilitate an appropriate, accessible, culturally responsive environment for safe disclosure of information by service users, and respond to disclosures sensitively. Ensure staff recognise that any engagement of service users who may be a perpetrator must occur safely and not collude or respond to coercive behaviours.
Responsibility 2: Identification of family violence	Ensure staff use information gained through engagement with service users and other providers (and in some cases, through use of screening tools to aid identification/or routine screening of all clients) to identify indicators of family violence risk and potentially affected family members. Ensure staff understand when it might be safe to ask questions of clients who may be a perpetrator, to assist with identification.
Responsibility 3: Intermediate risk assessment	Ensure staff can competently and confidently conduct intermediate risk assessment of adult and child victim survivors (using structured professional judgement and appropriate tools, including the Brief and Intermediate Assessment tools). Where appropriate to the role and mandate of the organisation or service, and when safe to do so; ensure staff can competently and confidently contribute to behaviour assessment through engagement with a perpetrator, including use of the Perpetrator Behaviour Assessment, and contribute to keeping them in view and accountable for their actions and behaviours.
Responsibility 4: Intermediate risk management	Ensure staff actively address immediate risk and safety concerns relating to adult and child victim survivors, and undertake intermediate risk management, including safety planning. Those working directly with perpetrators attempt intermediate risk management when safe to do so, including safety planning.
Responsibility 5: Seek consultation for comprehensive risk assessment, risk management and referrals	Ensure staff seek internal supervision and further consultation with family violence specialists to collaborate on risk assessment and risk management for adult and child victim survivors and perpetrators, and make active referrals for comprehensive specialist responses, if appropriate.
Responsibility 6: Contribute to information sharing with other services (as authorised by legislation)	Ensure staff proactively share information relevant to the assessment and management of family violence risk, and respond to requests to share information from other information sharing entities, under the Family Violence Information Sharing Scheme, privacy law or other legislative authorisation.
Responsibility 7: Comprehensive assessment	Ensure staff in specialist family violence positions are trained to comprehensively assess the risks, needs and protective factors for adult and child victim survivors. Ensure staff who specialise in working with perpetrators are trained and equipped to undertake comprehensive risk and needs assessment to determine seriousness of risk of the perpetrator, tailored intervention and support options, and contribute to keeping them in view and accountable for their actions and behaviours. This includes an understanding of situating their own roles and responsibilities within the broader system to enable mutually reinforcing interventions over time.
Responsibility 8: Comprehensive risk management and safety planning	Ensure staff in specialist family violence positions are trained to undertake comprehensive risk management through development, monitoring and actioning of safety plans (including ongoing risk assessment), in partnership with the adult or child victim survivor and relevant support agencies. Ensure staff who specialise in working with perpetrators are trained to undertake comprehensive risk management through development, monitoring and actioning of risk management plans (including information sharing); monitoring across the service system (including justice systems); and actions to hold perpetrators accountable for their actions, through formal and informal system accountability mechanisms; and including services responses that support perpetrators' personal accountability, to accept responsibility for their actions, and work at the behaviour change process.
Responsibility 9: Contribute to coordinated risk management	Ensure staff contribute to coordinated risk management, as part of integrated, multi-disciplinary and multiagency approaches, including information sharing, referrals, action planning, coordination of responses and collaborative action acquittal.
Responsibility 10: Collaborate for ongoing risk assessment and risk management	Ensure staff are equipped to play an ongoing role in collaboratively monitoring, assessing and managing risk over time, to identify changes in assessed level of risk and ensure risk management and safety plans are responsive to changed circumstances, including escalation. Ensure safety plans are enacted.

Source: adapted from Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018, pp. 5-6.

Glossary of key terms and abbreviations

Aboriginal	While acknowledging the diversity of Aboriginal people in Australia, in this report the term Aboriginal has been used to refer to all people of Aboriginal and/or Torres Strait Islander descent.
Act	<i>Family Violence Protection Act 2008 (Vic)</i>
Alleged perpetrator	A person who is alleged to pose a risk of committing family violence.
AOD	Alcohol and other drugs
CIP	Central Information Point
CIP requester	An organisation that has been declared by the Minister to be a CIP requester. CIP requesters can request a CIP report in relation to a perpetrator or alleged perpetrator. CIP requesters include The Orange Door network, Berry Street (Northern Region family violence pilot program only), RAMPs, No to Violence (Men's Referral Service) and Safe Steps.
CISS	Child Information Sharing Scheme
Confidential information	Health information, personal information (including sensitive information), unique identifiers or identifiers.
Data custodian	An organisation that is prescribed in the Regulations as a data custodian. Data custodians can share information with the CIP for a CIP report. Data custodians include Victoria Police, the Department of Families, Fairness and Housing (Child Protection), the Department of Justice and Community Safety (Corrections Victoria), the Magistrates' Court of Victoria and the Children's Court of Victoria.
Excluded information	Information that cannot be disclosed under the Act. This includes, for example, information that if collected, used or disclosed could be reasonably expected to endanger a person's life, prejudice a criminal investigation or disclose privileged communications. The full list of excluded information is set out in the Act.
Family Safety Victoria	A division of the Department of Families, Fairness and Housing with dedicated responsibility for delivering key elements of family violence reform. This includes the FVISS, the CIP, The Orange Door network and the MARAM reforms.
Family violence assessment purpose	The purpose of establishing or assessing the risk of a person committing family violence or a person being subjected to family violence.
Family violence protection purpose	The purpose of managing a risk of a person committing family violence or a person being subjected to family violence. This includes the ongoing assessment of the risk of the person committing family violence or being subjected to family violence.
Framework organisation	An organisation that is prescribed in the Regulations as a framework organisation. Framework organisations are required to align their policies, procedures, practice guidance and tools with the MARAM Framework.
FVISS	Family Violence Information Sharing Scheme
ISE	A person or organisation that is prescribed in the Regulations as an information sharing entity. ISEs are empowered and/or obligated to share confidential information for a family violence assessment purpose (where information is being disclosed to a RAE) or a family violence protection purpose (where information is being disclosed to another ISE). They can also receive confidential information for a family violence protection purpose.

Legislative instrument	The legislative instrument that codified MARAM as the approved framework under section 189 of the Act. The legislative instrument is available at Victorian Government, <i>Victorian Government Gazette</i> , No S 445, 25 September 2018.
MARAM or MARAM Framework	The Family Violence Multi-Agency Risk Assessment and Risk Management Framework that has been approved by the Minister under section 189 of the Act. We use the terms 'MARAM Framework' and 'MARAM' interchangeably throughout the report.
Minister	The Minister for Prevention of Family Violence
Ministerial Guidelines	Guidelines issued by the Minister under section 144P of the Act, titled <i>Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities</i> (updated April 2021).
Monitor	The Family Violence Reform Implementation Monitor appointed under the <i>Family Violence Reform Implementation Monitor Act 2016</i> (Vic).
Perpetrator	A person in respect of whom an ISE reasonably believes that there is a risk that the person may commit family violence. A perpetrator is referred to as a 'person of concern' in the Act. We acknowledge that some practitioners and services may prefer to use different terminology, including 'person using violence'.
Portfolio minister	A minister who has responsibility for a framework organisation.
RAMPs	Risk Assessment and Management Panels
RAE	An ISE that has also been prescribed in the Regulations as a risk assessment entity. RAEs can request and receive information under the FVISS for a family violence assessment purpose.
Regulations	Family Violence Protection (Information Sharing and Risk Management) Regulations 2018.
Royal Commission	Royal Commission into Family Violence
Survivor advocate	A victim survivor engaged in formal co-production activities and mechanisms to influence policy development, service planning and practice. We use this term to refer to the victim survivors of family violence that we consulted during the review.
Third party	A person whose confidential information is relevant to a family violence assessment purpose or a family violence protection purpose (other than an alleged perpetrator, perpetrator or victim survivor). A third party is referred to as a 'linked person' in the Act.
Victim survivor	A person in respect of whom an ISE reasonably believes that there is a risk that the person will be subjected to family violence. A victim survivor is referred to as a 'primary person' in the Act. We acknowledge that some practitioners and services may prefer to use different terminology, including 'person experiencing violence'.

Endnotes

- 1 Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, p. 931 (Martin Pakula, Attorney-General).
- 2 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021).
- 3 Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, Schedules 1–2.
- 4 *Ibid.*, Part 3.
- 5 Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018, p. 1.
- 6 Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, Schedule 3.
- 7 Family Violence Protection (Information Sharing) Amendment (Risk Management) Regulations 2018; Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2020.
- 8 *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), Vol 1, pp. 158–159.
- 9 *Ibid.*, pp. 170–181.
- 10 *Ibid.*, pp. 186–193.
- 11 *Ibid.*, p. 195.
- 12 *Ibid.*, pp. 195–197.
- 13 *Ibid.*, p. 95.
- 14 *Ibid.*, pp. 122–130.
- 15 *Ibid.*, pp. 134–147.
- 16 *Ibid.*, pp. 138–139.
- 17 *Family Violence Protection Act 2008* (Vic), section 194.
- 18 Data and information included in this report often represents data captured by central information sharing teams within each organisation. As such, any data should be considered illustrative only and does not necessarily reflect all information sharing activity within each organisation.
- 19 For example: Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Early Identification of Family Violence Within Universal Services* (final report, May 2022).
- 20 McCulloch J, et al, *Review of the Family Violence Information Sharing Legislative Scheme* (final report, 30 May 2022). Note that the two-year review of Part 5A was a requirement of the Act under section 144S.
- 21 Cube Group, *Process Evaluation of the MARAM Reforms* (final report, 26 June 2020).
- 22 *Family Violence Protection Act 2008* (Vic), section 144P(1).
- 23 The Sexual Assault and Family Violence Centre, Submission No 27, p. 3.
- 24 *Family Violence Protection Act 2008* (Vic), section 1.
- 25 *Ibid.*, section 2(ab).
- 26 These terms are defined in section 144A of the Act. See also sections 144KA, 144KC, 144LA and 144LC, which provide for information sharing for these purposes.
- 27 Under section 144LC, the obligation to disclose information for a family violence protection purpose refers to the disclosure of 'relevant' information. Under section 144KC, the obligation to disclose information for a family violence assessment purpose does not use the term 'relevant' information but requires the disclosure of confidential information if the information is not excluded and is permitted to be disclosed.
- 28 *Family Violence Protection Act 2008* (Vic), section 144A.
- 29 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 22.
- 30 See Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 38.
- 31 *Family Violence Protection Act 2008* (Vic), section 144N.
- 32 *Ibid.*, sections 144NA(b), 144NC(2)(a).
- 33 The Ministerial Guidelines also recognise that practitioners and services may use different terminology in practice: see Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 12.
- 34 The Sexual Assault and Family Violence Centre, Submission No 27, p. 3.
- 35 For example, see *Northern Territory Domestic and Family Violence Information Sharing Guidelines* (updated August 2020), p. 11, which state that practitioners should use their professional judgement to determine what is relevant information that should be shared. See also *Children and Community Services Act 2004* (WA), section 23, which defines relevant information as information that is, or is likely to be, relevant to the wellbeing of a child or a class or group of children, or the safety of a person who has been subjected to, or exposed to, family violence, and any other information of a kind prescribed by the regulations.
- 36 *Family Violence Protection Act 2008* (Vic), section 144J(3).
- 37 Monash Health, Submission No 13, p. 1.

38 *Family Violence Protection Act 2008* (Vic), section 144I.

39 *Ibid.*, sections 144KC, 144LC(2), 144P(6).

40 Explanatory Memorandum, *Family Violence Protection Amendment (Information Sharing) Bill 2017* (Vic), p. 9.

41 *Family Violence Protection (Information Sharing and Risk Management) Regulations 2018* (Vic), Schedule 1, items 36 and 37. The prescribed information sharing entities are 'court officials' within the meaning of section 3(1) of the *Magistrates' Court Act 1989* (Vic) and section 3(1) of the *Children, Youth and Families Act 2005* (Vic). In contrast, the Magistrates' Court of Victoria and the Children's Court of Victoria have been prescribed as framework organisations "to the extent that it is performing a function other than a judicial or quasi-judicial function": *Family Violence Protection (Information Sharing and Risk Management) Regulations 2018* (Vic), Schedule 3, items 44 and 45.

42 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 10.

43 *Family Violence Protection Act 2008* (Vic), section 144P(1).

44 *Ibid.*, section 144P(1)-(2).

45 Explanatory Memorandum, *Family Violence Protection Amendment (Information Sharing) Bill 2017* (Vic), p. 25.

46 *Family Violence Protection Act 2008* (Vic), section 144P(5).

47 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021). Note that Chapter 5 addresses sharing information to assess and/or manage risk to a child victim survivor, including seeking their views. Chapter 9, which deals with consent, does not specifically address the consent of children as their consent is not required.

48 Safe and Equal, Submission No 44, p. 10.

49 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 23, Figure 1.

50 *Ibid.*, p. 11.

51 *Ibid.*

52 *Ibid.*, p. 10.

53 See, for example, Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 22, referring ISEs to the MARAM Framework for information on exercising professional judgement; p. 28, referring ISEs to the MARAM Framework for advice on developing a reasonable belief of the necessity to disclose relevant information; p. 46, referring ISEs to the MARAM Framework to assess whether there is a risk that a person may commit family violence.

54 *Family Violence Protection Act 2008* (Vic), section 144D.

55 *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), Vol 1, p. 187.

56 *Ibid.*

57 Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing) Regulations 2017* (final report, 15 September 2017); Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2018* (final report, 8 June 2018); Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2020* (final report, 17 October 2019).

58 Merri Health, Submission No 21, p. 3.

59 Sue Leake Elder Abuse Liaison Officer (EALO) on behalf of the EALO's part of the Integrated Model of Care for Responding to Suspected Elder Abuse (IMOC), Submission No 42, p. 2.

60 *ISE List* (webpage) <<https://iselist.www.vic.gov.au/ise/list/>> (Accessed 31 March 2023).

61 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 38.

62 *Ibid.*, p. 7; Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, p. 931 (Martin Pakula, Attorney-General).

63 *Family Violence Protection Act 2008* (Vic), section 144H.

64 *Ibid.*, section 144J(2)(b).

65 The Salvation Army, Submission No 30, p. 2.

66 *Family Violence Protection Act 2008* (Vic), section 144PA.

67 Municipal Association of Victoria, Submission No 38, p. 6.

68 Safe and Equal, Submission No 44, p. 9; No To Violence, Submission No 26, p. 5; Monash Health, Submission No 13, p. 2.

69 *Family Violence Protection Act 2008* (Vic), sections 144KB(3), 144KC, 144LB(3), 144LC.

70 The Women's Services Network, Submission No 22, p. 1.

71 Relationship Matters Counselling and Mediation, Submission No 11, p. 3.

72 Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018, p. 6.

- 73 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), pp. 29-30.
- 74 *Family Violence Protection Act 2008* (Vic), section 144J(2)(c).
- 75 *Charter of Human Rights and Responsibilities Act 2006* (Vic), section 13.
- 76 *Family Violence Protection Act 2008* (Vic), sections 144R, 144RA.
- 77 Safe and Equal, Submission No 44, p. 12.
- 78 Sue Leake Elder Abuse Liaison Officer (EALO) on behalf of the EALO's part of the Integrated Model of Care for Responding to Suspected Elder Abuse (IMOC), Submission No 42, pp. 1-2.
- 79 Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Crisis Response to Recovery Model for Victim Survivors* (final report, December 2022), p. 37.
- 80 Municipal Association of Victoria, Submission No 38, p. 7.
- 81 The Salvation Army, Submission No 30, p. 2.
- 82 Monash Health, Submission No 13, p. 2.
- 83 Royal Australian and New Zealand College of Psychiatrists Victorian Branch, Submission No 37, p. 2.
- 84 Ibid.
- 85 Berry Street – Take Two Therapeutic Family Violence Services, Submission No 25, p. 2.
- 86 The Sexual Assault and Family Violence Centre, Submission No 27, p. 7.
- 87 Safe and Equal, Submission No 44, p. 9.
- 88 Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, regulations 11-14.
- 89 Ibid., regulation 11(a)-(b).
- 90 Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing) Regulations 2017* (final report, 15 September 2017).
- 91 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 20.
- 92 *Family Violence Protection Act 2008* (Vic), section 1.
- 93 Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, p. 931 (Martin Pakula, Attorney-General).
- 94 As noted earlier, the Act refers to people using other terminology, namely: person of concern (perpetrator), a person who is alleged to pose a risk of family violence (alleged perpetrator), primary person (victim survivor), and linked person (third party).
- 95 *Family Violence Protection Act 2008* (Vic), section 144J(3)(a).
- 96 Ibid., sections 144NA(b), 144NB(b).
- 97 Ibid., section 144NC(2).
- 98 Ibid., section 144A. The Ministerial Guidelines further note that express consent can be given verbally or in written form: Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 104.
- 99 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 13.
- 100 *Family Violence Protection Act 2008* (Vic), section 144ND.
- 101 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), Chapters 3, 4 and 5.
- 102 Ibid., Chapter 9.
- 103 Ibid., p. 104. The Ministerial Guidelines include further explanation of each of these elements of consent at pp. 104-107.
- 104 inTouch Multicultural Centre Against Family Violence, Submission No 41, p. 1.
- 105 *Family Violence Protection Act 2008* (Vic), section 144J(2)(b).
- 106 Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018, p. 1.
- 107 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 60.
- 108 *Family Violence Protection Act 2008* (Vic), section 144M.
- 109 Ibid. Under section 144M(2)(b), confidential information about a perpetrator may also be shared with a child victim survivors' non-perpetrating parent.
- 110 *Family Violence Protection Act 2008* (Vic), section 144MA.
- 111 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), pp. 54-55.

- 112 Under section 144QB of the *Family Violence Protection Act 2008* (Vic), if an ISE is not already subject to the *Privacy and Data Protection Act 2014* (Vic) or the *Privacy Act 1998* (Cth), the *Privacy and Data Protection Act 2014* (Vic) will apply to the handling of personal information or unique identifiers by that ISE.
- 113 *Privacy and Data Protection Act 2014* (Vic), Schedule 1; *Health Records Act 2001* (Vic), Schedule 1. We note that in some cases, the Australian Privacy Principles may also apply: see the *Privacy Act 1988* (Cth), Schedule 1
- 114 *Privacy and Data Protection Act 2014* (Vic), Schedule 1, Principle 1.3(c)-(d); *Health Records Act 2001* (Vic), Schedule 1, Principle 1.4(c)-(d).
- 115 An example of where Part 5A replicates general privacy laws is the serious threat exception in sections 144NA(b) and 144NB(b) of the *Family Violence Protection Act 2008* (Vic), which replicates an exception under the *Privacy and Data Protection Act 2014* (Vic), Schedule 1, Principle 2.1(d)(i) and the *Health Records Act 2001* (Vic), Schedule 1, Principle 2.2(h)(i).
- 116 inTouch Multicultural Centre Against Family Violence, Submission No 41, p. 6.
- 117 Victorian Government, *Family Violence Multi-Agency Risk Assessment and Management Framework: A Shared Responsibility for Assessing and Managing Family Violence Risk* (June 2018), p. 44.
- 118 *Family Violence Protection Act 2008* (Vic), section 144A.
- 119 For example, the MARAM practice guide for working with victim survivors states that risk management is “defined broadly to include stabilisation and recovery, such as the impact of family violence on wellbeing and needs”: see Victorian Government, *MARAM Practice Guides: Foundation Knowledge Guide: Guidance for Professionals Working With Child or Adult Victim Survivors, and Adults Using Family Violence* (February 2021), p. 330.
- 120 *Privacy and Data Protection Act 2014* (Vic), Schedule 1, Principle 2.1(b); *Health Records Act 2001* (Vic), Schedule 1, Principle 2.2(b).
- 121 *Family Violence Protection Act 2008* (Vic), section 144H(b).
- 122 Section 162 of the *Children, Youth and Families Act 2005* (Vic) outlines when a child is considered to be in need of protection. This includes if the child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.
- 123 No to Violence, Submission No 26, p. 7.
- 124 Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Accurate Identification of the Predominant Aggressor* (final report, December 2021).
- 125 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), pp. 49-53.
- 126 *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), Vol 1, p. 195.
- 127 *Ibid.*
- 128 Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, p. 933 (Martin Pakula, Attorney-General).
- 129 *Family Violence Protection Act 2008* (Vic), section 144OA.
- 130 *Ibid.*, section 144OE.
- 131 Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, regulation 7.
- 132 *Family Violence Protection Act 2008* (Vic), section 144OC.
- 133 *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), Vol 1, p. 197. Note that the Royal Commission also stated, at p. 197, that the Victims Support Agency should also have access to information from the CIP. However, this was not included in the Royal Commission's recommendation.
- 134 Berry Street Northern Region family violence pilot program only.
- 135 Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, Schedule 2.
- 136 *Family Violence Protection Act 2008* (Vic), section 1440B(c).
- 137 *Ibid.*, section 144G(1).
- 138 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 43.
- 139 *The Central Information Point* (webpage) <<https://www.vic.gov.au/central-information-point>> (Accessed 31 March 2023). Note that there is a reference to most of the other CIP requesters, including RAMPs, Safe Steps and No To Violence (Men's Referral Service), on the webpage relating to the government's progress in implementing the Royal Commission's recommendations: see *Establish a Secure Central Information Point* (webpage) <<https://www.vic.gov.au/family-violence-recommendations/establish-secure-central-information-point>> (Accessed 31 March 2023).
- 140 Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, p. 933 (Martin Pakula, Attorney-General).
- 141 *Subordinate Legislation Act 1994* (Vic), sections 15, 17.
- 142 Under sections 7 and 8 of the *Subordinate Legislation Act 1994* (Vic), a Regulatory Impact Statement is not required where proposed regulations would not impose a significant economic or social burden on a sector of the public. The indicative threshold for a significant burden is that the impact of the proposal is likely to be greater than \$2 million per year: see Commissioner for Better Regulation, *Victorian Guide to Regulation: A Handbook for Policy-makers in Victoria* (2016), p. 3.

- 143 See *The Central Information Point* (webpage) <<https://www.vic.gov.au/central-information-point>> (Accessed 31 March 2023).
- 144 See *ISE List* (webpage) <<https://iselist.www.vic.gov.au/ise/list/>> (Accessed 31 March 2023).
- 145 Victorian Government, *Report on the Implementation of the Family Violence Risk Assessment and Management Framework: 2019–20 Victorian Government* (report, December 2020), p. 33.
- 146 Safe and Equal, Submission No 44, p. 12.
- 147 The Women’s Services Network, Submission No 22, p. 2.
- 148 The Salvation Army, Submission No 30, p. 2.
- 149 Ibid.
- 150 The Sexual Assault and Family Violence Centre, Submission No 27, p. 4.
- 151 Ibid., p. 5.
- 152 Victorian Government, *The Central Information Point: Practice Guidance for The Orange Door* (August 2022), p. 3.
- 153 Ibid., p. 5.
- 154 Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, p. 931 (Martin Pakula, Attorney-General).
- 155 Djirra, Submission No 40, p. 2.
- 156 *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), Vol 1, p. 197.
- 157 Primary Care Connect, Submission No 12, p. 2.
- 158 Note the Ministerial Guidelines include a case study for requesting information from the CIP, which could be modified to include on-sharing of information from The Orange Door to another specialist family violence service: Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 43.
- 159 See also *The Central Information Point* (webpage) <<https://www.vic.gov.au/central-information-point>> (Accessed 31 March 2023), which provides an example of how information sharing has changed with the CIP’s introduction.
- 160 Safe and Equal, Submission No 44, p. 12.
- 161 See *Victims of Crime, Victoria Government support for victims* (webpage) <<https://www.victimsofcrime.vic.gov.au/the-crime/types-of-crime/information-for-men-family-violence-and-abuse-in-relationships>> (Accessed 31 March 2023).
- 162 Djirra, Submission No 40, p. 2.
- 163 Family Safety Victoria, *The Orange Door Network: Annual Service Delivery Report 2019–20* (report, January 2021), p. 6.
- 164 *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), Vol 1, p. 196.
- 165 Ibid. Note that the hubs have since been branded as The Orange Door.
- 166 *Family Violence Protection Act 2008* (Vic), section 1440A(b).
- 167 Ibid., section 144OG.
- 168 For example, the CIP will share information about Victoria Police alerts related to firearms and firearms licences, even if not requested.
- 169 For example, information provided by Family Safety Victoria shows that the number of requests for CIP reports has increased every year since its inception from 2018 when 1,503 reports were requested to the last complete year of data in 2021 when 4,178 reports were requested.
- 170 *Family Violence Protection Act 2008* (Vic), sections 189, 190.
- 171 Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018.
- 172 Berry Street – Take Two Therapeutic Family Violence Services, Submission No 25, p. 3.
- 173 *Family Violence Protection Act 2008* (Vic), section 190.
- 174 Victorian Government, *Victorian Government Gazette*, No S 445, 25 September 2018.
- 175 Ibid., p. 1.
- 176 Victorian Government, *Family Violence Multi-Agency Risk Assessment and Management Framework: A Shared Responsibility for Assessing and Managing Family Violence Risk* (June 2018). We note that this document describes itself as ‘the MARAM Framework’ notwithstanding that the legal obligation to align relates to the framework as set out in the legislative instrument and not the policy document.
- 177 Victorian Government, *Family Violence Multi-Agency Risk Assessment and Management Framework: A Shared Responsibility for Assessing and Managing Family Violence Risk* (June 2018), p. 16.
- 178 See *MARAM practice guides and resources* (webpage) <<https://www.vic.gov.au/maram-practice-guides-and-resources>> (Accessed 31 March 2023).
- 179 Cube Group, *Process Evaluation of the MARAM Reforms* (final report, 26 June 2020), Recommendation 4.1, p. 68.
- 180 Victorian Government, *MARAM Alignment Organisation Self-Audit Tool* (June 2020).

- 181 Note that Risk Assessment and Management Panel (RAMP) participants, Multi-Agency Panel to Prevent Youth Offending (MAP) participants and the Director of Housing are also not expressly prescribed as framework organisations but are captured under other provisions. For example, the core members of RAMPs and MAPs are prescribed individually in Schedule 3 of the Regulations. Where a RAMP participant is not otherwise prescribed, they are required to follow the policies, procedures, practice guidance and tools of the Department of Families, Fairness and Housing.
- 182 Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2018* (final report, 8 June 2018); Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2020* (final report, 17 October 2019).
- 183 Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2020* (final report, 17 October 2019), p. 30.
- 184 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 10.
- 185 The Australian Association of Social Workers, Submission No 35, p. 7.
- 186 No to Violence, Submission No 26, p. 10.
- 187 Royal Australian College of General Practitioners, *Abuse and Violence: Working With our Patients in General Practice* (The White Book) (5th edn, 13 April 2022), supplementary chapter for primary care providers in Victoria, pp. 408–427.
- 188 *Family Violence Protection Act 2008* (Vic), section 188.
- 189 *Ibid.*, section 191.
- 190 *Royal Commission into Family Violence: Report and Recommendations* (final report, March 2016), Vol 1, p. 139.
- 191 Victoria, *Parliamentary Debates*, Legislative Assembly, 23 March 2017, p. 931 (Martin Pakula, Attorney-General).
- 192 *Family Violence Protection Act 2008* (Vic), sections 189, 190.
- 193 *Ibid.*, sections 192, 193.
- 194 The Women’s Services Network, Submission No 22, pp. 2–3.
- 195 The Sexual Assault and Family Violence Centre, Submission No 27, p. 6.
- 196 Victorian Aboriginal Child Care Agency, Submission No 33, p. 3.
- 197 The Salvation Army, Submission No 30, p. 5.
- 198 *Ibid.*
- 199 Early Childhood Australia Victoria Branch, Submission No 3, p. 2; Merri Health, Submission No 21, p. 5.
- 200 *Family Violence Protection Act 2008* (Vic), section 192.
- 201 Family Violence Protection (Information Sharing and Risk Management) Regulations 2018, regulation 18.
- 202 *Family Violence Protection Act 2008* (Vic), section 193.
- 203 Cube Group, *Process Evaluation of the MARAM Reforms* (final report, 26 June 2020), p. 65.
- 204 *Ibid.*, p. 66.
- 205 *Ibid.*, recommendation 4.1.
- 206 *Family Violence Protection Act 2008* (Vic), sections 192, 193.
- 207 Victorian Government, *MARAM Practice Guides: Foundation Knowledge Guide: Guidance for Professionals Working with Child or Adult Victim Survivors, and Adults Using Family Violence* (February 2021). Although discussed throughout the guides, see in particular the following: sections 10.3–10.4, 10.6 and Chapter 12 of the Foundation Knowledge Guide; and sections 1.3.4, 7.9, 8.11–8.13, and Appendices 11 and 13 of the Working with Victim Survivors of Family Violence Guide.
- 208 Victorian Aboriginal Child Care Agency, Submission No 33, p. 7.
- 209 The Sexual Assault and Family Violence Centre, Submission No 27, p. 7; The Salvation Army, Submission No 30, p. 6.
- 210 Sue Leake Elder Abuse Liaison Officer (EALO) on behalf of the EALO’s part of the Integrated Model of Care for Responding to Suspected Elder Abuse (IMOC), Submission No 42, p. 3.
- 211 Monash Health, Submission No 13, p. 3.
- 212 inTouch Multicultural Centre Against Family Violence, Submission No 41, pp. 5–6.
- 213 The Sexual Assault and Family Violence Centre, Submission No 27, p. 7.
- 214 *Family Violence Protection Act 2008* (Vic), section 144QC. Note that the secrecy laws overridden by Part 5A are set out in Schedule 1 of the Act and regulation 15 of the Family Violence Protection (Information Sharing and Risk Management) Regulations 2018.
- 215 Victoria, *Parliamentary Debates*, Legislative Assembly, 28 October 2020, p. 2979 (Jill Hennessy, Attorney-General)
- 216 *Children and Community Services Act 2004* (WA), section 28B(5).
- 217 Victorian Government, *The Cabinet Handbook* (August 2021), pp. 10–11.
- 218 The power for a court to issue a subpoena is generally outlined in the court’s establishing legislation. In Victoria, FOI requests can be made under the *Freedom of Information Act 1982* (Vic).

- 219 The Sexual Assault and Family Violence Centre, Submission No 27, p. 6.
- 220 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), pp. 130–131.
- 221 *Ibid.*, p. 117.
- 222 No To Violence on behalf of the specialist family violence advisor capacity building program in mental health and alcohol and other drugs, Submission No 16, p. 8.
- 223 McCulloch, J et al, *Review of the Family Violence Information Sharing Legislative Scheme* (final report, 30 May 2022), Recommendation 22.
- 224 Victorian Government, *Victorian Government Response to Review of the Family Violence Information Sharing Legislative Scheme* (August 2020), p. 19.
- 225 Victorian Aboriginal Child Care Agency, Submission No 33, p. 4.
- 226 *Child Wellbeing and Safety Act 2005* (Vic), section 41ZA.
- 227 Victorian Government, *Child Information Sharing Scheme Ministerial Guidelines: Guidance for Information Sharing Entities* (2021), pp. 30–33.
- 228 *Ibid.*, p. 31.
- 229 *Child Wellbeing and Safety Act 2005* (Vic), section 41ZO.
- 230 No to Violence, Submission No 26, pp. 7–8.
- 231 Office of the Public Advocate, Submission No 32, p. 3.
- 232 Safe and Equal, Submission No 44, p. 11.
- 233 Sue Leake Elder Abuse Liaison Officer (EALO) on behalf of the EALO's part of the Integrated Model of Care for Responding to Suspected Elder Abuse (IMOC), Submission No 42, p. 2.
- 234 Australian Psychological Society, Submission No 39, p. 2.
- 235 Monash Health, Submission No 13, p. 2.
- 236 No to Violence, Submission No 26, p. 7.
- 237 Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Crisis Response to Recovery Model for Victim Survivors* (final report, December 2022), p. 36.
- 238 Victorian Government, *Regulatory Impact Statement – Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2020* (final report, 17 October 2019), p. 30.
- 239 *Ibid.*, pp. 35–36.
- 240 *Domestic and Family Violence Protection Act 2012* (Qld), sections 169C–169E. Note that in Queensland the term domestic violence is used rather than family violence.
- 241 Victorian Aboriginal Child Care Agency, Submission No 33, p. 3.
- 242 Safe and Equal, Submission No 44, pp. 15–16.
- 243 Family Violence Reform Implementation Monitor, *Monitoring Victoria's Family Violence Reforms: Early Identification of Family Violence Within Universal Services* (final report, May 2022), pp. 28–29.
- 244 Merri Health, Submission No 21, p. 5.
- 245 Victorian Aboriginal Child Care Agency, Submission No 33, p. 3.
- 246 Early Childhood Australia Victoria Branch, Submission No 3, p. 2.
- 247 Sexual Assault Services Victoria, Submission No 24, p. 1.
- 248 Victorian Alcohol and Drug Association, Submission No 18, p. 1.
- 249 Sexual Assault Services Victoria, Submission No 24, p. 3.
- 250 Victorian Government, *Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities* (updated April 2021), p. 131.
- 251 Under section 144QB of the *Family Violence Protection Act 2008* (Vic), the *Privacy and Data Protection Act 2014* (Vic) applies to ISEs that do not otherwise fall within the definition of an 'organisation' within the meaning of that Act or are not subject to the *Privacy Act 1988* (Cth).
- 252 *Privacy and Data Protection Act 2014* (Vic), Part 4.

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