



AASW

.....
Australian Association
of Social Workers

Review of Family Violence Information Sharing and Risk Management

Office of the FVRIM

August 2022

About the Australian Association of Social Workers

The Australian Association of Social Workers (AASW) is the national professional body representing more than 16,000 professionally qualified social workers throughout Australia, nearly 4,000 of whom live in Victoria. The AASW works to promote the profession of social work including setting the benchmark for professional education and practice in social work, while also advocating on matters of human rights to advance social justice.

Acknowledgements

The AASW circulated the consultation questions amongst members from Victoria. We received 30 responses, from members in specialist family violence roles and from members who interact with the family violence system. This submission presents the collated responses to the questions and summarizes the comments made following their answer. For several questions, even though a majority of responses were positive, comments were made only by members whose actual response was negative or uncertain. These comments have been summarized in so far as they point to the next steps in implementing the reforms.

For further information or questions relating to this submission, please contact:

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Executive Summary

AASW members have observed that the provisions for sharing information and managing risk which have been inserted into the Family Violence Protection Act 2008 (the Act) and the publication of the Family Violence Information Sharing Guidelines (the Guidelines) have had a positive influence on the sharing of information to assess risk and protect victim survivors. Although many AASW members who work in the family violence field report that they and their organisations have implemented the changes under the Family Violence Information Sharing Scheme (the Scheme), this is not universal. Similarly, they observe varying degrees of progress on the part of the general health and community sector organisations.

Given the ambitious nature of the Scheme's intention to create a cultural shift in the way information is collected and used, it is not surprising that progress would be slow or uneven. To address this, members have called for renewed professional development for family violence workers and also across the health and community sectors. This includes mental health services, and drug and alcohol services. Members have also pointed out the close relationship between understanding the Scheme and understanding the Multi Agency Risk Assessment and Risk Management (MARAM) Framework. Therefore, the AASW would like to see this professional development about the Scheme include an introduction to the MARAM

Recommendations

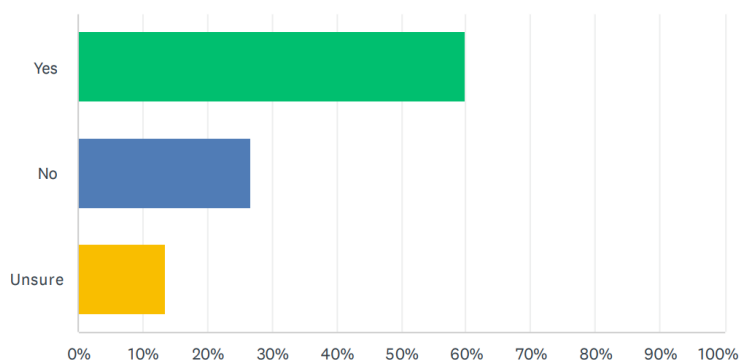
The AASW recommends:

- That professional development about the FVISS and the MARAM be implemented across the family violence, health and community services sectors in Victoria.

A. Family Violence Information Sharing and Central Information Point

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

Answered: 30 Skipped: 0



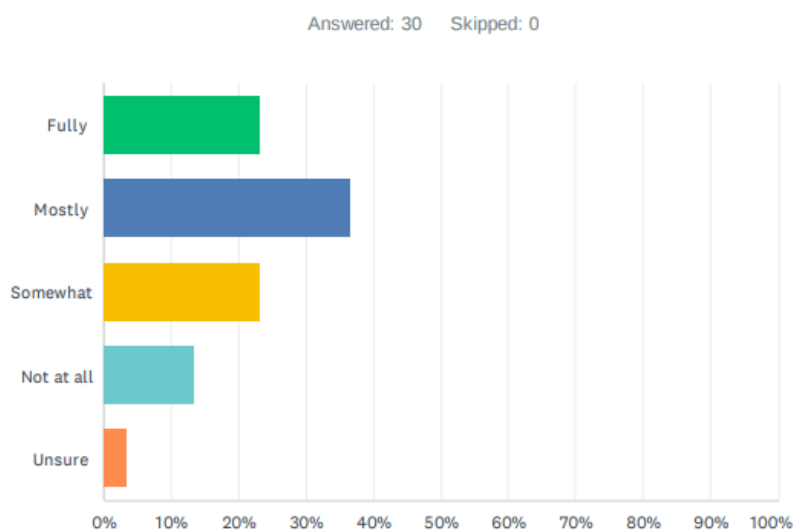
Although most of the respondents believe that the Act itself is sufficiently clear, nearly a third do not. Nevertheless, the comments from members who answered that they were unsure, or do not believe the requirements are clear, did not identify actual instances of confusion or inconsistency within the Act itself. Instead, they nominated instances where the Act was silent, or where applying the Act is difficult. For example, the term 'persons of concern' can refer to potential perpetrators or the respondent; and the Act's silence on gender diverse people throws the burden of responsibility onto the professionals who have to interpret it. Another member identified that the Act's definition of 'family' precludes a victim's support person who is a long-standing and close friend. Rather than shortcomings in the Act, these comments should be taken as indications of the complexity of the task facing the human services sector in implementing this Act.

If no, how do you think they could be made clearer?

Rather than changes in the Act itself, members pointed to the need for more professional development for the family violence workforce and the community sector in general. This need will be revisited later in this submission.

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?



Members who work in Family Violence specific services report that their services do conform to the requirements of the Act. In one instance this extends to refining the clinical governance processes within the whole organisation to accommodate the inclusion of the Central Information Point (CIP).

Members also have the impression that this extends to other services which provide specific family violence services:

"(It is) reflected well in policies and procedures for family violence specific programs. I'm not sure about other programs."

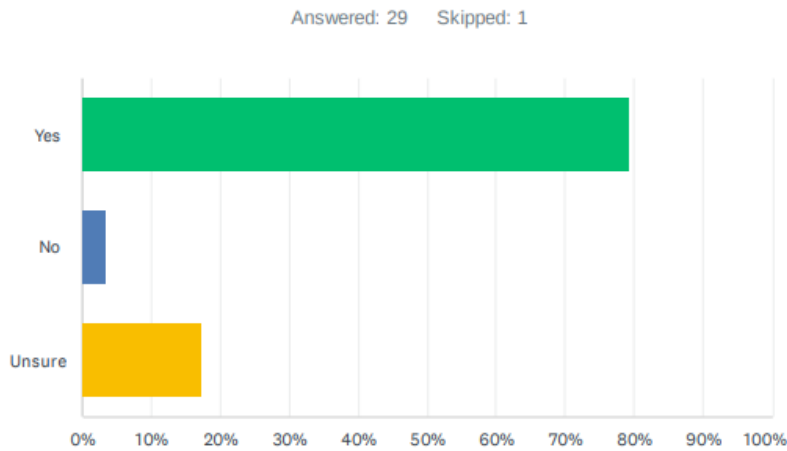
How do you think they could be made clearer?

Nearly 50% of respondents report that the procedures and practice guidelines in their organisation partially reflect the Act. In contrast to organisations which have responded fully or not at all, it is the experience of these, which are still in transition, which are most instructive on the barriers to implementation. Their comments point to the importance of ensuring that:

- training contains clear directions for the actions that each team in the organisation needs to undertake;
- new staff are trained on arrival into the organisation;
- all staff are trained whenever the guidelines are updated.

Some members also identified that professional development is needed at an advanced level across their organisations to cover instances where adult victim survivors have not given their consent. In these instances, it is not sufficient that an individual worker be familiar with the guidelines. It is also necessary that the organisation's procedures support the professional who needs to make this decision.

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

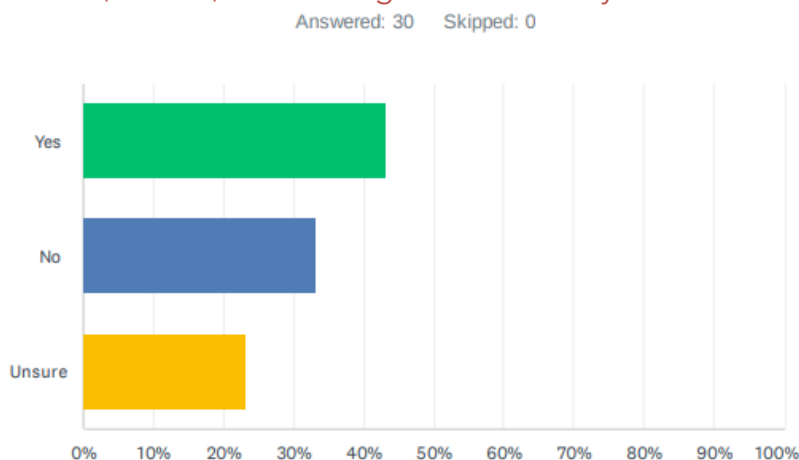


Although a clear majority of respondents answered in the affirmative, one member has pointed out that the mental health services provided in private practice are excluded from the scheme. They believe this to be a significant gap in the current guidelines.

If no, what changes to the principles and guidelines would improve that?

Although many AASW members have found that the guidelines are clear enough with respect to information that should or should not be shared; a small number have encountered situations in which this was not the case, or they were unable to generalise. Their comments about possible improvements reflect their frustration at the absence of timely and appropriate follow up procedures, or complaints mechanisms, when a reasonable request from them for information has been refused by another organisation, without adequate justification. One member suggested an expansion to the role of the CIP to encompass an adjudicating function or overarching decision-making function.

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?



Given that the intent of the Act is to enable and facilitate the effective sharing of information, the fact that nearly a quarter of respondents were unsure whether the Act is enabling them to collect, share or use information is instructive about the extent to which the legislation and guidelines have been reflected in the general service system.

Some respondents who indicated 'no' to this question are social workers in specific family violence organisations. They observed that there is still a high level of hesitance on the part of workers in the general community services sector to share information. They believe that this is motivated by a misapprehension that sharing information will increase the risks to the victims-survivors, or that it will inaccurately label someone. Some members report instances of non-prescribed entities inappropriately citing privacy legislation. There appears to be instances of passive resistance to complying with the Act, with members reporting that other organisations had determined unrealistically formal procedures for receiving requests or had set standards that exceed those in the checklists provided in the guidelines.

Where are the gaps?

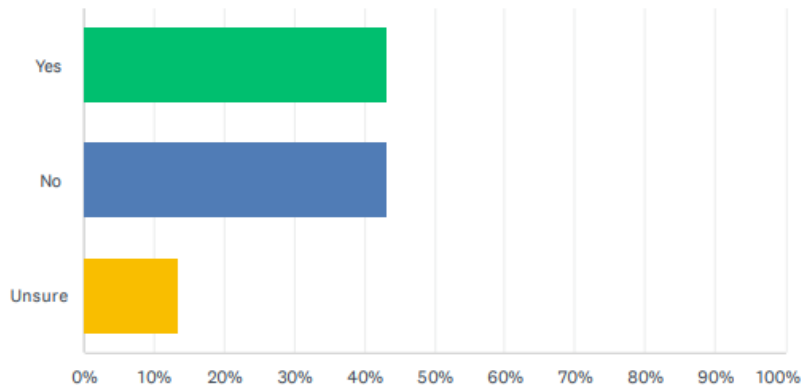
An overarching theme which came out of this consultation was the deficit of knowledge on the part of professionals outside the family violence system. Members report instances of failure to recognise information which indicates the existence of or level of risk. The members reported:

- There can be significant gaps in the information that is eventually shared, such as whether the victim was pregnant at the time of the violence.
- Workers in specific family violence services note that victims often have information about the actual event that the perpetrator has concealed from the services the perpetrator is using. Although this information can be critically important, generalist services do not know how to elicit nor recognise critically significant information, and so it is not included when other information is shared.
- In the absence of previous physical violence, professionals have difficulty communicating to other professionals how serious they assess the risk of physical violence to be.
- Professionals who are working with perpetrators do not always have enough information about the whereabouts of victims nor the services with whom they are in touch, to voluntarily share important protective information.
- Victoria Police is still the source of significant gaps, with inconsistency between individual police officers in terms of their handling of investigations or their responses. There is also insufficient or ineffective accountability on police officers for their risk assessment and interventions.
- Although the Act and the Guidelines cover instances where the victim survivor is an older person or is an adult with a mental illness or disability, there remains a need for professional development across the human services in appropriately gathering and sharing information about people in these communities.

As was the case in question 1, these comments can be taken, not as shortcomings in the Act itself but as indications of the need for repeated professional development throughout the police and the human services sector. A key feature of the training they called for is training about the MARAM. Because the MARAM provides the framework for assessing risk, it is perceived by family violence workers as central to effectively implementing the scheme. They believe that success of the information sharing scheme is predicated on the ability of professionals to identify the information that should be collected, then shared.

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?

Answered: 30 Skipped: 0



If no, what were the challenges?

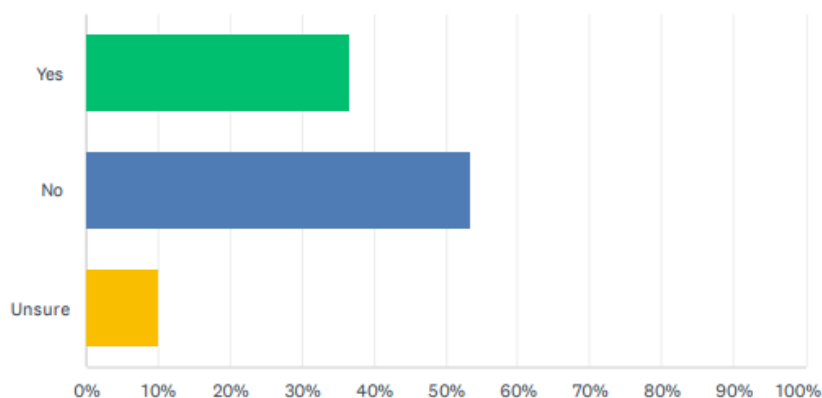
The respondents who answered 'no' to this question report:

- they do not have enough information to use the CIP effectively
- their workload prevents them
- the process is too bureaucratic or
- that it is too slow to respond.

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

a) information being disclosed voluntarily?

Answered: 30 Skipped: 0



It was disappointing that in the answers to this question, child protection was nominated as an organisation which did not readily share information with family violence workers. They have suggested that there needs to be a review of the way that members of Risk Assessment and Management Panels understand and apply the guidelines covering their operations, as a precursor to closer information sharing about the risk of violence against the mothers of the children they are assessing and working with.

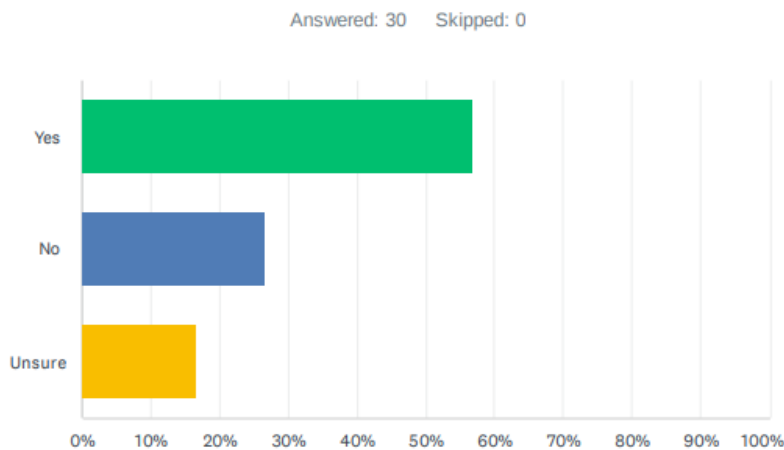
If no, what were the barriers or challenges?

Respondents noted that the health and community services sectors are aware that the Act exists and that it might apply to them, but that the Scheme's existence has not yet been sufficient to increase the level of voluntary sharing of information.

In some instances, this has been because the information sharing entity (ISE's) did not have enough information about the victim survivor's location or the services with whom they were in contact to be able to pass on important information.

Other instances of failure to share relate to the attitudes of other workers. It appears they can be inappropriately protective of clients' privacy and fail to identify instances where they should share information without having been asked for it. As previously described, some workers mistakenly believe that sharing information will increase risk. Other workers merely inform other ISE's that risk exists but do not pass on sufficient detail to enable effective protective measures for the victim survivors.

b) information being disclosed on request?



Please make any additional comments.

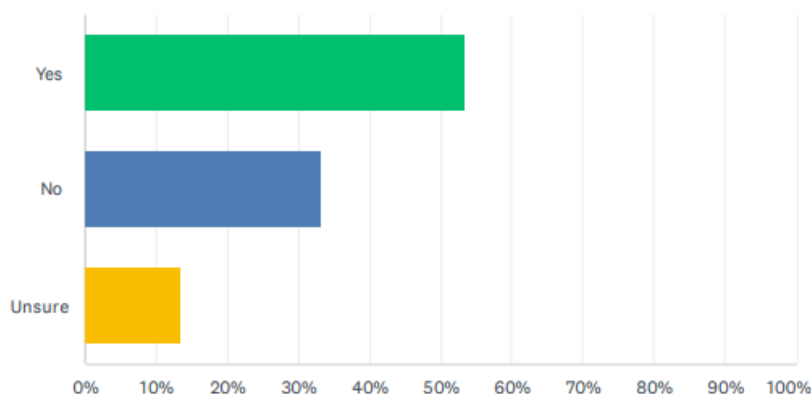
Although a majority of members who work in the family violence sector report that the legislation has been effective in ensuring that information is shared, respondents reported that there are still significant sections of the service sector which are either unaware of the requirements of the Act or appear to be inappropriately applying their discretion to avoid sharing important information.

Members report that they have encountered members of other professions who either refuse to share requested information without providing adequate justification; or have failed to identify and share clear predictors of violence. In these instances, the requesting professionals have been confident that they had covered off every item in the checklist in appendix A of the guidelines; and that every item in the checklist in Appendix B would have indicated to that professional that they should provide information.

To respond to this situation, some family violence specialist social workers have proposed that the briefings and training to the health and community sectors should emphasise that professionals who have clients who are perpetrators have a responsibility to actively share information that will promote the safety of the victim survivors of that perpetrator. They have invoked the concept of 'pro-active sharing' as a way of demonstrating that some health professionals could adopt an expanded interpretation of their existing ethical responsibilities.

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

Answered: 30 Skipped: 0



A majority of respondents noticed an increase in collaboration.

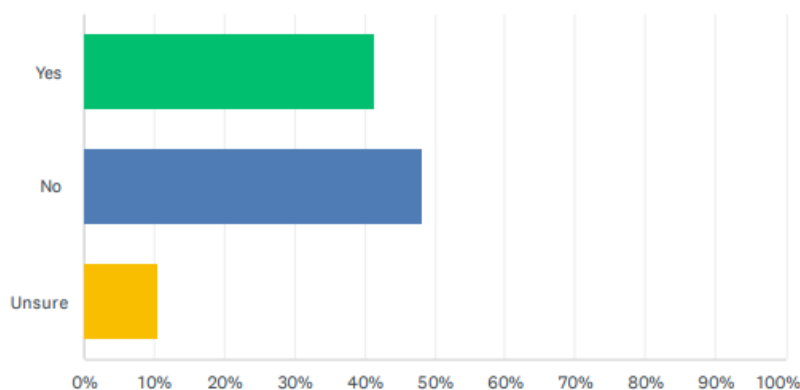
Please make any additional comments.

It is important to point out that where there has not been an increase, members' comments suggest that this is not necessarily because of the contents of the Act, or Guidelines. Instead, it is related to constraints of working in the sector. They report that there has always been a desire to work together, but that this is a sector which they describe as 'overwhelmed'. It is the constraints of time and adequate staffing which make collaboration difficult or make the process too slow.

Added to this, is that people who have experienced family violence need individualised, trauma-informed services which are delivered through a relationship based on trust. Members endorse the emphasis that the guidelines place on promoting open and transparent relationships between service providers and children. The same principles apply to working with adult victim survivors, and many services are exercising appropriate caution. Some social workers in specialist family violence services described being happy to share information with non-family violence organisations, but cautious about joint action because the follow up communication from the other organisations did not appear to recognise the complexity of the client's needs. Therefore, this response should not necessarily be interpreted as a shortcoming in the Act or Guidelines.

7. Have you experienced any legal barriers or challenges in: a) collecting, requesting, using or disclosing information?

Answered: 29 Skipped: 1



If yes, what were the legal barriers or challenges?

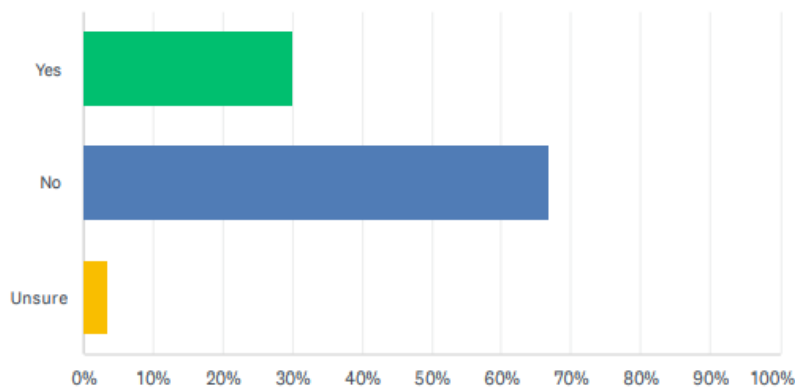
The respondents who reported barriers commented that they were not legal barriers. It seems that the major barrier experienced by social workers in the family violence services is that other organisations do not understand the requirements of the legislation or are having difficulty

applying the guidelines. For example, there are examples of police officers and hospital staff refusing to pass on information about perpetrators on the ground that the perpetrator had not consented. Some organisations cite professional confidentiality and inaccurate interpretations of the privacy legislation.

Some social workers have told us of being on the other end of the equation and being reluctant to disclose information because of insufficient verifiable information about the worker and organisation making the request. In this instance, the checklist in Appendix B of the guidelines proved instructive and valuable in formulating their response.

b) collaborating with other organisations to deliver coordinated services?

Answered: 30 Skipped: 0

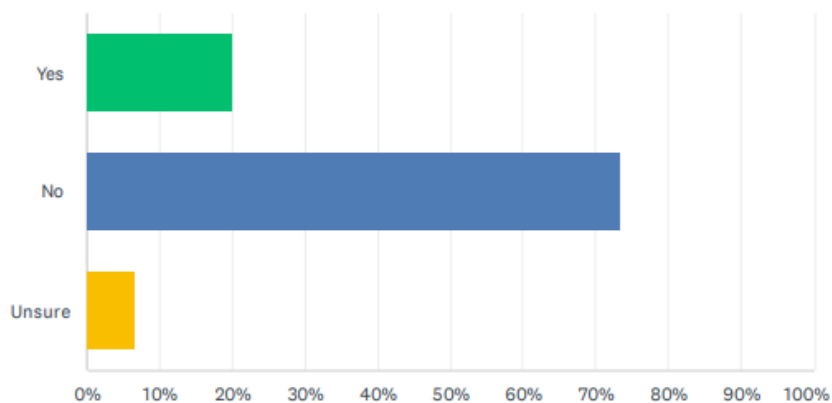


If yes, what were the legal barriers or challenges?

Respondents noted that the existence of the legislation has not created legal barriers to delivering coordinated services. As is the case above the barriers they experience are related to constraints on time and resources affecting the sector.

c) complying with the Act's requirements?

Answered: 30 Skipped: 0



If yes, what were the legal barriers or challenges?

A majority of respondents reported that they did not experience legal barriers to complying with the Act.

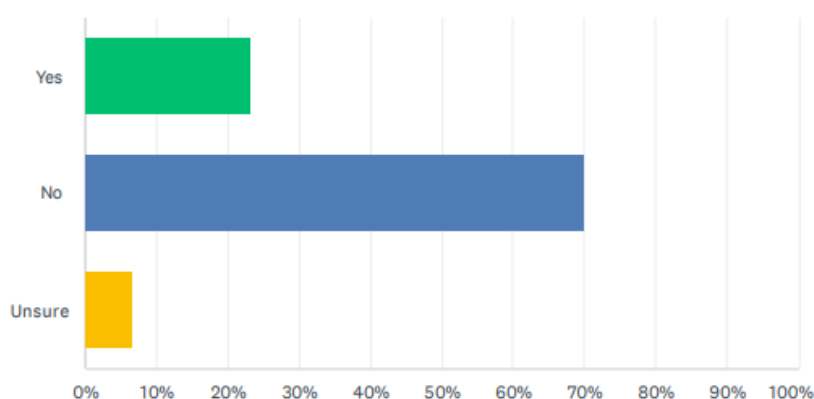
Respondents who did report legal barriers or challenges noted this within the context of legal systems, including the Family Law System, which is clearly beyond the scope of this legislation. Family violence social workers in ISE's which are also Risk Assessment Entity (RAE's) are keenly aware of the distinction between what can be shared for assessment purposes and what can be shared for protective purposes. They are concerned that courts have made rulings which do not align with that distinction. For example:

- Judges who rule that information be released contrary to the provisions in the guidelines which specify that ISE's can seek information only for the purposes of protection. Publicising the information has enabled perpetrators to locate their victim and increased their risk.
- Family and Circuit Court orders which fail to recognise indicators of violence to children and so agree to the access request of the parent who is a perpetrator.
- Issuing subpoenas to disclose information about children, as part of Family Court proceedings, which is misused by the perpetrators of the violence against the children's mothers.

During the AASW's extensive previous consultations on the Family Law System, members have repeatedly commented on the interaction between the Family Law System and family violence; and the AASW has made multiple submissions on this topic. Their comments are included here as an indication of the extent of change that will be required throughout multiple systems, for the Scheme's aim of cultural shift to be realised.

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

Answered: 30 Skipped: 0

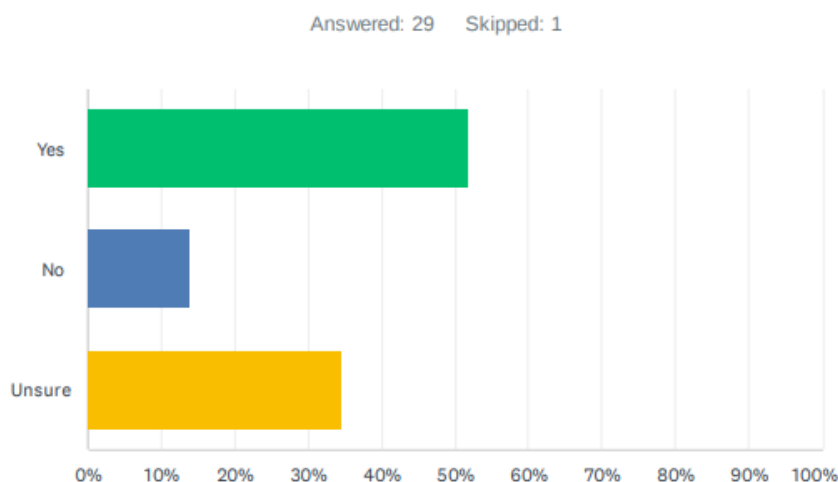


Please make any additional comments.

Although a majority of members were not aware of actual incidents of unauthorised disclosure, the comments of those who are aware or who suspect, that there might have been such an event, are instructive as to aspects of the Guidelines around which there needs to be more professional development for the sector. For example: members report receiving verbal requests for information, requests which have clearly not worked through the Guidelines checklist in Appendix A, or requests that appear to be 'fishing' expeditions.

B. Family Violence Risk Assessment and Risk Management Framework

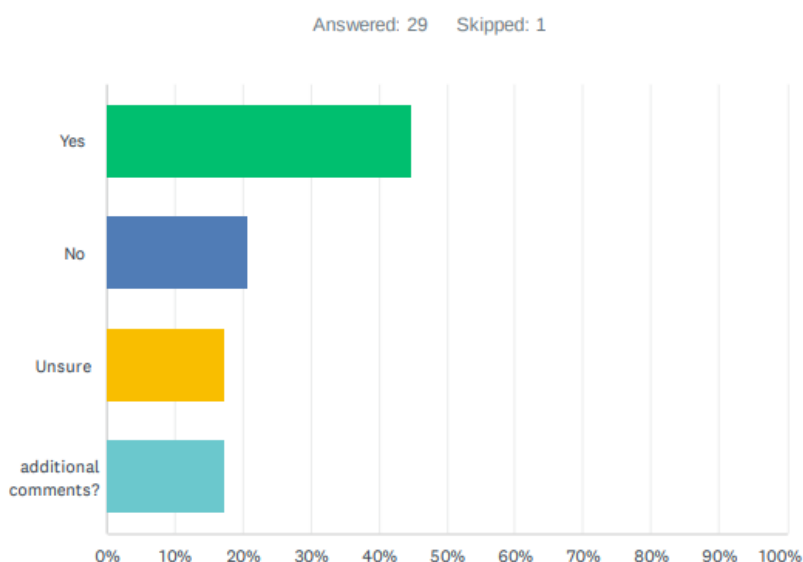
9. Are the legal requirements under the Act sufficiently clear, including in relation to the meaning of *framework organisation* and *section 191 agency*?



If no, how could they be made clearer?

The comments from respondents indicate that members who actually work in 'framework organisations' and 'section 191 agencies' are very clear about the meaning of these terms. Other members report being unsure of developments in implementation of the Royal Commission's recommendations since early 2020.

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



Please make any additional comments.

AASW members identified a variety of changes they have observed throughout the system. As is to be expected, members can be more definite about the impacts of the legislation on the organisations in which they are employed, than in organisations they interact with. In terms of their own organisations, members' comments were clear:

"(From) working in Health Care, I can see that the attempts to upskill medical staff who are time poor and focused on treatment have failed to improve the responses of some of them to family violence."

With respect to the approaches of organisations they interact with, members' comments reflect a more anecdotal quality, but still vary widely in terms of the progress they have experienced:

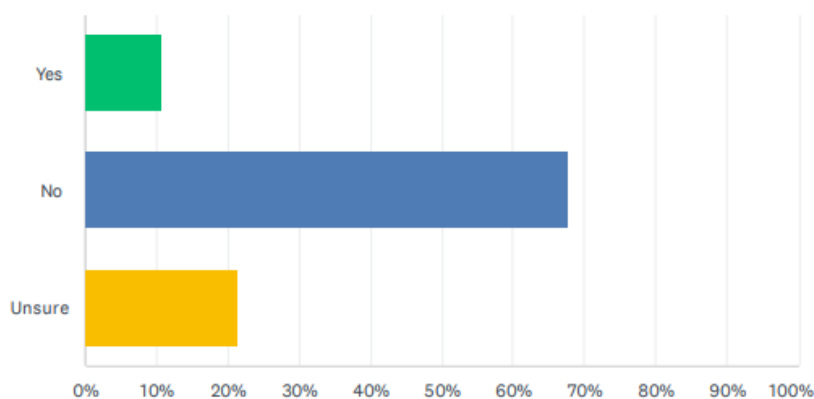
"I have observed consistency in organisations improving slowly."

The role of the CIP was once again identified as having unused potential in terms of the MARAM. The extension of its role that members identified was in terms of communicating richer pictures about historical patterns of psychological abuse. To understand this, it is important to recognise the way perpetrators of violence continue to exercise power and control in their dealings with the services they are in touch with, by withholding information or misleading the staff in those services. This means that those organisations do not have access to the full range of other organisations, who have dealings with that perpetrator. More importantly, some of that information could have implications for the safety of their partners and children. In these instances, one member has suggested that the role of the CIP could be expanded so that it would function as a contact point for all service sectors in touch with members of that family.

General questions

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?

Answered: 28 Skipped: 2

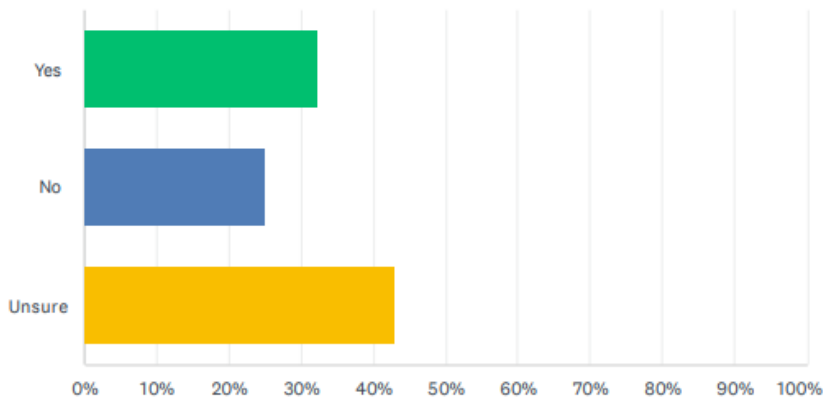


What types of adverse effects have you observed?

It is reassuring to observe the small number of responses reporting adverse effects of such important legislation. The group which has been identified most clearly as having experienced negative effects of this legislation is men (sometimes as young adults) who experience family violence from either women, or other men (who may be adolescents or young adults). Along with this gap, members report limited avenues to gain assistance for women and young people who are perpetrators of violence to change their behaviour.

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

Answered: 28 Skipped: 2



If no, please indicate why.

Although the proportion of respondents with a negative response is relatively small, comments offer useful insights about the areas that need improvement. They suggest that the current guidelines are necessary but will not be sufficient in achieving improvements in actual practice. To do that will require a highly skilled workforce and they have called for increased professional development of staff across the health and community services sector.

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

Additional training:

Responses to the survey consistently reinforced that additional training is required across all relevant sectors to ensure organisations are aware of provisions in the Act and the Guidelines, and to improve compliance and consistency in practice. Members highlighted that additional training is needed, in particular, for mental health services, courts, Victoria Police and child protection. They add that the training should introduce the MARAM, and that in-person training would be beneficial. They also suggested that family violence organisations need professional development in how the legislation could and should be used to work collaboratively to mitigate risks.

Working with perpetrators of violence:

Members highlighted significant funding and service constraints to meet the demands of the work that needs to be done with perpetrators of violence. It is recommended that the hours available for Family Violence Case Management is expanded beyond 20 hours - which is insufficient to work with the perpetrator addressing underlying issues. Additional supports are required, for example, to treat perpetrators for mental health, drug and alcohol issues. Further, members report that they encounter poor understanding of this reality from professionals in other organisations, and that this makes a cooperative relationship difficult. For example, generalist professionals can hold unrealistic expectations about the capacity of mental health services to change the behaviours of perpetrators of violence by either 'treating' or 'curing' them.

Culturally and Linguistically Diverse Communities:

The Ministerial Family Violence Information Sharing Guidelines note that there are additional complexities for, and working with, Culturally and Linguistically Diverse Communities (CALD). Practitioners working with these communities report the need for additional supports, services and resources to adequately support these communities.

Conclusion

The intent of Part 5a of the Family Violence Protection Act 2008 is to change the culture around information sharing. AASW members in Victoria have concluded that the Family Violence Information Scheme has been a necessary element of the shift in culture, but that, so far, it has not been sufficient.

It is not surprising that a goal as ambitious as this one requires more time. In identifying what else is needed, AASW members emphasize professional development throughout the Health and Community Services Sectors. As well as explaining the provisions of the Scheme itself, this professional development should ensure that professionals understand the concepts underlying the MARAM Framework. The AASW would welcome the opportunity to work with the Victorian Government on this next step.

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