

Five-year legislative review

Submission to the Family Violence
Reform Implementation Monitor

Acknowledgement of Traditional Owners

Acknowledgement of Aboriginal and Torres Strait Islander peoples

Safe and Equal acknowledges Aboriginal and Torres Strait Islander peoples as the traditional and ongoing custodians of the lands on which we live and work. We pay respects to Elders past and present. We acknowledge that sovereignty has never been ceded and recognise First Nations peoples' rights to self-determination and continuing connections to land, waters, community and culture.

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About Safe and Equal

Safe and Equal is the peak body for specialist family violence services that provide support to victim survivors in Victoria. The interests of people experiencing, recovering from, or at risk of, family violence is at the heart of everything we do. Our vision is a world beyond family and gender-based violence, where women, children and people from marginalised communities are safe, thriving, and respected. We recognise the gendered nature of violence in our society, and the multiple intersecting forms of power and oppression which can compound the impacts of violence and limit people's access to services, support, and safety. We work closely and collaboratively with other organisations and support the leadership of victim survivors to amplify their voices and create change.

We provide specialist expertise across primary prevention, early intervention, response and recovery approaches and the inter-connections between them. Our work is focused on developing and advancing specialist practice for responding to victim survivors, building the capability of specialist family violence services and allied workforces, organisations and sectors that come into contact with victim survivors; building the capabilities of workforces focused on primary prevention; and leading and contributing to the translation of evidence and research, practice expertise, and lived experience into safe and effective policy, system design and law reform.

We develop family violence practice and support workforces to ensure that victim survivors are safe, their rights are upheld, and their needs are met. The prevalence and impact of family and gender-based violence will be reduced because we are building a strong and effective workforce responding to victim survivors that can meet the needs of the community we serve, while also having a growing and impactful workforce working to prevent violence.

We work to strengthen and connect organisations, sectors, and systems to achieve safe and just outcomes for victim survivors irrespective of entry point, jurisdiction and individual circumstances. Joining efforts across prevention, response, and recovery we work to ensure the family violence system is informed and supported by a well-resourced and sustainable specialist sector. Our contributions to primary prevention workforces, initiatives and alliances contribute to social change for a safer and more respectful community.

We are building momentum for social change that drives meaningful action across institutions, settings, and systems for a safer and more equal society. Our workforce and practice development efforts are coupled with a partnership approach that builds community awareness and commitment to change. Our expertise and efforts enable citizens across the community to recognise and respond to family and gendered violence, hold perpetrators to account and support the ongoing recovery and empowerment of victim survivors.

We are a strong peak organisation providing sustainable and influential leadership to achieve our vision. The work we do and the way we work are integrated and align with our values. This is achieved through inclusive culture, and a safe and accessible workplace supported by robust systems and processes.

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Introduction

Safe and Equal welcomes the opportunity to contribute to the Family Violence Reform Monitor's Independent legislative review of family violence reforms. We understand that this review is primarily focused on reviewing Parts 5A and 11 of the Family Violence Protection Act 2008 (the Act), and that this encompasses the Family Violence Information Sharing Scheme (FVISS), the Central Information Point (CIP) and the Multiagency Risk Assessment and Management (MARAM) framework. As non-legal experts, our capacity to comment specifically on the Act is limited. However, as the peak body for specialist family violence services in Victoria and given our specific involvement in the MARAM and Information Sharing Sector Capacity Building Grants, we are in a unique position to comment on the extent to which the intention of the legislation is being realised through implementation and practice. We are also well placed to identify the emerging issues and barriers to successful implementation of the Act and where there are opportunities for improvement.

In preparing this submission, we have widely consulted with our members, including managers and senior practitioners working in The Orange Door sites, Disability Practice Leadership and the Risk Assessment Management Panel (RAMP) community of practice. Safe and Equal hold funding from the MARAM and Information Sharing Sector Capacity Building Grants. The expertise and knowledge of Safe and Equal's MARAM and Information Sharing Advisor, the associated community of practice, and the historic knowledge of the reforms held by Safe and Equal member organisations and staff also inform this submission.

We heard consistently through our consultations that the family violence reforms, and in particular the MARAM framework and FVISS have provided a valuable authorising environment and common language for consistent and collaborative practice. However, it is a challenging task to effectively differentiate between the efficacy and impact of the legislation and the implementation of this legislation which is supported by practice guidance, frameworks and tools. Despite these challenges, we know that inconsistent implementation and interpretation of the legislation results in failure to realise the intent of the reforms. With this in mind, this submission is structured around main themes which emerged from consultations with our member organisations and communities of practice regarding strengths and challenges of aligning to and implementing the MARAM and FVISS, as well as engagement with the legislation itself. These themes include the critical need to centre the voices and experiences of victim survivors from marginalised communities to ensure that the system is safe for everyone, implementation and finally the interface between the Act and other legislative and systemic frameworks. Within each theme, we highlight strengths and challenges and make recommendations for potential improvements and further investigation.

Summary of Recommendations

Recommendation: Community-led, specialist organisations be adequately resourced to deliver safe and tailored services to their own communities right across Victoria, as well as to provide advice on systemic and legislative change to support self-determination and autonomy of choice for all victim survivors.

Recommendation: Information Sharing Entities (ISEs) receiving high volumes of requests be supported to analyse causes for delays and implement strategies to minimise response times.

Recommendation: Increased organisational level guidance be provided to all ISEs to support decision making in responding to information sharing requests. Guidance should be clear and accessible, and target organisational leaders making decisions about responding to requests.

Recommendation: Additional guidance be developed in relation to information sharing refusal, in addition to establishing clear pathways and contact points for advice and resolution processes.

Recommendation: A state-wide consistent approach to access, process and type of information provided by the Central Information Point (CIP) be developed and communicated to the service sector.

Recommendation: Further legislative review be conducted with a view to achieving NDIS prescription, or else alternative measures be explored to protect and support victim survivors with a disability.

Recommendation: Ensure the Legislative MARAM 5-year evidence review (noted to be separate to this review) specifically consider how to centre the self-determination and voices of marginalised communities via amendments to practice guidance.

Recommendation: Clear and accessible information be provided on prescription, with designated contact points through which organisations can seek guidance.

Recommendation: All future legislative amendments and new legislation be analysed for unintended consequences that may undermine the premise and effectiveness of FVISS.

Recommendation: Ministerial guidance be reviewed to include appropriate organisational level guidance regarding subpoenas and information obtained under FVISS.

The system must be safe for everyone – choice and self-determination

We foreground this submission by highlighting the critical and ongoing need to centre the experiences and voices of marginalised communities from the construction and implementation of legislation, through to systems design and practice guidance. Only by doing this, can we build a system which respects the self-determination and choices of *all* victim survivors.

The Act itself does not explicitly mandate the engagement of police or justice system responses. However, the MARAM victim survivor practice guides, provisioned for within the Act, encourage and direct the use of these responses in several instances. There is repeated messaging to contact emergency services as an inherent risk management strategy, and when risk reaches a certain threshold. For example, all safety planning templates state, “Would you feel comfortable calling the police (000) in an emergency? (if not - How can we support you to do so?)”.¹ The underlying assumption that victim survivors need support to feel comfortable to contact emergency services does not account for the risks associated with these options for some communities.

The safety of victim survivors is always paramount, and there will be occasions where this is required without consent. We know that in many cases there are limited alternative options for immediate risk management, even if the victim survivor has said they do not want emergency service involvement. However, inherent in the systemic reliance on police for risk management, is the assumption that the police and the justice system are sites of safety for *all* people. We know that statutory responses from the police force, the justice system and Child Protection do not result in the same experiences and outcomes for all members of our community. State-based and institutional violence and control continues to erode and break the trust of many people, and in this context systemic reliance on emergency services (such as police) will make these communities less safe.

Additionally, while the intention to manage family violence risk is foundational to calling emergency services, this decision may not always take into consideration other kinds of risk which may be elevated as an unintended consequence. The risk of criminalisation, Child Protection involvement and child removal, and further breakdown in systems trust may all be elevated by engaging police and the justice system. We know that Aboriginal women² and migrant and refugee women³ and other marginalised communities are more likely to be targeted and, or misidentified as the predominant aggressor by police, which can in turn result in increased criminalisation, child removal and family law problems⁴.

¹ Family Safety Victoria (2021). *MARAM Victim Survivor Practice Guides*. State of Victoria. Melbourne. Responsibility 2 p. 179 ‘Basic Safety Plan’; Responsibility 4 p. 309 ‘Intermediate Safety Plan’; Responsibility 8 ‘Comprehensive Safety Plan’ p. 424.

² Djirra, (2020). Pg.18. *Monitoring the Family Violence Reforms: Djirra’s Submission to the Family Violence Reform Implementation Monitor July*, <https://djirra.org.au/wp-content/uploads/2020/08/Djirras-Submission-to-the-Family-Violence-Reform-Implementation-Monitor-July-2020-FINAL.pdf>

³ Intouch (2022). Pg. 2. *The Causes and consequences of misidentification on women from migrant and refugee communities experiencing family violence: Position paper*, <https://intouch.org.au/wp-content/uploads/2022/02/inTouch-Position-Paper-Misidentification-February-2022.pdf>

⁴ Djirra (2020). p.18. Op Cit.

Women who have experienced family violence are up to six times more likely to use substances, often as a coping mechanism.⁵ In this context, a perpetrator may leverage discriminatory attitudes and cite substance use by the victim survivor to undermine them or claim they are the perpetrator.⁶ Victim survivors therefore know that instead of creating safety and support for the violence they and their children have endured, certain pathways can instead result in criminalisation and child removal. This failure may well also discourage and limit victim survivors choosing to re-engage with specialist family violence services.

It is essential that we collectively work for a family violence system that is accessible, inclusive and non-discriminatory⁷. Failure to deeply engage and partner with all communities in the design and implementation of the family violence reforms has the effect of invisibilising their experiences, and results in a systemic response which cannot keep them safe and may even put them at greater risk. We point to Djirra's reflections in their submission to the Family Violence Implementation Monitor in 2020 where they stated, "Aboriginal self-determination must be central – including the right to choose service and system responses that are safe and culturally responsive."⁸ This means that legislation and practice guidance must be written to support both services and victim survivors to collaboratively decide on risk management and pathways to safety. This can only be achieved by adequately and sustainably resourcing community run organisations to provide appropriate services and lead systemic changes.

Recommendation: Community-led, specialist organisations be adequately resourced to deliver safe and tailored services to their own communities right across Victoria, as well as to provide advice on systemic and legislative change to support self-determination and autonomy of choice for all victim survivors.

Implementation

The following sections outline progress, challenges and unintended consequences associated with the introduction and implementation of MARAM, FVISS and CIP. Overall, we heard that the progress in implementation of the reforms has led to significantly more consistent and efficient sharing of information. We understand that these improvements have been observed in the assessment and management of risk to victim survivors. We note however, that there remain various barriers to successful implementation which pose a barrier to the Act and the reforms ultimately achieving their intention.

The specialist family violence workforce has been prescribed since 2018. With family violence being our core business, the sector consistently reports substantial progress in embedding policies, procedures and guidance to support alignment to the legislation and use of MARAM, FVISS and, where applicable, CIP. Through consultations with our

⁵ Family Safety Victoria (2021). *MARAM Foundation Knowledge Guide*. State of Victoria. Melbourne. p. 62.

⁶ FSV (2021). *MARAM Foundation Knowledge Guide*. p. 114; Office of the Family Violence Reform Implementation Monitor (2021). *Monitoring Victoria's Family Violence Reforms: Accurate Identification of the Predominant Aggressor*. State of Victoria. Melbourne. p. 12.

⁷ Djirra (2020). Op Cit.

⁸ Djirra (2020). Op Cit.

members, we have been made aware of some challenges faced by our own services, and also our colleagues in non-family violence sectors. We note there have been initial challenges with the onboarding of Phase 2 universal services, who constitute a substantial workforce. Much of these issues relate to resourcing, and further detail has therefore been included in the below sub-sections.

Ability to share and request information

Family Violence Information Sharing Scheme (FVISS)

Specialist family violence services have noted a significant improvement in capacity to request and obtain perpetrator information. We heard consistently from our members that they regularly make requests under FVISS, however do not receive a comparable number of requests from other Information Sharing Entities (ISEs). The role of a family violence service in assessment and management of family violence risk may account for this disparity. However, potential reasons for underutilisation of FVISS in non-family violence services is worth exploring.

The overall increased ability to share information has generally had positive flow on impacts for assessment and management of risk as outlined in the relevant subsequent sub-section. However, there are some barriers to FVISS and CIP meeting need and fulfilling their functions, and therefore realising the intention of the reforms. For example, we know that FVISS requests do not always receive a timely response, due to delays and ISE capacity. These delays significantly diminish the effectiveness and efficiency of information sharing as a critical component of MARAM risk assessment and management processes. 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. Information sharing delays are not confined to one area of the system, though there are certain areas where it occurs more frequently. Statutory bodies such as Victoria Police and the Courts are often noted to have frequent lengthy delays in responses, and typically receive a high volume of requests.

We note that there multiple and intersecting challenges which contribute to delays in timely information sharing responses. Some of the contributing factors in delayed responses as we understand them include:

- Substantial information for the responding ISE to work through without additional resourcing.
- ISEs receiving a high volume of enquiries.
- ISEs having difficulties in understanding the requirements, including what information is appropriate to share.

Timely sharing of information requires ISEs being resourced with staffing, systems development, and clear guidance and information. We have heard of the importance and need for clear and accessible guidance for both specialist family violence services and allied workforces. The Family Violence Information Sharing Guidelines for Information

Sharing Entities (the Ministerial Guidelines)⁹ are relied upon at all levels of service delivery. While these Guidelines provide invaluable support to ISEs, additional guidance targeted at organisational leaders, particularly where family violence is not core or common business, would be greatly beneficial.

Inconsistent interpretations of the FVISS requirements have been noted by some SFVS as a barrier to appropriately collecting, recording and sharing information. Specialist family violence services have consistently reported that some ISEs do not understand the requirements of the scheme, resulting in challenges and delays. Some of the potential underlying causes of these differing interpretations are noted in the subsequent section, 'Resourcing to support alignment and training'. In addition, we note that sharing information under FVISS requires sufficient family violence literacy to accurately identify risk relevant information. This knowledge is ideally gained through alignment to MARAM, meaning there is a close link between progress in MARAM alignment and the effective functioning of the FVISS.

We do not feel that amendments to the legislation to require a maximum response timeframe is likely to address these underlying issues. We are subsequently recommending alternative solutions and, in addition, suggest continued focus on system-wide training and capacity building to ensure requisite family violence knowledge.

Recommendation: Information Sharing Entities (ISEs) receiving high volumes of requests be supported to analyse causes for delays and implement strategies to minimise response times.

Recommendation: Increased organisational level guidance be provided to all ISEs to support decision making in responding to information sharing requests. Guidance should be clear and accessible, and target organisational leaders making decisions about responding to requests.

We also note that in instances where there are divergent interpretations of FVISS relating to an information sharing request, there is no further process or arbitrating authority to seek resolution. This manifests in contexts where an ISE refuses a request to share information on the basis that they do not assess it to be made on legitimate grounds. The Ministerial Guidelines provide guidance on when information can be shared, and subsequently why sharing may be refused. For an ISE to share information, it must be for a family violence assessment or protection purpose, the information must not be excluded or contravene another law, and applicable consent thresholds must be met. Guidance in the form of a checklist supports this decision-making process.¹⁰ Specific guidance on how to refuse a request includes when the information is excluded, or when the ISE does not form a reasonable belief that the information requested is necessary for a family violence protection purpose.¹¹ There is limited further guidance regarding an ISE refusing to share

⁹ Family Safety Victoria (2021). *Family Violence Information Sharing Scheme Ministerial Guidelines*. State of Victoria. Melbourne.

¹⁰ FSV (2021). *FVISS Ministerial Guidelines*. 'Appendix B Information sharing process checklist when responding to a request'. p. 140.

¹¹ FSV (2021). *FVISS Ministerial Guidelines*. pp. 31-3, 113.

information, except that the refusal and reasoning must be provided to the requesting ISE and documented.

In practice, where an ISE refuses to share information there may be a time-consuming back and forth process between ISEs which can become adversarial. This often occurs where there is disagreement over interpretations of what is relevant information for a protection purpose. Adversarial interactions were particularly reported in the context of marginalised victim survivors, where safeguards to information sharing are vital. Services also commonly reported concerns about the FVISS being used to gather information that may be used against non-violent parents, usually adult victim survivors, rather than to manage family violence risk to adult and child victim survivors. These concerns were echoed with the Child Information Sharing Scheme (CISS), although out of scope for this review. There is no clear guidance or authority to refer to in these instances.

Recommendation: Additional guidance be developed in relation to information sharing refusal, in addition to clear pathways and contact points for advice and resolution processes.

Despite progress, victim survivors with disabilities remain underserved by the legislation. The inability to prescribe NDIS funded services to MARAM and FVISS leaves a large gap for victim survivors who are NDIS participants. This is particularly concerning given that the Royal Commission into Family Violence identified that, 'although there is no reliable data on the prevalence of family violence against people with disabilities, statistics and anecdotal evidence suggest there is a high level of violence against people with disabilities, particularly women'.¹² Victim survivors with a disability may also be targeted by perpetrators of family violence.¹³ Their disability support service is in a unique position to link the victim survivor to specialist family violence services. There is strong need for a disability sector that has requisite family violence knowledge and the ability to appropriately share risk relevant information.

We are aware of the inability to prescribe federally legislated services. While we understand this likely continues to remain out of scope, the result is that the legislation does not serve these victim survivors. However, the landscape of disability services and oversight has changed since the roll out of these reforms. We note, for example, there is a newly established Victorian Disability Worker Commission. We also note that the Office of the Public Advocate's recent *Line of Sight* report included recommendation that the Victorian Government negotiate with the Australian government in relation to prescription to MARAM and FVISS.¹⁴ Given the changing landscape since commencement of these reforms, further review of options is warranted in order to address this consistent gap for NDIS participants.

¹² State of Victoria (2014-16). Royal Commission into Family Violence: Summary and recommendations, Parl Paper No 132. p. 36.

¹³ Women with Disabilities Victoria (2019). Fact Sheet 3: Violence against women with disabilities. p. 1. https://www.wdv.org.au/wp-content/uploads/2019/07/fact-sheet-3_Jul19_P2.pdf

¹⁴ Office of the Public Advocate (2022). Line of sight: Refocussing Victoria's adult safeguarding laws and practice. State of Victoria. Carlton. pp. 15-16, 54.

Recommendation: Further legislative review be conducted with a view to achieving NDIS prescription, or else alternative measures be explored to protect and support victim survivors with a disability.

Central Information Point (CIP)

We have received significantly varied responses from specialist family violence services regarding their confidence in, and understanding of, the role and capacity of the Central Information Point (CIP), and CIP reports. In fact, some agencies noted they had little to no knowledge of the CIP at all. Some services reported being able to request CIP information from their local Orange Door, while other services stated that they did not have this option. The amount and type of information provided in reports is also inconsistent across and sometimes within regions.

Ability to request a CIP report may not be appropriate to provide across the board. We believe that further consideration to its place within the information sharing landscape is important. However, 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. Perhaps the largest inconsistency in the rollout of the CIP is that victim survivors accessing intake and assessment services via The Orange Door will receive a CIP response, whereas the state-wide crisis entry point cannot request a CIP report in their capacity as an intake point for a high volume of victim survivors. A transparent and well communicated state-wide consistency that considers further rollout of CIP would alleviate these issues.

Recommendation: A state-wide consistent approach to access, process and type of information provided by the Central Information Point (CIP) be developed and communicated to the service sector.

Impact on risk assessment and management

Services have consistently reflected that they have greatly improved access to perpetrator information to assess and manage family violence risk. As a result, risk assessment is more accurate and detailed, resulting in better risk management. Services mostly felt the FVISS had improved the ability to support and work collaboratively with victim survivors to manage risk, including improving capacity for tailored safety planning. They also noted there was a positive reduction in the need for victim survivors to repeat their story.

Those that routinely have access to Central Information Point (CIP) reports expressed positive benefit to them. In the Risk Assessment and Management Panel (RAMP) space the use of the CIP was noted to have had significantly positive impact. We understand the substantial work to facilitate RAMP coordinator access to the CIP, with the program noting this has been a positive and collaborative process. The resulting timely access to risk relevant perpetrator information has led to effective advocacy, risk assessment and risk management responses.

However, these impacts are not universal. For marginalised victim survivors, there can be a funnelling into homogenised responses often reliant on justice and policing. We know that these communities are often facing multiple forms of violence and discrimination, including systemic oppression and violence. Access to flexible, tailored and intersectional responses is vital to establishing multiple forms of safety. The Act does not specifically require engagement with justice and policing as we have previously noted. However, due to the legislated nature of the MARAM framework, there is significant reluctance not to engage these systems given the associated practice guidance refers specifically to the need for emergency service response.

Recommendation: The Legislative MARAM 5 year evidence review (noted to be separate to this review) should specifically consider how to centre the self-determination and voices of marginalised communities via amendments to practice guidance.

Additionally, there has been both progress and challenges with regards to service collaboration. Specialist family violence services have noted the reforms have increased their ability to collaborate with other prescribed services. It has also opened up further opportunities for advocacy where required. There continue to be some challenges in the reforms meeting their intent of promoting service coordination. Our consultation suggests that these issues lie within implementation and are therefore dealt with in the relevant sub-sections.

Clarity and understanding requirements

Specialist family violence services generally report a high level of understanding of the Act and the associated reforms. However, we understand that for non-specialist family violence services, understanding the associated requirements under the legislation is much more complex, particularly if an organisation operates multiple types of services or receives multiple sources of funding.

Specialist family violence programs within broader non-family violence specialist organisations have noted ongoing challenges for their non-family violence programs. This was echoed by specialist family violence services working collaboratively with non-family violence services in their local areas. For these non-family violence programs, there is often a lack of clear and accessible information about prescription to MARAM and FVISS.

We note positive work has gone into developing and publishing the online ISE list, including troubleshooting and resolving issues.¹⁵ However, information on different funding streams remains difficult to access (for example, if a service has multiple funding streams, or if they receive philanthropic funding in an otherwise prescribed service). Where there is a lack of clarity there is no clearly communicated contact point to seek clarification. Safe and Equal has fielded many requests attempting to understand the complexity of prescription. Where it is not clear whether none, some or all of a service is prescribed, the alignment process is hindered.

¹⁵ <https://iselist.www.vic.gov.au/ise/list/>

In addition to this lack of clarity, member services noted that non-family violence services have not received adequate resourcing to support this process as outlined below in the following section.

Recommendation: Clear and accessible information be provided on prescription, with designated contact points through which organisations can seek guidance.

Overcoming barriers to alignment

Successful implementation and alignment to the breadth of the reforms, and in particular MARAM, FVISS and CIP requires significant and dedicated work and resourcing for individual organisations. Though implementation of the legislation is noted to be out of scope for the purposes of this review, it is necessary to note that for specialist family violence services, implementation of MARAM, FVISS, and where applicable CIP, has generated substantial work which has not been accompanied by sufficient resourcing. Managers, team leaders and in some cases frontline workers have been required to implement the family violence reforms in addition to their substantive roles. It is critical to note that this work has needed to occur at a time when demand for family violence services has never been higher, creating significant additional pressure on staff.

An additional barrier to meaningful and consistent alignment to all three reforms has been high staff turnover. Where turnover has occurred in management positions, the capacity of leadership teams to drive implementation of MARAM, FVISS and, where applicable, CIP is negatively impacted. Similarly, the high turnover of frontline practitioner positions was also noted as a significant challenge, with application to practice impacted by difficulties in retaining the requisite knowledge.

Some services also reported that successful alignment has been challenged by the complexity of the requirements, making the reform difficult to understand and therefore implement. We understand through our consultations that embedding the Act into organisational documentation and procedures has provided good safeguards here. However, complexity in requirements may inhibit smooth application to practice. This can have flow on impacts to ensuring safeguards remain in place regarding information sharing about marginalised victim survivors.

The Act

The interface of different pieces of legislation, and the cross-cutting implications of new and amended legislation has arisen as an area of interest during our consultations.

Interface with other legislation

It is essential that the FVISS and its intent is considered when formulating new or amending existing legislation. Since the introduction of the *Spent Convictions Act (2021)*¹⁶, issues have been reported regarding Courts declining to share risk-relevant information

¹⁶ State of Victoria. *Spent Convictions Act 2021*. <https://www.legislation.vic.gov.au/as-made/acts/spent-convictions-act-2021>

when responding to a FVISS request. Specialist family violence services have been unable seek information about the outcomes of mentions, judicial monitoring hearings, trials, and bail outcomes as a result of the interface between FVISS and this new Act. They have also been unable to obtain release dates for perpetrators who pose high risk to victim survivors.

While we do not have in depth familiarity with this new legislation and are not legal experts, it appears that the Spent Convictions Act is limiting the capacity and intent of the FVISS. We note that the relevant government departments are aware of the issue and are working on a resolution. We recognise the purpose of the *Spent Convictions Act*, in so much as it works to limit the ongoing and unnecessary impact of historical criminalisation. We also that believe that the relevant agencies are committed to sharing family violence risk relevant information, but now have a complex barrier to doing so.

Recommendation: All future legislative amendments and new legislation be analysed for unintended consequences that may undermine the premise and effectiveness of FVISS.

There is a lack of clarity regarding the interaction between information obtained via FVISS and responding to subpoenas. Specialist family violence services frequently support victim survivors going through Family Law Court and Children's Court proceedings, and subpoenas relating to these proceedings are a commonly directed at family violence services. Currently, the only guidance available to services who have been subpoenaed is to seek legal advice. While the Ministerial Guidelines cannot and should not replace this legal advice, we feel that there is need to provide some additional guidance to organisations to support their understanding of how these legal frameworks intersect and what their key responsibilities may be.

Recommendation: Ministerial Guidance be reviewed to include appropriate organisational level guidance regarding subpoenas and information obtained under FVISS.

Conclusion

While it remains a challenging task to effectively differentiate between the efficacy and impact of the legislation and the implementation of this legislation which is supported by practice guidance, frameworks and tools, it is clear that the family violence reforms have supported an authorising environment for more consistent and safe responses to victim survivors of family violence.

There are legislative considerations for potential improvement outlined in the final section of this submission, however our own consultations have predominantly highlighted challenges arising through the process of implementation and alignment of the family violence reforms. The specialist family violence service sector, along with our colleagues in other sectors have worked tirelessly to realise the intent of the reforms through their day-to-day work. While this has been essential and important work, 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.

We have also noted the potential value of additional or more detailed guidance and communication to support clear interpretation of FVISS, CIP and the associated Ministerial Guidelines. We have suggested consideration of guidance to support the service sector to navigate MARAM prescription, information sharing refusal and the CIP.

This submission has also outlined the ongoing critical need to ensure that all victim survivors are able to seek support and safety, and that the Act, MARAM and practice guidance support choice and self-determination of those who are experiencing family violence. In the forthcoming 5 Year Evidence Review, we hope to see a focus on partnering with community services and marginalised communities to work towards improved outcomes and safer systemic responses.