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Family Violence Reform Implementation Monitor
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Submitted via: engage.vic.gov.au/review-of-family-violence-information-sharing-and-risk-management

Dear ██████████,

Review of family violence information sharing and risk management

The Australian Psychological Society (APS) welcomes the opportunity to make a submission to the Review of family violence information sharing and risk management. Domestic and family violence often remains an invisible or hidden crime, and we consider it as one of the most significant health and human rights issues in our community.

The negative impact of violence on the health and wellbeing of individuals, groups and communities is of great concern to the APS. Our members work as researchers, educators and service providers with individuals and groups who experience or use violence, seeking to both prevent violent behaviour and address its impacts.

Given our interest in this area, the APS has previously made submissions on family and domestic violence issues and reforms, which are also relevant to the current review. These include the [Australian Law Reform Commission's Review of the Family Law System \(2018\)](#), the [Senate Inquiry into Domestic Violence and Gender Inequality \(2016\)](#), and [the Royal Commission Into Family Violence \(2015\)](#). We have also published a number of articles and developed resources that provide guidance for psychologists in responding to domestic, family, and sexual violence, including [guidelines for psychologists working with clients who have experienced intimate partner abuse or violence \(2020\)](#).

The current submission has been informed by APS members with experience working within the Victorian family violence system. We note that the current review is specific to evaluating Part 5A and Part 11 of the Family Violence Protection Act 2008, and as such we have only provided detailed responses to those questions to which we can contribute specialist knowledge.

Please do not hesitate to contact the APS if any further information is required. I may be contacted on ██████████ or at ██████████.

Yours sincerely,

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Chief Executive Officer

APS submission to the Review of family violence information sharing and risk management

Response to consultation questions

Q1. Are the legal requirements in the Act sufficiently clear? If no, how do you think they could be made clearer?

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.

a) To what extent are the principles reflected in your organisation's policies, procedures, practice guidance and tools? How could this be improved?

b) Do the principles and guidelines support you to make decisions under the Act? If no, what changes to the principles and guidelines would improve that?

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? Where are the gaps?

The APS believes that it is important for all psychologists working within the family violence system to be aware of and understand their legal requirements and obligations in relation to the Family Violence Protection Act 2008 (the Act). However, we understand that only certain entities, such as designated mental health services (i.e., public hospitals), are covered under the Act, meaning it does not apply to psychologists working within the private sector (i.e., private practice). This may have a number of implications for psychologists, in terms of there being no legal obligation for other service providers to share information with private psychologists, nor any legal requirement to request information about risk from private psychologists, and vice versa.

This appears to create a gap with information sharing and the ability for a psychologist to practically manage these issues from a legal perspective. For example, a private psychologist concerned about client risk may need to refer that client to a domestic violence service, who would then need to undertake the risk assessment themselves. Further, there would be no legal requirement for the Central Information Point (CIP) report, which can provide important information about a known perpetrator, to be made available to a private psychologist. With a high majority (approximately 80 per cent) of psychologists working within a private practice setting,¹ many of whom do not work within the family violence context and are not currently prescribed for Multi-Agency Risk Assessment and Risk Management (MARAM), Family Violence Information Sharing Scheme (FVIS) and CIS, it is unlikely that all psychologists are aware of the recent changes to the Act or the implications outlined above.

The APS suggests that government and community-based agencies are more likely to have policies that guide information sharing than private practitioners. Psychologists working within private practice settings may not develop their own written workplace decision-making guidelines, instead relying on information provided through professional training (i.e., CPD) and/or guidelines produced by professional associations such as the APS.

The APS understands that upon implementation of Part 5A and Part 11 of the Act, that there was thorough training and education provided by the Victorian Government, with information continuing to be available on the vic.gov.au website. However, we also note that privately practicing psychologists may continue to be unaware of the Act.

The APS is supportive of providers of psychological services being aware of the Act and encourages community agencies involved in family violence areas to ensure their policies, procedures, and practices align with the requirements of the Act.

A further key issue regarding information sharing within the family violence context is that psychologists are often dealing with a 'grey area' of risk assessment. Information sharing in family violence situations can be complex to navigate for psychologists, who are often in positions of needing to balance the importance of information sharing with the safety of survivors of violence.

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

a) information being disclosed voluntarily. If no, what were the barriers or challenges?

b) information being disclosed on request. Please make any additional comments.

The APS is aware of psychologists who have been asked to provide information, especially by child protective services. However, we are not aware of an increase in the level of information sharing since the implementation of Part 5A and Part 11 of the Act.

Q6. Have you observed an increase in the level of collaboration between organisations to support the delivery of coordinated services? Please make any additional comments.

The level of collaboration between organisations in terms of information sharing would likely vary depending on which agency or worker is responding. For example, there appears to be more information sharing in relation to risk assessment between agencies and entities such as child protection, police and family violence agencies. Ultimately, increased collaboration is likely to occur in areas where there is effective leadership and a high degree of trust between organisations.

Q7. Have you experienced any legal barriers or challenges in:

a) collecting, requesting, using or disclosing information? If yes, what were the legal barriers or challenges?

b) collaborating with other organisations to deliver coordinated services? If yes, what were the legal barriers or challenges?

c) complying with the Act's requirements? If yes, what were the legal barriers or challenges?

This question raises two key areas of interest for the APS, i.e.:

- (i) Ethical issues related to client confidentiality for psychologists in private practice who are required to provide information to the Court or when subpoenaed.
- (ii) The need for relevant and appropriate information gathering and/or sharing required for a comprehensive family violence risk assessment in the context of the Family Court.

Q11. 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? What types of adverse effects have you observed?

Q12. Do the provisions sufficiently provide for the needs and characteristics of diverse communities? If no, please indicate why.

Despite numerous government inquiries into the over-representation of Aboriginal children and families in family violence and child protection involvement, and a national agenda with agreed research priorities regarding improving the effectiveness of preventive strategies and therapeutic responses, the APS notes that family violence and child protection substantiation rates continue to rise.²

The legislative *Family Violence Risk Assessment & Risk Management Framework*, pursuant to the Act, is founded on principles that guide the state-wide implementation of family violence risk assessment and management. The framework requirements include a responsibility for service providers to have a shared understanding of family violence and consistent and collaborative practice.³

The APS notes that this requirement is especially pertinent given the reported systemic and structural barriers experienced by Aboriginal families in the justice system. As noted by the Victorian Aboriginal Affairs Framework 2018-2023, systemic barriers such as lack of timely service engagement and recourse to crisis-driven child protection engagement can lead to justice over-representation, perpetuating cumulative risk and harm and entrenched cycles of justice involvement and disadvantage.⁴

The APS proposes that given the intersectional nature of family violence, meaningful and effective implementation of the MARAM Framework is premised on:

- timely service engagement and community buy-in.
- ensuring system responsiveness to children's and families' complex and intersectional needs.
- supporting psychological safety and wellbeing; and
- minimising cumulative risk and harm.

Notably, timely and responsive service access is adversely impacted by reported systemic barriers to inter-sector and inter-agency collaboration and a lack of differential system responses and continuum of care. As such, the APS considers that there is an urgent need to assess whether the implementation of the MARAM provisions:

- complies with the guiding principles underpinning MARAM in practice, and
- sufficiently identifies and responds to the intersectional nature and complexity of needs of Aboriginal children and families at risk of justice involvement.

Moreover, we believe that it is important to examine more effective ways to embed collaborative care processes in family violence policy and practice initiatives that promote and facilitate:

- inter-agency collaboration and timely access to family-based early intervention servicing and support, and
- workforce capability and capacity to respond with a continuum of care and provide access to differential responses for Aboriginal children and families with complex needs in the interface of family violence and child protection services.

The APS also notes that there appears to be a lack of adequate investment and accessibility to culturally safe and trauma-informed family-based early intervention and supports. This may exacerbate problems associated with complex needs and compound psychological distress which impedes service engagement and perpetuates crisis-driven presentations and more punitive justice interventions. The current system approaches are reportedly under resourced and not adequately equipped to respond to the diverse and complex needs of Aboriginal families and children. This may inadvertently alienate families in need of assistance and lead to an escalation of problems and increase recourse to reactive, crisis-drive system responses that may perpetuate cumulative risk and harm.²

Family violence involves a continuum of risk and a diverse range of presentations and accordingly may benefit from a continuum of care and differential responses. The integration of collaborative care models or frameworks is proposed as a way forward to promote greater cross-sector collaboration and facilitate timely access to differential service responses to support Aboriginal children and families with complex needs. There is an evident need to strengthen system responsiveness to mitigate cumulative risk and harm for complex needs of Aboriginal and Torres Strait Islander children and families experiencing violence and at risk of justice involvement.⁵

This proposition is aligned with the MARAM Framework, in particular the principle, stipulating those relevant organisations and agencies 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” (Principle 6(b), p.1).³

In practice, effective collaboration is fundamentally relational, and it is through relationship building, both at inter-agency level and between service providers and families, that collaboration can be optimally implemented in practice.⁶

Establishing and maintaining trusting relationships, therefore, is a key factor in facilitating effective inter-agency collaboration and reducing the impact of inter-agency barriers and systemically addressing the reported lack of inter-agency coordination, communication and continuity of care which have posed a significant challenge for inter-agency collaboration in child protection services.⁷

The National Framework for Protecting Australia's Children 2021–2031 has identified the importance of reducing the overrepresentation of Aboriginal children in out-of-home care and its intergenerational impacts.

It suggests achieving this by facilitating meaningful engagement and partnering with Aboriginal children and families with complex needs to ensure that their voices and lived experience are acknowledged in shared decision-making, that effectively promotes timely access to early intervention and family-based servicing and support.⁸

This is aligned with fundamental principles that underpin the MARAM Framework, including Principle (d) that requires:

“the agency, dignity and intrinsic empowerment of victim survivors must be respected by partnering with them as active decision-making participants in risk assessment & management” (Principle 6(d), p.1).³

The National Framework for Protecting Australia’s Children 2021–2031 further acknowledges the need to collectively invest in relationship building between families and community-based agencies and systems that effectively respond to the needs and lived experience of children and families, to facilitate more meaningful engagement, and effective implementation of child protection & family violence policies in practice.⁸

Collaborative care embraces a relationship-based approach which is key to implementing effective practice and facilitating trust for timely service engagement. Integral collaborative care processes such as inter-agency communication, coordination and continuity of care, have been found to be facilitative processes in reducing system fragmentation and enhancing service engagement through more flexible healthcare care delivery and timely access to support. These relational domains have been recognised as integral to addressing client needs and developing a proactive and collaborative approach to care provision by helping families to feel safe and supported in accessing services.⁹

It is proposed that embedding collaborative care models or frameworks that espouse an ethos of care and shared processes, may facilitate timely and meaningful service engagement.

This in turn may help to prioritise prevention and capacity-building for family care, restoration, and support for Aboriginal children & families with complex needs experiencing family violence and deemed at risk of child protection involvement. Embedding collaborative care processes in family violence policy and practice has the potential to strengthen inter-agency collaboration and promote a safety net for children and families with complex needs to achieve more transformative and sustainable service outcomes.⁵

The APS draws the Family Violence Reform Implementation Monitor’s attention to recent research findings, which highlight key facilitators that serve to:

- strengthen inter-agency collaboration among community organisations in child welfare,
- include building resilience as a common goal,
- maintain workforce capacity and an equity focus,
- share resources for increased access to early intervention and family-based support, and
- prioritise person-centred care that serves to promote mutual trust, positive, safe and kind interactions.¹⁰

Moreover, the APS believes that the intersectional nature of family violence and the integration of collaborative care processes in policy and practice may further facilitate:

- Multi-agency coordination, communication and collaboration.
- Responsive risk assessment and management and mitigate cumulative risk and harm.
- Differential pathways and a continuum of care for early identification and intervention for timely redress of intersectional and complex needs of Aboriginal children and families experiencing family violence and at risk of justice involvement; and
- Prevention capacity and workforce capability to address intersectional and complex needs for policy and practice guidance in risk assessment & management.

References

- ¹ Australian Health Practitioner Regulation Authority. (2022). Psychologists - A snapshot as at 30 June 2020. Retrieved from: <https://www.psychologyboard.gov.au/About/Health-profession-demographic-snapshot.aspx>
- ² Sue-Anne, H., Burton, J., Blacklaws, G., Soltysik, A., Mastroianni, A., Young, J., ... & Shlonsky, A. (2021). The Family Matters report 2020: Measuring trends to turn the tide on the over- representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia.
- ³ Victorian Government Gazette. (2018) Family Violence Protection Act 2008. Family Violence Risk Assessment and Risk Management Framework, No. S 445,1-5. Available at: <http://www.gazette.vic.gov.au/gazette/Gazettes2018/GG2018S445.pdf>
- ⁴ Victorian Government. (2018). Victorian Aboriginal Affairs Framework, 2018-2023, Available at: <https://www.firstpeoplesrelations.vic.gov.au/victorian-aboriginal-affairs-framework-2018-2023>
- ⁵ Zafirakis, E. (2022). Collaborative care: A way forward. NAIDOC Special Edition, Feature Article, *Law Institute Journal*, 96(7), 40-43.
- ⁶ Bastian, C., & Wendt, S. (2022). Collaboration Between Child Protection and Domestic and Family Violence: A Case File Review. *Australian Social Work*, 1-17.
- ⁷ Sheehan, R. (2019). Cumulative harm in the child protection system: The Australian context. *Child & Family Social Work*, 24(4), 421-429.
- ⁸ Commonwealth of Australia. (2021). Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031. Available from: <https://www.dss.gov.au/the-national-framework-for-protecting-australias-children-2021-2031>.
- ⁹ Nolan-Isles, D., Macniven, R., Hunter, K., Gwynn, J., Lincoln, M., Moir, R., ... & Gwynne, K. (2021). Enablers and barriers to accessing healthcare services for Aboriginal people in New South Wales, Australia. *International Journal of Environmental Research and Public Health*, 18(6), 3014.
- ¹⁰ Kothari, B. H., Fischer, C., Mullican, N., Lipscomb, S. T., & Jaramillo, J. (2022). Interagency collaboration among community organizations serving children and families in child welfare. *Journal of Community & Applied Social Psychology*.