

Voices of the sector:

Implications of the Family Violence Protection (Information Sharing) Amendment Act 2017

The *Family Violence Protection (Information Sharing) Amendment Act 2017* is an outcome of the Royal Commission into Family Violence. DVRCV's Chief Executive Officer is joined by Erin Davis from Domestic Violence Victoria, Dr. Michele Lonsdale from the Centre for Excellence in Child and Family Welfare and Helen Matthews from Women's Legal Service Victoria to comment on the Act and the implications they can see it having for professionals in their sectors.

**Erin Davis: Policy Advisor
Domestic Violence Victoria (DV Vic)**

The new Family Violence Information Sharing Guidelines will enhance family violence responses by instructing on how to share risk-relevant information, prioritise safety, maintain the confidentiality of excluded information, ensure clients are informed about obligations, and document practices and outcomes.

DV Vic's member agencies welcome the legislative ability to share information about perpetrators without consent. This is critical for keeping perpetrators accountable and for providing women with critical information to manage their safety plans. The change will shift practice by bringing family violence services and partners into closer working relationships, particularly Victoria Police, Corrections, courts and men's behaviour change programs.

However, increased information sharing on perpetrator related matters could have negative ramifications where women have been wrongly identified as perpetrators. The family violence sector must continue systemic work with Victoria Police to prevent misidentification, collect data about misidentification and advocate for the correction of this information.

We anticipate practice challenges pertaining to the differences in the consent model for women who do not have children and those who do have children. The new regime does not require consent if children are at any level of risk – it does not need to be serious or imminent. The only requirement is that the information is risk-relevant and shared for the purpose of assessing and managing risk. This development is responsive to the previously constraining state of information

sharing regarding children and expands the responsibility to ensure their safety to a broader set of prescribed agencies.

This means practitioners will need to ensure that women understand that agencies can share information without consent where children are concerned. It also means that family violence services will be obligated to share risk-relevant information about children with other prescribed agencies. This may raise ethical dilemmas in the practice of family violence services where consent is entwined with respect for women's agency and decision-making. Our sector will need to lead the nuances in this practice development so that the safety of women and children is not undermined by broader information sharing. Ultimately, legislation and guidelines will only go so far to enhance appropriate information sharing practices. This regime must be underpinned by ongoing, mandatory and monitored workforce training within a risk management, rights-based framework.



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Dr. Michele Lonsdale
Director - Social Policy and Research
Centre for Excellence in Child and Family Welfare

The Centre for Excellence in Child and Family Welfare supports the family violence information sharing reforms. We also welcome the inclusion of transparency and promotion of agency in the guidelines, and support the no-consent model when sharing information relating to the safety of children and young people.

The reforms promote good information sharing protocols and practice including guidance around parental and perpetrator consent in situations of family violence. A key element of good practice in promoting children's agency is clarity about how their information will be used, and the paramount importance of protecting children's safety and wellbeing.

Professionals who come under Part 5A need to be trained in the Common Risk Assessment Framework (CRAF) and the Best Interests principles for children and young people. However, some aspects are still not clear, for example, who holds accountability when poor information sharing takes place?

The Centre is concerned that Integrated Family Services (IFS) are not listed as either a risk assessment or protection entity. We believe the work of IFS could be enhanced if they could request information from other Information Sharing Entities (ISE) to inform their risk assessment and for protection purposes, and proactively share information to assess and manage risk. Enshrining the role of IFS agencies as ISEs would enable a more consistent approach to information sharing.

Like those in the family violence sector, our sector has concerns regarding the misidentification of the perpetrator or victim survivor, and subsequent incorrect application of the consent model when sharing information.

Given the inherent risks, the guidelines need to stress the importance of supporting ISEs to correctly identify a perpetrator during the risk assessment/establishment phase.

We also believe that adolescents need to be seen as trauma-affected young people in need of therapeutic treatment not as 'perpetrators'.

Historical and ongoing control of the personal data of Aboriginal and Torres Strait Islander peoples means that these reforms could discourage Aboriginal people from using services. This is significant given the over-representation of Aboriginal families in tertiary systems and their under-representation in universal and secondary services. Appropriate cultural awareness and safety training should be a prerequisite for all workers able to share information.

Helen Matthews
Director – Legal and Policy
Women's Legal Service Victoria

Under the new information sharing regime, lawyers are exempted from the obligation to share client information. This is consistent with the existing privilege and confidentiality that applies to the lawyer client relationship. Consequently, the impact of the regime on Women's Legal Service Victoria is less significant than for other agencies working with people experiencing or perpetrating family violence.

However, some explanation of information sharing will become a necessary part of the advice provided to our clients, particularly those women who have children. While we anticipate that best practice will be to seek consent before sharing, information regarding children experiencing or exposed to family violence may be shared without the consent of either the child or the protective parent and it is important that our clients are aware of this.

Our greatest concern is in the case of wrongly identified perpetrators of violence. In our daily duty lawyer service at the Melbourne Magistrate's Court we see an unfortunate number of matters where women are wrongly named as respondents, either because the police have made an error (often persuaded by the perpetrator) or because a perpetrator is abusing the system and has brought an inappropriate cross application. This puts the woman at risk of her information being shared without her consent. Some safeguards acknowledging this risk have been proposed for the regime guidelines, but responding to this risk will need to become part of our role.

Emily Maguire
CEO, DVR CV

As identified, the practice ramifications of the new family violence information sharing regime are immense, not only for the specialist family violence sector but for all prescribed entities who come into contact with victim

survivors, their children and perpetrators of family violence. Best practice information sharing requires informed consent and the development of trust with a child or adult victim survivor, two priorities that are both time consuming and complex to achieve.

The new legislation and guidelines will not only impact on a practitioner's day to day activity and engagement with clients, but also on organisations who will be required to modify their policy and practice to align with the new regime, and provide a significant level of secondary consultation and management support to practitioners. As such, support, resources and capacity building activities will need to be developed for organisational leaders as well as direct service practitioners.

One of the complexities of this new legislation and the associated guidelines is the breadth of reach. The first tranche of prescribed ISEs range from specialist family violence and sexual assault services, specialist men's services, justice professionals, Child Protection and Child FIRST as well as the soon to be launched Support and Safety Hubs. Whilst all of these agencies play a pivotal role in supporting the safety of women and children and holding perpetrators to account for their violent behaviour, it will be imperative that practical, sector-specific guidance is developed to sit alongside any training to ensure the best practice implementation of this legislation.

As the agency who, in partnership with Women's Legal Service Victoria (WLSV), was contracted by Family Safety Victoria to develop training on the new family violence information sharing regime, DVR CV is keenly attuned to the needs of all professionals working within this new legislative framework. We are engaging collaboratively with specialist Aboriginal, children's, men's, migrant and family violence agencies to ensure the training is tailored to the needs of their unique workforces.

While this new information sharing legislation has immense potential to benefit women and children who are living with family violence, in practice the legislation itself will only be one piece of the information sharing puzzle. DVR CV, along with our partners WLSV and RMIT, are committed to ensuring that any training we develop will support practitioners to understand their legislative obligations but will also enable practitioners to undertake best practice information sharing in their work with children, young people and victim survivors of family violence.

More information

Training on the new information sharing legislation in practice is currently being developed by DVR CV and WLSV, and will be available in 2018. For more information, visit our website at dvr cv.org.au/training