

Government Response

Legislative review of Parts 5A and 11
of the *Family Violence Protection Act*
2008 (Vic)

Government Response

Legislative review of Parts 5A and 11 of the Family
Violence Protection Act 2008 (Vic)

Aboriginal acknowledgement

The Victorian Government acknowledges Victorian Aboriginal people as the First Peoples and Traditional Owners and Custodians of the land and water on which we rely. We acknowledge and respect that Aboriginal communities are steeped in traditions and customs built on a disciplined social and cultural order that has sustained 60,000 years of existence. We acknowledge the significant disruptions to social and cultural order and the ongoing hurt caused by colonisation.

We acknowledge the ongoing leadership role of Aboriginal communities in addressing and preventing family violence and will continue to work in collaboration with First Peoples to eliminate family violence from all communities.

Victim survivor acknowledgement

The Victorian Government acknowledges victim survivors. We keep at the forefront in our minds all those who have experienced family violence or other forms of abuse, and for whom we undertake this work.

To receive this document in another format, phone 1300 758 554, using the National Relay Service 13 36 77 if required, or email <infosharing@familysafety.vic.gov.au>.

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Australia, Department of Families, Fairness and Housing, August 2023.

In this document, 'Aboriginal' refers to both Aboriginal and Torres Strait Islander people. 'Indigenous' or 'Koori/Koorie' is retained when part of the title of a report, program or quotation.

ISBN 978-1-76130-176-6 (online/PDF/Word)

Available at <<https://www.vic.gov.au/family-violence-information-sharing-scheme-review>>

Contents

Introduction.....	6
Clarity of information sharing legislative framework (Part 5A).....	7
Recommendation 1	7
Recommendation 2	7
Effectiveness of Part 5A in achieving its objectives	8
Recommendation 3	8
Recommendation 4	8
Recommendation 5	8
Impact of Part 5A on victim survivors	9
Recommendation 6	9
Recommendation 7	9
Recommendation 8	10
Effectiveness of the Central Information Point in achieving its objectives.....	11
Recommendation 9	11
Recommendation 10	11
Recommendation 11	11
Recommendation 12	12
Clarity of legal provisions for the MARAM Framework (Part 11).....	13
Recommendation 13	13
Recommendation 14	13
Effectiveness of Part 11 in achieving its objectives.....	14
Recommendation 15	14
Recommendation 16	14

Introduction

The Victorian Government welcomes the Family Violence Reform Information Monitor's (the Monitor's) *Legislative review of family violence information sharing and risk management: reviewing the effectiveness of Parts 5A and 11 of the Family Violence Protection Act 2008 (Vic)* (the Review).

The Victorian Government also thanks the Monitor for their work on the comprehensive review of this legislation, and those who provided submissions to, and consulted with, the Monitor to inform the Review.

The Victorian Government is pleased to respond to the Review and welcomes the Monitor's findings that the legislation underpinning the Family Violence Information Sharing Scheme, Central Information Point, and the Family Violence Multi-Agency Risk Assessment and Management (MARAM) Framework has been effective in achieving their objectives.

The Monitor's independent review of these critical reforms recommended by the Royal Commission into Family Violence is key in ensuring that the intent of these reforms is being achieved.

The Review indicates that these reforms have:

- supported practitioner confidence to share information and a positive cultural shift away from maintaining perpetrator privacy towards sharing information to keep victim survivors safe and hold perpetrators accountable
- supported services to make more informed decisions about family violence risk
- resulted in increasing the volume of information sharing
- supported collaboration and coordination of services
- supported a shared language for family violence and a focus on keeping perpetrators in view
- resulted in greater consistency in risk identification, assessment, and management where services align to the MARAM Framework.

The Review has not found any adverse impacts as a result of this legislation. The Monitor has identified areas where they consider the overall effectiveness of the reforms could be improved. The Victorian Government is committed to engaging with the findings and recommendations of the Review to continue to improve responses to family violence.

Implementation of the recommendations will align with the Victorian Government's commitment to Aboriginal self-determination, treaty and truth-telling.

The Victorian Government's response addresses each recommendation in the report and the actions that will be taken.

The response was prepared in consultation with key government agencies included in these reform areas.

Clarity of information sharing legislative framework (Part 5A)

Recommendation 1

That the Ministerial Guidelines be amended to include an explanation of the courts' participation in the Family Violence Information Sharing Scheme.
Response: Support in full

The Victorian Government recognises that the Review has identified confusion amongst some Information Sharing Entities (ISE) about the role of the Magistrates' Court of Victoria and the Children's Court of Victoria (the Courts) in the Family Violence Information Sharing Scheme.

The Victorian Government will work with the Courts to clarify existing content in the Ministerial Guidelines about the Courts' participation in the Family Violence Information Sharing Scheme and will develop advice to assist Information Sharing Entities to understand the role of the Courts.

Recommendation 2

That the Ministerial Guidelines be reviewed and amended to increase utility and improve understanding.
Response: Support in full

The Victorian Government accepts the views set out by the Monitor that the Ministerial Guidelines for the Family Violence Information Sharing Scheme should be improved to support increased understanding and use by stakeholders.

The Victorian Government will review and amend the Ministerial Guidelines for the Family Violence Information Sharing Scheme considering the areas suggested by the Monitor for improving the clarity of the Ministerial Guidelines. The Victorian Government is planning to complete the review by 2025-26. This will ensure the review includes consideration of the outcomes of the first Five-Year Evidence Review of the MARAM Framework and finalisation of a MARAM maturity model, which are both due for completion in 2023-24.

Effectiveness of Part 5A in achieving its objectives

Recommendation 3

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

Response: Support in full

The Victorian Government acknowledges the importance of services proactively sharing relevant information to identify, assess and manage family violence risk, and to ensure victim survivor safety is prioritised.

As part of its review of the Ministerial Guidelines for the Family Violence Information Sharing Scheme, the Victorian Government will consider how to strengthen content on proactive information sharing. Other mechanisms will also be considered to provide more guidance to promote proactive information sharing.

Recommendation 4

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

Response: Support in full

The Victorian Government acknowledges that information should be shared under the Family Violence Information Sharing Scheme to enable timely service responses with consideration of safety and service requirements.

As part of its review of the Ministerial Guidelines for the Family Violence Information Sharing Scheme, the Victorian Government will make amendments to strengthen the emphasis on timely information sharing. The Victorian Government will also consider further mechanisms to reinforce the importance of timely information sharing to Information Sharing Entities, including through a case study example.

Recommendation 5

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

Response: Support in principle

The Victorian Government acknowledges that timely information sharing supports family violence identification, risk assessment and risk management.

The Victorian Government will consider legislative change to recognise the importance of timeliness in legislation and strengthen content in the Ministerial Guidelines.

The Victorian Government will also consider appropriate ways to provide practice guidance on this issue, including advice on what factors practitioners should consider when determining the timeliness of their response.

Impact of Part 5A on victim survivors

Recommendation 6

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

Response: Support in full

The Victorian Government acknowledges the need to support victim survivor agency and decision making through information sharing, and that victim survivor agency should be promoted wherever possible.

The Victorian Government will amend the Ministerial Guidelines to provide Information Sharing Entities with reference to information from the MARAM Framework on victim survivor agency and self-assessment. This will be implemented once the MARAM Framework and the accompanying resources have been updated to incorporate outcomes of the first Five-Year MARAM Practice Evidence Review, which is due for completion in December 2023.

Recommendation 7

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

Response: Support in principle

The Victorian Government acknowledges that it is important for victim survivor agency that victim survivors understand how their information will be disclosed under Part 5A of the Act. The Victorian Government acknowledges the report findings that Information Sharing Entities need greater clarity on this point.

Collection of information directly from a victim survivor is governed by primary privacy legislation, including the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic), and not Part 5A of the Act. As such, legislative amendments to Part 5A relating to the collection of information are not supported.

Information Sharing Entities continue to be subject to their existing obligations under privacy law. The Ministerial Guidelines outline that Information Sharing Entities should ensure they are familiar with their obligations. To meet the intent of Recommendation 7, the Victorian Government will consider how to support Information Sharing Entities to understand these obligations under privacy laws in consultation with the Office of the Victorian Information Commissioner.

Recommendation 8

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

Response: Support in principle

The Victorian Government notes that information sharing between services under Part 5A of the Act can reduce the need for victim survivors to retell their story and minimise associated trauma. The MARAM Framework also outlines the importance of the impact that sharing information between services can have for victim survivors to avoid having to retell their story, which can be 'discouraging, disempowering and re-traumatising'.

Services can already share information with consent under the Act, as well as for a purpose provided for under privacy legislation. Legislative amendment to promote sharing information for the purpose of reducing trauma may introduce a conflict with the primary purpose of timely and ongoing risk assessment and management.

As part of the review of the Ministerial Guidelines, the Victorian Government will strengthen content regarding how information sharing can reduce re-traumatisation for victim survivors.

Effectiveness of the Central Information Point in achieving its objectives

Recommendation 9

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

Response: Support in principle

The Victorian Government supports in principle the recommendation to provide further clarity on the purpose and function of the Central Information Point. The Victorian Government considers that this can be achieved through updating information about the Central Information Point on the Victorian Government website and by updating tailored resources for CIP requesters and CIP data custodians.

Further options will be considered based on the outcomes of the Central Information Point Program Evaluation, which is due for completion by the end of 2023.

Recommendation 10

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

Response: Support in principle

The Victorian Government acknowledges the need to provide clarity on the entities that have been declared as CIP requesters. The Victorian Government will update information in the Ministerial Guidelines and include more information on the Victorian Government website. These changes will provide better transparency on which entities are CIP requesters in a timely manner.

The Victorian Government will undertake appropriate stakeholder engagement and consultation if other entities are proposed to be declared as CIP requesters.

Recommendation 11

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

Response: Support in principle

The Victorian Government considers timeliness to be an important factor in the effectiveness of the Central Information Point and supports the intent of this recommendation, in that timely information sharing assists with effective risk assessment and management.

The Victorian Government will consider options to support timely sharing of information including strengthening recognition of the importance of timeliness in legislation. Any changes to address implementation of Recommendation 5 will also apply to the Central Information Point.

The Victorian Government will consider alternative approaches to achieve timely responses to CIP requests. The Victorian Government is progressing technical and practice changes aimed at

improving timeliness in the provision of information. Further options will be considered based on the outcomes of the Central Information Point Program Evaluation, which is due for completion by the end of 2023.

Recommendation 12

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

Response: Support in full

The Victorian Government acknowledges the importance of on-sharing risk relevant information under the Family Violence Information Sharing Scheme. The Victorian Government further acknowledges the Review's findings that the practice of on-sharing risk-relevant information from CIP reports can be inconsistent.

As part of its review of the Ministerial Guidelines, the Victorian Government will make amendments to provide further clarity on information sharing processes for CIP requesters, including a case study example of on-sharing risk-relevant information.

Clarity of legal provisions for the MARAM Framework (Part 11)

Recommendation 13

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

Response: Support in principle

The Victorian Government acknowledges the need for MARAM framework organisations to have a clear understanding of what steps and activities they need to undertake to align their policies, procedures, practice guidance and tools with the MARAM Framework.

The Victorian Government considers that it is not feasible to include detailed policy outlining steps and activities within a legislative instrument. The Victorian Government will undertake further work to prepare high-level descriptors of responsibilities for alignment to be included as a schedule to the legislative instrument.

The Victorian Government will also continue its current work to develop a MARAM maturity model. This model outlines the policy, framework, and tools to support organisations to understand what steps and activities they should undertake to align with the MARAM Framework and to support continuous improvement over time.

Recommendation 14

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

Response: Support in full

The Victorian Government is committed to ensuring that all individuals and bodies who have a role in family violence risk identification, assessment and management are supported with a consistent, evidence-informed framework.

The Victorian Government will examine how to prescribe classes of individuals as framework organisations under MARAM to the extent that it is applicable to them in their professional capacity. The Victorian Government will seek advice on the possible policy implications of this change with relevant sectors. This will include consideration of the implications for individuals, if able to be prescribed, such as how to implement continuous improvement with MARAM alignment.

Effectiveness of Part 11 in achieving its objectives

Recommendation 15

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

Response: Support in principle

The Victorian Government acknowledges the importance of MARAM alignment for framework organisations. Commencing alignment activities from the date of prescription will support the development of consistency in understanding and responding to family violence across the system.

The Victorian Government supports the timeliness of alignment, the addition of clarity of steps required to align, and enhanced reporting to ensure transparency, as outlined in Recommendations 13 and 16. Given the diversity of prescribed organisations and the variance in their respective functions and capability, specifying timeframes within the legislative instrument will not be the most effective means to support organisations to align with the Framework.

In order to achieve the intent of this recommendation, the Victorian Government will work through the MARAM maturity model to strengthen organisational capability, continuous review and progression of alignment, including guidance on steps and activities to support framework organisations. The MARAM maturity model will include indicative timeframes for completion of alignment steps and activities. This will build on work to implement Recommendation 13 to strengthen alignment descriptions in the MARAM legislative instrument. The model is planned to be finalised in 2023-24.

Recommendation 16

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

Response: Support in principle

The Victorian Government supports the requirement for portfolio ministers to report on framework organisations' progress of MARAM alignment. Reporting on alignment is a critical mechanism for monitoring ongoing implementation of the reform and the development of a shared understanding of family violence.

The Victorian Government is currently developing a MARAM maturity model, which includes the policy, framework, and tools to support organisations to understand what steps and activities they should take to align with the MARAM Framework and to support continuous improvement over time. This maturity model will support the basis of future reporting requirements by relevant portfolio ministers on framework organisations' alignment for the MARAM annual report once the model is finalised in 2023-24.

Once the MARAM maturity model is finalised, the Victorian Government will consider amending regulations to include reporting requirements for portfolio ministers against the maturity model.