

# Privacy and Confidentiality Policy

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**Owner:** Lindy Parker

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## 1. Purpose

This policy acknowledges Women's Housing Limited's (WHL) legal obligations in relation to privacy and confidentiality and sets out the principles and procedures designed to ensure optimal compliance with these obligations.

WHL gathers and stores personal information that is often of a highly sensitive and confidential nature. The purpose of this policy is to provide guidelines for the usage of this information and ensure that it is handled appropriately and only used for appropriate purposes.

This policy also describes the principles and obligations with regard to sharing of information held by WHL with other agencies.

In particular this policy has been revised to accommodate new Victorian legislation, arising out of the 2016 Royal Commission into Family Violence, relating to information sharing in the context of family violence, Statement of Commitment.

WHL is committed to the protection of individual and corporate privacy in accordance with the law.

We are committed to instituting and maintaining rigorous information management systems that protect privacy and prevent potential misuse.

We are also committed to maintaining a rigorous information sharing system that will protect the rights and welfare of the victims of family violence and violence against women.

## 2. Scope of Application

WHL confidentiality and privacy policy and procedures apply, where relevant, to all staff and clients of the organisation. These include:

- Clients and renters;
- Support agencies and workers;
- WHL board and staff;
- Volunteers and students;
- Government agencies e.g. DHHS, Police, Child Protection etc.;
- Independent contractors;
- General public e.g. neighbouring landholders.

## 3. WHL's Privacy & Information Sharing Obligations

### 3.1 Victorian Legislation

The *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)* are in place to protect personal and health information. These Acts outline requirements around the collection and handling of personal and health information, including the way information should be disclosed and managed.

The *Family Violence Protection Amendment (Information Sharing) Act 2017* has established new "information sharing" arrangements specifically around family violence by amending the *Family Violence Protection Act 2008* and the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*.

These information sharing arrangements are complemented by similar amendments to the *Child Wellbeing and Safety Act 2005*.

While the essential principles of the earlier Acts remain, the new changes involve significant change particularly relevant to the operations of WHL relating to family violence.

As a contracted provider of both housing services and family violence related services in Victoria, WHL is included as a prescribed agency and is legally bound to comply with requirements of the new legislative arrangements.

### **3.2 Interstate and Federal Jurisdictions**

Currently WHL provides services only in Victoria. Consequently this policy is based on Victorian legislation.

However, WHL is aware of the Federal laws and regulation in this area. As a not-for-profit organisation with an annual turnover of more than \$3 million, WHL also has responsibilities under the *Commonwealth Privacy Act*.

WHL believes that this policy is compliant with Federal law.

## **4. WHL Privacy Policy**

### **4.1 Information Privacy Principles**

The Victorian Family Violence Information Sharing Scheme, while implementing change, does not substantially alter the broad intents and principles of the existing privacy legislation.

Essentially WHL still must collect, use and disclose information in accordance with the Information Privacy Principles (IPPs) outlined in the *Privacy and Data Protection Act 2014 (Vic)* and the *Health Records Act 2001 (Vic)* respectively in broad terms this means that WHL must:

- collect only information it needs to properly carry out its service and business responsibilities;
- use and disclose it only for the primary or a directly related purpose, or for another purpose with the person's consent (unless otherwise authorised by law);
- with certain exceptions, ensure that the person knows why it is collected and how it will be handled;
- store it securely, protecting it from unauthorised access;
- retain it for the period authorised by the *Public Records Act 1973*; and
- provide all persons with access to their own information, and the right to seek its correction.

### **4.2 What information does WHL collect?**

WHL collects a range of personal, health and often highly sensitive information during the course of its business.

Personal information is recorded information about an identifiable or easily identifiable living individual (including work related information and images). All references to personal information include health information.

Health information is information about a living or deceased individual's physical, mental or psychological health.

Sensitive information is personal information that may relate to a living individual's race or ethnicity, political opinions, religious or philosophical beliefs, sexual preferences or practices, criminal record, or membership details, such as trade union or professional, political or trade association.

### **4.3 Use and Disclosure of Personal Information**

WHL will use and disclose personal information only for the primary purpose for which it was collected.

Information will be kept confidential within the organisation on a 'need to know' basis – that is, only those who need the information will have access to it. Workers within WHL may have access to client information where necessary and when it is relevant to service delivery.

WHL will disclose personal information when:

- The person has provided consent; or
- The person requests the information for their own purposes or a third party and has signed a consent form; or
- It is required to prevent or lessen a serious threat to the health, safety and welfare of an individual or the public; or
- It is required by law; or
- It is required by or for a law enforcement agency for a prescribed purpose as set out in *Information Privacy Act 2000*.

### **4.4 Individual Privacy Rights**

- Individuals will be advised of the purpose of WHL collecting personal information and how it will be used and disclosed;
- They will be advised of their right to access their personal information held by WHL and the process for obtaining it;
- Copies of WHL forms used for the collection of personal information will be made available to all persons;
- All persons will be encouraged to check WHL information forms to ensure their accuracy and to correct and update information;
- At sign up, all WHL renters will be provided with written information detailing WHL privacy policy and procedures and their rights.

### **4.5 Clients of WHL Services**

As a group WHL clients are often vulnerable persons who disclose highly sensitive information in the course of their contact with WHL.

It is important that a client's right to privacy is protected at all times.

Face to face Interviews with clients which involve disclosure of personal, sensitive or private information will occur in a private area or interview room.

Where possible, lease sign-ups and other tenancy related meetings will take place in the privacy of the renter's property in the presence of a support worker if agreed to by the renter.

In telephone communications, WHL workers will ensure that clients' rights to privacy will be respected and protected.

WHL renters will be requested to sign a WHL Privacy Consent Form at the commencement of a lease. This allows WHL workers to discuss tenancy related issues with specified support agencies, to communicate with Centrepay re rental payments and to provide essential information to contractors.

For practical reasons it may be necessary on occasions for staff to seek verbal consent to disclosure when working with a client over the phone. In these circumstances the worker will make notes to that effect on the client file.

If renters choose not to consent, this choice will be respected and will not constitute a barrier to receiving WHL services.

#### **4.6 Privacy and Client Support Agencies**

While acknowledging the benefits of a coordinated approach to the delivery of housing and support services, confidential information will only be shared between WHL and the Support Agencies after the expressed consent of the service user has been given or the law mandates the passing on of information.

WHL and Support Agencies acknowledge that there are certain occasions when information can be given and received without the clients' consent.

These situations are when the law requires the disclosure of information, or if there is a duty of care to disclose information, e.g. mandatory reporting requirements, matters relating to child protection, criminal matters.

Wherever possible and appropriate, the client will be informed of the release of information that occurs without their consent.

If a client has a grievance about information being accessed or disclosed without their consent, they may take their concerns to the Victorian Privacy Commissioner, or if the information is health (including disability) information, they may complain to the Health Services Commissioner. Clients will be advised accordingly of these avenues.

In the case of such a grievance or complaint, the client will be advised how to contact the relevant commissioner.

#### **4.7 Privacy Training**

WHL will ensure that all staff are trained in relation to the *Victorian Privacy and Data Protection Act 2014* and the *Health Records Act 2001* and understand the principles and practice of privacy and confidentiality.

Within orientation, staff will be made fully aware of their obligations in relation to personal confidentiality, privacy and secure file management.

## **5. The Family Violence Information Sharing Scheme**

In 2018, The Victorian Government legislated three interrelated reforms relating to information sharing in the context of family violence. These are

- the Family Violence Information Sharing (FVIS) Scheme, which enables prescribed organisations and services to share information and improve risk assessment in family violence contexts; and
- the Child Information Sharing (CIS) Scheme, which enables prescribed organisations and services to share information to promote the wellbeing and safety of children;

- the MARAM Framework which sets out the responsibilities of different workforces in identifying, assessing and managing family violence risk across the family violence and broader service system

To share information to identify, assess and manage the risk of family violence to children or adults, while promoting children’s wellbeing and safety, the FVIS and CIS must be used together in conjunction with the Multi-Agency Risk Assessment and Management Framework (MARAM Framework) which is incorporated into the *Family Violence Prevention Act*.

In addition the Victorian Government intends to establish a secure Central Information Point, bringing together information from various agencies and databases that will provide integrated information to risk assessment and management agencies and enable them to more effectively assess individual family violence cases.

Together, these reforms are intended to produce a more collaborative, integrated system that will help improve outcomes for all Victorian children and families affected by family violence.

Some particular features of the new system include:

### **5.1 A new definition of threat**

The Family Violence Protection Amendment (Information Sharing) Act 2017 amends the Privacy and Data Protection Act 2014 and the Health Records Act 2001 with the removal of the word ‘imminent’ from several provisions in the Information Privacy Principles (IPPs) and the Health Privacy Principles (HPPs) relating to threat.

Previously the disclosure of certain information was only permitted when it was established that there was a ‘serious and imminent threat’ to a person’s life, health, safety or welfare.

The removal of the word ‘imminent’ now means that in order to share personal or health information, under this exception, an organisation need only establish that a threat to an individual is ‘serious’, but not necessarily ‘imminent’.

This change significantly simplifies decision making about the collection, use or disclosure of personal or health information where there is a serious threat to individuals or the public.

Nevertheless, the important question of what constitutes a “serious threat” remains.

Under this policy WHL will provide guidance and training to all relevant staff in relation to risk assessment and information sharing in this important area.

### **5.2 Information Sharing Entities (ISEs) and Risk Assessment Entities (RAEs)**

The regulations attached to the new family violence legislation-- the *Family Violence Protection Amendment (Information Sharing) Regulations 2018* – introduce two new three letter acronyms (TLAs) into the administrative vernacular. For the purposes of the legislation a prescribed agency such as WHL may be classified as an Information Sharing Agency (ISE) and/or a Risk Assessment Agency (RAE).

These refer to different functions in the assessment and management process.

In practice many agencies such as WHL will perform both functions and therefore will be both an ISE and RAE.

The Regulations also set out record keeping requirements.

### 5.3 Prescribed Legislative Obligations

WHL acknowledges and affirms its obligations and responsibilities under the new legislation.

The information sharing amendments to both the *Family Violence Protection Act 2008* and the *Child Wellbeing and Safety Act 2005* impose a number of quite specific obligations upon prescribed agencies.

For example, each Act specifies guiding principles to be applied in the collection, use or disclosure of confidential information that is authorised in the legislation as documented in Appendices A – G attached.

Further the new legislation provides for the Minister to issue information-sharing guidelines, which prescribed bodies *must* comply with.

The two key documents here are:

*Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities*; and  
*Child Information Sharing Scheme Ministerial Guidelines: Guidance for information sharing entities*

Finally but by no means least is the Multi-Agency Risk Assessment and Management Framework (MARAM Framework), which is also legally constituted and approved by the Minister. The legislation states that a prescribed organization “*must ensure that its relevant policies, procedures, practice guidance and tools align with the Framework*”. (Part 11 sec 190 of the Act).

The primary reference document is: *Family Violence Multi-Agency Risk Assessment and Management Framework: a shared responsibility for assessing and managing family violence risk*.

All of these guidance documents are currently accessible at [www.vic.gov.au/guides-templates-tools-for-information-sharing](http://www.vic.gov.au/guides-templates-tools-for-information-sharing). This location also contains a range of other useful support materials relating to the implementation of the MARAM.

### 5.4 Implementation of the MARAM & Ministerial Guidelines

In accordance with its obligations, WHL affirms through this policy a commitment to align its policies, procedures, practice guidelines and other tools with Ministerial guidelines and the MARAM.

To facilitate this WHL will:

- Place responsibility for the implementation of the MARAM in the hands of the Operational Managers Group (OMG);
- Nominate and develop the Operations Manager as the in house “privacy expert” and “go to person” in relation privacy and information sharing matters;
- Arrange adequate information provision, training and technical support for all staff in relation to privacy and information sharing;
- Develop detailed procedures, documents and tools in line with the MARAM;
- Install relevant documents, assessment tools and other resources on GEMBA in order to provide easy reference for all relevant staff practitioners;
- Institute record keeping in accord with Regulations;
- Review and update related policies (eg WHL Child Safety Policy, WHL Records Management Policy.) in line with new legislation;
- Develop an enhanced Privacy Breach Policy and Procedure;
- Undertake regular reviews of WHL information sharing practice.

WHL will utilise the *MARAM Alignment Checklist* as a reference for implementation.

## **6. Information protection and storage**

WHL has information privacy and security measures in place to protect against the misuse, loss, unauthorised access or unauthorised disclosure of personal and health information.

Generally personal information is recorded and stored in both electronic and hard copy files.

WHL will ensure that security measures are applied to protect the information.

These measures include:

- storage of hard copy files containing personal information in locked cabinets or rooms or other secured areas accessible only by authorised staff;
- allocation of different computer access levels to different staff to ensure only authorised staff have access to certain kinds of computer-stored information;
- use of computer passwords to ensure only authorised staff have access to computer files;
- use of virus protection software;
- reasonable physical security to limit access to the WHL office

WHL will destroy all client information that is no longer required or not required to be kept for legal reasons.

Please refer the WHL Records Management Policy.

### **6.1 Transmission and Movement of Personal Information**

The electronic transmission of personal information through email or fax will be restricted to the minimum necessary to provide optimum service.

Care will be taken to ensure that this information is delivered only to the intended recipient.

Appropriate disclaimers and warnings will be attached to all emails and faxes containing personal information.

### **6.2 Requests from External Agencies**

Appropriate formal processes for dealing with information requests from external agencies (e.g. police) will be implemented. Requests from external agencies will be in writing and must be approved by the Operations Manager.

## **7. Breaches of Privacy or Confidentiality**

Breaches of privacy and confidentiality will occur when a Board or staff member fails to abide or comply, intentionally or unintentionally, with WHL policy as outlined here. A data breach occurs when personal information held by WHL is lost or subjected to unauthorised access, modification, disclosure, or other misuse or interference. For example an email that contains personal information but is mistakenly sent to an unintended receiver constitutes a data breach.

Breaches might range from simple innocent mistakes to deliberate offences for whatever purpose.

Internal awareness about privacy breaches may arise from complaints or information from parties inside or outside the organisation. It follows therefore that the Privacy Policy must be complemented by robust Complaints and Whistleblowing policies.

## **7.1 Dealing with Breaches of Privacy**

In the context of the new legislation relating to information sharing, WHL will develop a more extensive Privacy Breach Policy and Procedure.

In all cases, it is crucial that WHL responds in a correct and effective manner and that sanctions and remedies are put in place to protect individual privacy and the integrity of the organisation.

Depending upon the nature and seriousness of the breach, sanctions might range from counselling the offender to far more serious disciplinary procedures, including dismissal and legal action for corruption.

If a privacy/confidentiality breach is detected or alleged against an individual within the organisation, an investigation will be conducted by the appropriate line manager. The investigation will include an assessment of the adequacy of the privacy protection system that was breached and what systemic remedies might be applied to prevent future breaches.

Depending upon the seriousness of the breach, the matter may be referred to the Operations Manager who will determine the appropriate course of action.

Allegations against any manager will be handled by the CEO; allegations against the CEO or a Board member will be handled by the Board as a whole.

The CEO will be informed of all serious breaches and, if considered necessary, the CEO will advise the Board and in accordance with the WHL Funding Agreements may need to notify relevant funding bodies.

Legal advice may be sought.

The process will be guided by the principles of fairness and transparency.

## **8. Privacy and the Victorian Housing Register (VHR)**

The introduction of the Victorian Housing Register (VHR), and the attendant changes in the Victorian Housing Act, has privacy implications for many community housing agencies.

The main issue concerns the sharing of information between individual agencies and the VHR for the purposes of housing allocation. Many agencies maintain housing waiting lists or registers of interest that contain a considerable amount of personal information provided by potential clients. In order to participate in the VHR system, individual agencies are expected to share this information with the VHR and consolidate their client databases within the centralised register of the VHR.

Under the new Victorian Housing Act, this can be done legally without obtaining the consent of clients or applicants. Nevertheless this requirement might pose ethical dilemmas for individual agencies and, in some cases, obligations under the *Commonwealth Privacy Act* might also pose some legal dilemmas.

Because WHL does not maintain a waiting list or a register of interest, there is no residual client database to share with the VHR. However there will be occasions where applicants for certain types of WHL housing will have to provide personal information to the VHR. Under some funding agreements, WHL is expected to allocate a proportion of its housing to clients registered or eligible for priority access on the VHR waiting list.

On some occasions WHL will receive referrals or applications, from outside the VHR, from potential clients who meet the priority access criteria. These may also meet additional WHL eligibility criteria relating to our mission to target disadvantaged women in the housing market.

Potential clients identified or selected by WHL in this way will be able to retrospectively apply to be accepted on to the VHR. In applying, the potential client will have to disclose a range of personal information to the VHR.

In these circumstances the WHL will ensure that the potential client will receive accurate and adequate advice about privacy and personal information management by the VHR.

In these circumstances WHL will also adhere to the principle that personal information held by WHL will not be disclosed to an external agency without the informed consent of the person.

## **9. Responsibilities**

Overall responsibility for the implementation of this policy will rest with the CEO, consulting and delegating where appropriate to the Operations Manager and Program Managers.

### **9.1 Board**

- To be aware of the policy and its application across the organisation
- To be aware of risks associated with failure to comply with laws and regulations and government policies relating to privacy and confidentiality.
- To ensure WHL is compliant with its legal and regulatory obligations in relation to privacy and confidentiality.

### **9.2 Chief Executive Officer**

- Provide advice to Board concerning privacy issues and matters;
- Ensure the privacy policy is compliant with legal, regulatory and contractual obligations;
- Approve required reports to external authorities.

### **9.3 Operations Managers**

- Oversee operation of this policy;
- Approve /Deny requests for access to personal information held by WHL;
- Facilitate relevant privacy training for staff, Board Members and volunteers;
- Ensure that WHL complies with State and Commonwealth privacy legislation; and
- Ensure compliance with regard to collection, use and disclosure of personal information.

### **9.4 Program Managers**

- Oversee the efficient implementation and operation of this policy within their program areas
- To contribute to comprehensive risk assessment, risk management and referrals
- To contribute to information sharing with other services (as permitted by legislation)

### **9.5 Operational Staff**

In addition to 10.6,

- To identify family violence
- To contribute to comprehensive risk assessment, risk management and referrals

- To contribute to information sharing with other services (as permitted by legislation)

#### **9.6 Students/Volunteers/Contractors**

- To be aware of policy and how it applies to their areas of activity and responsibility
- To apply this policy within their areas of responsibility
- To maintain appropriate information record keeping where required
- To protect the privacy and confidentiality of clients
- To respectfully, sensitively and safely engage with clients

### **10. Reviewing**

Every two years or following change in legislation, regulation or relevant government policy.

### **11. Related Policy Documents**

- WHL Child Safety Policy
- WHL Occupational Health & Safety Policy
- WHL Human Resources Policy
- WHL Document Control Policy & Procedure
- WHL Records Management Policy
- Family Violence Information Sharing Guidelines: Guidance for Information Sharing Entities
- Child Information Sharing Scheme Ministerial Guidelines: Guidance for information sharing entities
- Multi-Agency Risk Assessment and Management Framework (MARAM Framework),
- MARAM Alignment Checklist
- Ending Family Violence: Victoria's 10 Year Plan for Change
- Victorian Family Violence Outcomes Framework
- DHHS Services Guidelines and Conditions of Funding
- Performance Standards for Registered Housing Organisations
- Victorian Housing Register – Information Sharing Arrangements
- Performance monitoring framework: Victorian Housing Register
- Participation in the Victorian Housing Register: Registered Agency Agreement

### **12. Relevant Legislation**

- Privacy and Data Protection Act 2014 (Victoria)
- Information Privacy Act 2000 (Victoria)
- Freedom of Information Act 1982

- Public Records Act 1973
- Health Records Act 2001
- Charter of Human Rights and Responsibilities Act 2006 (Victoria)
- The Privacy Act 1988 (Commonwealth)
- Public Administration Act 2004
- Housing Act
- The Family Violence Protection Act 2008
- the Family Violence Protection Amendment (Information Sharing) Regulations 2018
- The Child Wellbeing and Safety Act 2005.

**Appendices**  
**Family Violence Information Sharing Guidelines**  
**Guidance for Information Sharing Entities**

# APPENDIX A

## Information sharing process checklist when making a request

When making a request for information, either verbally or in writing, under Part 5A of the *Family Violence Protection Act 2008* (FVPA), you should make sure that:

- You are prescribed as an ISE and that you are authorised to share for that purpose.
  - ... Check the regulations to make sure you are a prescribed ISE, and to confirm whether you are a risk assessment entity that can share information for a family violence assessment purpose.
- That you are requesting information from a prescribed ISE.
  - ... Check the regulations and make sure the worker is prescribed as an ISE
  - ... Ensure you are speaking with someone suitably trained to use Part 5A of the FVPA
  - ... If you do not have an existing relationship with the ISE you are requesting information from, you may need to verify who you are (e.g. by sending an email from your entity's official account).
- Your information request is for a permitted purpose under Part 5A of the FVPA — namely, either for:
  - a. A family violence assessment purpose
    - ... Only prescribed Risk Assessment Entities are entitled to make requests and receive information for a family violence assessment purpose, which focuses on identifying who the 'actual' perpetrator and victim survivor are and establishing the level of risk the perpetrator poses to the victim survivor
  - OR
  - b. A family violence protection purpose
    - ... Any prescribed ISE is permitted to request and receive information for a family violence protection purpose. The focus at this stage is about managing the risk of the perpetrator committing family violence or the victim survivor being subjected to family violence. This could include information sharing as part of ongoing risk assessment.
- You provide sufficient information to the organisation you are requesting information from to help them identify what information they hold that might be relevant and whether they should disclose that information.
  - ... Don't engage in a 'fishing' expedition. Clearly identify the purpose of your call or email and why you believe they may hold relevant information, being mindful not to over-share information where this is not necessary.
  - ... Precedence should always be given to a victim survivor's right to be safe from family violence when discussing relevant information.
- You have documented the service you contacted and worker you spoke with.
- You have documented the information that was disclosed.
- You have documented any risk assessment or safety plan that has been made as a result of the information sharing.
- You only use the information for a purpose permitted by law.
- If your information request is refused, record this refusal in writing and keep this refusal on file.
- You have read [Chapter 7](#) on page 84 if you are sharing information about an Aboriginal or Torres Strait Islander person.
- You have read [Chapter 8](#) on page 90 if you are sharing information about people with disabilities, people from culturally and linguistically diverse backgrounds, older people, people from lesbian, gay, bi-sexual, trans, gender diverse and intersex communities or people from regional, rural and remote communities.

# APPENDIX B

## Information sharing process checklist when responding to a request

When responding to an information request, you should:

- Make sure the person requesting information is from a prescribed ISE.
  - ... Check the regulations and make sure they are prescribed as an ISE.
  - ... If you don't have an existing relationship with the person requesting the information, you should verify that they are who they say (e.g. by asking them to send you an email from their official work account).
- Make sure their request for information is for a permitted purpose under Part 5A of the *Family Violence Protection Act 2008* (FVPA) — namely:
  - a. If the information is being requested for a family violence assessment purpose
    - ... Only specifically prescribed Risk Assessment Entities can request and receive information for a family violence assessment purpose. Therefore, confirm that the person requesting information is specifically prescribed as a Risk Assessment Entity
    - ... Refer to the MARAM Framework to assess what information is relevant and share in line with your professional judgement
    - ... Ensure that you share information in a way that does not place victim survivor at further risk of harm.
  - OR
  - b. If the information is being requested for a family violence protection purpose.
    - ... Any prescribed ISE is permitted to request and receive information for a family violence protection purpose
    - ... You must reasonably believe that the disclosure of the relevant information is necessary for a family violence protection purpose. Refer to the MARAM Framework to assess what information is relevant and share in line with your professional judgement
    - ... Ensure that you share information in a way that does not place the victim survivor at further risk of harm.
- Prior to sharing the relevant information, make sure you have obtained consent from the relevant person (if required by Part 5A of the FVPA):
  - a. When sharing information to assess or manage risk for an adult victim survivor of family violence, the following consent requirements apply.
    - ... Perpetrator consent is not required
    - ... Consent from an adult victim survivor or third party is required unless you believe sharing the information is necessary to lessen or prevent a serious threat to an individual's life, health, safety or welfare. Refer to the MARAM Framework to inform your assessment of threat or risk level and exercise your professional judgement. Speak to your manager if you are unsure or you want to verify what information should not be shared
    - ... Consent from a child victim survivor is not required but their views or the view of their parent that is not a perpetrator should generally be sought. This is crucial for building open and transparent relationships between service providers and victim survivors
- Prior to sharing the relevant information, make sure the information is not excluded information or that sharing it would not contravene another law:
  - ... Refer to the legislation and Family Violence Information Sharing Guidelines
  - ... Speak to your manager if you are unsure or you want to verify what information should not be shared.

- ... It is important that you have an upfront conversation with all clients at the point they engage with services about how their information might be shared under Part 5A of the FVPA, irrespective of consent.
- b. When sharing information to assess or manage risk for a child victim survivor of family violence, consent is not required from any person.
- ... It is important that you have an upfront conversation with all clients at the point they engage with services about how their information might be shared under Part 5A of the FVPA, irrespective of consent
- ... Seek to promote the agency of the child and other family members at risk of family violence by taking into account their wishes where appropriate and plan for the safety of all family members at risk of family violence
- ... If safe to do so, notify the child and other family members at risk of family violence that their information has been shared under Part 5A of the FVPA.

- Document the entity that requested the information and the worker you spoke with.
- Document the information that was shared and any consent obtained, or the reason for sharing without consent.
- If you refuse to share the information because it was exempt or applicable consent thresholds were not met, set out reasons for refusal in writing and provide this to the requesting ISE.
- Document the method of sharing, and if sent through email, whether encryption was used.

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### **Remember**

At any stage, if you are concerned or uncertain about the information sharing process, speak to your manager for guidance prior to making any decisions.

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### **Remember**

If you think that a perpetrator or victim survivor has been misidentified, you should only share information consistent with Part 5A of the FVPA and the applicable consent thresholds. If you believe someone is a victim survivor (and not a perpetrator), you must seek their consent first unless there is serious threat or information is relevant to assessing or managing risk to a child victim survivor.

# APPENDIX C

## Information sharing consent form (for adult victim survivors only)

Part 5A of the *Family Violence Protection Act 2008* provides a clear legislative basis for prescribed Information Sharing Entities to request and share information to assess and manage family violence risks.

Information Sharing Entities play a role in responding to family violence and include Victoria Police and specialist family violence services.

### Why is information sharing important?

Sharing information is important so relevant services can work better to keep perpetrators in view and keep you (and if applicable your children) safe. Information will only be shared where it is necessary to assess and manage the risks of family violence.

### Why am I being asked to fill out this consent form?

Because we have concerns for your safety, we would like your consent to share confidential information about you with other service providers that are legally allowed to receive that information because of their role in assessing your risk, or managing your ongoing safety.

Please note in cases of serious threat or where your information is linked to assessing and/or managing the family violence risk to a child victim survivor, the law permits information to be shared about any person without consent. Where possible and safe to do so, you will be informed about any disclosure of your information to other Information Sharing Entities. Your views and wishes will also be taken into account where possible.

By signing this consent form, you are giving permission for your information to be shared with other Information Sharing Entities for the purposes of assessing and managing family violence risks.

You may be contacted by other Information Sharing Entities that hold information about you to seek your consent to share that information. You can indicate your preferred method of contact on the consent form below.

Your information will **not** be shared with the perpetrator of family violence and it will be held securely by the relevant Information Sharing Entity. You have the right to withdraw your consent at any time.

## ■ Information sharing consent form

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Address: \_\_\_\_\_

I \_\_\_\_\_ (name) consent to the collection, use and sharing of my personal information under Part 5A of the *Family Violence Protection Act 2008*. I understand that my information may be shared without consent if there is a serious threat to myself or another individual's life, health, safety or welfare. I also understand that my information may be shared without consent if it is relevant for assessing or managing risks to a child victim survivor of family violence.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (print): \_\_\_\_\_

Worker signature: \_\_\_\_\_ Date: \_\_\_\_\_

Worker name (print): \_\_\_\_\_

Verbal consent obtained:  Date: \_\_\_\_\_

Please indicate your preferred contact method:

Mail: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

Would you prefer to be called from a private number?

What is the best day and time for us to call:

\_\_\_\_\_

Text message: \_\_\_\_\_

A message left with an authorised person for you to return the call:

Authorised person contact details: Full name, relationship, telephone:

\_\_\_\_\_

# APPENDIX D

## Tips for conversations with adult victim survivors about consenting to information sharing

### Model Conversation: Obtaining consent from an adult victim survivor

Organisations are required to obtain consent in order to share information about adult victim survivors in a number of circumstances when sharing information under privacy laws but there are also some limitations to the requirement for consent that practitioners discuss with victim survivors. In addition to the conversations practitioners already have with adult victim survivors around information sharing, it is important that practitioners also outline the limitations of consent as it relates to sharing information under Part 5A when obtaining consent from an adult victim. This conversation may occur when an adult victim survivor first comes into contact with your service. Or, for existing clients of a service, the conversation may occur when workers are prescribed and authorised as ISEs to share family violence information in accordance with Part 5A.

These dot points should be considered for your conversation with adult victim survivors, where there is no child at risk of family violence. Please note there are extra considerations for this model conversation when the adult victim survivor's information is being shared to assess or manage risk to a child victim survivor. Please refer to [Chapter 5](#) on page 64 for more information.

These conversation prompts can be adapted for practitioners in a variety of roles. Not all points need to be addressed – using your professional judgement on how to address limited consent with clients in individual circumstances is essential.

To check the victim survivor understands, consider the following approaches:

- provide examples of when their information would be shared and for what purpose, to provide context to the discussion
- check in multiple times to confirm the victim survivor understands what has been said, possibly asking them to repeat the information if you are concerned they do not understand
- tailor this conversation to victim survivors where English is their second language; where a cognitive impairment is present and/or; where capacity is impaired for any reason.

When having a conversation with adult victim survivors about consent, consider the following prompts:

#### *The new Scheme*

- information sharing laws have recently changed
- under the new laws, information sharing can occur to assess and/or manage your risk of family violence
- the Scheme is in place to promote your safety
- information sharing allows organisations to work collaboratively to assess and manage your safety, to reduce the burden on you to manage family violence risk on your own
- I acknowledge this is a difficult time for you. The Scheme is in place to support you, not to create further stress.

### *Consent*

- in the majority of instances your consent will be sought. However, if it will lessen or prevent a serious threat to an individual's life, health, safety or welfare, your consent is not required to share information
- while your consent is not required in some limited circumstances, wherever appropriate, safe and reasonable to do so we will seek your views on how and when your information is shared
- wherever possible, you will be informed that your information has been shared
- after we have requested your information from other organisations they may also wish to obtain your consent to share your information. You may want to let them know the safest way to contact you by writing this on the consent form.

### *Reassurance*

- information will not be shared with the perpetrator of family violence.

# APPENDIX E

## Tips for a conversation with a child victim survivor or parent who is not a perpetrator

### Model Conversation with a child victim survivor of family violence, or parent who is not a perpetrator

Part 5A explicitly recognises the precedence of a child's right to be safe from family violence over any individual's rights to privacy. When explaining the impact of Part 5A to child victim survivors and/or a parent who is not a perpetrator, it is important to highlight that the purpose of the Scheme is to promote the safety of victim survivors.

Consent is not required from any person prior to sharing information that is relevant to assessing or managing a risk of family violence to a child. This includes information about a child, their parent who is not a perpetrator, the perpetrator or any third party.

In order to provide effective support it is crucial for service providers to build and maintain relationships of trust with children and the parent who is not a perpetrator. An important way of achieving this is through open and transparent communication. This means making it clear that new information sharing laws permit relevant information to be shared about any person, without seeking consent, for the purpose of assessing or managing family violence risk to a child. Practitioners already have conversations about limitations around confidentiality in relation to sharing information under other laws, including the *Children, Youth and Families Act 2005* and privacy laws.

These conversation points should be considered as a guide for your conversation with child victim survivors and/or their parent who is not a perpetrator. These prompts can be adapted for practitioners in a variety of

roles. Not all points need to be addressed — your professional judgement is essential to determine how to discuss Part 5A with clients in individual circumstances.

To check the victim survivor understands, consider the following approaches:

- provide examples of when their information would be shared and for what purpose, to provide context to the discussion
- check in multiple times to confirm the child victim survivor or parent who is not a perpetrator understands what has been said, possibly asking them to repeat the information if you are concerned they do not understand
- tailor this conversation to child victim survivors or parents who are not perpetrators where English is their second language; where a cognitive impairment is present; and/or where capacity is impaired for any reason.

When having a conversation with a child victim survivor or a parent who is not a perpetrator, consider the following prompts:

#### *The Scheme*

- information sharing laws have recently changed
- under the new laws, information sharing can occur to assess and/or manage your (or your child's) risk of family violence
- the Scheme is in place to promote your safety (or the safety of your child)
- information sharing allows organisations to work collaboratively to assess and manage your safety (or your child's safety), to reduce the burden on you

- I acknowledge this is a difficult time for you. The Scheme is in place to support you (and your child), not to create further stress.

#### *General*

- I recognise the steps you have taken to protect your child from family violence.

#### *Consent*

- if your information is relevant to assessing and/or managing a risk to your child, your consent is not legally required to share information
- while your consent is not legally required, where it is appropriate, safe and reasonable to do so, your views will be sought over how and when your information is shared
- wherever possible, you will be informed that your information is shared.

#### *Reassurance*

- if it is not possible to speak with you before sharing your information, I will tell you as soon as possible afterwards
- information will not be shared with the perpetrator of family violence
- the safety of family members that are not perpetrators will also be taken into account in safety planning.

# APPENDIX F

## Your Information and Your Safety Fact Sheet

### Your Information

- Sharing relevant information can be critical to managing your safety.
- Information sharing procedures will be explained to you and your consent will be sought when engaging with relevant services.
- Generally, your information will not be shared without your consent. But if there is a serious threat to an individual's life, health safety or welfare, your information may be shared without your consent to lessen or prevent this serious threat.
- Your information may also be shared without consent if this information is linked to a child victim survivor of family violence and it is necessary to assess or manage family violence risk to that child.
- If your information is shared without your consent, it will be done so in a manner that promotes your safety and takes into account your views, where appropriate, safe and reasonable.
- When appropriate, safe and reasonable you will be notified about your information being shared.
- You maintain the right to access any information held about you. If you think any information held about you is incorrect, you can ask to look at your file and ask for your information to be corrected.
- If you believe your privacy has been unlawfully interfered with as a result of information sharing, you may make a complaint to the Office of the Victorian Information Commissioner, the Health Complaints Commissioner or the Australian Information Commissioner, as applicable.
- Your information is strictly confidential and will only be shared with prescribed services that are bound by law to keep it secure.
- Your information will **NEVER** be shared with the perpetrator of family violence under the Family Violence Information Sharing Scheme established under Part 5A of the *Family Violence Protection Act 2008*.

### Information shared with you

- An organisation may share information with you about the perpetrator of family violence to assist you manage your own safety or that of your children.
- You are **NOT** permitted to use the information provided to you for any purpose other than managing your safety.
- You should not share the information you receive in ways that are unrelated to managing your safety (e.g. sharing on social media). Sharing your information with the wrong person could affect your or others safety.
- Information can be shared with members of your safety management network as required, but only as it relates to implementing your relevant safety plans. If information is provided to a third party, you must inform the third party that the information can only be used to manage your safety or that of your children.

# APPENDIX G

## Example record keeping form

Who did you share information about? (tick all that apply)

Perpetrator     Alleged Perpetrator     Adult Victim Survivor     Child Victim Survivor (under 18 years)     Adult Third Party

Date the information was disclosed (DD/MM/YYYY)

Which organisation was the information disclosed to?

Please attach:    ■ a record of the information that was disclosed.    ■ a family violence risk assessment or safety plan for the victim survivor or member of their family (if made by your organisation).

**Requested information**

Was this information shared in response to a request?     Yes     No

If **yes**, what was the date of the request? (DD/MM/YYYY)

If **yes**, what information was requested?

### Information shared about an adult victim survivor or third party (where no child is at risk)

Was this information shared with consent?     Yes     No

If **yes**, please attach record of consent

If **no**, what is the reason why information was shared without consent? (i.e. serious threat)

Was the adult victim survivor/third party informed that their information was disclosed?     Yes     No

### Information shared about an adult victim survivor or third party to assess or manage risk to a child victim survivor

If **no**, did you seek the views of the adult victim survivor/third party?     Yes     No

If **no**, why were the views of the adult victim survivor/third party not sought?

Was the adult victim survivor/third party informed that their information was disclosed?     Yes     No

### Information shared about a child victim survivor (under 18 years)

Did you seek the views of the child/young person (under 18) or their parent (who is not a perpetrator or alleged perpetrator) about sharing their information?     Yes     No

If **no**, why were the views of the child/young person or their parent not sought?

Was the child/young person or their parent informed that their information was disclosed?     Yes     No

