

Northern Territory  
**DOMESTIC AND  
FAMILY VIOLENCE  
INFORMATION  
SHARING  
GUIDELINES**

# ACKNOWLEDGMENTS

Territory Families acknowledges the assistance of the Department of the Attorney-General and Justice and the members of the Information Sharing Advisory Committee in the preparation of these Information Sharing Guidelines.

Members of the Information Sharing Advisory Committee include representatives from the Darwin Domestic and Family Violence Network, the Central Australian Family Violence and Sexual Assault Network, Tennant Creek Women's Refuge, Women's Safety Services of Central Australia, the Northern Territory Legal Aid Commission, the Aboriginal Medical Services Alliance of the Northern Territory, Territory Families, the Department of Health, the Department of the Attorney-General and Justice, the Department

of Local Government, Housing and Community Development, the Office of the Information Commissioner and NT Police, Fire and Emergency Services.

These guidelines have been developed in partnership with government and non-government agencies, and in consultation with the domestic, family and sexual violence specialist and legal sectors.

Territory Families also acknowledges that these guidelines have been informed by work on information sharing that has occurred in relation to children in the NT and in relation to domestic and family violence in other jurisdictions.

# DISCLAIMER

The Northern Territory Government does not accept any liability whatsoever for the information or the use of information provided in these guidelines or incorporated into them by reference.

The content of these guidelines is provided strictly for information purposes only. No claim or warranty is made as to the accuracy, completeness or currency of the content in these guidelines.

These guidelines are not intended for the purpose of providing legal advice. You should seek your own independent legal advice in relation to your statutory and legal obligations.

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The Northern Territory Government proudly acknowledges the Traditional Owners of country and recognises their continuing connection to their lands, waters and communities. We pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders both past and present.

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# SUMMARY OF INFORMATION SHARING SCHEME

## Preventing domestic and family violence is everyone's responsibility

- Domestic and family violence (DFV) is prevalent in the Northern Territory (NT) and it causes serious harm. Women and children are most at risk.
- All adults in the NT have a responsibility under mandatory reporting laws to respond in a way which improves the safety of victim survivors of DFV and holds perpetrators to account.

## Mandatory Reporting and other information sharing laws still apply

- New information sharing laws in Chapter 5A of the *Domestic and Family Violence Act 2007* do not replace or change existing information sharing and mandatory reporting laws.
- Under these laws, there are certain situations where information may be shared, reported or disclosed even where the consent of the person has not been given. These existing obligations still apply.

- In the NT every adult is required by law to report DFV to police as soon as practical, if they believe that serious physical harm has or is likely to occur OR if someone's life or safety is under serious or imminent threat.
- Information may be disclosed under Information Privacy Principle 2.1 in the *NT Information Act 2002* if the organisation reasonably believes that the use or disclosure is necessary to lessen or prevent a serious or imminent threat to an individual's life, health or safety or of harm to, or exploitation of a child.
- Authorised Information Sharers under Part 5.1A of the *Care and Protection of Children Act 2007* may share information that relates to the safety or wellbeing of a child for purposes that are specified under this Act.

## New domestic and family violence information sharing laws now apply to designated 'Information Sharing Entities' (ISEs)

- Under Chapter 5A of the *Domestic and Family Violence Act 2007*, certain government agencies (and non-government schools) are now required to share relevant information about DFV.
- This will help organisations assess and respond to serious threats to life, health, safety and welfare because of DFV.
- Non-government organisations who provide a domestic and family violence related service can apply to become an ISE.
- A full list of ISEs is available on the Territory Families website.

## Can information be shared without consent under information sharing laws?

- An ISE should obtain the consent of a person who fears or experiences DFV before sharing information about the person, unless it is not safe, possible or practical to do so.
- However, the safety of a person who fears or is experiencing DFV is paramount in determining whether such information can be shared.
- This means that information may be shared without consent under Chapter 5A in certain circumstances.

## When can information be shared without consent?

- An ISE may share information with another ISE, without the consent of the person, if the ISE that holds the information believes on reasonable grounds that:
  - a person fears or is experiencing DFV; and
  - the information may help the receiving ISE to assess, lessen or prevent a serious threat to a person's life, health, safety or welfare because of DFV.
- An ISE may share information with another ISE on its own initiative, or following a request from another ISE for information.
- An ISE must give the information to an ISE that requests it in order to help the requesting ISE to assess, lessen or prevent a serious threat because of DFV, even if the person has not provided consent.

## When is it prohibited to share information?

- Information must not be shared if it could:
  - endanger a person's life or physical safety;
  - prejudice a court case, police investigation or coronial inquiry;
  - contravene legal professional or client legal privilege; or
  - enable the identification of a police source or breach a law.

## What do ISEs need to do?

- ISEs must comply with these Guidelines.
- ISEs need to ensure their policies, procedures, practice guidance and tools are reviewed and updated to align with their new obligations.
- ISEs must ensure that their policies, procedures, practice guidance and tools align with the Northern Territory Government DFV Risk Assessment and Management Framework (currently under development) to help them identify, assess and respond to family violence.
- ISEs should follow the record keeping obligations outlined in the guidelines.
- If an ISE refuses to share information with another ISE who has made a valid information request, the ISE must provide the refusal and the grounds for the refusal in writing.
- ISEs should respond to reasonable requests for information from the Information Commissioner in order to inform the review of the Information Sharing Scheme.

## What if you are not an ISE?

- If you are not an ISE you may still be able to share information about a person, without their consent, if it is necessary or required under mandatory reporting laws, information privacy principles, or Part 5.1A of the *Care and Protection of Children Act 2007*.
- All organisations (even if they are not an ISE) should have policies and procedures in place so their employees know how to identify and respond to DFV and can meet their mandatory reporting and information sharing obligations.
- Non-government organisations who provide a domestic and family violence related service can apply to become an ISE.

## Where can I get more information?

Information and resources are available at <https://territoryfamilies.nt.gov.au/dfv/informationsharing>

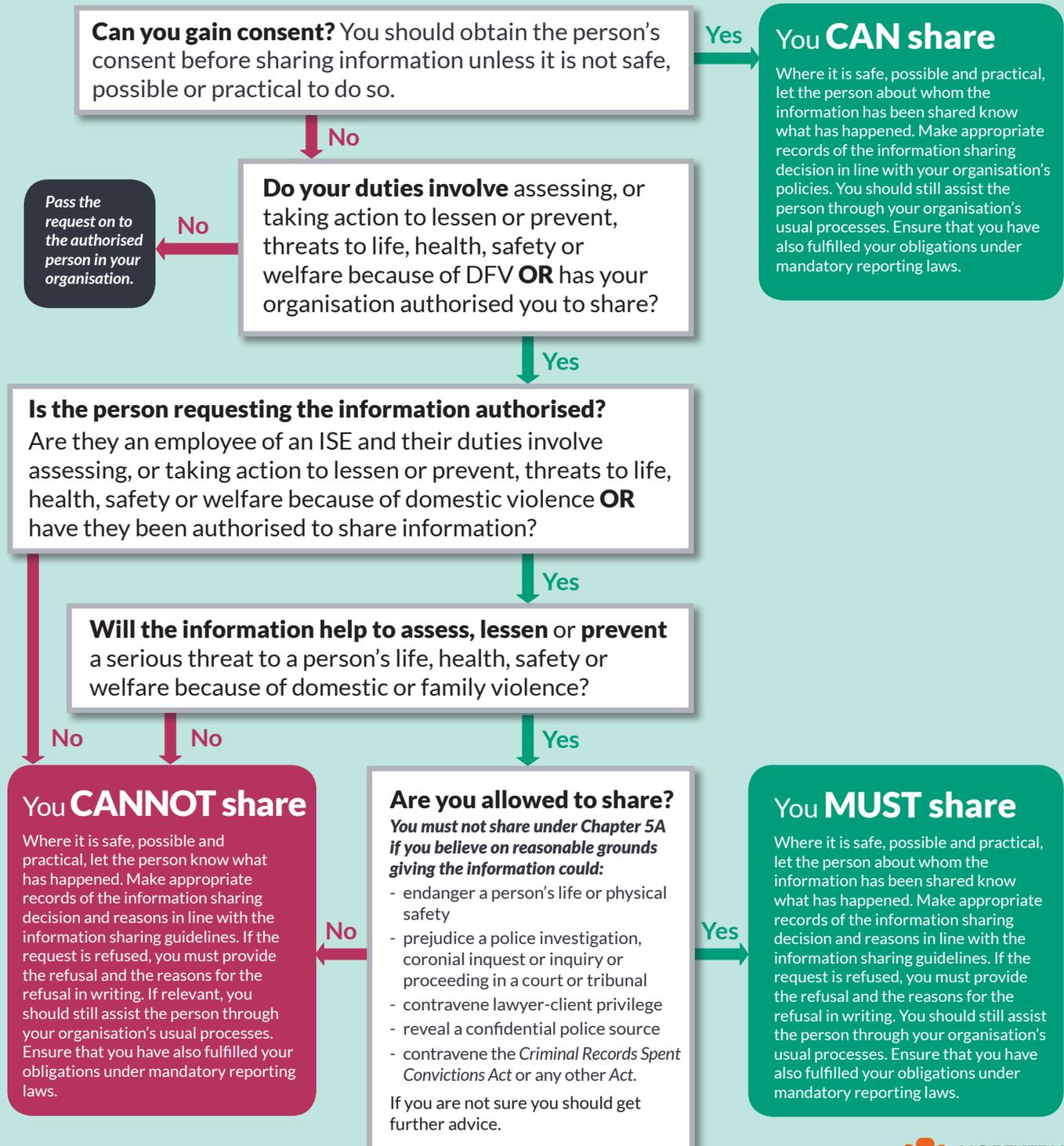
# How to respond to a request to share information about Domestic and Family Violence (DFV)

These laws do not replace **mandatory reporting**, or information sharing under **Information Privacy Principles** or the **Care and Protection of Children Act**.

Your obligations to report domestic and family violence under these laws still apply.

See 'Can I share information?' poster

If you are an **Information Sharing Entity (ISE)** under the *Domestic and Family Violence Act (NT)*, and you have received a request to share information about a person's fear or experience of DFV, **follow these steps**.



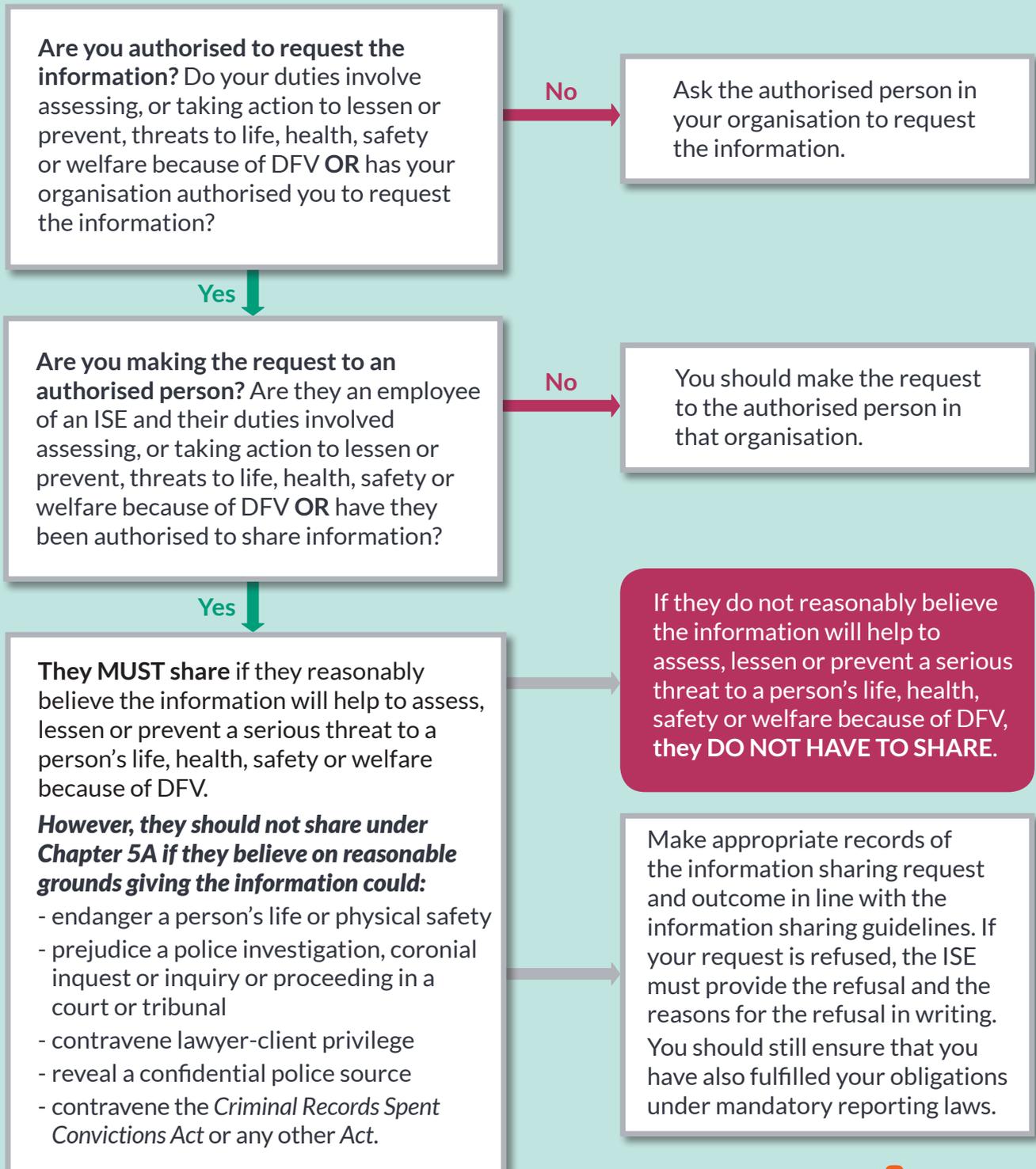
# How to make a request for information about Domestic and Family Violence (DFV)

These laws do not replace **mandatory reporting**, or information sharing under **Information Privacy Principles** or the **Care and Protection of Children Act**.

Your obligations to report domestic and family violence under these laws still apply.

See 'Can I share information?' poster

If you are an **Information Sharing Entity (ISE)** under the *Domestic and Family Violence Act (NT)*, and you want to request information from another ISE about a person's fear or experience of DFV, **follow these steps**.



# 1. INTRODUCTION

In October 2018 amendments were made to the *Domestic and Family Violence Act 2007* (the Act) to introduce a new Information Sharing Scheme, set out in Chapter 5A of the Act. The scheme commences on 30 August 2019.

In situations of domestic and family violence (DFV), the timely and appropriate sharing of information across agencies can save lives and prevent serious harm. Many different services and practitioners – such as police, specialist DFV services, child protection, and health services – can become involved in an individual case.

Effective, coordinated responses require DFV agencies and services to work together and may depend on the sharing of relevant information across agencies and services. Information sharing is particularly important in assessing and managing risk, as each service may hold different information about the circumstances and relevant risks in each case. The outcomes of appropriate and safe information sharing are that:

- victim survivors of DFV are safer, and
- perpetrators of DFV are held to account and provided with opportunities to change their behaviour.

## 1.1 Purpose of these guidelines

These Domestic and Family Violence Information Sharing Guidelines (the Guidelines) have been developed to support Information Sharing Entities (ISEs) to share information appropriately in order to assess, lessen or prevent a serious risk of DFV.

The Guidelines are consistent with Chapter 5A and the regulations under the Act.

The Guidelines provide ISEs with information on who can share information, what information should be shared, and the circumstances in which information may be shared.

## 1.2 Domestic and Family Violence - Definition

Domestic violence is typically used to refer to acts of violence that occur between people who have or once had an intimate relationship. The term family violence describes violence targeted at spouses and partners as well as people in a family relationship, including a relative according to Aboriginal tradition or contemporary practice. Family violence is often the preferred term used by Aboriginal people and services.

### ISEs are required by law to comply with these Guidelines.

The Guidelines do NOT replace an organisation's own policies, procedures and systems in relation to DFV information sharing. All ISEs need to develop or adapt their own internal policies, procedures and systems to comply with Chapter 5A and the Guidelines.

Consistent with the Act, the Information Sharing Scheme uses the term domestic and family violence.

DFV is a pattern of behaviour aimed at controlling a partner or family member through fear, for example by using behaviour which is violent and threatening, and to place at risk their immediate and longer-term safety and wellbeing. The violence can be physical, sexual, emotional, financial, psychological or technology facilitated.

The definition of DFV for the Information Sharing Scheme is the definition set out in the Act.

It includes the following conduct in a domestic relationship:

- conduct causing harm (including physical and sexual assault);
- harassment (including regular contact by email, phone, letters, text messages, social media, or in person after having been asked to stop, and giving or sending offensive materials);
- stalking (deliberately following, watching or waiting for a person on at least two separate occasions with the intention of causing harm to the person or causing the person to fear harm);
- economic abuse;
- attempting or threatening to commit any of these acts.

A domestic relationship includes:

- current or previous intimate partners;
- family members;
- people who currently or previously lived together;
- carer relationships (regardless of whether the care is paid or unpaid);
- guardianship or custody relationships;
- relatives according to Aboriginal tradition or contemporary social practice.

### 1.3 Terminology used in the guidelines

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These Guidelines recognise that the causes of DFV are complex, and include gender inequality and community attitudes towards women. Contributing factors may include financial pressures, alcohol and drug abuse, mental illness and social and economic exclusion. Further, for Aboriginal people DFV is compounded by discrimination and trauma associated with historical and ongoing injustices.

While both men and women can be perpetrators or victim survivors of domestic and family violence, overwhelmingly the majority of perpetrators are men and victim survivors are women and children.

This is why DFV is often described as 'gender-based violence.'

This document refers to victim survivor and perpetrator in recognition that these are the terms most widely used in the community. A perpetrator is the person accused of committing DFV regardless of whether they have been convicted for the crime. The term victim survivor refers to both adults and children. A victim is a person against whom DFV has been perpetrated, or a person identified by an ISE as at risk of DFV being perpetrated against them. The term victim survivor is used to recognise a victim's agency and individual capacity.

A practitioner or worker, as used in these Guidelines, means a person working to prevent or address DFV. A practitioner may be working to prevent or address DFV as their primary role or as their secondary role such as a nurse or community development worker.

Some ISEs or professionals may identify with or use different terms as language depends on context, including the age of the person being spoken with or about, the service setting and who is present. It is recognised that in practice, practitioners and services will use the language that works for their service users. For example, they may prefer to use the terms 'people who experience violence' or 'people who use violence'.

# 2. HOW DOES INFORMATION SHARING UNDER CHAPTER 5A WORK?<sup>1</sup>

Chapter 5A allows an ISE to share information with another ISE, without the person's consent, if the following threshold is met:

- the ISE believes that a person fears or is experiencing DFV; and
- the ISE believes that the information may help the ISE receiving the information to assess, lessen or prevent a serious threat to a person's life, health, safety or welfare because of DFV, including by providing or arranging a domestic violence service.

Under Chapter 5A of the *Domestic and Family Violence Act 2007* (the Act), information sharing can occur between ISEs without consent.

The Act states that consent should be sought where it is safe, possible and practical to do so. However, the safety, protection and well-being of a person who fears or experiences DFV are paramount. This means safety takes precedence over consent.

ISEs must consider a number of key questions before sharing relevant information without consent. The flowcharts on pages 6 and 7 provide a summary of these key steps. Further information about each of these steps is provided in this section.

## 2.1 When can information be shared between ISEs?

Chapter 5A allows an ISE to share information with another ISE, without the person's consent, if the following threshold is met:

- the ISE believes that a person fears or is experiencing DFV; and

- the ISE believes that the information may help the ISE receiving the information to assess, lessen or prevent a serious threat to a person's life, health, safety or welfare because of DFV, including by providing or arranging a domestic violence service.

The belief must be held on **reasonable grounds**. This is a safeguard to prevent unnecessary or irrelevant information from being shared.

A 'reasonable belief' is an honest belief which is well-founded. Having a reasonable belief does not mean that the practitioner from the ISE has to be certain or that there is established evidence. However, it is more than having a suspicion. It would generally require the practitioner to have some facts or information. Belief is simply the state of mind of the person who is required to make a decision to request or give information. Whether a belief is reasonable will depend upon the circumstances, including:

<sup>1</sup> These Guidelines only provide information relating to the information sharing provisions under Chapter 5A of the *Domestic and Family Violence Act 2007*. They do not provide information relating to the sharing of information under other legislation or provisions, such as mandatory reporting, the *Information Act* or the *Care and Protection of Children Act*. For further information please see Section 8 of the Guidelines.

## SCENARIO

### An ISE must share information when it has been requested by another ISE

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Peta works for a women's refuge which has been prescribed as an ISE. Peta's client, Michelle, is a victim survivor of DFV, and has sustained a number of serious injuries. The perpetrator of the violence, Paul, is serving a jail sentence as a result of the violence. Michelle is worried that when Paul gets out of jail, he will continue perpetrating violence against her. She tells Peta that she knows he is due for release soon, but does not know the actual date. In order for Peta to assist Michelle in making a safety plan, it is important to know this date. Peta contacts a NT Correctional Services worker to request that this information be shared. She asks to speak to the person who is authorised to share information under the domestic and family violence Information Sharing Scheme, and is put through to Katrina. Katrina assesses the request, and agrees that the information (Paul's release date) will help Peta assess, lessen or prevent a serious threat to Michelle's safety because of DFV. Katrina must share this information with Peta under Chapter 5A.

- the information the practitioner already has;
- the practitioner's skills, training and experience. (For example, a doctor might have a different belief about an injury or medical condition than a teacher); and
- the urgency of the situation.

A reasonable belief is an honest belief which is more than a suspicion, and would generally require some facts or information.

The threat must be serious. Note that the serious threat is not just about the loss of life. It includes a serious threat to mental, emotional and physical health, safety or welfare.

Provided this threshold has been met, and there are no reasons that information sharing is prohibited (as outlined in Section 4 of these Guidelines) an ISE may share information with another ISE on its own initiative (that is, without a request), and must share information when it has been requested by another ISE.

## 2.2 What information can be shared?

.....

Only information that is necessary to assess, prevent or lessen a serious threat to a person's life, health, safety or welfare because of DFV should be shared.

An ISE should specify the information requested and the purpose for which it will be used as clearly as possible so that the ISE receiving the request can identify whether the information it holds is relevant to the request. Practitioners should use their professional judgement to determine what, of the information they hold, is relevant information that should be shared for the purposes of Chapter 5A.

The Act makes it clear that information may include both facts and opinion. Facts means absolutes (for example, the date on which a perpetrator may be released on parole), while opinion refers to professional opinion inferred from

other information (for example, the practitioner's assessment that the victim survivor is at serious risk).

Information should be limited to what is needed to fulfil the purpose of sharing, and should not be excessively detailed.

## 2.3 How should information be shared and requested?

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The Act does not specify if information requests and information sharing should be made verbally or in writing. However, it is recommended that ISEs keep a written record of all exchanges of information made under the Information Sharing Scheme.

An ISE should always respond to requests in a timely manner. In particular, where the request is urgent and/or a serious threat has been identified, ISEs should respond to those requests for information without delay. If the request is not urgent, the ISE can negotiate an appropriate timeframe for a response.

ISEs should make sure that an organisation they are sharing information with is prescribed as an ISE by the Act or by the regulations. If a responding worker does not have an existing relationship with the person requesting the information, they should verify the identity of the ISE before sharing information (e.g. by asking them to send an email from their official work account or by calling their switchboard at their organisation).

## 2.4 How can the shared information be used?

Information shared under Chapter 5A may be used by the receiving ISE to:

- (a) assess whether there is a serious threat to a person's life, health, safety or welfare because of DFV; or
- (b) lessen or prevent a serious threat to a person's life, health, safety or welfare because of DFV, including by:
  - i. contacting, or attempting to contact, the person or another person; or
  - ii. providing assistance or a domestic violence related service to a person.

Information provided by one ISE can be provided to a second ISE and then a third ISE provided on each occasion the requirements in Chapter 5A have been met. This means that information should only be shared with a new ISE if it would help to assess, lessen or prevent a serious threat to a person's life, health, safety or welfare because of DFV.

### SCENARIO

#### Only relevant information should be shared

John has perpetrated DFV against his ex-partner Minh and their two children. He attends an alcohol and other drug service for alcohol addiction. The service is an ISE.

During a group discussion, John tells the group about bullying he is experiencing in his workplace. He also mentions that he has been drinking more heavily since his separation. He goes on to mention that he has been 'hanging around' outside Minh's workplace to 'see what she is up to'.

Using his professional judgement and without seeking John's consent (as this would not be safe to do so), the alcohol and other drugs service shares the information about John's alcohol consumption and stalking behaviour with the family violence service supporting Minh, (which is also an ISE). The family violence service working with Minh require this information to manage her ongoing risk. With this information they can update Minh's safety plan and address possible breaches of any current orders.

The alcohol and other drugs service is not able to share information related to the bullying John has experienced at work, as this information is not relevant to assessing and managing risk to Minh.

## 2.5 Guiding principles for information sharing under Chapter 5A

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The Act identifies the following key principles which guide the collection, use and disclosure of information by Information Sharing Entities:

- 1** → An ISE should obtain the consent of a person who fears or experiences DFV before sharing information about the person, unless it is not safe, possible or practical to do so. However, the safety, protection and wellbeing of a person who fears or experiences DFV are paramount.
- 2** → Before disclosing information about a person, an ISE should consider whether disclosing the information is likely to adversely affect the safety of the person or another person.
- 3** → An ISE should only collect, use or disclose information to the extent that it is necessary to assess and manage risk to a person's safety because of DFV.
- 4** → An ISE that collects, uses or discloses the information of an Aboriginal person should do so in a manner that promotes cultural safety, is culturally sensitive, and considers the person's familial and community connections.
- 5** → An ISE should have regard to a person's cultural, sexual and gender identity, and their religious faith (if any).

## 2.6 How can police share and use information under Chapter 5A? .....

There are special rules to make it easier for police to share information with ISEs who provide DFV services. Police may give information to an ISE that provides a domestic and family violence related service if the police officer believes:

- the person fears or is experiencing DFV and there is a threat to the person's life, health, safety or welfare because of DFV, or
- the person has committed domestic violence against another person.

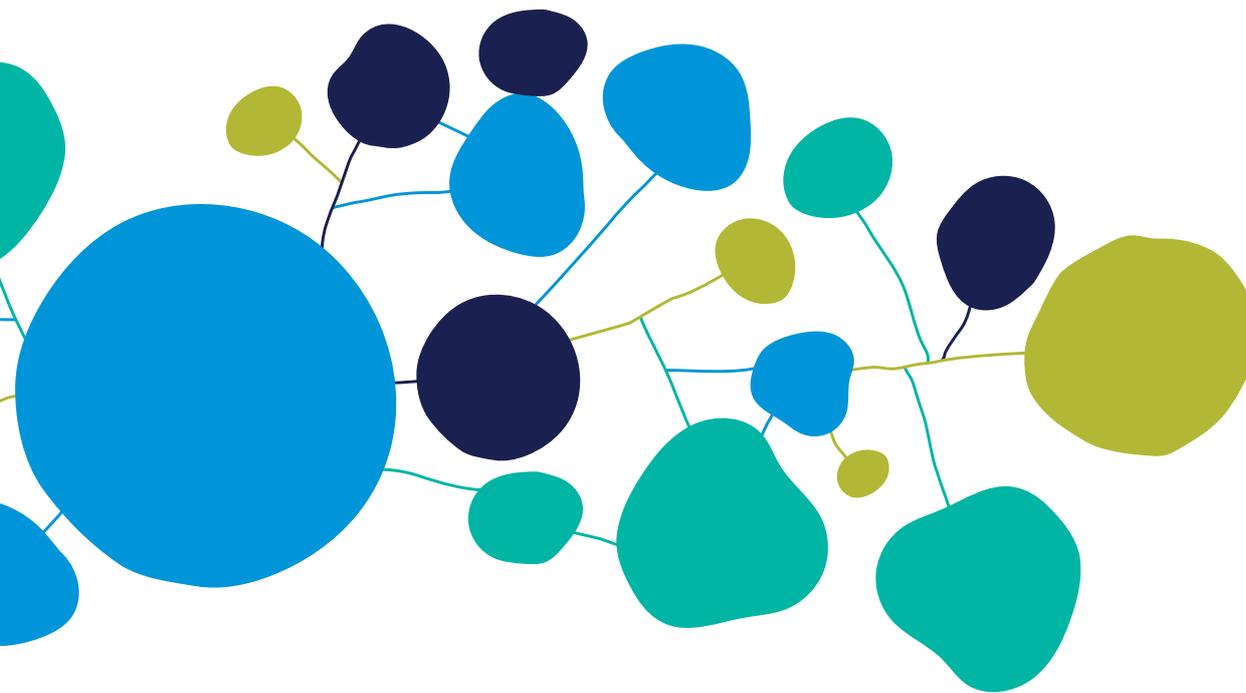
A police officer who receives information under Chapter 5A can use the information to perform his or her functions as a police officer immediately if the circumstances are urgent.

If the circumstances are not urgent the police officer must not use the information for an investigation or proceeding unless they have consulted with the ISE that provided the information AND determined that using the information is in the best interests of the victim survivor.

This enables the police to act urgently and immediately to prevent harm and save lives if the circumstances require it, while requiring them to consult with the ISE before using the information for an investigation or proceeding in relation to an offence. The over-riding consideration is whether the use of the information is in the best interests of the person experiencing DFV.

## 2.7 Special rules for courts and tribunals .....

Although courts and tribunals are ISEs, Chapter 5A does not apply to the disclosure of information by judges, registry staff and court officials in relation to, or for the purposes of, judicial or quasi-judicial functions.



# 3. WHO IS ALLOWED TO SHARE INFORMATION UNDER CHAPTER 5A?

## 3.1 What is an Information Sharing Entity?

An ISE is an agency allowed to request and share information under Chapter 5A of the *Domestic and Family Violence Act 2007* (the Act).

An ISE can only share information with another ISE.

The Act designates certain government agencies and non-government schools as ISEs, and also provides a process for other organisations to become ISEs, once approved by the Minister for Territory Families.

## 3.2 Which agencies are prescribed as ISEs under Chapter 5A?

The government agencies designated by the Act as ISEs are those responsible for child protection, adult correctional services, disability services, education, housing, public health, youth justice, police, courts and tribunals and any other government agency that provides a domestic violence related service.

Under this definition, the following government departments, agencies and associated entities are ISEs:

- Territory Families<sup>2</sup>
- Department of Education
- Department of the Attorney-General and Justice (including NT Corrections)
- Department of Health
- Department of Local Government, Housing and Community Development
- NT Police
- Courts and tribunals<sup>3</sup>.

In addition, non-government schools are designated as ISEs.

## 3.3 Who else may be prescribed as an ISE?

Non-government organisations can also be prescribed as an ISE in the regulations to the Act if they provide a domestic and family violence related service.

Before they are prescribed as an ISE, the Minister must consult with the proposed ISE and be satisfied that it would comply with the Guidelines.

Under Chapter 5A of the Act, a domestic violence related service is defined as an assistance or support service provided to any of the following:

- (a) persons who fear or experience domestic and family violence;
- (b) other persons affected by that domestic and family violence;
- (c) persons who commit domestic and family violence.

Examples of such services include: alcohol and other drug treatment services, allied health services, counselling, disability services, health services, housing and homelessness services, legal services and sexual assault services.

In order to apply to become an ISE non-government organisations need to complete an application process managed by Territory Families.

An updated list of ISEs and the application process is available on the Territory Families website.

<sup>2</sup> Territory Families is also responsible for administering the Information Sharing Scheme under Chapter 5A.

<sup>3</sup> However, Chapter 5A does not apply to the disclosure of information by judges, registry staff and court officials in relation to, or for the purposes of, judicial or quasi-judicial functions.

### 3.4 Which personnel within ISEs can share information?

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Only appropriate people within an ISE may share information under Chapter 5A. The Act specifies that information may only be given, received or used by:

- (a) a person employed, engaged or appointed by the ISE whose duties include assessing domestic violence threats, or taking action to lessen or prevent domestic violence threats (including by providing or arranging a domestic violence service); OR
- (b) a person otherwise authorised by the ISE to give or receive or use the information.

The only people who are authorised within an ISE to share information are those whose duties include assessing or managing SFV threats, and those who have been otherwise authorised by the ISE.

Examples of personnel whose duties include assessing threats because of DFV or taking action to lessen or prevent those threats may include:

- Case workers;
- Youth workers;
- Child protection staff;
- Psychologists;
- Social Workers;
- Police officers;
- Lawyers;
- Probation and parole officers;
- Doctors, nurses and allied health workers;
- Teachers and Student Welfare Co-ordinators in Government and non-Government schools;
- Witness Assistance Officers at the Director of Public Prosecutions;
- The supervisors or managers of the personnel listed above.

Staff whose duties do not include assessing or taking action to lessen or prevent threats due to DFV, for example, the gardener or accountant, would not be authorised by Chapter 5A to give, receive or use information

unless the ISE has provided explicit authorisation for them to do so.

It does not matter whether the person is an employee or a contractor. Paramount is the nature of their duties or whether the ISE has specifically authorised them to give or receive or use the information.

### 3.5 Requesting or sharing information with non-ISEs

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ISEs can only share with or request information from other ISEs under Chapter 5A of the Act.

ISEs who wish to share or request information from non-ISEs must rely on other applicable laws, such as privacy laws.

The Act does not prescribe any Commonwealth agencies as ISEs. Therefore if an ISE needs to share information with or request information from a Commonwealth agency they must rely on other applicable laws, such as privacy laws. Information on other applicable laws is provided in section 4.

#### SCENARIO

### Information can only be shared between ISEs

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Melanie has been a victim survivor of DFV. She was referred to the local specialist DFV service provider (which is an ISE) for support by a Police Officer, and has begun counselling sessions with Angela who works at the specialist DFV service.

Melanie has returned to studies and has started to see a privately paid tutor, Chris. Melanie has told Chris that she is seeing a counsellor. She has told Chris the counsellor's name, but has not disclosed the reason for seeing the counsellor.

Several weeks later, Chris contacts Angela seeking information about Melanie, as he believes he and Angela can support Melanie in a more coordinated way if they share information about the work each of them is doing with Melanie to support her and respond to her needs. Chris advises Angela that he has not sought Melanie's permission to make this call. Angela is careful not to confirm or deny whether Melanie is her client, and explains to Chris that she is unable to share any information with him without Melanie's consent as he is not an ISE. Whilst it is possible that Chris and Angela could work together to best meet Melanie's needs, Chris would need to seek consent from Melanie to share and request information.

# 4. WHEN IS INFORMATION SHARING PROHIBITED?

## 4.1 There are certain circumstances where information must not be shared

Information must NOT be shared under Chapter 5A if the ISE has a reasonable belief that sharing the information could endanger a person's life or physical safety.

For example, if sharing a victim's address could alert a perpetrator of the victim's whereabouts and thus endanger their safety, then this information should not be shared.

It is also prohibited for an ISE to share information if they have a reasonable belief that sharing the information could do any of the following:

- prejudice the investigation of a contravention (or possible contravention) of a law in force in the Territory;
- prejudice a coronial inquest or inquiry;
- prejudice any proceeding in a court or tribunal;
- contravene any legal professional or client legal privilege;
- enable the existence or identity of a confidential police source of information to be ascertained;
- prejudice the effectiveness of a procedure for preventing, detecting, investigating or dealing with a contravention of a law.

Information must not be shared if it is prohibited under the *Criminal Records (Spent Convictions) Act 1992* or another law.

Examples of where the sharing of information may prejudice an inquiry or investigation include:

- There is a police investigation involving the victim or alleged perpetrator, or persons associated with them, and information requested by an ISE may be relevant to that investigation.
- There are legal proceedings under way involving the victim or alleged perpetrator, as a party or a witness, and information requested by an ISE might be relevant to those proceedings.
- There is a coronial inquest or inquiry under way and information requested by an ISE might be relevant to that inquest or inquiry.

The ISE should seek legal advice in these circumstances to determine whether the disclosure of information to a requesting ISE may prejudice an investigation, legal proceeding or inquiry.

Any refusal to share information on the basis that the information is excluded under Chapter 5A must be provided in writing, with the reasons stated.

## 4.2 What is a reasonable belief?

A reasonable belief is an honest belief which is well founded, more than a suspicion, and would generally require some facts or information.

Having a reasonable belief does not mean that the ISE has to be certain or that there is established evidence. However, it is more than having a suspicion. It would generally require the practitioner to have some facts or information. Belief is simply the state of mind of the person who is required to make a decision to request or give information. Whether a belief is reasonable will depend upon the circumstances, including:

- the information the practitioner already has;
- the practitioner's skills, training and experience. For example, a doctor might have a different belief about an injury or medical condition than a teacher; and
- the urgency of the situation.

If it may be inappropriate to provide details of the specific ground/s for the exclusion (e.g. where it would prejudice an investigation), it is sufficient to refuse on the grounds that the information is excluded.

# 5. RECORD KEEPING AND SAFEGUARDING PRIVACY

## 5.1 Secure management and storage of confidential information

In a DFV context, unauthorised or inappropriate disclosures of information could potentially have extremely harmful consequences for a victim survivor's safety and the safety of others. Keeping information safe and secure is a critical part of managing risks to people's safety.

A person's privacy should be displaced only to the extent that is necessary to assess and manage DFV risks.

Information shared under the Chapter 5A remains confidential information. It is important that people's information is kept confidential at all times unless disclosure is authorised by Chapter 5A (or under the Australian or NT Privacy Principles - see section 8).

Breaches of privacy can cause harm to the person whose privacy has been breached and may have serious implications for a victim survivor's safety. For example, information that discloses a victim survivor's location can put them at risk from the perpetrator.

ISEs should have appropriate policies and processes in place to ensure a person's confidential information is stored securely and to safeguard against intentional or unintentional privacy breaches. This includes reasonable safeguards against loss or unauthorised access, use, modification or disclosure of information. Information should be requested and provided in a secure way so that it is seen only by those who need to be aware of it.

This also includes taking steps to ensure that perpetrators cannot access information about a victim survivor or that those workers requesting information or working with a client do not have a conflict of interest (e.g. that the worker does not have a personal or familial relationship with a victim survivor or perpetrator).

This is especially important for people from smaller or interconnected communities, when the staff at a service provider may be known to the victim survivor and/or perpetrator.

## 5.2 What records should ISEs keep?

Good documentation will make it easier for an ISE to establish that they have shared information appropriately and are therefore entitled to the protections available under Chapter 5A of the Act, as outlined in section 6.

Example record keeping forms have been developed to assist ISEs and are available on the Territory Families website. The use of these forms is not mandated, and ISEs may use their own existing or adapted forms for this purpose.

## 5.3 Information Sharing Scheme review

Under Chapter 5A of the Act, the Information Commissioner must, in consultation with the Minister and ISEs, review the operation of the scheme after two years, and again after five years. These reviews must include any adverse effects of the scheme, and may include recommendations.

ISEs should respond to reasonable requests for information from the Information Commissioner in order to inform the reviews.

An ISE should keep accurate records of:

- information requests made;
- the requesting ISE;
- the confidential information requested;
- the date on which the request was made;
- a record of the confidential information disclosed;
- information requests received;
- the date on which the confidential information was disclosed;
- any requests refused, together with the reasons for the refusal; and
- if any complaint is made to the ISE, the date and nature of the complaint as well as any action that was taken to resolve the complaint.

Note that if an information request is refused, the ISE must provide the refusal and the reasons for the refusal in writing to the requesting ISE and keep a record of the refusal to share.



# 6. OFFENCES, PROTECTION OF PRACTITIONERS AND COMPLAINTS

## 6.1 Unauthorised disclosure of information is an offence .....

If a person acquires and intentionally shares information in a way that is not permitted under Chapter 5A, and the person is reckless in relation to that result, this is an offence and penalties may be imposed.

Acting recklessly means being careless of the consequences of your actions and lacking the proper caution when sharing information.

The penalty is 200 penalty units or imprisonment for two years.

It is not an offence if the information is disclosed:

- in a way that is authorised by Chapter 5A;
- to a court or tribunal;
- for research relating to the purpose of this Chapter, authorised by the Minister for Territory Families (the Minister);

- for an inquiry or investigation conducted by a coroner, the police force or another law enforcement agency, authorised by the Minister;
- for any other purpose prescribed by regulation, authorised by the Minister;
- where it is required or authorised by law; or
- in compliance with the Information Privacy Principles or the Australian Privacy Principles.

While ISEs are required to comply with these Guidelines, a failure to comply with these Guidelines is NOT in itself an offence.

If a person charged with one of these offences can demonstrate that they acted in good faith and with reasonable care when sharing information, they will not be held liable.

## 6.2 Protection of individual practitioners .....

Under Chapter 5A if a practitioner who is authorised to share information does so in good faith they will not be held liable for any criminal or civil action for providing the information.

Generally, a practitioner may be considered to have acted in good faith on a particular occasion when, with the knowledge that they have, they:

- share information in accordance with their obligations, functions and authorisations;
- intend for the information to be shared for the purpose of assessing, lessening or preventing a serious threat under Chapter 5A and not for another purpose;
- do not act recklessly (being careless of the consequences and lacking the proper caution) when exercising their power to share information;
- share information that is relevant to assessing, preventing or managing a serious threat under Chapter 5A.

## SCENARIO

### Unauthorised disclosure and good faith protection

.....

Mina works for an ISE. She is friends with Anthony and would like to pursue a romantic relationship with him. Anthony has recently separated from his wife after a DFV incident, and has been attending counselling at another ISE which is a mental health service. Anthony has confided this information in Mina as his friend.

Mina requests information about Anthony from the ISE mental health service, claiming that she needs the information in order to assess the risk of DFV. The service verifies Mina's credentials, and upon confirming that Mina is authorised to request this information, shares information about Anthony that would be relevant to a DFV assessment purpose.

Mina intentionally requested a purpose that was not authorised under Chapter 5A as she did not intend to use the information for an assessment purpose but for her own benefit. In these circumstances, Mina may be charged with an offence and may have difficulty demonstrating that she acted in good faith. However, the mental health service that shared the information would not be considered to have committed an offence.

## 6.3 Complaints

.....

ISEs should align their existing complaints policies and procedures to receive complaints in relation to privacy breaches as well as to decisions made under the Information Sharing Scheme. Complaints procedures should be made available so that clients are aware of their right to make a complaint.

Complaints about how an organisation is applying the scheme should be made, in the first instance, directly to the ISE involved.

If any complaint is made to the ISE, the ISE should keep records of the date and nature of the complaint as well as any action that was taken to resolve the complaint.

Privacy complaints may also be made under Northern Territory and Australian privacy laws. People have 12 months to make a complaint from when the interference in their privacy occurred.

For further information contact the Information Commissioner on 1800 005 610. The complaints process is explained on the Information Commissioner's website: <https://infocomm.nt.gov.au/complaints-and-appeals/complaints-to-the-information-commissioner>

# 7. GOOD PRACTICE IN INFORMATION SHARING

This section provides additional information about good practice in obtaining consent, and in sharing information about particular groups. This is to provide additional guidance to ISEs when applying the key principles in the Act which guide the collection, use and disclosure of information by ISEs. These principles include:

1. An ISE should obtain the consent of a person who fears or experiences DFV before sharing information about the person, unless it is not safe, possible or practical to do so.
2. An ISE that collects, uses or discloses the information of an Aboriginal person should do so in a manner that promotes cultural safety, is culturally sensitive, and considers the person's familial and community connections.
3. An ISE should have regard to a person's cultural, sexual and gender identity, and their religious faith (if any).

## 7.1 Obtaining consent

An ISE should always obtain consent to share information unless it is not safe, possible or practical to do so.

Professional judgement and service policies should be used to determine whether it is safe, possible and practical to obtain the consent of the victim survivor.

In relation to perpetrators of DFV, it is unlikely to be safe to obtain their consent to share information. This is because asking the perpetrator's consent to share information may increase the risk of further violence and harassment to the victim survivor, other partners, or other family members, including children.

If consent is not able to be obtained from the victim survivor, information may still be shared, providing the threshold test for sharing (outlined in section 2.1) has been met.

In such instances, it is best practice to involve victim survivors at every step of the process, wherever possible, so that the victim survivor has a clear understanding of, and confidence in, the process. This will also help to reassure victim survivors about why and how their information will be used and disclosed.

For example, if it is appropriate, safe and reasonable to do so, ISEs should inform the victim survivor that there is a serious threat to their life, health, safety or welfare because of DFV. ISEs should advise the victim survivor that only information necessary to assess, prevent or lessen the serious threat will be shared, and the potential outcomes of sharing that information.

A victim survivor may not be able to give consent if they do not have the necessary capacity to do so. Having capacity means the person is:

- able to understand the information relevant to the decision and the effect of the decision;
- retain the information to the extent necessary to make the decision;
- use or weigh that information as part of the process of making the decision and communicate their decision, views and needs in some way (including speech, gestures or other means).

Incapacity may be due to age, injury or illness, or physical or mental disability. This means that, where there is a doubt about a person's capacity, this capacity must be re-assessed every time a decision around consent is required.

**It is best practice for all ISEs to:**

- Have clear client consent procedures and policies in place.
- Have an upfront conversation with all clients at the point they engage with services about how their information may be shared, even if they do not consent, if it is necessary to assess, lessen or prevent a serious threat because of domestic violence, or under other laws such as mandatory reporting.
- This conversation may also occur when an agency becomes an ISE under Chapter 5A. This may involve explaining to clients that information sharing laws have recently changed, and that under the new laws, information sharing can occur to assess, lessen and/or prevent serious threats of DFV, in order to protect their safety. Clients should be reassured that, wherever it is safe, possible and practical, their consent will be sought, and, wherever possible, they will be informed that their information has been shared. Clients should also be reassured that information will not be shared with the perpetrator of family violence, or their family, friends and associates.
- Seek consent where it is safe, possible and practical to do so. Obtaining consent may help foster rapport and connection between the worker and the victim survivor and show support for her. Having control over one's own information is a central aspect of dignity.
- Check in multiple times to confirm the victim survivor understands what has been said, possibly asking them to repeat the information if there are concerns that they do not understand.
- Tailor this conversation (including the use of translators) to victim survivors where English is their second language; where a cognitive impairment is present and/ or; where capacity is impaired for any reason.
- Discuss the decision to share or not to share information under Chapter 5A with the victim survivor if possible and safe, and explain to her the reasons for the decision.

There are many reasons why a victim survivor of DFV may not provide consent:

- The ISE may not be able to locate her to ask whether they consent.
- They may be too afraid to consent.
- They may not want to get the perpetrator into trouble.
- They may be afraid of retribution from the perpetrator or the perpetrator's family.
- They may have logistical and practical worries about housing, money, employment or other factors.
- They may be worried for their children.
- They may distrust or have negative past experiences with the ISE or other agencies.
- They may have experienced discrimination and racism from agencies previously.
- They may simply not want to consent.

## 7.2 Considerations when sharing information about diverse cultural groups

.....

DFV can happen to anyone. This includes Aboriginal people, people from lesbian, gay, bisexual, trans and gender diverse, and intersex (LGBTIQ) communities, and people from cultural, religious and linguistically diverse backgrounds, including immigrant and refugee peoples. For many of these groups, DFV can be hidden or rendered invisible. These groups may also experience distinct barriers to accessing services.

The Act specifically requires ISEs to have regard to cultural safety for Aboriginal people, and to a person's cultural identity, sexual and gender identity and religious faith, when sharing information. This recognises that these aspects of identity and

experience may affect their response to information sharing.

ISEs should be aware, and respectful, of the many factors that may impact a person's experience of DFV and of the experiences and needs of people from these communities. ISEs should take measures to ensure that their services are inclusive, accessible and non-discriminatory.

It is also noted that the experiences of individuals within these groups differ greatly, and they can not be responded to as one homogenous group.

## 7.2.1 Considerations when sharing information about Aboriginal people .....

An ISE that collects, uses or discloses an Aboriginal person's information should do so in a manner that:

- promotes cultural safety; and
- is culturally sensitive; and
- considers the person's familial and community connections.

The following points should be considered in the context of the impact of DFV on Aboriginal people and communities:

- Aboriginal communities define 'family' and therefore 'family violence', more broadly than non-Indigenous communities. The term family violence is often preferred to domestic violence, and often the terms are used interchangeably. For Aboriginal people, family violence includes a wide range of physical, emotional, sexual, social, spiritual, cultural and economic abuses that can occur within intimate relationships, families, extended families, kinship networks and communities.
- DFV against Aboriginal people is perpetrated by both Aboriginal people and non-Aboriginal people.
- Aboriginal women experience significantly higher prevalence and severity of family violence than non-Aboriginal women. There is also significant under-reporting of family violence in Aboriginal communities.

- Contributing factors to DFV against Aboriginal women and children in Aboriginal communities include inter-generational grief and trauma resulting from the ongoing impact of the history of colonisation, dispossession of land and culture, and the wrongful removal of children from their parents, as well as ongoing racism, vilification and discrimination.

### Cultural safety

A culturally safe service or relationship is one where Aboriginal people feel safe, respected and where their identity does not have to be denied. To practise in a culturally safe way means to work in collaboration with a client, with empathy and compassion for their culture whilst being mindful of one's own culture, influences and biases. Services should also be mindful of the power imbalances that exist between service providers and clients and how this impacts on interactions.

The responsibility rests with the practitioner to ensure they have reflected on their own cultural, social and individual influences and biases, and how they may impact on practice, and adjust their practice accordingly. Best practice includes employing empathy, ensuring respect and being responsive to the client's needs. This process also involves having awareness of the culture of the person receiving support, including their language, family, kinship, country and community, as well as historical and current experiences of oppression, injustice and trauma.

Operating in a way that promotes cultural safety and is culturally sensitive and responsive means being aware of the following issues and adjusting practice accordingly:

- Aboriginal people have the right to access services from Aboriginal Community Controlled Organisations (ACCO), and ISEs should promote this right.
- Many Aboriginal people prefer to receive support from ACCOs, where they are available, but some prefer to attend a mainstream service. Where Aboriginal people attend a mainstream service, that service should operate in a culturally safe manner. A person's choice of services often depends on relationships, trust and confidentiality.
- The ongoing legacies of policies, laws and practices (in particular the high rates of removal of children and incarceration of Aboriginal people) have resulted in many Aboriginal people having significant distrust of government, in particular child protection agencies and police. Aboriginal people may be concerned about their information being shared with government agencies and may fear government agency interventions in their lives. Aboriginal people may avoid disclosing abuse or may minimise reports of harm out of fear of the possible repercussions for their children and families.
- Some Aboriginal people may be concerned about engaging with services when they perceive that information could be inappropriately shared with others in their community. This concern might be particularly prevalent when that information relates to traumatic issues such as past removal or child abuse.

## Safely sharing information about an Aboriginal person

ISEs working with Aboriginal people, families and communities should consider these factors when making decisions to share information:

- inquire whether clients identify as Aboriginal and which language group or country they belong to, as well as their family and connections and the perpetrator's family and connections;
- engage in respectful culturally-safe communication with the victim survivor about concerns for their safety and the reasons why the ISE would like to share information with another ISE;
- obtain informed consent to the sharing of information where possible;
- use interpreter services to aid communication where necessary, ensuring that first there is consultation with the victim survivor to make sure they feel safe with the interpreter, their privacy is not threatened and the interpreter has no allegiance with the perpetrator. The Aboriginal Interpreter Service can be contacted on 1800 334 944;
- provide the victim survivor with the option of having a trusted third party of their choice present. They may choose an Aboriginal-specific service, a cultural advisor, mentor or other trusted person;
- clearly explain how information will be used and for what purpose so that the message is culturally sensitive and addresses the particular concerns that an Aboriginal person might hold (eg. fear of child removal);

- communicate how sensitive information will be protected from privacy breaches (eg. how a service will store and safeguard a person's confidential information and protect confidentiality when the staff at a service provider may be known to the victim survivor and/or perpetrator);
- reassure that only information relevant to assessing, lessening or preventing a serious threat is shared and sensitive information is redacted if it is not relevant for that purpose;
- reflect on any unconscious bias and assumptions in communications and interactions with the victim survivor and address these;
- recognise the ongoing discrimination experienced by Aboriginal people and the impact of unjust policies and practices;
- work collaboratively with Aboriginal organisations and agencies, and other agencies and services, to support the client in a culturally respectful manner;
- acknowledge how complex kinship relationships that exist in Aboriginal families, communities, lore and law may differ from Western understandings of family obligations and expectations and how this may influence people's responses; and
- acknowledge that many victim survivors and perpetrators of DFV in the Northern Territory may have obligations under traditional Aboriginal law and lore as well as being subjected to the Western legal system.

ISEs should also consider providing training on cultural safety and cultural competence for all staff as well as other activities that promote a positive working relationship with Aboriginal communities and families;

Further information is available from the Territory Families Aboriginal Cultural Security Framework available at <https://territoryfamilies.nt.gov.au/publications-and-policies/aboriginal-cultural-security-framework>.

## 7.2.2 Considerations when sharing information about diverse cultural groups

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Victim survivors of DFV from multicultural communities, particularly refugees or migrants, can be affected by their and their families' experiences of migration and settlement. Their concerns and experiences may include:

- fears about the impact on migration and residency status for victim survivors living in Australia on temporary or provisional visas;
- different cultural understandings about forms of DFV reinforced by cultural norms and beliefs, as well as culturally specific understandings of privacy;
- speaking English as a second language, and other communication barriers when explaining the complex issues of consent and privacy legislation, as well as fears of being misunderstood or misrepresented to authorities due to language and cultural barriers;
- a lack of understanding about how the justice and DFV service system works – including the roles of police, courts, and DFV specialist services;
- fears about child protection interventions and losing custody of children;
- concerns about privacy when accessing an interpreter service, as the interpreter may be known to them (especially for people from smaller linguistic communities, or living in rural or regional areas);
- fears about sharing certain information with police (due to past experiences in their countries

of origin and/or racial or other discrimination experienced in Australia from authorities);

- fears of the consequences of their community finding out that victim survivors are accessing a service outside of the local cultural community; and
- fear of reprisals from spouses, extended family members and communities (in Australia and overseas) if they leave the relationship.

### Safely sharing information about people from diverse cultural communities

ISEs working with victim survivors from diverse cultural communities to share information should:

- reflect on any unconscious bias and assumptions in communications and interactions with the victim survivor and address these;
- ensure the client understands information provided, or that necessary supports are given to enable comprehension. For example: providing a professional interpreter or translator to ensure that consent to share information is informed and that the reason for sharing the information is clearly understood. The interpreter used should never be a child, friend or other family member of the client and the confidentiality of the interpreting service should be explained. Ensure that the client understands it is not a burden to organise an interpreter service. The Interpreting and Translating Service NT can be contacted on 1800 676 254;
- enquire about the client's concerns around information sharing and address those concerns;

- understand that literal translations for concepts such as DFV, consent and privacy may not be applicable and that more nuanced translation may be required;
- clearly explain the ISE's obligations, including who information may be shared with, and for what purpose;
- explain how sensitive information will be protected;
- not assume that victim survivors will be comfortable with having information shared with close family members; and
- ask whether clients would prefer to receive a service from a general or culturally-specific service and provide appropriate support to, referrals to or partnerships with specialist services.

## 7.2.3 Considerations when sharing information about people from LGBTIQ communities

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Victim survivors from LGBTIQ communities may have concerns and experiences that result in feeling unsafe to report DFV, or lacking trust in the service system, including:

- discrimination, 'outing' or exclusion by services;
- having their sexuality, sex or gender identity or intersex variation questioned or not recognised by services, or not having their needs understood;
- inappropriate services and unsafe accommodation; and
- unsafe consequences of the impact of sharing information about their sexual orientation, sex or gender identity in their family or community.

## Safely sharing information about people from LGBTIQ communities

ISEs working with victim survivors from LGBTIQ communities to share information should:

- reflect on any unconscious bias and assumptions in communications and interactions with the victim survivor and address these;
- ask victim survivors what their preferred pronouns are, and consistently use those pronouns when sharing their information. Be aware that the sex and/or gender that an individual identifies with, the pronouns they use, and preferred name may differ to that on written records;
- ensure they collect data and information in a manner that doesn't make assumptions about people's sex or gender identity or sexuality, and that allows for non-binary options; and
- ask whether clients would prefer to receive a service from a specialist LGBTIQ service and provide appropriate support to, referrals to or partnerships with specialist services.



# 8. SHARING WITHOUT CONSENT UNDER OTHER LEGISLATION AND PROTOCOLS

Sharing or disclosing information, without the consent of the person, is already permitted and sometimes required under other pieces of legislation. ISEs continue to be subject to obligations under these laws. If an ISE was able to lawfully disclose information prior to being prescribed to be an ISE, then they can continue to lawfully disclose that information under those laws after they are prescribed to be an ISE without having to meet the requirements of Chapter 5A.

Nothing in the scheme is intended to prevent an ISE from collecting, using or disclosing information where it is allowed under another Act.

If an ISE was able to lawfully disclose information prior to being prescribed to be an ISE, then they can continue to lawfully disclose that information under those laws after they are prescribed to be an ISE. See the **Can I Share?** poster on page 30 for a snapshot of how these laws intersect.

The following laws are not changed as a result of the Information Sharing Scheme outlined in Chapter 5A.

## 8.1 Mandatory reporting

Mandatory reporting obligations are not changed as a result of the Information Sharing Scheme outlined in Chapter 5A.

Under section 124A of the *Domestic and Family Violence Act 2007*, all adults in the NT are required by law to report DFV to the police, if they believe on reasonable grounds that:

- a person has caused serious physical harm or is likely to cause serious physical harm to someone with whom they are in a domestic or family relationship; and/or
- the life or safety of a person is under serious or imminent threat because DFV has been, is being, or is about to be committed.

The DFV must be reported to police as soon as practicable. It is an offence not to report it to the police, unless one of the following reasons apply:

- You believe someone else had reported the DFV.
- You were involved in the removal of the victim survivor from DFV and planned to report this as soon as practical after the removal.

- You believed a serious or imminent threat to the life or safety of any person may occur as a result of your reporting.

## 8.2 Sharing information about children

The Chapter 5A DFV Information Sharing Scheme also applies to information about victim survivors and perpetrators of DFV who are under 18 years of age.

Information about children may be able to be shared by authorised information sharers under Part 5.1A of the *Care and Protection of Children Act 2007*. The guidelines for this Information Sharing Scheme are available at:

<https://territoryfamilies.nt.gov.au/about/publications-and-policies/guidelines-for-information-sharing>

### 8.3 Information Privacy Principles

ISEs can share information with organisations that are not ISEs in certain circumstances under information privacy principles. Where non-ISEs need to share information, they may also be covered by information privacy principles.

#### NT Information Privacy Principles

Public sector organisations are permitted to use or disclose information if they reasonably believe that the use or disclosure is necessary to lessen or prevent:

- i. a serious or imminent threat to the individual's or another individual's life, health or safety; OR
- ii. a serious or imminent threat of harm to, or exploitation of, a child; OR
- iii. a serious threat to public health or public safety.

(Information Privacy Principle 2.1(d), *NT Information Act*)

This may also apply to organisations who have funding contracts with public sector organisations, depending on the provisions in the contract.

For further information: <https://infocomm.nt.gov.au/about-us/the-information-act>

### Australian Privacy Principles

In addition, organisations with a turnover of more than \$3 million may fall within the *Commonwealth Privacy Act*.

For further information contact the Office of the Australian Information Commissioner:

[1300 363 992](tel:1300363992)

[enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

<https://www.oaic.gov.au/>

### 8.4 Family Safety Framework

The Family Safety Framework is an action-based integrated service response to individuals and families experiencing DFV who are at **high** risk of serious injury or death. The Family Safety Framework is led by NT Police in collaboration with other agencies as part of an integrated response. Victim survivors assessed as at a high risk of injury or death are referred to Family Safety Meetings where agencies who may be able to assist are represented. The agencies currently share information under a Protocol based on the NT Information Privacy Principles, co-ordinate action to increase the safety of victim survivors at high risk, and monitor the extent to which the actions have improved safety.

# CAN I SHARE INFORMATION?

Privacy laws don't stop necessary information sharing!



Are you trying to ensure a child's safety & wellbeing?

YES

**You can share with other people in child services.**

Teachers, carers, medical professionals, correctional officers, lawyers, childcare workers, child protection workers, and people who provide government-funded services for children can share information related to a child's safety and wellbeing **with each other** (*Care and Protection of Children Act Part 5.1A*)

NO



Is there some kind of emergency?

YES

**You can share.** If you are sharing to prevent a serious threat to public health or safety, or a serious or imminent threat to someone's life, health, or safety, you can share. (*Information Act IPP2.1(d)*)

NO



Will the information help to assess, lessen or prevent a serious threat of domestic and family violence?

YES

**You must share.** If you are an Information Sharing Entity (ISE), and a request for relevant information has come from another ISE, you must share, unless one of the exceptions in the *Domestic and Family Violence Act* applies.

NO



Are you helping prevent or investigate unlawful conduct?

YES

**You can share.** You can share information to help your organisation investigate unlawful conduct and report it. You can also share information to assist law enforcement authorities like the Police or the Ombudsman. (*Information Act IPP2.1(e)(g)(h)(i)*)

NO



Does a law authorise you to share the information?

YES

**You can share.** If you are served with a valid legal notice or the law otherwise requires or authorises you to share information, then you can share. (*Information Act IPP2.1(f)*). However, such notices should be brought to the attention of the your organisation's lawyers if you need advice.

NO



Is sharing the information part of administering / managing your service?

YES

**You can share.** Sharing information with your support staff or managers is ok, if they need it to do their job. This doesn't mean you should share every bit of sensitive personal information you have with everyone in the office, but you can share what's necessary for the administration and management of your service (*Information Act IPP2.1(a)*). Remember you are also allowed to share when authorised by law, such as when you are required by law to follow a reasonable direction of management (*Information Act IPP2.1(f)*). If you are a public servant it is a breach of discipline to disregard a lawful direction of management under s49(c) of the *Public Sector Employment and Management Act*.

NO



Are you unsure?

YES

**Seek advice** from your manager, or your organisation's information management section or lawyer. Alternatively, you can contact the Office of the Information Commissioner with any privacy-related enquiries for confidential advice on:

**1800 005 610** or **infocomm@nt.gov.au**



**Don't I need consent?**

It's good practice to seek consent where possible, but you don't **need** it in the situations on this poster.



**Can I get in trouble?**

If you share the information with a person you genuinely believe to be an NT child services worker and you do it because you believe it will ensure a child's safety and wellbeing, you cannot be sued, prosecuted, or disciplined for sharing (*The Care and Protection of Children Act s293F*)

**Note:** A 'child' means a person who is not yet 18 years old.

It is an offence to share information in an unauthorised way under the *Domestic and Family Violence Act*, unless you share information in good faith as an information sharing entity.



**Seek advice before sharing information:**

- With the media
- With members of the general public
- About another employee (HR matters)
- About a matter where your organisation is involved in a court case / legal dispute.

Discuss these matters with your supervisor and seek advice from a lawyer, HR, or Communications staff as appropriate.



**To share information...**

- Keep a note of when you request information or share it
- Keep your notes and the information safe and secure
- Check out templates, FAQs, and best practice guides at [www.childrenandfamilies.nt.gov.au/Child\\_Protection/InformationSharing/](http://www.childrenandfamilies.nt.gov.au/Child_Protection/InformationSharing/)
- Domestic violence information sharing guidelines <https://territoryfamilies.nt.gov.au/domestic-violence/domestic-and-family-violence-information-sharing-guidelines>

# 9. WHERE CAN I GET MORE INFORMATION?

Information and resources are available at  
<https://territoryfamilies.nt.gov.au/dfv/informationsharing>

