



ATTACHMENT 7

Sharing information under the CISS AND FVISS

This attachment has been developed based on the Information Sharing and Family Violence Reforms Contextualised Guidance: For centre-based education and care services; government, Catholic and independent schools; system and statutory bodies; and education health, wellbeing and inclusion workforces, April 2021.

Applying the threshold test

Before sharing information with other Information Sharing Entities (ISE)'s the threshold test requirements must be met.

The requirements for sharing are different depending on the purpose of the sharing, if sharing for both purposes (Child Wellbeing or Safety and/or Family Violence), you must meet the requirements of each of the schemes.

Although child wellbeing and safety takes precedence over an individual's privacy, privacy must still be protected through careful and selective information sharing.

Threshold requirements for the Child Information Sharing Scheme:

1	The information sharing entity is requesting or disclosing confidential information about any person for the purpose of promoting the wellbeing or safety of a child or group of children; and
2	The disclosing information sharing entity reasonably believes that sharing the confidential information may assist the receiving information sharing entity to carry out one or more of the following activities: <ul style="list-style-type: none">• make a decision, an assessment or a plan relating to a child or group of children• initiate or conduct an investigation relating to a child or group of children• provide a service relating to a child or group of children• manage any risk to a child or group of children; and
3	The information being disclosed or requested is not known to be 'excluded information' under Part 6A of the <i>Child Wellbeing and Safety Act</i> (and is not restricted from sharing by another law), information that could: <ul style="list-style-type: none">• endanger a person's life or result in physical injury• prejudice a police investigation or interfere with the enforcement or administration of the law; prejudice a coronial inquest; prejudice a fair trial of a person• be legally privileged• reveal a confidential police source• contravene a court order• be contrary to the public interest• information sharing would contravene another law.

Threshold requirements for the Family Violence Information Sharing Scheme:

1	<p>The purpose of sharing is to assess family violence risk OR protect victim survivors from family violence risk.</p> <p>There are two purposes for which information can be shared between ISEs:</p> <ul style="list-style-type: none">• Family violence assessment purpose: the purpose of establishing or assessing the risk of a person committing family violence or being the subject of family violence. This would include:<ul style="list-style-type: none">– establishing family violence risk– assessing the risk to the victim survivor– correctly identifying the perpetrator.• Family violence protection purpose: once family violence risk is established, to manage the risk to the victim survivor. This includes information sharing to support ongoing risk assessment.
2	<p>The applicable consent requirements are met.</p> <p>Is the consent required when a child is at risk of family violence?</p> <ul style="list-style-type: none">• Consent is not required from any person to share information relevant to assessing or managing family violence risk to a child. However, you should seek the views of the child and non-violent family members where it is safe, reasonable and appropriate to do so.• Where a child is 18 years of age or older, they are an adult and so you may need their consent to share their information, or the information of third parties, unless you can legally share under existing privacy laws or when there is a child at risk. <p>In situations where an adolescent is using family violence against an adult family member, you may need the consent of the adult victim survivor to share their information.</p>
3	<p>The information is not excluded information.</p> <p>Excluded information is information that could:</p> <ul style="list-style-type: none">• endanger a person's life or result in physical injury• prejudice a police investigation or interfere with the enforcement or administration of the law; prejudice a coronial inquest; prejudice a fair trial of a person be legally privileged• reveal a confidential police source• contravene a court order• be contrary to the public interest• information sharing would contravene another law.

Making a request to another Information Sharing Entity

Before disclosing information under the Child Information Sharing and Family Violence Information Sharing Scheme, it is important that information sharing entities take reasonable care to verify the identity of the professional or service and ensure that they are an information sharing entity.

- The ISE list is a searchable database that can be used to identify organisation and services prescribed under the CISS and FIVSS
- Before making a request, check to see if the organisation is a prescribed entity via the Access the ISE list: <https://iselist.www.vic.gov.au/ise/list/>
- Refer to Information Sharing Entity List Uses Guide on how to navigate the database.
- ISE's should respond to requests for information in a timely manner, including when they are declining to provide information in response to the request.
- If an ISE is declining a request from another ISE, they are required to provide written reasons for doing so.

Making a request or receiving a request under the Child Information Sharing Scheme

An ISE may request information when it meets the first and third parts of the threshold. That is, the information being requested is:

- to promote the wellbeing or safety of a child or group of children
- not excluded information under the Child Information Sharing Scheme to their knowledge.

ISE should use professional judgement to decide which organisation or service to request information from, taking into account the following:

- the activity the requesting information sharing entity is seeking to undertake and the type of information that may assist them
- the roles and responsibilities of other information sharing entities and the information they are likely to hold
- the currency and relevance of the information other information sharing entities are likely to hold.

The ISE requesting the information should provide sufficient detail to enable the responding ISE to make a decision about whether all three parts of the threshold have been met, in order to assist them to:

- identify relevant information to respond to the request
- form an opinion about whether the information may be disclosed under the CISS (whether the disclosure meets the threshold).

When making a request, an ISE may disclose any confidential information that may assist the responding ISE to:

- identify the information they hold that is relevant to the request
- form an opinion on whether the information may be disclosed under the scheme.

If the legal requirements (or threshold) of the scheme are met, an ISE:

- **may** make requests for information to another ISE
- **must** disclose relevant information to another ISE, if requested
- **may** disclose information voluntarily (proactively) to other ISE's

ISE's will use their expertise and exercise their professional judgement to identify:

- the range of needs and risks that impact on a child's life to inform a decision as to whether the threshold is met
- what and how much information to share
- who to share with to support improved service delivery and promote the wellbeing or safety of the child or children.

Making a request or receiving a request under the Family Violence Information Sharing Scheme

Under Part 5A of the *Family Violence Protection Act 2008* (FVPA), ISEs may request or share information with other ISEs about a person that is relevant to assessing or managing a family violence risk. The information may relate to a victim survivor (adult or child), alleged perpetrator/perpetrator or third party.

Only information that is relevant to assessing or managing a risk of family violence can be shared under the Scheme. In determining what information is relevant, practitioners should use their professional judgement and refer to the Family Violence Policy.

Where an ISE receives a request, it must share that information, either verbally or in writing, provided that the information meets the requirements (the threshold) of the Scheme. The onus is on the ISE sharing information to ensure that they are disclosing information about a person in accordance with the law. There is no restriction on an ISE making a request.

If there is no existing relationship with the ISE the information is being requested from, verification may need to take place (e.g. by sending an email with the entity's official account).

There are **two purposes** for which ISEs can share information with each other under the FVPA, Part 5A:

- a. for family violence assessment purposes

- Only prescribed risk assessment entities (RSE) (see *Definitions*) 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. for family violence protection purposes

- 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.

Once it has been established which purpose the information is to be exchanged, ensure that:

- sufficient information is provided to the ISE to help them identify what information they hold that might be relevant and whether they should disclose that information.
- the purpose of the information is clearly identified and why it is believed the information is relevant
- precedence is given to a victim survivor's right to be safe from family violence when discussing relevant information.
- record keeping is completed, including the name of the service that was contacted, the name of the ISE and the information that was disclosed.
- any risk assessment or safety plan are documented, as a result of the information sharing.
- information is used only for a purpose permitted by law.
- if information request is refused, record this refusal in writing and keep this refusal on file.

Sharing information for risk assessment

Once a reasonable belief has been established that family violence risk is present and the identity of the perpetrator or victim survivor/s are clear (e.g. the victim survivor has identified the perpetrator), this would enable any ISE to make referrals for specialist services or professionals to complete a comprehensive family violence risk assessment. Some of these specialist services are prescribed as Risk Assessment Entities (RAEs) (refer to Table 1).

ISEs can share relevant information proactively or on request with RAEs for risk assessment purposes. That is, in order to:

- confirm whether family violence is occurring
- enable RAEs to assess the level of risk the perpetrator poses to the victim survivor
- correctly identify the perpetrator who is using family violence.

Family violence risk assessment is an ongoing process and is required at different points in time from different service perspectives. Education and care services will have a role in working collaboratively with other services to contribute to ongoing risk assessment and management of family violence.

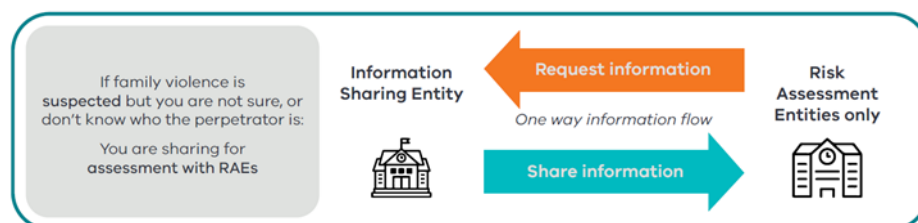


Figure 1: Overview of activities when sharing information for risk assessment

Victoria State Government, 2021. Information Sharing and Family Violence Reforms Contextualised Guidance. Melbourne, p.38.

ISEs can only share information with other ISEs that are not RAEs. Request information from RAEs once family violence risk is established and the identity of the perpetrator and victim survivors are known. This is to prevent sharing that might escalate risk to a child or family member.

Sharing for risk management (protection):

Once family violence is established, ISEs can share proactively with other ISEs and request information, including from RAEs, if they reasonably believe sharing is necessary to:

- remove, reduce or prevent family violence risk
- understand how risk is changing over time
- inform ongoing risk assessment.

This opens a two-way flow of information that enables ISEs to form a complete picture of risk and collaborate to support children and families experiencing family violence.

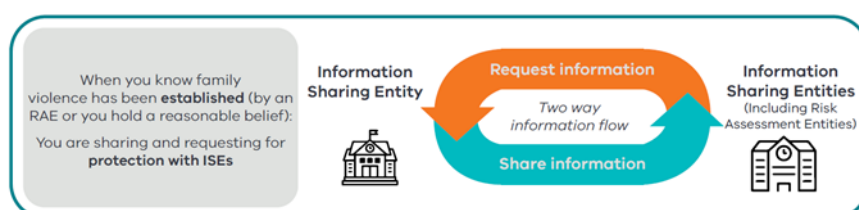


Figure 2: Overview of activities when sharing information for risk management (protection)

Victoria State Government, 2021. Information Sharing and Family Violence Reforms Contextualised Guidance. Melbourne, p.39.

When making a request, ensure you are speaking with someone suitably trained to use Part 5A of the Family Violence Protection Act 2008 (FVPA).

Table 1

Information Sharing Entities that are also Risk Assessment Entities	
<ul style="list-style-type: none">▪ State-funded specialist family violence services (including refuges, Men's Behaviour Change Programs, family violence counselling and therapeutic programs)▪ Risk Assessment and Management Panel (RAMP) members (including those services that would not otherwise be prescribed but only when participating in a RAMP)▪ State-funded sexual assault services	<ul style="list-style-type: none">▪ Child Protection▪ Child FIRST services (excluding broader family services)▪ Victims Support Agency (including Victim Assistance Programs and Victims of Crime Helpline)▪ Victoria Police▪ The Orange Door services.
Information Sharing Entities	
<ul style="list-style-type: none">▪ Magistrates' Court of Victoria officials▪ Children's Court of Victoria officials▪ Corrections Victoria and Corrections-funded services▪ Adult Parole Board▪ Youth Justice (including the Secretariat to the Youth Parole Board) and Youth Justice funded services▪ Multi-Agency Panels to Prevent Youth Offending▪ Justice Health and funded services▪ State-funded sexually abusive behaviour treatment services▪ State-funded perpetrator intervention trials▪ Registered community-based child and family services	<ul style="list-style-type: none">▪ Maternal and Child Health▪ Registered out of home care services▪ DHHS Housing▪ State-funded homelessness accommodation or homelessness support services providing access point, outreach or accommodation services▪ Designated mental health services▪ State-funded alcohol and other drug services▪ Tenancy Advice and Advocacy Program▪ State-funded financial counselling services▪ Commission for Children and Young People▪ Disability Services Commissioner.

Record keeping

ISEs have specific record keeping obligations under the FVISS and the CISS. ISEs can choose how they will meet their record keeping obligations, which might include written or online case notes, specific record keeping forms or IT solutions, and are in line with the *Privacy and Data Protection Act 2014* (Vic) and, where applicable, the Australia Privacy Principles obligations.

When an ISE receives a request to share information they must record:

- the ISE that requested the information
- the date of the request
- the information that was requested
- if refusing a request, the request and the reason why it was refused.

When an ISE shares information (either proactively or on request) they should:

- know and record what scheme they are sharing under (FVISS, CISS or both)
- know and record whom information is being shared about
- record how the threshold for sharing was met.
- relevant risk assessments or safety plans that have been prepared for a person at risk of family violence.

Documentation is also required if sharing about:

- adult victim survivors of family violence or third parties under FVISS (where a child is at risk)
- a child's parent under CISS
- child victim survivors of family violence
- any child in order to promote their wellbeing or safety.
- whether their views were sought about sharing their information
- if their views were not sought, record the reason why
- if they were informed that their information was shared
- whether information was shared with consent and whether the consent was written, verbal or implied
- if the information was shared without consent, record the reason why
- if the information was shared without consent, record if the person was informed that their information was shared without consent

Examples of record keeping forms can be found at: www.vic.gov.au/guides-templates-tools-for-information-sharing

Handling information sharing and risk assessment complaints under the CISS and FVISS

Types of complaints ISEs may receive complaints from:

1. Individuals in relation to privacy breaches, for example the ISE has:
 - misidentified an adult victim survivor as a perpetrator and shared information about them without consent
 - shared information that is not relevant to the purpose for which it was shared.
2. Individuals in relation to any other conduct under the Schemes, for example the ISE has:
 - not sought the views of a child and/or relevant family member and the complainant believes it was reasonable, safe and appropriate to do so
 - in the view of the complainant, failed to foster positive relationships between a child and significant people in the child's life, in the way they applied the Schemes.
3. Other ISEs in relation to how the ISE is sharing information under the Schemes. For example, an ISE may make a complaint about:
 - another ISE refusing to share relevant information that should be shared
 - the timeliness of responses.

Complaints record keeping

The following information must be recorded if a complaint is received under the Schemes:

- date the complaint was made and received
- nature of the complaint
- action taken to resolve the complaint
- action taken to lessen or prevent the issue from recurring
- time taken to resolve the complaint
- if the complaint was not resolved, further action that was taken

Note: accepted standard practice is that a response should be provided within 30 days of receiving the complaint. All complaints must be handling according to the *Privacy and Data Protection Act 2014* (Vic) and, where applicable, the Australia Privacy Principles