

## Authorised Version

# Family Violence Protection (Information Sharing) Regulations 2018

S.R. No. 14/2018

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## Authorised Version

STATUTORY RULES 2018

S.R. No. 14/2018

### *Family Violence Protection Act 2008*

## **Family Violence Protection (Information Sharing) Regulations 2018**

The Governor in Council makes the following Regulations:

Dated: 13 February 2018

Responsible Minister:

GAVIN JENNINGS  
Special Minister of State

ANDREW ROBINSON  
Clerk of the Executive Council

## **Part 1—Preliminary**

### **1 Objective**

The objective of these Regulations is—

- (a) to prescribe categories of information sharing entities and persons or bodies as information sharing entities for the purposes of Part 5A of the **Family Violence Protection Act 2008**; and
- (b) to provide for the appropriate record keeping of confidential information obtained by information sharing entities; and
- (c) to prescribe provisions of Acts for the purposes of section 144QC of the **Family Violence Protection Act 2008**.

## 2 Authorising provisions

These Regulations are made under sections 210A and 211 of the **Family Violence Protection Act 2008**.

## 3 Commencement

These Regulations come into operation on 26 February 2018.

## 4 Definitions

In these Regulations—

***Chief Commissioner of Police*** means the Chief Commissioner of Police appointed under section 17 of the **Victoria Police Act 2013**;

***Family Safety Victoria*** means the Administrative Office known as Family Safety Victoria established under section 11 of the **Public Administration Act 2004**;

***family violence information sharing function***, in relation to a State contract, means a function to be performed by an entity under a State contract that is specified in the contract, or in any other document with which the contract requires the entity to comply, to be a family violence information sharing function;

***Risk Assessment and Management Panel meeting*** means a Risk Assessment and Management Panel meeting conducted in accordance with the Victorian Risk Assessment and Management Panel Program Operational Guidelines issued by Family Safety Victoria;

***safety plan*** is the process of an information sharing entity identifying and documenting the steps required to optimise the safety for an individual in accordance with any

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guidelines issued by the Minister under section 144P of the Act;

***State contract*** means a contract entered into for or on behalf of the State;

***the Act*** means the **Family Violence Protection Act 2008**.

## Part 2—General

### 5 Prescribed person or body an information sharing entity

For the purposes of section 144D(1) of the Act, the following persons and bodies are prescribed as information sharing entities—

- (a) a police officer;
- (b) a police recruit within the meaning of the **Victoria Police Act 2013**;
- (c) the Chief Commissioner of Police;
- (d) the Secretary within the meaning of the **Children, Youth and Families Act 2005** to the extent that the Secretary exercises functions under that Act;
- (e) a person employed, engaged or contracted to provide specialist women's family violence case management services by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (f) a person employed, engaged or contracted to provide specialist men's family violence services (including men's behaviour change programs) by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (g) a person or body approved to assess or provide counselling services under section 133 of the Act;
- (h) a person employed, engaged or contracted to provide Child and Family Information Referral and Support Team services by an entity that receives funding under a State

- contract to perform family violence information sharing functions;
- (i) a person employed, engaged or contracted to provide services to victim survivors of sexual assault by an entity that receives funding under a State contract to perform family violence information sharing functions;
  - (j) a person employed, engaged or contracted to provide case management services to victims of crime by an entity that receives funding under a State contract to perform family violence information sharing functions;
  - (k) a person or body employed, engaged or contracted to provide services for family violence protection purposes and family violence assessment purposes in relation to a Support and Safety Hub established by Family Safety Victoria;
  - (l) a person or body providing correctional services under an agreement under section 9 of the **Corrections Act 1986** that include family violence information sharing functions;
  - (m) a person employed or appointed under section 12 of the **Corrections Act 1986** whose functions include family violence information sharing functions;
  - (n) an entity that delivers services under an agreement made pursuant to section 8B of the **Corrections Act 1986** that include family violence information sharing functions;

- (o) a person, a person in a class of persons or a body employed or contracted by the Department of Justice and Regulation to perform or authorise functions for a family violence protection purpose or a family violence assessment purpose in relation to victims of crime services or programs;
- (p) a person employed, engaged or contracted to provide offender rehabilitation and reintegration services and programs by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (q) a person employed, engaged or contracted to provide prisoner services or programs by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (r) a person or body to the extent that it participates in a Risk Assessment and Management Panel meeting, including preparation for and attendance at a meeting and associated follow-up actions or activities;
- (s) a court official within the meaning of section 3(1) of the **Magistrates' Court Act 1989**;
- (t) a court official within the meaning of section 3(1) of the **Children, Youth and Families Act 2005**.

#### **6 Prescribed person or body a risk assessment entity**

For the purposes of section 144D(2)(a) of the Act, the following information sharing entities are also prescribed as risk assessment entities—

- (a) a police officer;

- (b) a police recruit within the meaning of the **Victoria Police Act 2013**;
- (c) the Chief Commissioner of Police;
- (d) the Secretary within the meaning of the **Children, Youth and Families Act 2005** to the extent that the Secretary exercises functions under that Act;
- (e) a person employed, engaged or contracted to provide specialist women's family violence case management services by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (f) a person employed, engaged or contracted to provide specialist men's family violence services (including men's behaviour change programs) by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (g) a person or body approved to assess or provide counselling services under section 133 of the Act;
- (h) a person employed, engaged or contracted to provide Child and Family Information Referral and Support Team services by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (i) a person employed, engaged or contracted to provide services to victim survivors of sexual assault by an entity that receives funding under a State contract to perform family violence information sharing functions;



- (j) a person employed, engaged or contracted to provide case management services to victims of crime by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (k) a person or body employed, engaged or contracted to provide services for family violence assessment purposes in relation to a Support and Safety Hub established by Family Safety Victoria;
- (l) a person, a person in a class of persons or a body employed or contracted by the Department of Justice and Regulation to perform or authorise functions for a family violence assessment purpose in relation to victims of crime services or programs.

**7 Prescribed information sharing entity a CIP data custodian**

For the purposes of section 144F of the Act, each of the following information sharing entities, or classes of information sharing entity, is prescribed as a CIP data custodian—

- (a) a police officer;
- (b) a police recruit within the meaning of the **Victoria Police Act 2013**;
- (c) the Chief Commissioner of Police;
- (d) a court official within the meaning of section 3(1) of the **Magistrates' Court Act 1989**;
- (e) the Secretary within the meaning of the **Children, Youth and Families Act 2005** to the extent that the Secretary exercises functions under that Act;

- (f) a person employed or appointed under section 12 of the **Corrections Act 1986** whose functions include family violence information sharing functions.

**8 Administrative Office Head of Family Safety  
Victoria is the Central Information Point**

For the purposes of section 144O(1) of the Act, the Administrative Office Head of Family Safety Victoria is the Central Information Point.

## **Part 3—Record keeping**

### **9 Application of this Part**

- (1) This Part applies to the following information sharing entities—
  - (a) a police officer;
  - (b) a police recruit within the meaning of the **Victoria Police Act 2013**;
  - (c) the Chief Commissioner of Police;
  - (d) the Secretary within the meaning of the **Children, Youth and Families Act 2005** to the extent that the Secretary exercises functions under that Act;
  - (e) a person employed, engaged or contracted to provide specialist women's family violence case management services by an entity that receives funding under a State contract to perform family violence information sharing functions;
  - (f) a person employed, engaged or contracted to provide specialist men's family violence services (including men's behaviour change programs) by an entity that receives funding under a State contract to perform family violence information sharing functions;
  - (g) a person or body approved to assess or provide counselling services under section 133 of the Act;
  - (h) a person employed, engaged or contracted to provide Child and Family Information Referral and Support Team services by an entity that receives funding under a State contract to perform family violence information sharing functions;

- (i) a person employed, engaged or contracted to provide services to victim survivors of sexual assault by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (j) a person employed, engaged or contracted to provide case management services to victims of crime by an entity that receives funding under a State contract to perform family violence information sharing functions;
- (k) a person or body employed, engaged or contracted to provide services for family violence protection purposes and family violence assessment purposes in relation to a Support and Safety Hub established by Family Safety Victoria;
- (l) a person or body providing correctional services under an agreement under section 9 of the **Corrections Act 1986** that are specified to include family violence information sharing functions;
- (m) a person employed or appointed under section 12 of the **Corrections Act 1986** whose functions include family violence information sharing functions;
- (n) a person, a person in a class of persons or a body employed or contracted by the Department of Justice and Regulation to perform or authorise functions for a family violence protection purpose or a family violence assessment purpose in relation to victims of crime services or programs;
- (o) a person employed, engaged or contracted to provide offender rehabilitation and reintegration services and programs by an

- entity that receives funding under a State contract to perform family violence information sharing functions;
- (p) an entity that delivers services under an agreement made pursuant to section 8B of the **Corrections Act 1986** that are specified to include family violence information sharing functions;
  - (q) a person employed, engaged or contracted to provide prisoner services or programs by an entity that receives funding under a State contract to perform family violence information sharing functions;
  - (r) a person or body to the extent that it participates in a Risk Assessment and Management Panel meeting, including preparation for and attendance at a meeting and associated follow-up actions or activities.
- (2) Despite anything to the contrary in this regulation, this Part does not apply to an information sharing entity if that information sharing entity reasonably believes that another information sharing entity has made a record of the prescribed information.

#### **10 Recording obligations for information sharing entities**

For the purposes of section 144PB of the Act, the following information is prescribed in respect of confidential information disclosed under Part 5A of the Act by an information sharing entity to which this Part applies—

- (a) the information sharing entity which requested the information, if applicable;
- (b) the confidential information that was requested, if applicable;

- (c) the date on which the information sharing entity made the request, if applicable;
- (d) a record of the confidential information disclosed;
- (e) the date on which the confidential information was disclosed;
- (f) the information sharing entity to which the confidential information was disclosed;
- (g) if the information sharing entity disclosing the confidential information has prepared a risk assessment under the approved framework (within the meaning of Part 11 of the Act) or a safety plan in respect of the person, or in respect of a member of the person's family who is at risk of being subjected to family violence, a copy of that risk assessment or safety plan.

**11 Recording obligations for information sharing entities when disclosing information about a primary person who is an adult or a linked person**

For the purposes of section 144PB of the Act, the following information is prescribed in respect of confidential information about a primary person who is an adult or a linked person disclosed under Part 5A of the Act, by an information sharing entity to whom this Part applies—

- (a) if the confidential information was disclosed with the person's consent, a record of whether that consent was written, verbal or implied;
- (b) if the confidential information was disclosed without the person's consent—
  - (i) the reason why the person's consent was not obtained; and

- (ii) whether the information sharing entity sought and obtained the views of the person regarding the disclosure and, if not, the reason why;
- (c) whether the person was informed of the disclosure.

**12 Recording obligations for information sharing entities when disclosing information about a primary person who is a child**

- (1) For the purposes of section 144PB of the Act, the following information is prescribed in respect of confidential information about a primary person who is a child disclosed under Part 5A by an information sharing entity to whom this part applies—
  - (a) whether the information sharing entity sought and obtained the views of the child or the child's parent and, if not, the reason why;
  - (b) whether the child or the child's parent was informed that the confidential information was disclosed.
- (2) For the purposes of this regulation, a *parent* does not include a parent of the child who is a person of concern or a person alleged to pose a risk of family violence.

**13 Obligations when declining a request to disclose confidential information**

If an information sharing entity or the Central Information Point declines a request to disclose confidential information about any person, it must make a record of the request and the reason why it was declined.

#### **14 Details to be recorded when receiving a complaint**

If a complaint is made directly to an information sharing entity or the Central Information Point in relation to the performance of its functions under Part 5A of the Act, it must record—

- (a) the date the complaint was made and received; and
- (b) the nature of the complaint and relevant details; and
- (c) any action that was taken by the information sharing entity to resolve the complaint; and
- (d) any necessary action that has been taken to prevent, or lessen, the risk of further similar complaints by ensuring the reasons for the complaint have been addressed; and
- (e) the time taken to resolve the complaint; and
- (f) if the information sharing entity or the Central Information Point was unable to resolve the complaint, what (if any) further action was taken.



## **Part 4—Confidential information**

### **15 Permission to collect, use or disclose confidential information despite prescribed provisions**

For the purposes of section 144QC(b) of the Act, the following provisions are prescribed—

- (a) sections 35(2), 537(3) and 582(5) of the **Children, Youth and Families Act 2005**;
  - (b) section 39(3) of the **Disability Act 2006**;
  - (c) sections 18(3), 99A(5) and 124J(2) of the **Magistrates' Court Act 1989**;
  - (d) section 347(2) of the **Mental Health Act 2014**;
  - (e) section 181 of the **Personal Safety Intervention Orders Act 2010**.
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