# Domestic and Family Violence

## *Information Sharing Guidelines*

May 2017

Queensland Government

## Department of Communities, Child Safety and Disability Services Statement

The Department, acting on behalf of the Queensland Government, contracted Australia's National Research Organisation for Women's Safety (ANROWS) to develop the following Domestic and Family Violence Information Sharing Guidelines. These were developed to support practitioners to understand and implement new domestic and family violence information sharing provisions in Queensland passed by Queensland Parliament in October 2016 and enacted in May 2017.

The Department acknowledges ANROWS' work in developing the Information Sharing Guidelines, and acknowledges the work of The Comms Team in finalising the design.

The Department also acknowledges the commitment and time of the Queensland Privacy Commissioner in supporting the development of the Guidelines, as well as the many members of the Domestic and Family Violence Integrated Response Working Group and other key stakeholders who have contributed to the development of the Guidelines.

## Disclaimer:

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# Contents

# 1. Introduction

These Domestic and Family Violence Information Sharing Guidelines (the Guidelines) are part of the Queensland Government's response to recommendations made in the 2015 Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland Report (Recommendation 78).

The Guidelines are intended to support practitioners to share information appropriately with one another in order to assess and manage domestic and family violence risk. The Guidelines are consistent with amendments to the *Domestic and Family Violence Protection Act 2012*, passed in October 2016 and in effect as at 30 May 2017, which provide clearer legislative support for information sharing for the purposes of assessing and managing domestic and family violence risk. The amendments and the Guidelines are designed to improve outcomes for victims of domestic and family violence, and to better hold perpetrators to account.

The Guidelines are also consistent with the Domestic and Family Violence Common Risk and Safety Framework, which has been developed to support greater integrated responses to domestic and family violence across the state.

These Guidelines provide service providers with a clear interpretation of Part 5A of the *Domestic and Family Violence Protection Act 2012* (Part 5a of the Act). The Guidelines outline for practitioners what information should be shared, the circumstances in which it may be shared, and who may share information.

Many different services and practitioners – such as police, specialist domestic and family violence services, child protection, health services, and other support services – can become involved in an individual domestic violence case. No single agency is responsible for intervention in domestic and family violence, and there can be a number of opportunities for different agencies to collaborate and share information.

Effective, coordinated responses to domestic and family violence depend on the sharing of relevant information across agencies. In particular, information sharing is integral to effective risk management and safety planning, as each agency often holds different information about the circumstances and relevant risks present in each particular case. Without sharing the information, there is a risk that the full situation may not be apparent to any individual agency, and the level of risk to a victim may not be apparent until the victim has been killed.

Information sharing assists in creating effective screening measures; prioritising 'high risk' cases; and minimising secondary victimisation by requiring victims to repeatedly retell their stories.

## 1.1 Key Principles for Information Sharing Without Consent

*The Domestic and Family Violence Protection Act 2012* (the Act) (part 1 s4) states that " safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount." The Act (part 5A div 1 s169B) identifies the following key principles specific to information sharing:

a) whenever safe, possible and practical, a person's consent should be obtained before—
   i. providing, or planning to provide, a service to the person
   ii. disclosing personal information about the person to someone else

b) because the safety, protection and wellbeing of people who fear or experience domestic violence are paramount, their safety and protection takes precedence over the principle mentioned in Paragraph (a)

c) before sharing information about a person with someone else, an entity should consider whether disclosing the information is likely to adversely affect the safety of the person or another person.

**The above principles mean that the safety and protection of victims takes precedence over gaining a perpetrator's consent to share relevant personal information.**

# 2. Information Sharing Under Part 5A[1]

These Information Sharing Guidelines provide a guide for practitioners on information sharing without consent. The Act states that consent should be sought where it is safe, possible and practical to do so (pt 5A div 1 s 169b).

There are many circumstances where it is not safe, possible or practical to seek consent. The safety, protection and wellbeing of people who fear or experience domestic and family violence are paramount and **safety takes precedence over consent** (pt 5A div 1 s169B of the Act). In almost all circumstances, consent **should not be sought from perpetrators**.

Information sharing under the Act (Part 5A) requires practitioners in possession of relevant information to consider a number of key questions to assist them in making a decision about whether to share relevant information without consent. The flow chart at Figure 1 provides a summary of these key steps. Further information about each of the steps is provided throughout this section.

## 2.1 When can information be shared without consent? How can the information be used?

Information may be shared without consent under the Act in two key circumstances: assessing a domestic violence threat; or responding to a serious domestic violence threat. Figure 2 provides an outline of the information sharing model.

### 2.1.1 Information Sharing for the purpose of assessing a domestic violence threat (pt 5A div 2 s169D).

**A prescribed entity or specialist domestic and family violence service provider** may give information to any other prescribed entity or specialist domestic and family violence service provider if it reasonably believes a person fears or is experiencing domestic violence; and giving the information may help the receiving entity assess whether there is a serious threat to the person's life, health or safety because of the domestic violence.

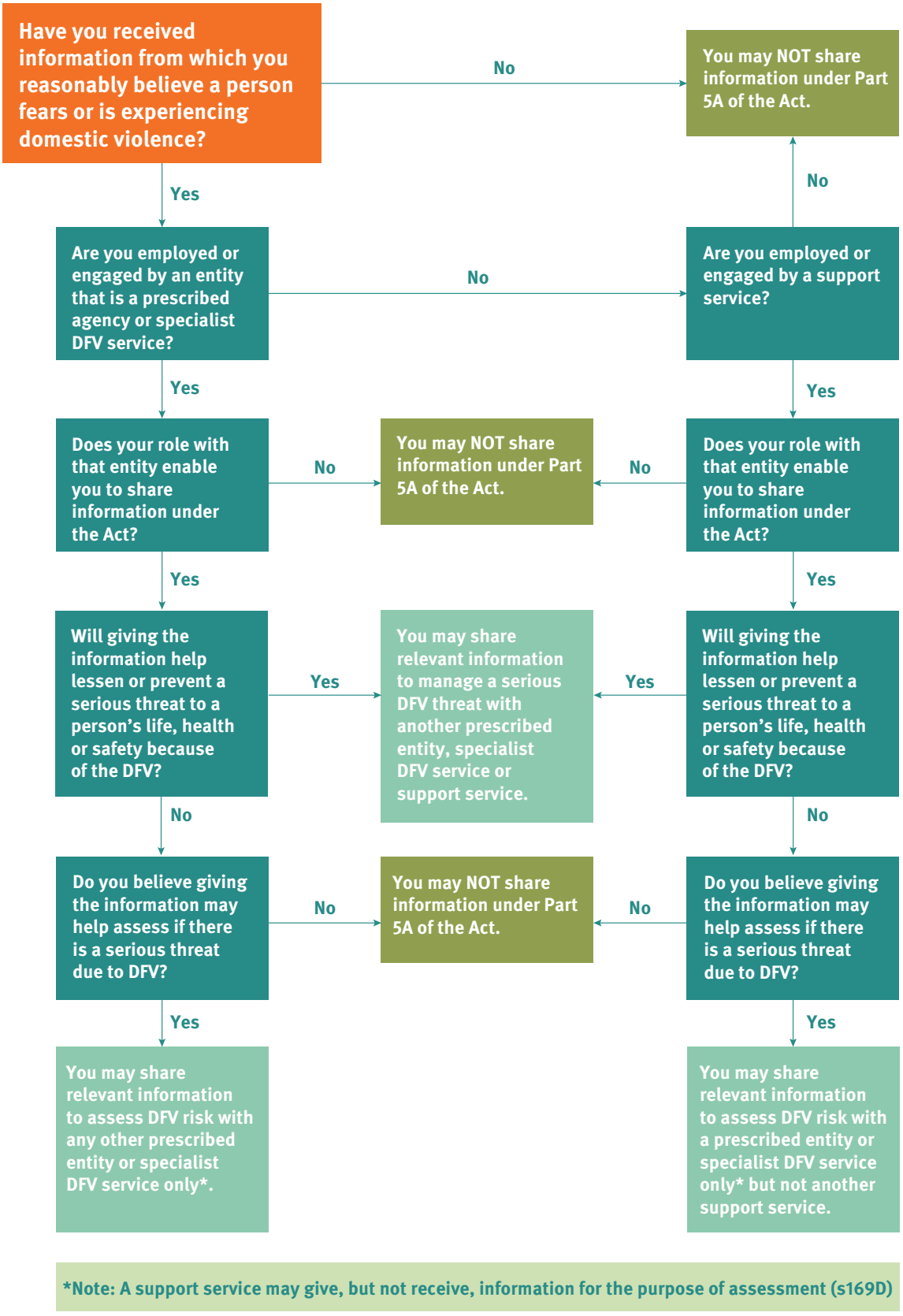
**A support service provider** may only give information to a prescribed entity or specialist domestic and family violence service provider if it reasonably believes a person fears or is experiencing domestic violence; and giving the information may help the receiving entity assess whether there is a serious threat to the person's life, health or safety because of the domestic violence.

**A support service** is not able to share information with another support service provider or receive information from any entity under this provision. In other words, **only prescribed entities and specialist domestic and family violence service providers may receive information without consent for the purpose of assessment**.

Case scenarios A (page 19), B (page 20) and C (page 21) relate to the use of information sharing to assess whether there is a serious domestic violence threat.

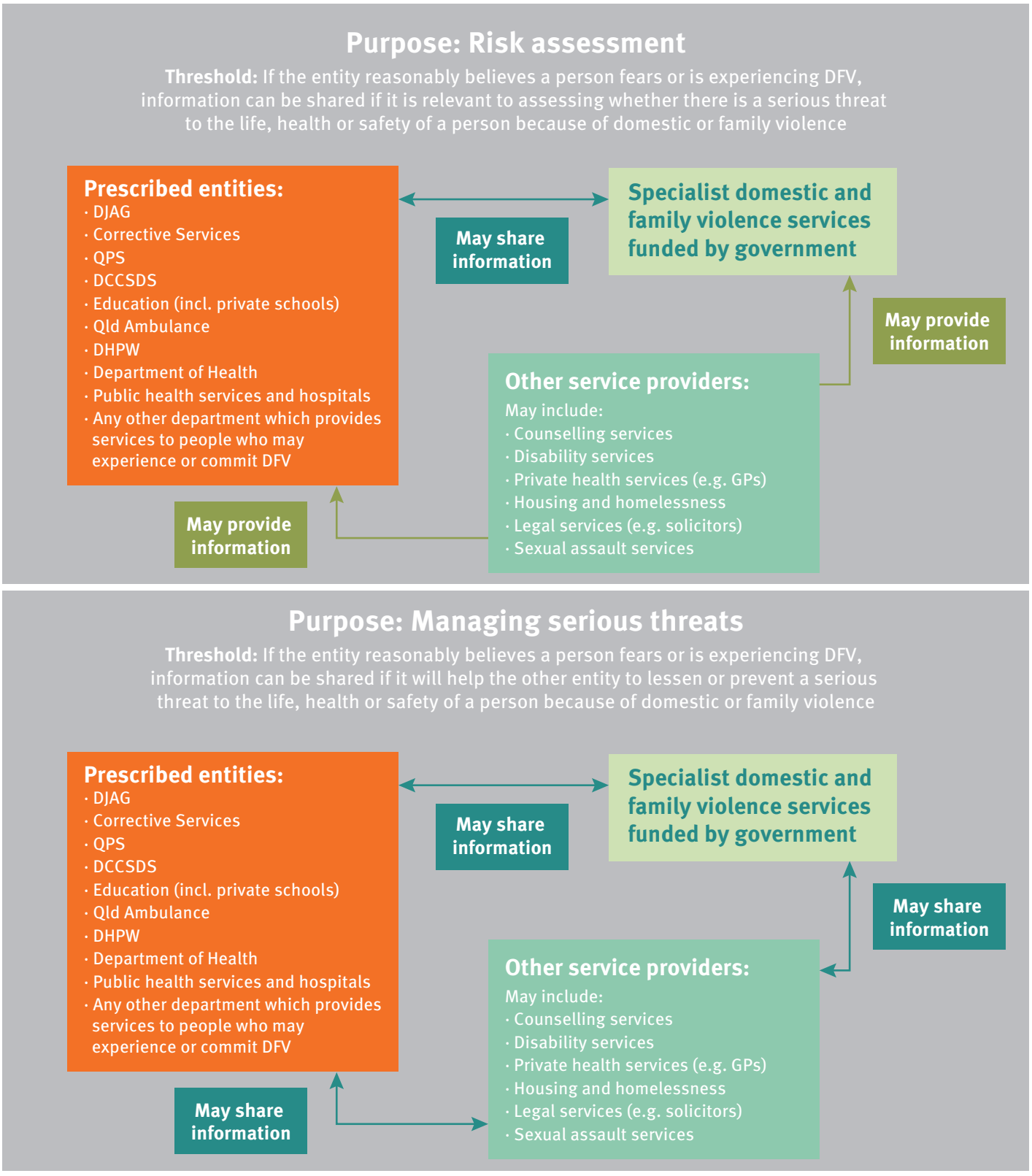
1 These Guidelines only provide information relating to the information sharing provisions under Part 5A of the *Domestic and Family Violence Protection Act 2012*. They do not provide information relating to the sharing of personal information under other legislation such as the *Information Privacy Act 2009* (IPA) or about the collection and storage of personal information. For further information about this issues, please refer to the IPA and the Information Privacy Principles.

**Figure 1: Flow diagram for information sharing under Part 5A of the Act**




*Note: A support service may give, but not receive, information for the purpose of assessment (s169D)

**Figure 2: Queensland Domestic and Family Violence Information Sharing Model**



### 2.1.2 Information sharing for the purpose of responding to a serious domestic violence threat (pt 5A div 2 s169E)

A prescribed entity, specialist domestic and family violence service provider or support service provider may give information to any other prescribed entity, specialist domestic and family violence service provider or support service provider if it reasonably believes a person fears or is experiencing domestic violence; and giving the information may help the receiving entity to lessen or prevent a serious threat to the person's life, health or safety because of the domestic violence.

A prescribed entity, specialist domestic and family violence service provider, or support service provider may use information given to it to the extent necessary to lessen or prevent a serious domestic violence threat (pt 5A div 2 s169G of the Act), including by (but not limited to):

a) contacting, or attempting to contact, the person or another person involved in the domestic violence, or

b) offering to provide assistance or a service to the person or another person involved in the domestic violence.

Case scenarios D (page 22), E (page 23) and F (page 24) relate to the use of information sharing to respond to a serious threat.

### 2.1.3 Obligation to consider safety implications of sharing information

Practitioners must consider whether disclosing personal information is likely to adversely affect the safety of the person or another person (pt 5A div 1 s169B of the Act).

If a practitioner determines the person's safety may be adversely affected by sharing information, the information may still be shared but the practitioner or organisation should take steps (such as safety planning or appropriate referral) to help mitigate any identified risks. This includes determining a safe way to contact the victim without the perpetrator's knowledge.

### 2.1.4 Protection from liability

The Act (pt 5A div 5 s169N) provides protection from liability for giving information. If a person, acting honestly, shares information they believe to be in compliance with Part 5A of the Act, they are not liable civilly, criminally or under an administrative process, for giving the information. It further states that, merely because a person gives the information, they cannot be held to have breached any code of professional etiquette or ethics or departed from accepted standards of professional conduct.

## 2.2 Who is allowed to share information under Part 5A?

### 2.2.1 Organisations who may share information under Part 5A

#### Prescribed Agencies

A "prescribed entity" is the chief executive, commissioner, or principal (as appropriate) of certain agencies with specified responsibilities in areas such as corrective services, justice, education, public health services, housing, child protection, and welfare (defined in Part 5A (pt 5A div 1 s169C) of the Act). The Act also identifies that any other agency may be prescribed by regulation.

Under the definition in the Act, prescribed agencies currently include the following departments, agencies and associated agencies:

- Queensland Corrective Services
- Queensland Police Service
- Department of Communities, Child Safety and Disability Services
- Department of Justice and the Attorney-General
- Department of Education and Training and accredited state and non-state schools.
- Department of Housing and Public Works
- Department of Health and associated agencies, including public health services and public hospitals, and the Ambulance Service.

In addition, a prescribed entity includes the chief executive of any other department that provides services to persons who fear or experience domestic violence or who commit domestic violence.

#### Specialist domestic and family violence services

A "specialist domestic and family violence service provider" means a non-government entity funded by the State or Commonwealth to provide services to persons who fear or experience domestic violence or who commit domestic violence (pt 5A div 1 s169C of the Act). This includes services that work with men who use violence. Under the Act sexual assault services are not treated as "specialist domestic and family violence services" unless the State or Commonwealth specifically funds them to also provide domestic and family violence services.

#### Support service providers

A "support service provider" means a non-government entity, other than a specialist domestic and family violence service provider, that provides assistance or support services to persons who may include persons who fear or experience domestic violence or who commit domestic violence (pt 5A div 1 s169C(1) of the Act). This includes a range of services for people who fear or experience domestic violence or who commit domestic violence. Examples may include, but are not limited to: counselling, disability, private health services (including private hospitals and general practitioners), housing, legal services (including solicitors and barristers), and sexual assault service providers.

These services may be provided either in a specific service entity or private practice.

Case scenario G (page 25) relates to a situation where there is no legitimate purpose to share information.

### 2.2.2 Individuals who are allowed to share information

In addition to being an employee of a prescribed entity, a specialist domestic and family violence service or a support service, a person planning to share information without consent under the Act must ensure they are an appropriate person to share the information. Section 169H of the Act specifies that people employed or engaged by the entity may give, receive or use information if their duties include assessing domestic violence threats, taking action to lessen or prevent domestic violence threats, or are otherwise authorised by the prescribed entity, specialist service or support service.

## 2.3 What information can be shared?

### 2.3.1 What is relevant information?

Under the Act, practitioners must use their professional judgement to determine what, of the information they have received, is relevant information that should be shared for the purposes of assessing or managing a domestic violence threat.

Relevant information that is shared may be comprised of facts or opinion. Facts in this case mean absolutes (for example, the date a perpetrator may be released on parole; the number of charges against a person) while opinion refers to professional opinion inferred following the receipt of other information (for example, the practitioner's assessment that the victim is at high risk).

Consideration should be given to any relevant information about the victim, the perpetrator, and any children or family members involved.

Information (shared with or without consent) should be limited to what is needed to fulfil the purpose of sharing the information, and should not be excessively detailed.

What counts as relevant information is unique to each circumstance and professional judgment is important when making a decision about what information is relevant to share.

> *"If I was working with someone who had been bashed and raped I would only share that – not that they have been sexually abused as a child."*
>
> – Domestic violence worker.
>
> *"I've never seen a client complain about a breach of info sharing between agencies; they are more likely to complain about not sharing."*
>
> – Domestic violence worker.

### 2.3.2 Limits on information sharing

The Act (pt 5A, div 2, s169J) specifies there are certain circumstances and certain information that may not be shared under the Act. Due to the specificity of these circumstances, the relevant section of the Act is replicated below.

Information may not be given to an entity if:

a) the information is about a **person's criminal history to the extent it relates to a conviction, other than a conviction for a domestic violence offence**, and –
   i. the rehabilitation period for the conviction under the *Criminal Law (Rehabilitation of Offenders) Act 1986 (Qld)* has expired under that Act
   ii. the conviction is not revived as prescribed by section 11 of that Act

b) the information must not be disclosed under the *Child Protection Act 1999 (Qld)* pt 6 div 2 s186 (which relates to the **protection of the identity of the person who has notified a police officer, doctor, teacher, etc. that a child (or pregnant woman) is being harmed)**

c) the information is **confidential information within the meaning of the *Director of Public Prosecutions Act 1984* (Qld)**, pt 3 s24A known by a person and acquired in the circumstances mentioned in section 24A(1) and (2) of that Act; or

d) the information is –
   i. **sensitive evidence** within the meaning of the *Criminal Code 1995*, s590AF; or
   ii. a **recording** within the meaning of the *Evidence Act 1977* (Qld) div 4Bs21AY; or
   iii. a section 93A criminal statement or a section 93A transcript within the meaning of the *Evidence Act 1977 (Qld)*, div 6s93AA; or

e) giving the information would be **contrary to an order** of a court or tribunal.

If in doubt about whether one of these provisions apply to a specific case, practitioners may wish to seek legal advice or advice from an appropriate agency with experience in the operation of the relevant legislation.

### 2.3.3 Confidentiality

The Act (pt 5A div 3 s169K) specifies confidentiality requirements for information that is shared by a person who:

1. is from a prescribed entity, specialist domestic and family violence service provider or support service provider that was, in that capacity, given or given access to, information about another person without their consent

2. was given access to information about another person without their consent by a person from a prescribed entity, specialist domestic and family violence service provider or support service provider that received that information.

3. These confidentiality requirements are that the person receiving the information may only use the information, disclose or give access to the information to anyone else if the use, disclosure or access:

   a) is **permitted** under Part 5A of the Act

   b) **complies with the Information Privacy Principles** (if the entity that employs or engages the person receiving the information is required to comply under the *Information Privacy Act 2009 (Qld)*)

   c) **is otherwise required or permitted by law**.

The maximum penalty for contravening this part of the Act is 100 penalty units or up to 2 years imprisonment.

Further, where a police officer receives information from a prescribed entity, specialist domestic and family violence service provider or support service provider to assess or respond (pt 5A div 2 s169D); (pt 5A div 2 s169E) to a serious domestic violence threat, that police officer – and any other police officer to whom the information is disclosed – may use the information to fulfil their duties.

However, a police officer must not use the information obtained for the purposes of an investigation or for a proceeding for an offence unless:

a police officer has consulted with the entity that gave the information about the proposed use

- the police officer, in consultation with the entity, has considered whether the proposed use of the information for the investigation or proceeding would be in the best interests of a person experiencing domestic violence.

Privacy is a significant issue in domestic and family violence. It is critical to remember that victims are entitled to privacy and confidentiality. Ensuring privacy and confidentiality regarding the whereabouts of victims is a central principle of safety planning.

Likewise, confidentiality is a core principle of intervention, and maintaining confidentiality is directly linked to the principle of responsibility/accountability of professionals concerning the survivor's safety and wellbeing.

This commitment by an agency to maintain confidentiality may impede effective communication with other professionals.

To address this issue consider the broad range of legislation and policy which impact on collaborative service provision for victims of domestic and family violence. These may include professional and agency codes of practice; victim privacy; personal information privacy, as outlined in the various privacy laws and polices across states, territories and the Commonwealth; and court privacy practices.

### 2.3.4 Protection of information for the safety of victims

Victims of violence may be discouraged from giving consent to their information being shared if they fear that the details they disclose will be accessible by the perpetrator (e.g. via litigation), particularly when the information gives away their location.

The risk of perpetrators locating victims as a result of information sharing can be countered by appropriate protective factors such as those that take care to obscure identifying information about a victim's whereabouts.

Privacy and confidentiality notices on individual forms and tools, which specifically note the existence of confidential domestic violence information contained within, support those identifying information for potential criminal proceedings to be aware of the confidential information and exclude all or part of those documents from being accessed by perpetrators or their legal counsel.

Practitioners are encouraged to ensure such confidentiality disclaimers are present on all relevant documentation (as they are on the common forms and tools developed as part of the Domestic and Family Violence Common Risk and Safety Framework) to support the safety of victims.

### 2.3.5 Sharing without consent under other legislation

Sharing personal information with other people who are not practitioners, such as a victim, family or others, may be permitted or required under other applicable legislative provisions for the circumstances that authorise disclosure of information without consent.

## 2.4 Secure management of confidential domestic and family violence information

In addition to the specified permitted use (pt 5A div 2 s169G) and confidentiality (pt 5A div 3 s169K and s169L) requirements of information shared under Part 5A of the Act, good practice also requires the more general secure management of information.

Those agencies covered by the *Information Privacy Act 2009 (Qld)* must comply with the Information Privacy Principles (IPPs) or National Privacy Principles (NPPs) for health agencies regarding storage, security and access to personal information. Specifically, IPPs 4-7 require that, "once an agency has collected personal information, it must:

1. Ensure that documents containing personal information are protected from loss, unauthorised access, use, modification, disclosure or any other misuse (IPP4).

   The level of storage and security will depend upon the nature of the personal information in the document and the risk of a security breach occurring. If a document contains extremely sensitive information, such as health or criminal records, an agency should take maximum care in protecting the information.

   Security measures may be both physical (eg. locks and swipe cards for rooms and compactuses) and electronic (eg. passwords and encryption for computers and USB devices) and operational (eg. restricting access on a needs basis).

2. Take reasonable steps to ensure that an individual can find out whether the agency holds documents containing personal information, the type of information held, the purposes for which the information is used and what the individual should do to obtain access to a document containing their personal information. Some agencies will publish this information in the form of a privacy policy which should be accessible from the agency in hardcopy, or may be accessible through the agency's website (IPP5).

3. Accept requests for access to, and amendment of, personal information, under IPP 6 and IPP7.

Health agencies subject to the IP Act must abide by relevant NPPs, particularly NPP 3 (data quality), NPP 4 (data security), NPP 5 (openness), NPP 6 and 7 (access to and amendment of documents containing personal information).

Further information is available on the Office of the Information Commissioner's website www.oic.qld.gov.au

Each service provider is responsible for taking steps to ensure that the information is up-to-date and accurate. It is good practice to check with the person who is experiencing violence that the information is correct, and to do this each time contact is made.

Record firsthand information as being factual and include professional assessment and judgment (and clearly identify it as such).

Generally, good practice means hard copies of documents with personal information are marked "confidential" and electronic copies password protected. Personal information that may identify a victim must be stored securely, and only made accessible to professionals who are assessing the threats of domestic and family violence or providing a service. A written record of what has been shared should be stored on file. As best practice, service providers should also add guidance to written communications where information is shared such as:

- the inappropriate disclosure of the information will have harmful consequences for safety
- the information is provided on the basis that the receiving service provider does not use it for any purposes other than those outlined in the referral/information request
- the receiving service provider must not disclose the information further without the victim's consent unless an appropriate exemption applies".

Agencies should develop their internal policies and procedures to reflect the legislative requirements in Part 5A of the Act and model good practice in the secure, timely and confidential treatment of information.

# 3. Glossary

## Domestic and family violence

Domestic and family violence is often an overt or subtle expression of a power imbalance, resulting in one person living in fear of another, and usually involves an ongoing pattern of abuse over a period of time. Part 2 of the Act (pt 2 div 2 s8) defines domestic violence as follows:

*Domestic violence means behaviour by a person (the first person) towards another person (the second person) with whom the first person is in a relevant relationship that—*

a) is physically or sexually abusive; or
b) is emotionally or psychologically abusive; or
c) is economically abusive; or
d) is threatening; or
e) is coercive; or
f) in any other way controls or dominates the second person and causes the second person to fear for the second person's safety or wellbeing or that of someone else.

In this context, a "relevant relationship" is defined as: an intimate personal relationship; or a family relationship; or an informal care relationship (pt 2 div 3s13 of the Act).

## Personal information

"Personal information" is defined under the *Information Privacy Act 2009 (Qld)* (ch 1 pt 2 s12) as: "information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion". In this context, an "individual" is a living person. Deceased people cannot have personal information, however care should still be taken when handling the information as it still may include personal information of the living.

## Prescribed entity

Defined in Part 5A (pt 5A div 1 s169C) of the Act, a "prescribed entity" refers to the chief executive, commissioner, or principal (as appropriate) of certain agencies with specified responsibilities in areas such as corrective services, justice, education, public health services, housing, child protection, and welfare. The Act also identifies that any other agency may be prescribed by regulation.

In addition, a prescribed entity may include the chief executive of any other department that provides services to persons who fear or experience domestic violence or who commit domestic violence.

## Specialist domestic and family violence services

A "specialist domestic and family violence service provider" means a non-government entity funded by the State or Commonwealth to provide services to persons who fear or experience domestic violence or who commit domestic violence (pt 5A div 1 s169C of the Act). This includes services that work with men who use violence. Under the Act sexual assault services are not treated as "specialist domestic and family violence services" unless the State or Commonwealth specifically funds them to provide domestic and family violence services.

## Support service providers

A "support service provider" means a non-government entity, other than a specialist domestic and family violence service provider, that provides assistance or support services to persons who may include persons who fear or experience domestic violence or who commit domestic violence (pt 5A div 1 s169C(1) of the Act). This includes a range of services for people who fear or experience domestic violence or who commit domestic violence. Examples may include, but are not limited to: counselling, disability, private health services (including private hospitals and general practitioners), housing, legal services (including solicitors and barristers), and sexual assault service providers. These services may be provided either in a specific service entity or private practice.

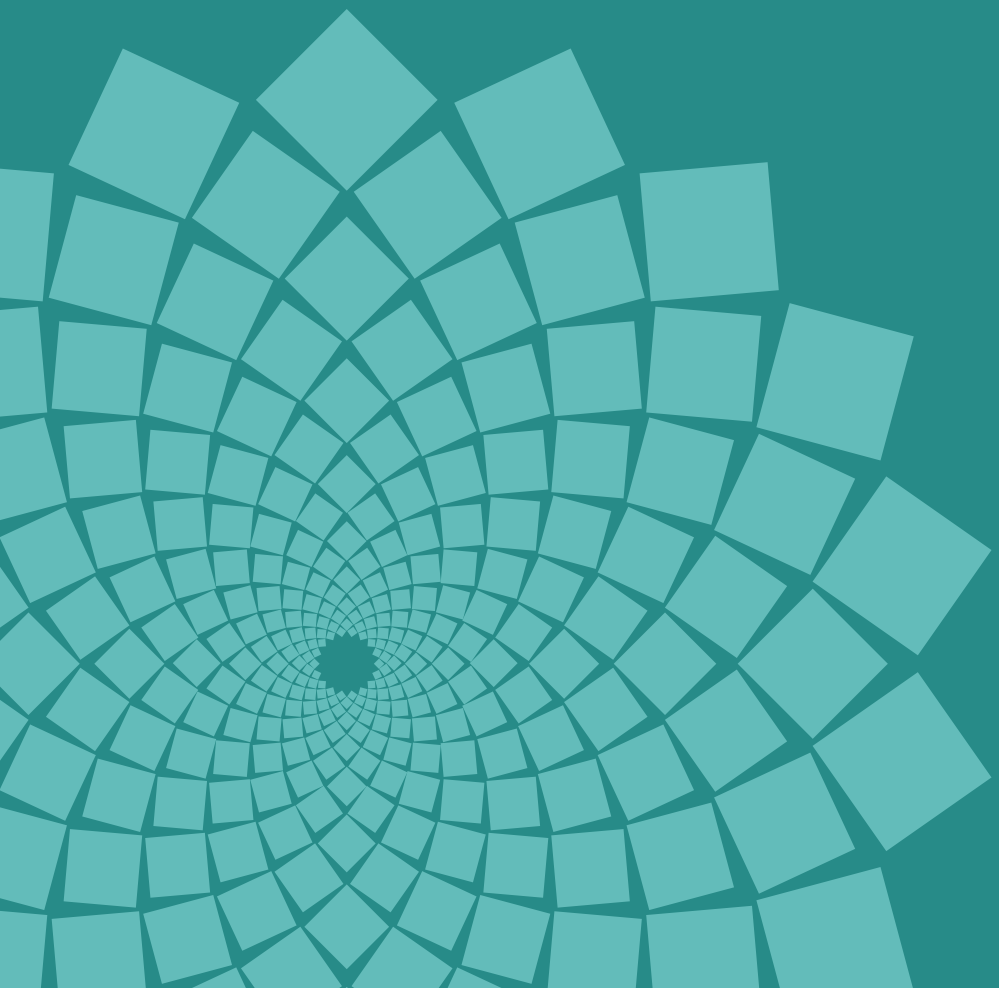
## Receiver

A "receiver" under the Act is a person who is employed or engaged by a prescribed entity, specialist domestic and family violence service provider or support service provider and in that capacity was given, or given access to, information about a person in relation to domestic and family violence under Part 5A of the Act.

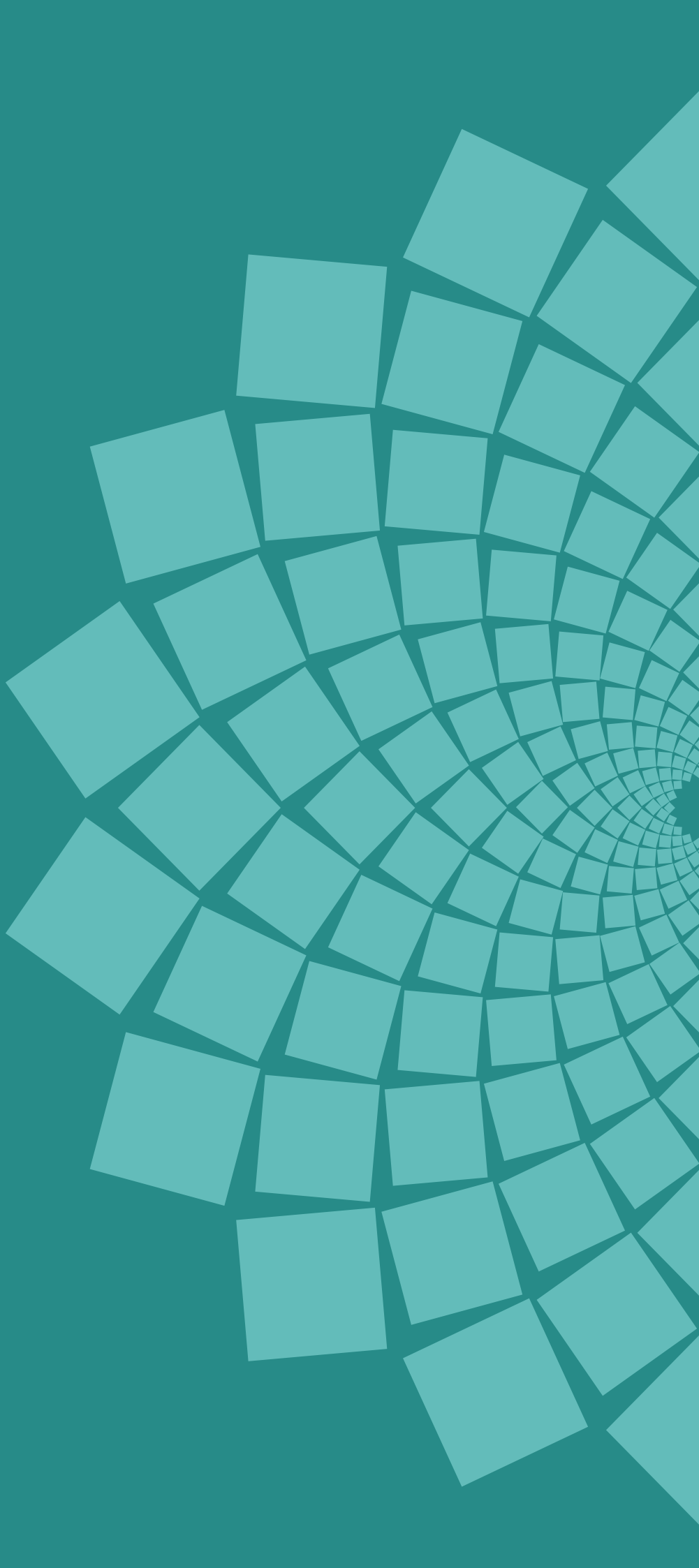
## Informed consent

As noted above, one of the key principles of Part 5A of the Act is that **information should be shared with a person's consent where it is safe, possible and practical to do so** (pt 5A div 1 s169B(a)). Consent is defined in the Dictionary Schedule of the Act as "freely and voluntarily given by a person with capacity to give the consent". For the consent to be "informed" it should cover the situation it concerns, the person should be given enough information to make the decision, and the person should understand what they are agreeing to.

# 4. CASE STUDIES AND SCENARIOS



The case scenarios provided in the Information Sharing Guidelines are intended to illustrate information sharing in accordance with the *Domestic and Family Violence Protection Act 2012* (see pt 5A div 1 s169A). They are not exhaustive and should not be considered to be followed specifically as a procedure or process. The case studies also do not specifically reflect processes that may also be required in accordance with other legislation such as the *Child Protection Act 1999*.



# **Case study:** the death of Noelene Marie Beutel

**On 29 June 2011, Noelene Marie Beutel died from multiple traumatic blows to the head, which had been inflicted by her partner Wayne McClutchie. Court records during the inquest into Noelene's death revealed that her doctor, as well as domestic violence support services and the police, knew she was being abused.**

Six months prior to her death, police were called after Noelene had been beaten. Noelene submitted an application for a protection order and wrote:

*"There have been many, many incidences of domestic violence in the past and now they are becoming much more frequent and more violent. I absolutely believe he is capable of killing me as our situation is becoming extremely volatile and he seems to be almost at the point of no control when he is angry."* (Smail, 2014).

The night before she was killed, the state-wide domestic violence crisis centre DVConnect had placed Noelene in emergency accommodation – she had left Wayne the day before that. Diane Mangan, CEO of DVConnect, suggested, in the wake of the inquest, that privacy laws intended to protect victims were instead acting as a "cloak of secrecy" for the perpetrator.

A better approach would be to treat domestic and family violence similarly to cases involving child safety – where information is automatically shared between agencies to protect victims at high risk.

The coronial inquest into Noelene's death identified lack of information sharing, lack of a coordinated response, and a lack of a risk assessment as key deficiencies in the service system response. Had the different agencies shared and pooled their information, Noelene's death may have been prevented (Hutton, 2014).

# **Case Scenario A:** Using information sharing to assess whether there is a serious domestic violence threat

## **Agencies:** Queensland Corrective Services, Department of Housing and Public Works, specialist DFV service, QPS

**Tim has previously been convicted of DFV related offences against his former partner, Jason – and is named as a respondent in a current Domestic Violence Order that has been put in place to protect Jason. During a conversation with his Queensland Corrective Services' (QCS) Probation and Parole supervising officer, Tim states that he has commenced a new relationship, but has recently lost his job – and is "struggling to deal with things", on the whole.**

The QCS officer decides that Tim's conviction for DFV offences against Jason is information that is relevant to Tim's future risk of reoffending – including his recent loss of job and ongoing mental health concerns – and the current Domestic Violence Order is relevant to the assessment of whether there is a serious threat to the life, health or safety of Tim's current partner.

The QCS officer does not know the name of Tim's new partner, but Tim, who lives in a housing commission unit, mentions that his partner is moving in with him in two days' time. Tim also confides in the QCS officer that he doesn't intend to tell the Department of Housing and Public Works **(DHPW)** of the pending living arrangement, as he doesn't want to lose his accommodation.

Given that QCS is a prescribed entity under the Act, the QCS officer contacts Tim's **counsellor** at the **men's behaviour change program** (a specialist DFV service) that Tim has attended in recent weeks to share information relevant to Tim's situation. The QCS officer shares this information with the counsellor to help assess whether there may be a serious threat to Tim's current partner.

The QCS officer provides Tim's counsellor with information about Tim's DFV convictions; his recent unemployment status; his ongoing mental health issues; and the Domestic Violence Order in place with respect to Tim's former partner, Jason.

Details of Tim's recent unemployment status and ongoing mental health concerns are considered relevant to the counsellor assessing the potential threat to Tim's current partner, given that Tim's violence towards Jason escalated when a) Tim had previously been out of work; and b) each time Tim stopped taking his anti-depressant medication.

The QCS officer also tells the counsellor that Tim's partner intends to move in with Tim in two days' time – as this may increase the level of risk to Tim's partner – but does not share Tim's decision not to inform DHPW of the new living arrangement as it is not relevant to assessing the level of threat to Tim's partner.

The counsellor advises the QCS officer that he will complete a DFV risk assessment in relation to Tim's current partner and refer him to appropriate supports and services, having regard to the level of risk identified as a result of the completed risk assessment.

# **Case Scenario B:** Using information sharing to assess whether there is a serious domestic violence threat

## Agencies: Queensland Health, specialist DFV service

**Sonya is pregnant with her third child and presents to the birthing suite at hospital, via her GP, with unexplained abdominal pain. Her notes indicate this is her fifth pregnancy but two pregnancies were miscarriages. Her children are 3 and 5 years old. She is presently 32 weeks pregnant and has been living with her partner for five years.**

The midwife on duty, Ann, palpates Sonya's abdomen and notices her uterus feels small considering how far along she is in her pregnancy (small for dates). Medical notes show that Sonya has had several admissions to the maternity unit with similar symptoms. She also has a history of recurrent urinary tract infections. Ann is concerned with Sonya's appearance as she is unkempt and very thin for a woman in her third trimester of pregnancy. She also seems very unsure of herself, offering a vague history of symptoms.

Ann attempts to admit Sonya to the ward overnight but Sonya refuses to stay, as on previous occasions, insisting on going home because of child care issues.

Before Sonya leaves, Ann asks Sonya if there is anything concerning her that she would like to talk about. Ann tells Sonya she is concerned she is thin, that her baby is not growing well, and that Sonya needs to prioritise her health and the health of her baby. Ann also asks Sonya if she is frightened of anyone and if she would like some help.

Sonya discloses to Ann that while things are 'not good' at home and she is frightened of her partner, Sonya needs to look after her other kids and make sure they are taken care of. Sonya refuses Ann's offer to call the police, saying this would only make the situation worse. Anne is temporarily called away by another medical professional and upon her return, discovers that Sonya has left the hospital.

Although it is now not possible for Ann to obtain Sonya's consent (section 169B of the Act), Ann decides to share relevant information about Sonya with a specialist DFV service in accordance with section 169D of the Act, given that Sonya appears to be a person who fears or is experiencing domestic violence, and the information may help the specialist DFV service to assess whether there is a serious threat to Sonya's life, health or safety because of domestic violence.

# **Case Scenario C:** Using information sharing to assess whether there is a serious domestic violence threat

## **Agencies:** Queensland Corrective Services, Queensland Police Service, Queensland Health

**Nick is in custody for armed robbery. Four days before his release, he tells a number of people, including a Queensland Health nurse, that his ex-wife's (Trina) new partner Andy's days are numbered – and that Trina has "no right to have any man, other than himself" living with her.**

Nick has a history of violence and assault charges, including a series of domestic violence assaults against Trina – resulting in a number of serious physical injuries, including broken bones and fractures. Nick has also previously assaulted Andy – after Andy moved in with Trina, but prior to Nick being placed into custody.

Trina is not currently engaged with a domestic violence support service; is not in contact with Nick's detention centre; and does not know about Nick's pending release from custody. Based on the nurse's professional assessment of the situation, she is concerned that there may be a serious domestic violence threat to Trina (i.e. risk of fatality or serious injury) immediately upon Nick's release from custody – and that Andy may also be subject to a serious threat.

In accordance with section 169D(b) of the Act, the nurse decides to share personal information about Nick – including his threats to Trina and Andy, and the date of Nick's pending release – with the Queensland Police Service (QPS) and Queensland Corrective Services (QCS), to enable the QPS and/or QCS to assess whether there is a serious threat to Trina's and Andy's lives, health or safety.

Prior to sharing Nick's personal information with the QPS and QCS, the nurse considered obtaining Nick's consent but decided it was not safe to do so (in accordance with section 169B, the Act), given the likely serious threat to Trina and Andy.

# **Case Scenario D:** Using information sharing to respond to a serious threat

## **Agencies:** Queensland Police Service, specialist DFV service, High Risk Team

**Jamila and Amir have been married for five years. Amir has been very controlling and emotionally abusive to Jamila for much of their relationship and, a few weeks ago, sexually assaulted Jamila for the first time because she left the home without Amir's prior knowledge. He has sexually assaulted her twice more since then; the last time, he also strangled her.**

QPS officers and the on-call DFV counsellor, Michelle, recently attended the couple's home, following a phone call from neighbours reporting a domestic violence disturbance between the couple. The attending QPS officers and Michelle observe that Jamila has a swollen lip and cheek, and she appears to be favouring her left arm. While the Police question Amir, Michelle takes Jamila aside and talks privately about her physical injuries and the current DFV disturbance.

Michelle specifically asks questions to encourage Jamila to talk about the nature of her relationship with Amir, including any previous or current domestic violence and related injuries.

During this discussion, Jamila discloses the recent sexual assaults and strangulation, which are unknown to the QPS. Knowing that non-fatal strangulation and intimate partner sexual assault are evidence-based high risk factors included on the 'Level 2 Domestic violence risk assessment and safety planning' tool, Michelle explains to Jamila that she may be at high risk of fatality or serious injury by Amir. Jamila agrees that Amir might kill her but says she remains fearful of accessing support from a specialist DFV service.

Michelle acknowledges Jamila's concern about engaging with a specialist DFV service and alternatively, suggests referring Jamila to the local DFV high risk team for a multi-agency response. Michelle provides information about the purpose of the team and how the team might be able to assist in reducing the level of risk to Jamila, then asks Jamila for her consent (in accordance with section 169B of the Act) to share relevant information (about Michelle, Amir and the violence) with the high risk team.

Jamila refuses to consent and tells Michelle she does not want the high risk team to be involved, as she does not want the Police to find out about the sexual assaults by Amir. Michelle explains that even although consent has not been provided, the level of risk to Jamila is so great that Michelle feels she must still refer Jamila to the high risk team.

Michelle reassures Jamila that Amir will not be told about the referral and explains why and how the Act allows Michelle (in this circumstance – through sections 169B(b), 169A(b) and 169E of the Act) to refer to the high risk team without Jamila's (or Amir's) consent.

The QPS remove Amir from the home and Michelle makes another time to meet with Jamila the following day. Michelle returns to her office, completes the common risk assessment form (based on all current information she knows about Jamila and Amir) and immediately forwards the completed form to the local NGO Coordinator of the DFV high risk team.

# **Case Scenario E:** Using information sharing to assess and respond to a serious threat

**Agencies:** Queensland Police Service, Department of Justice and Attorney-General (Courts Services), High Risk Team, Queensland Health, specialist DFV service

**Jane and Simon have been married for eight years and have four children together, aged nine, seven, six and two. Police attend their house following an emergency call by their eldest child. Police undertake an assessment (Protective Assessment Framework) and determine the matter is high risk.**

Following the incident, the PAF is referred to the local QPS Domestic and Family Violence Coordinator who completes the 'Level 2 Domestic violence risk assessment and safety planning' tool (common risk assessment) and identifies the victim/s as high risk. It is not possible to contact Jane and, taking account of the risks identified, the QPS Domestic and Family Violence Coordinator decides that it is not safe to wait until Jane is contactable to seek consent for a referral to the DFV High Risk Team (in accordance with section 169E of the Act). The referral is made without consent. Police also apply for a protection order which, based on the information and disclosures made by Jane, includes specific conditions to remove Simon from the family home (an ouster condition), forbid him from contacting Jane, and generally protect the children specified on the order.

The next day, Jane and Simon attend the court and Jane applies for a variation to remove the ouster condition and the no contact condition specific to Jane. Jane makes a request for the matter to be listed urgently and appears anxious and distressed.

The High Risk Team meets on the day following the receipt of the referral to discuss the matter and the Court officer shares that the application for variation has been listed in court in two weeks (section 169D of the Act). Police also share information (section 169D of the Act) with the HRT including details of previous police attendance at the house associated with DFV incidents/reports. The Hospital and Health Services' high risk team representative informs the team (section 169D of the Act) that Jane has attended the Emergency Department on two previous occasions, presenting with a cut to her cheek requiring stitches and a broken arm. This additional information helps the High Risk Team gain a more comprehensive understanding of the level and nature of previous domestic and family violence within the household and risk factors (section 169D of the Act), and facilitates the completion of the 'Level 3 Multi-agency complex risk assessment and safety management' tool, including the High risk team safety management plan, in response to the serious threat to Jane and the children (section 169E of the Act).

Following the High Risk Team meeting, the specialist DFV service working with Jane contacts her at her mother's house to discuss the outcome of the high risk team meeting. During this contact, Jane consents to the High Risk Team referral and ongoing support from the team. The worker determines during the discussion that serious threats have been made by Simon towards Jane and the children if Jane doesn't follow through with the variation application. The DFV worker undertakes extensive safety planning, including a move (for Jane and the children) to a secure location. The DFV worker also immediately informs the NGO Coordinator (of the high risk team) of the new information and threats, and subsequent actions taken by the DFV worker. The NGO Coordinator immediately contacts the QPS high risk team member and provides them with information about Jane's disclosures and her current whereabouts, to enable QPS to take further action against Simon.

# **Case Scenario F:** Using information sharing to respond to a serious threat

## **Agencies:** General practitioner, specialist DFV service

**Melissa has been Jane's GP for a number of years. Over the last year so, Melissa has noticed Jane has seemed withdrawn and tired when she visits. Melissa has asked Jane routine questions about her health and wellbeing, and Jane has said she is just tired and very busy at work.**

When Jane attends Melissa's practice for her pap smear, Melissa notices that Jane is looking even more withdrawn. When Melissa begins the pap smear she notices bruising around Jane's pelvis and upper thighs. She asks Jane about the cause of the bruises and Jane says that she hadn't noticed them and that she probably just bumped into something. During the pap smear Melissa notices that Jane has some tearing inside her vagina. Melissa tells Jane what she has noticed, and that she is concerned about the cause of the injuries.

Jane breaks down and tells Melissa that her husband Josh sometimes gets really angry and forces her to have sex with him. Melissa asks Jane if Josh ever does anything else to hurt her. Jane shows Melissa her arm where she has further bruises.

Melissa asks if Jane is afraid that Josh might hurt her more, and whether she's ever considered leaving Josh. Jane says she doesn't want to leave Josh and that he just gets angry sometimes, and doesn't mean to be so rough. Melissa gives Jane some information about a domestic violence service that may be able to help her, and asks if she can pass Jane's name onto the service. Jane refuses and says she doesn't need help and that she and Josh are ok. Jane leaves the practice.

Based on Jane's injuries, Melissa is very concerned that Jane is experiencing domestic violence and is experiencing a serious threat to her life, health and safety. Despite her professional responsibilities to keep Jane's personal and health information confidential, she knows that under the Act (sections 169N(3), 169B(b), 169A(b) and 169E) she is protected from liability if she gives information about Jane and her circumstances to a specialist DFV service provider, without Jane's consent, if it could help the DFV service to respond to a serious threat to Jane's life, health or safety because of domestic violence.

Melissa shares Jane's contact information, details of Jane's injuries and what she has told Melissa with a DFV counsellor, Rebecca, who works at a local specialist DFV service. Rebecca assures Melissa she will follow up with Jane, having specific regard to contacting Jane and noting that she has not consented to the referral.

# **Case Scenario G:** No legitimate purpose for sharing information

## **Agencies:** Queensland Police Service, specialist DFV service

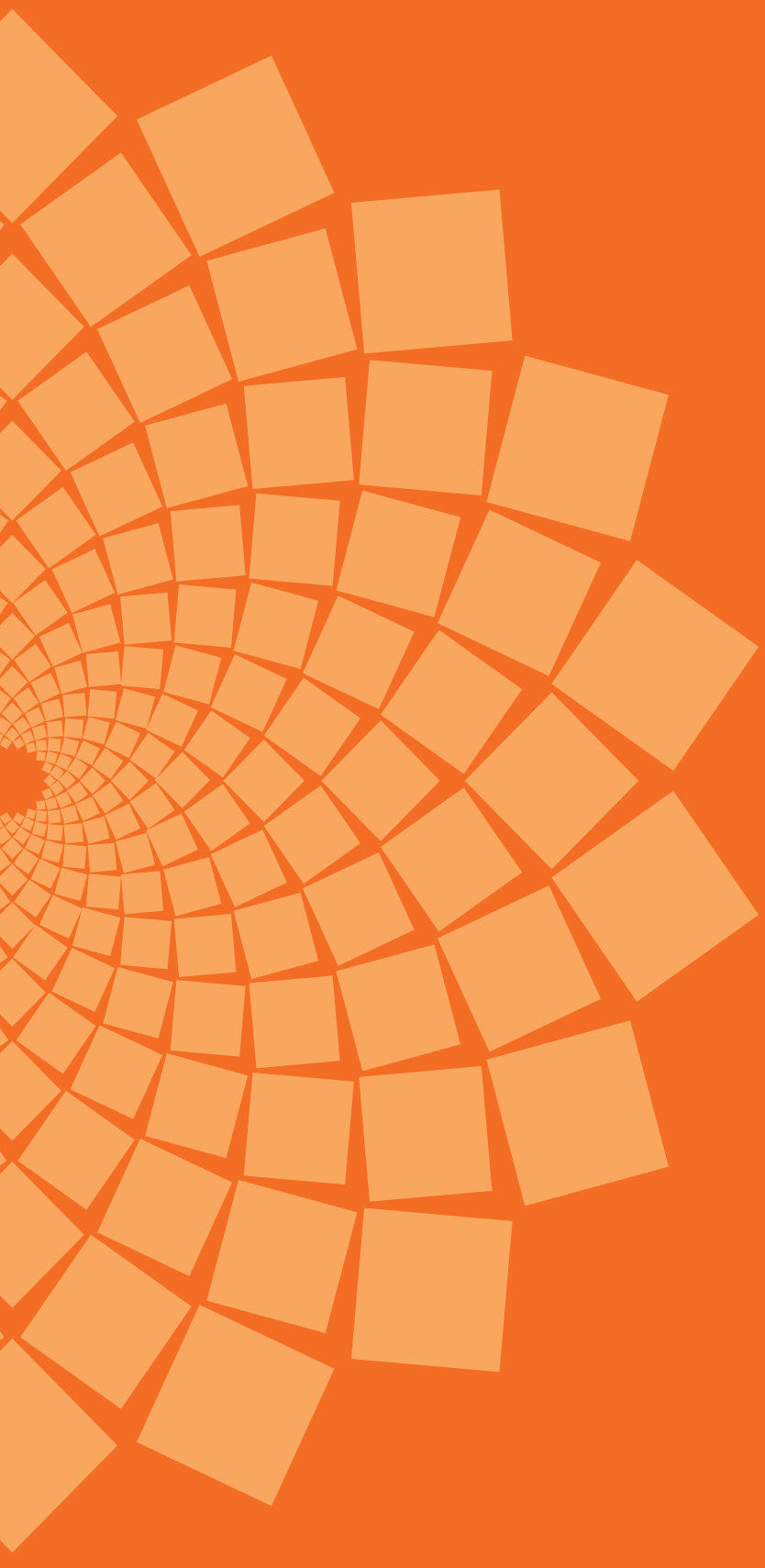
**Carrie-Anne has been a victim of domestic violence. She was referred to the local specialist DFV service provider for support by a Queensland Police Service (QPS) officer. Carrie-Anne has begun counselling sessions with Angela who works at the specialist DFV service.**

Carrie-Anne has returned to studies and to enhance her academic results, has started to see a privately paid tutor, Chris. Carrie-Anne 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 Carrie-Anne, as he believes he and Angela can support Carrie-Anne in a more coordinated way if they share information about the work each of them is doing with Carrie-Anne to support her and respond to her needs. Angela asks whether Chris' client has given permission for Chris to make contact with the specialist DFV service (Angela is careful not to confirm or deny whether Carrie-Anne is specifically known to Angela/the specialist service) and Chris advises that although he has left a number of messages for Carrie-Anne to contact him about this, Carrie-Anne is still to return his calls.

Angela explains to Chris that sharing information about any client of a specialist DFV service can only occur where a client provides consent (to the DFV specialist service) for their information to be shared.

The reason for this decision is that relevant information sharing without client consent, in accordance with the Act, can only occur in certain circumstances and only by "a prescribed entity, specialist DFV service provider or support service provider", as defined by the Act – none of which include private tutors.



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