



# **Regulatory Impact Statement**

## **Family Violence Protection (Information Sharing) Regulations 2017**

**Final Report 15 September 2017**

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**Family Violence Protection (Information Sharing)  
Regulations 2017**

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# Executive summary

The Victorian Government has committed to a significant reform program in order to achieve its vision of a Victoria free from family violence. This includes the introduction of new information sharing laws and the creation of a Central Information Point (CIP).

At present, family violence risk assessments generally rely heavily on information provided by the victim survivor because seeking consent from the perpetrator to access relevant information about them is often unsafe (because it may result in the escalation of risk to the victim survivor). As a result, family violence agencies conducting risk assessments are typically not in a position to obtain the consent to enable them to access information about a perpetrator's history to form a more comprehensive and informed view of the level of risk. Further, the information provided by the victim survivor may be incomplete or limited by the level of trust and confidence they have in the worker or agency when disclosing information during a risk assessment.

Under current privacy legislation, it is also not permissible to share information in relation to children, except under limited circumstances including where there is significant concern for the wellbeing of a child, a serious and imminent threat exists or consent has been provided by the child (or parents if the child doesn't have the capacity to consent).

These barriers to information sharing result in application of the Family Violence Risk Assessment and Risk Management Framework (Framework) that is inconsistent and incomprehensive in many cases. This can lead to an inadequate understanding of the level of risk presenting, poor safety planning and ultimately reduced safety of victim survivors and their children, with serious consequences in some cases.

The intent of the information sharing regime is to remove existing legislative and regulatory barriers to information sharing by creating a 'trusted zone' of government agencies and funded organisations who can request information from each other to undertake risk assessment and risk management for victim survivors of family violence. The information sharing regime will be complemented by the CIP, which will bring together previously siloed information from Victoria Police, Courts, Corrections Victoria and the Department of Health and Human Services into a single streamlined report on a perpetrator's history. Building on these changes, the current Framework will also be redeveloped and further embedded in practice to address a number of gaps that have been identified.

Given the significant impact these reforms are expected to have on service providers' operations and the broad scope of entities proposed to be prescribed, a staged implementation is planned. The initial tranche of reform is focussed on establishing the information sharing regime and CIP in line with the commencement of the first Support and Safety Hubs (Hubs). Beyond this, two further tranches of reform are proposed in mid-2018 and early 2020 to introduce the redeveloped Framework and expand the application of the information sharing regime and CIP to entities not included in the initial tranche.

The *Family Violence Protection Amendment (Information Sharing) Act 2017* (the Amending Act) amends the *Family Violence Protection Act 2008* (FVPA) to establish an information sharing regime specific to family violence, as recommended by the Royal Commission into Family Violence (Royal Commission).<sup>1</sup>

The proposed Family Violence Protection (Information Sharing) Regulations 2017 (the Regulations) enable the operation of the scheme by prescribing:

- the Information Sharing Entities (ISEs) that will be authorised to request, collect, use and disclose relevant information for the purposes of assessing and managing family violence risks once they have been established

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<sup>1</sup> Royal Commission into Family Violence (2016) *Volume I Report and Recommendations*, Recommendation 5.

- the ISEs that will be further categorised as risk assessment entities with the power to request, collect, use and disclose information relevant to establishing and assessing family violence risk at the initial stages, including about alleged perpetrators
- record keeping obligations that ISEs will be required to comply with.

Prescribed ISEs will be obliged to share information, so long as the relevant consent thresholds have been met, unless the information is excluded under the scheme. Excluded information includes information that, if shared, would prejudice an ongoing investigation or a coronial inquest, or would endanger a person's life or physical safety.

The proposed Regulations also prescribe:

- the secrecy and confidentiality provisions in other laws that are proposed to be displaced under the information sharing regime, in accordance with Part 5A of the Amending Act.
- the entities that will be CIP data custodians.

Despite the powers provided to certain ISEs under the regime to share information for the purposes of establishing and assessing risk, risk assessment at the initial stages and ongoing is expected practice that may occur outside of the regime at any time where workers identify indicators of family violence risk. That is, provided additional information to inform risk assessment is not being sought outside of the regime.

In accordance with the requirements of the *Subordinate Legislation Act 1994* and the Victorian Guide to Regulation, this Regulatory Impact Statement (RIS) assesses the proposed Regulations in terms of their objectives, alternative approaches to achieving those objectives, and their impacts on government and the community sector.

This RIS assesses the impacts of the initial stage of the information sharing regime and CIP rollout. Although the Framework is mentioned in this RIS to add context, the impacts of the Framework are not a subject of this RIS. A separate RIS will be developed to assess the impact of the redeveloped Framework, along with an expanded information sharing regime and CIP.

## Objectives

The objective of the Regulations is to ensure that entities responsible for assessing and managing risk of family violence have access to as much relevant information as possible to form a comprehensive picture of risk by enabling the operation of the family violence information sharing regime.

## Reform options

This RIS considers a range of options for giving effect to the objectives of the Regulations, specifically in relation to who will be affected by the Regulations, what prescribed ISEs will be able to do and what record keeping obligations will be imposed on them.

### Who will be affected by the Regulations?

A number of reform options were considered in relation to which entities will be prescribed as ISEs to participate in the scheme:

- **Option 1** – prescribe a limited group of entities comprising Risk Assessment and Management Panel (RAMP) participants and entities providing risk assessment services to Hubs
- **Option 2** – prescribe entities based on their criticality (i.e. entities that are expected to play a critical or core role in responding to family violence), family violence literacy and ability to operate in a regulatory environment
- **Option 3** – prescribe a broad cross-section of entities that may hold information relevant to assessing or managing risk of family violence.

## What can prescribed ISEs do?

Reform options considered in relation to the further categorisation of ISEs were:

- **Option 1** – ISEs to be prescribed as risk assessment entities depending on their function
- **Option 2** – all ISEs to be prescribed as risk assessment entities.

## What record keeping obligations will be imposed on ISEs?

Reform options considered in relation to the imposition of record keeping requirements on ISEs were:

- **Option 1** – require ISEs to record case-level information
- **Option 2** – impose additional requirements on ISEs to also record and report on aggregated data.

## Preferred option

The above options were assessed, and the preferred option selected, using multi-criteria analysis (MCA). This included consideration of the effectiveness of each option, the risk of inappropriate information sharing under each option and the cost of implementation under each option. This method was chosen in place of full cost-benefit analysis given the difficulty involved in estimating benefits, noting that the RIS still includes an indicative guide to the potential range of cost impacts under the preferred option.

Based on the results of the MCA, the preferred option is as follows:

- entities are to be prescribed as ISEs based on their criticality, family violence literacy and ability to operate in a regulatory environment
- ISEs are to be further categorised as risk assessment entities based on their function
- ISEs will be required to record certain information in case notes, with no requirement to record aggregated data nor report on it.

## Costs of the proposed regime

The total cost of the regime is estimated to be between \$9 and \$20 million in upfront costs in the first year and \$5 and \$22 million in ongoing costs annually. A breakdown of these results is provided in Table ES.1.

In net present value terms, the total cost of the regime is estimated to be between \$47 and \$196 million over ten years, assuming a discount rate of 4 per cent.

To put these costs in perspective, the key benefit of the scheme will be a reduction over time in the number of incidents of family violence that escalate to major injury, trauma or death of a family member. This benefit is difficult to quantify given the inability to draw a clear causal link between information shared as a result of the scheme and associated reductions in the escalation of family violence. Nonetheless, it is reasonable to assume that the scheme will reduce the number of cases that escalate to serious harm and will, therefore, reduce the costs of family violence to the Victorian community, estimated to be \$5.3 billion in 2015-16.<sup>2</sup> The costs of the proposed regime represent a very small proportion of this cost to the Victorian community (around 0.3%) and are therefore regarded as reasonable when considered within this broader context.

Another key benefit of the scheme is that it will improve the culture of information sharing across the workforces that engage with family violence victim survivors and perpetrators and set the foundations for a more widespread and robust framework for assessing and managing the risk of family violence. In doing so, this will empower these workforces to act in good faith in support of victim survivors. Training in the new regime will also increase the capability and capacity of these workforces and result in an improved service experience and more effective outcomes for victim survivors of family violence.

Family Safety Victoria believes that the benefits of enabling the regime through the proposed Regulations will exceed the cost on the basis of the qualitative benefits of information sharing that were

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<sup>2</sup> KPMG (2017) *The cost of family violence in Victoria: Summary report*.

described by the Royal Commission. In particular, the information sharing regime will make it easier for a range of organisations dealing with family violence to identify, assess and manage risks, and will therefore help to intervene earlier and more effectively respond to incidents of family violence.

It is important to note that this analysis excludes information technology, system change and associated project management costs that will apply to some government agencies in order for them to effectively operate under the new regime. Given uncertainty over these costs, the nature and extent of them will be the subject of future evaluation.

**Table ES.1 – Estimated costs of the proposed information sharing regime (\$ million per year)<sup>1</sup>**

Cost/entity type	Volume <sup>2</sup>	Minimum cost	Maximum cost
<b>Upfront costs in the first year</b>			
Initial reform development/implementation	1 entity	\$2.3	\$2.3
Change management	4 entities	\$2.6	\$4.2
Training existing staff			
<i>Funded organisations</i>	1,930 workers	\$1.0	\$1.7
<i>Government agencies</i>	2,961 workers	\$1.6	\$2.7
Updating policies, procedures and systems			
<i>Funded organisations</i>	221 entities	\$1.2	\$8.8
<i>Government agencies</i>	6 entities	\$0.2	\$0.5
<b>Total</b>		<b>\$8.8</b>	<b>\$20.3</b>
<b>Ongoing costs per year</b>			
Ongoing reform implementation	1 entity	\$2.3	\$2.3
Training new staff			
<i>Funded organisations</i>	386 workers <sup>3</sup>	\$0.2	\$0.3
<i>Government agencies</i>	592 workers <sup>3</sup>	\$0.3	\$0.5
Information sharing activity	78,000-117,000 disclosures <sup>4</sup>	\$1.9	\$18.7
<b>Total</b>		<b>\$4.7</b>	<b>\$21.9</b>

Notes: <sup>1</sup>These estimates are based on costings outlined in Tables 14 to 17 in the body of this report, that were subsequently scaled up based on the volume of entities, workers or disclosures. Estimates of the number of entities and workers are based on the figures provided in Appendix B.

<sup>2</sup>The estimated number of workers requiring training does not represent the total size of the impacted workforces as, in some cases, it is assumed that only part of a workforce would actively participate in the initial stage of the regime given the proposed approach to implementation, and the practical considerations that have informed the phasing of training. More extensive workforce training is anticipated as part of the broader reform rollout in 2018-19, the impact of which will be captured in a separate RIS. Assumptions regarding the number of workers participating in the initial stage of the regime are outlined in Appendix B.

<sup>3</sup>Estimates of the number of new workers requiring training each year are based on the number of existing workers requiring training and an assumed turnover rate of 20 per cent per year.

<sup>4</sup>Estimates of the volume of information that will be shared under the regime are based on the number of reported instances of family violence in 2015-16 (78,000 as quoted in Department of Premier and Cabinet (2017) *Ending Family Violence: Victoria's Plan for Change*, 2) and assuming that between 50 and 75 per cent of reported instances will involve two disclosures of information on average. This takes into account that some reported instances are repeats for the same victim/family and that not every reported incident progresses to a service response. This estimated number of requests is considered to be in addition to the existing volume of information being shared under existing laws and agreements, including through RAMPS.



## Implementation

In order to ensure workforce readiness and sector capacity (thereby minimising risks of inappropriate information sharing) while gaining immediate traction for those directly responding to family violence risk, Family Safety Victoria will take a phased approach to implementing the information sharing reforms, with an initial tranche of organisations prescribed as ISEs in the proposed Regulations to align with the timeframes for the Hub launch sites.

Subsequent to this initial tranche, the information sharing regime will be aligned with the broader Framework rollout. This will involve a larger group of entities being permitted to share information under the regime, consistent with the broader rollout of Framework training to generalist and universal workforces. A separate RIS will be developed to assess the impact of prescribing further ISEs in future amended regulations relating to these reforms.

An implementation strategy has been developed to ensure sectors that engage with family violence victim survivors and perpetrators are well prepared to implement the new information sharing regime, and to minimise implementation risks. Implementation will be informed through ongoing evaluation of the operation of the scheme.

## Consultation

Consultation has taken place with government agencies and key stakeholders (listed at Table 19 in the body of this report) on the development of the proposed Regulations in an initial stage of consultation.

Releasing this RIS begins the final phase of consultation through which interested members of the public can provide input into the development of the Regulations. For a minimum of 28 days, Family Safety Victoria will invite public comments or submissions to consider before it finalises the proposed Regulations. Information on how to lodge submissions can be found on the Victorian Government's family violence reform website at: [State Government of Victoria <familyviolence.vic.gov.au>](http://familyviolence.vic.gov.au).

Submissions on this RIS are to be received by Family Safety Victoria no later than 5pm Friday 13 October 2017.

## Review

An implementation review of the family violence reforms as a whole is required to be conducted within two years of commencement of the Amending Act and this will consider any issues with implementing the information sharing regime. An independent reviewer will be appointed prior to commencement of the scheme. Where possible, data collected from the reviewer in relation to the entities prescribed in the proposed Regulations will be used to inform any subsequent broadening of the scheme to other entities.

A further independent review is required to be conducted five years after commencement of the Amending Act. This review will consider the appropriateness of the legislative model and make recommendations for reform. This will include a mid-term review of the proposed Regulations, consistent with requirements in the Victorian Guide to Regulation that 'high impact' regulations be evaluated within five years of their commencement.

# Background

The Royal Commission into Family Violence (Royal Commission) identified family violence as a pervasive problem in society with devastating impacts. Family violence inflicts physical injury, psychological trauma and emotional suffering that can impact victim survivors for the rest of their lives.<sup>3</sup> Family violence also has a significant economic cost to Victorian society.

KPMG estimates that over 160,000 people experienced family violence in Victoria in 2015-16.<sup>4</sup> In terms of reported cases, 78,012 family violence incidents were reported to Victoria Police in 2015-16, which represented a 45.3 percent increase since 2012.<sup>5</sup> The total cost to Victoria of this family violence was \$5.3 billion in 2015-16, including \$1.8 billion in costs to government for service delivery, \$2.6 billion in costs to individuals and families and \$918 million in costs to the community and economy.<sup>6</sup>

Family violence has a number of other negative impacts on the community. KPMG has estimated the costs associated with the long-term health impacts of family violence and associated increased risk of mental ill-health to have been \$2.2 billion in 2015-16.<sup>7</sup> Each year, 40 percent of all deaths attributed to homicide in Victoria occur between parties in an intimate or familial relationship, which is approximately 25 deaths per year.<sup>8</sup> In 2015-16, family violence concerns were indicated in 47.5 percent of reports to Child Protection, and 68.7 per cent of substantiated reports to Child Protection.<sup>9</sup> Intimate partner violence contributes to more death, disability and illness in women aged 18 to 44 than any other preventable risk factor.<sup>10</sup> Family violence is also the single largest cause of homelessness for women, exposing victim survivors to unemployment and a cycle of poverty.<sup>11</sup>

Family violence also has impacts for businesses and employers. KPMG has estimated that, in 2015-16, that the cost of lost economies of scale due to family violence was \$403 million and the cost to employers for staff absences or replacements was \$60 million.<sup>12</sup>

## Identifying the problem

At present, family violence risk assessments generally rely heavily on information provided by the victim survivor because seeking consent from the perpetrator to access relevant information about them is often unsafe (because it may result in the escalation of risk to the victim survivor). As a result, family violence agencies conducting risk assessments are typically not in a position to obtain the consent to enable them to access information about a perpetrator's history to form a more comprehensive and informed view of the level of risk. A victim survivor may also not be aware of, or have complete information about, the perpetrator's history. Further, the information provided by the victim survivor may be limited by the level of trust and confidence the victim survivor has in the worker or agency when disclosing information during a risk assessment.

Under current privacy legislation, it is also not permissible to share information in relation to children unless there is a serious and imminent threat, consent has been provided by the child (or parents if the child doesn't have the capacity to consent), or the information is being used for the primary or secondary purpose for which it was collected. The *Children Youth and Families Act 2005* also allows individuals the power to make reports to Child Protection and Child FIRST if there are significant concerns for the

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<sup>3</sup> Department of Premier and Cabinet (2017) *Ending Family Violence: Victoria's Plan for Change*.

<sup>4</sup> KPMG (2017) *The cost of family violence in Victoria: Summary report*.

<sup>5</sup> Department of Premier and Cabinet (2017) *Ending Family Violence: Victoria's Plan for Change*, 2.

<sup>6</sup> KPMG (2017) *The cost of family violence in Victoria: Summary report*.

<sup>7</sup> KPMG (2017) *The cost of family violence in Victoria: Summary report*.

<sup>8</sup> Royal Commission into Family Violence (2016) *Volume I Report and Recommendations*, 41.

<sup>9</sup> Department of Premier and Cabinet (2017) *Ending Family Violence: Victoria's Plan for Change*, 2.

<sup>10</sup> Department of Premier and Cabinet (2017) *Ending Family Violence: Victoria's Plan for Change*, 2.

<sup>11</sup> Department of Premier and Cabinet (2017) *Ending Family Violence: Victoria's Plan for Change*, 2.

<sup>12</sup> KPMG (2017) *The cost of family violence in Victoria: Summary report*.

wellbeing of the child, for example Victoria Police may make such referrals following a family violence incident using a Victoria Police Risk Assessment Management Report (L17). However, there are significant constraints in the ability of Child Protection and Child FIRST to share information outwards to other relevant organisations.

Both the Victorian State Coroner in the Coronial Inquest into the death of Luke Batty (Coronial Inquest) and the Royal Commission highlighted critical shortcomings in information sharing and recommended immediate action.<sup>13</sup> The Royal Commission heard that privacy legislation presents a constraint on cooperation between agencies working in the family violence sector.<sup>14</sup> For example, under privacy legislation, organisations that collect and share information about a perpetrator must inform that person that the information will be shared and for what purpose. This can act as a deterrent for victim survivors in seeking out services as the perpetrator can be alerted to a family violence response from these consent mechanisms.

Research shows that:

*coordination and communication among agencies is ideal when possible because, in many [domestic homicide] cases, separate agencies each possessed unique and significant information with respect to lethality risk that taken together, would have painted an alarming picture with respect to the need for formal risk assessment, and safety planning.*

This is consistent with the findings and recommendations of the Victorian Coroner's Systematic Review into Family Violence-related Deaths and, more recently, the coroner's findings in relation to the death of Luke Batty.

Source: Royal Commission into Family Violence (2016) *Volume I Report and Recommendations*, 133.

In response to the Coronial Inquest, the Department of Premier and Cabinet engaged KPMG to identify and analyse legislative and policy impediments to sharing relevant information in the family violence context. Consistent with the findings of the Royal Commission, KPMG found that complex, confusing and restrictive legislation and policy posed real barriers to information sharing in family violence cases.<sup>15</sup> This was considered to have the effect of creating confusion and a risk-averse culture to information sharing, which means that the perceptions of privacy barriers are often deeply entrenched.

These barriers to information sharing result in application of the Family Violence Risk Assessment and Risk Management Framework (Framework) that is inconsistent and incomprehensive in many cases. This can lead to an inadequate understanding of the level of risk presenting, poor safety planning and ultimately reduced safety of victim survivors and their children, with serious consequences in some cases.

## Importance of information sharing

Information sharing is a key element in a fully integrated family violence response and a necessary precursor to interventions to promote safety and save lives.<sup>16</sup> It has a significant role to play in responses to family violence, and serves two central purposes:

- to identify, assess and manage the risk to both adult and child victim survivor's safety, preventing and reducing the risk of harm
- holding perpetrators to account.

<sup>13</sup> Victorian State Coroner (2015) *Finding Inquest Into the Death of Luke Geoffrey Batty*, Recommendation 4; Royal Commission into Family Violence (2016) *Volume I Report and Recommendations*, Recommendation 5.

<sup>14</sup> Royal Commission into Family Violence (2016) *Volume I Report and Recommendations*, 171.

<sup>15</sup> KPMG (2016) *Review of legislative and policy impediments to sharing relevant information between agencies in relation to a person at risk of family violence*.

<sup>16</sup> Victorian State Coroner (2015) *Finding Inquest Into the Death of Luke Geoffrey Batty*, 77.

The Risk Assessment and Management Panels (RAMPs) provide an example of multiagency, coordinated responses to family violence utilising better information sharing. A RAMP is a formally convened meeting, held at local level, of core agencies and organisations that may have particular knowledge of a case to share information relevant to the safety of those experiencing serious threat from family violence. RAMPs were first established as a pilot program in two Victorian regions in 2011. Across Victoria, there are now 18 RAMPs that each meet once a month to share information and take action to keep people at the highest risk of family violence safe.

The RAMPs program demonstrates the benefits of improved information sharing between different agencies working across the family violence service system. An evaluation of the RAMPs pilots was positive and concluded that both pilots achieved the primary aim of reducing risk, and contributed to the safety of women and children at highest risk through improved information sharing and coordination between agencies. Improved information sharing about perpetrator whereabouts and actions also increased the accountability of perpetrators by keeping them firmly in view. Importantly, no woman or child referred to these RAMP pilots has been lethally harmed and this initiative has now been rolled out state wide. Several RAMP case studies demonstrate the direct benefits of better information sharing.

#### **RAMPs case study**

In one case, a men's service alerted a family violence case worker after an appointment where the perpetrator had been behaving in a heightened and aggressive manner. The family violence case worker contacted the victim survivor directly and advised them to leave the shared property (which was in a rural area that would have been difficult for police to get to in a short time). The perpetrator returned to the property and shot himself shortly afterwards. In this case, it is entirely possible that the family could have been harmed, potentially fatally, and that the information shared avoided further casualties.

### **Broader policy context**

The Victorian Government has committed to a significant reform program in order to achieve its vision of a Victoria free from family violence. This includes the introduction of new information sharing laws, the creation of a Central Information Point (CIP) and the redevelopment of the Framework. These changes are key enablers of broader reforms taking place across the family violence system, including the creation of Support and Safety Hubs (Hubs).

The intent of the information sharing regime is to remove existing legislative and regulatory barriers to information sharing by creating a 'trusted zone' of government agencies and funded organisations who can request information from each other to undertake risk assessment and risk management for family violence victim survivors.

The information sharing regime will be complemented by the rollout of the CIP, which will bring together previously siloed information from Victoria Police, Courts, Corrections Victoria and the Department of Health and Human Services (DHHS) into a single streamlined report on perpetrator information held by CIP members. The initial CIP will offer prompt access for practitioners in the Hubs to obtain some of the critical information they need to strengthen their risk assessment and risk management function.

Building on these changes, the current Framework will also be redeveloped and further embedded in practice to address a number of gaps that have been identified. The proposed new Framework will be comprehensive and will set minimum standards and roles and responsibilities for screening, risk identification, risk assessment and management, information sharing and referral. It will include child-specific risk factors and will reflect the needs of the diverse range of family violence victim survivors, including Aboriginal Victorians and other diverse communities.

Given the significant impact these reforms are expected to have on service providers' operations and the broad scope of entities proposed to be prescribed, a staged implementation is planned. The initial tranche of reform is focussed on establishing the information sharing regime and CIP in line with the commencement of the first Hubs. This will see the establishment of a manual CIP that will initially provide

information to support the Hubs. Beyond this, two further tranches of reform are proposed in mid-2018 and early 2020 to introduce the redeveloped framework and expand the application of the information sharing regime to entities not included in the initial tranche. These further two tranches will see the information sharing regime, an expanded CIP and a redeveloped Framework coming together into a holistic set of reforms. This will include the rollout of a combined training package across a broad range of impacted workforces.

## Legislative and regulatory basis for the regime

The *Family Violence Protection Amendment (Information Sharing) Act 2017* (the Amending Act) amends the *Family Violence Protection Act 2008* (FVPA) to establish an information sharing regime specific to family violence, as recommended by the Royal Commission.<sup>17</sup> Under the information sharing regime, relevant information will be able to be shared between prescribed Information Sharing Entities (ISEs) for the purposes of assessing and managing risk of family violence.

The information sharing regime is intended to:

- increase consistency and efficiency in assessing and managing family violence risk
- enable a more tailored service response through the increased sharing of information.

The key features of the new regime are as follows:

- Upon request from another ISE, an ISE must share information unless the information is excluded under the scheme, provided relevant consent thresholds have been met. Excluded information includes information that, if shared, would prejudice an ongoing investigation or a coronial inquest, or would endanger a person's life or physical safety.
- The regime permits information about a perpetrator to be shared without their consent (including alleged perpetrators in the case of risk assessment to establish risk).
- When assessing risk and managing safety for an adult family violence victim survivor, their consent will generally be required before their information can be shared. However, sharing without consent will be permitted in certain circumstances such as cases where sharing is necessary to lessen or prevent a serious threat to an individual's life, health, safety or welfare.
- When assessing risk and managing safety for a child victim survivor, consent will not be required from any person prior to information being shared. This gives explicit recognition to the precedence of a child's right to be safe from family violence over any individual's rights to privacy.
- The responsible Minister must issue guidelines under the scheme and these must be published for public consultation prior to being finalised. The guidelines will deal with a number of issues relevant to responsible and appropriate information sharing and must include guidance in relation to consent for child victim survivors.
- ISEs will be permitted to share information with the victim survivor in order to enable them to manage their safety and that of their child.
- Professionals who share information in good faith and with reasonable care will be protected from any legal or disciplinary consequences for sharing information.
- Penalties may be imposed for unauthorised information sharing and complaints made to the Office of the Victorian Information Commissioner and the Health Complaints Commissioner.

In addition to establishing a family violence information sharing regime, the Amending Act amends:

- the FVPA to allow the CIP to request, collect and use confidential information from, and disclose confidential information to, prescribed CIP requesters or CIP data custodians
- the FVPA to empower the Minister to approve a Framework for assessing and managing family violence risk, and to require prescribed entities to comply with this Framework
- the *Privacy and Data Protection Act 2014* (PDPA) and the *Health Records Act 2001* (HRA) to remove the requirement that a serious threat to an individual's health, life, safety or welfare must also be

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<sup>17</sup> Royal Commission into Family Violence (2016) *Volume I Report and Recommendations*, Recommendation 5.



'imminent' before certain thresholds apply to share information without consent, thereby removing interpretive uncertainty and allowing for more proactive information sharing and intervention where a serious threat already exists. This will apply generally, and not just in the context of family violence

- the PDPA and HRA to exempt ISEs from certain collection and notification requirements under the Information Privacy Principles and Health Privacy Principles
- the PDPA, HRA and the *Freedom of Information Act 1982* to permit an ISE to refuse a perpetrator or alleged perpetrator access to information if the entity reasonably believes that giving access would increase the risk to a victim survivor's safety from family violence
- other Acts to override certain secrecy and confidentiality provisions in other laws to allow sharing under Part 5A to take precedence.

The Amending Act is expected to commence by early 2018, in line with the anticipated commencement of the proposed Family Violence Protection (Information Sharing) Regulations 2017 (the Regulations).

The proposed Regulations enable the operation of the regime by prescribing:

- entities that will be authorised to handle relevant information for the purposes of assessing and managing family violence risks once they have been established (i.e. ISEs)
- the ISEs that will further be categorised as risk assessment entities with the power to handle information relevant to establishing and assessing family violence risk at the initial stages, including about alleged perpetrators
- record keeping obligations that ISEs will be required to comply with.

Prescribed ISEs will be obliged to share information, so long as the relevant consent thresholds have been met, unless the information is excluded under the scheme. Excluded information includes information that, if shared, would prejudice an ongoing investigation or a coronial inquest, or would endanger a person's life or physical safety.

The proposed Regulations also prescribe:

- the secrecy and confidentiality provisions in other laws that are proposed to be displaced under the information sharing regime, in accordance with Part 5A of the Amending Act
- the entities that will be CIP requesters and CIP data custodians.

It is important to note that the information sharing regime authorises and obligates certain ISEs to request, collect, use and disclose information to inform the establishment, assessment and management of family violence risk. However, risk assessment, at the initial stages and ongoing, is expected practice that may occur outside of the regime at any time where workers identify indicators of family violence risk. This is regardless of prescribed functions of ISEs under the regime, provided additional information is not being sought outside of the regime.

# Objectives

The Regulations are intended to enable the operation of the family violence information sharing regime. The Regulations will determine which entities will be authorised to share information and whether they will be further categorised as risk assessment entities with broader powers to share information.

The Regulations aim to ensure that these entities have access to as much relevant information as possible in order to comprehensively assess and manage the risk of family violence. In addition, the Regulations aim to ensure that prescribed entities use their powers appropriately.

# Reform options

This RIS outlines a number of elements of the proposed Regulations, including those for which options were considered and those for they were not. These are discussed separately below.

## Options for the proposed Regulations

Options for the proposed Regulations were considered in relation to:

- the scope of entities to be prescribed as ISEs
- the categorisation of prescribed ISEs
- the scope of reporting obligations on those ISEs.

Options across these three areas are outlined below, in addition to an outline of the base case scenario where the proposed Regulations would not be made.

## Who will be affected by the Regulations?

A number of reform options were considered regarding what entities are to be prescribed to participate in the scheme:

- **Base case** – continuation of existing information sharing activity
- **Option 1** – prescribe a limited group of entities comprising RAMPs participants and entities providing risk assessment services to Hubs
- **Option 2** – prescribe entities based on their criticality, family violence literacy and ability to operate in a regulatory environment
- **Option 3** – prescribe a broad cross-section of entities that may hold information relevant to assessing or managing risk of family violence.

These options are outlined in further detail below.

### Base case

In the absence of the proposed Regulations, information would still be able to be shared to assess and manage the risk of family violence provided it meets the requirements of the PDPA, HRA or *Privacy Act 1988* (Cth). Under these laws, information is permitted to be shared about any person (including a perpetrator or other person whose information is relevant for assessing or managing family violence risk) for a primary purpose it was collected for, for a limited range of secondary purposes, or with consent, unless certain exceptions apply. Following separate amendments to the PDPA and HRA in the Amending Act, one of these exceptions is where sharing the information is necessary to lessen or prevent a 'serious' threat to the life, health, safety or welfare of a person.

Many family violence cases will not meet the serious threat threshold. This will result in lost opportunities to share crucial information and prevent harm to victim survivors. This is because, unless it is necessary to prevent or lessen a serious threat to the victim survivor, services assessing and managing risk of family violence will not routinely be able to obtain key information, such as:

- the perpetrator's criminal record and whether there are any outstanding warrants for their arrest
- details of any prior contact the perpetrator has had with police in relation to family violence
- details of any contact the perpetrator has had with Child Protection, Child FIRST or other family services
- details of any relevant court orders (such as intervention orders) that the perpetrator may be subject to or has breached in the past
- advice from Corrections Victoria about perpetrators in custody



- details of previous family violence risk assessments that have been conducted by other agencies in respect of the perpetrator.

Additional information is also currently able to be shared through RAMPs pursuant to an Information Usage Agreement (IUA).

A RAMP enables key agencies and organisations with particular knowledge of a case to share personal information relevant to the safety of victim survivors who are identified as being at serious and imminent threat from family violence and require a comprehensive risk assessment and coordinated action plan to lessen or prevent the threat to their (and their children's) life, health, safety or welfare.

However, information is not able to be shared under the IUA in relation to the vast majority of family violence cases as most don't meet the seriousness threshold. The purpose of sharing is also tightly restricted to risk assessment and planning for high risk cases of family violence, which means that the IUA cannot be used to share information as part of an early intervention response below the serious risk level. In addition, restrictions remain on sharing health information.

Core members of RAMPs include:

- specialist women's family violence services
- Victoria Police
- Corrections Victoria
- DHHS housing
- mental health services
- alcohol and drug services
- men's family violence services
- Child FIRST
- Child Protection.

RAMPs are also attended by associate members that may have particular knowledge of a case. Associate members attend a RAMP on an 'as needs' basis to inform risk assessment and action planning to keep a victim survivor and their children safe.

### **Option 1 - prescribe RAMPs participants and entities providing risk assessment services to Support and Safety Hubs**

One option is to prescribe a limited group of entities consisting of participants in a RAMP and those entities that will provide risk assessment services to Hubs.

Prescribing RAMPs participants would enable them to share a broader range of information, including health information and information that is currently restricted from being shared under secrecy and confidentiality provisions that will be displaced.

Prescribing those organisations that will provide risk assessment services for the Hubs will enable the Hub sites to operate effectively. The Hubs will be central to Victoria's approach to addressing family violence and form a critical part of the broader service system response. The Hubs will replace existing referral points for victim survivors and perpetrators of family violence (including police L17 referral points) and will bring together access points for family violence services, family services and perpetrator/men's services to provide a new way for people experiencing family violence to access coordinated support from justice, health and social services.

The specific entities that will form the Hubs are yet to be finalised, but it is intended that a number of funded organisations currently providing family violence services will do so in the future by having these services and associated staff embedded in Hubs. Under this option, it is envisaged that only those staff members who are embedded in Hubs would be permitted to share information through the new regime.

## Option 2 - prescribe entities based on their criticality, family violence literacy and capacity to operate in a regulatory environment

Another option is to prescribe ISEs based on the following characteristics:

- criticality – entities that play (or are expected to play) a critical or core role in responding to family violence
- family violence literacy – entities that have a family violence risk literate workforce or that can be trained quickly to develop family violence risk literacy
- rule based – entities that have a strong rule based or regulatory operating environment to ensure information is handled appropriately.

This would ensure that information would be able to be shared between a broad range of entities that play a core role in assessing and managing family violence risks, including women's and men's family violence services, refuges and Child FIRST.

## Option 3 - prescribe a broad cross-section of entities that may hold relevant information

Another option considered was to prescribe a broad group of entities that typically hold information relevant to assessing risk or managing the safety of a family violence victim survivor. This would include a wide range of generalist and universal services, such as health and education providers.

## What can prescribed ISEs do?

The Amending Act imposes obligations on all entities prescribed as ISEs to respond to requests to share information under the regime. Information must be shared, provided:

- relevant consent thresholds have been met; and
- the information is not excluded under the scheme – excluded information includes information that, if shared, would prejudice an ongoing investigation or a coronial inquest, or would endanger a person's life or physical safety.

The Amending Act permits a subgroup of ISEs to be prescribed as risk assessment entities and authorises them to share information for family violence risk assessment purposes (i.e. to establish and assess risk at the initial stages), including about alleged perpetrators. An ISE that is not a risk assessment entity can only request information for the purposes of managing a risk that has already been established.

In general, obligations are imposed on ISEs, who, when responding to a request for information, must form a reasonable belief that sharing information is necessary to manage family violence risk. However, when responding to a request from a risk assessment entity, an ISE is not required to form a reasonable belief that sharing the information is necessary for a family violence risk establishment and assessment purpose.

The Regulations specify whether an ISE is categorised as a risk assessment entity, and therefore determines their power to handle information under the information sharing regime.

Reform options considered regarding the categorisation of prescribed ISEs were:

- **Base case** – all ISEs operate without the powers of a risk assessment entity
- **Option 1** – ISEs to be prescribed as risk assessment entities based on their function
- **Option 2** – all ISEs to be prescribed as risk assessment entities.

These options are outlined in further detail below.

### Base case

As described above, in the absence of proposed regulations relating to the categorisation of prescribed ISEs, all ISEs would continue to operate without the powers of a risk assessment entity. This would limit the ability to share information in relation to any person without their consent, including perpetrators or

alleged perpetrators, in order to seek information under the scheme to inform an initial risk assessment to establish the presence of family violence risk and identify a perpetrator based on the available information.

Information would only be able to be shared to assess and manage the risk of family violence provided it met the requirements of the PDPA, HRA or Privacy Act 1988 (Cth). Under these laws, information is permitted to be shared about any person (including a perpetrator or other person whose information is relevant for assessing or managing family violence risk) for a primary purpose it was collected for, for a limited range of secondary purposes, or with consent, unless certain exceptions apply. Following separate amendments to the PDPA and HRA in the Amending Act, one of these exceptions is where sharing the information is necessary to lessen or prevent a 'serious' threat to the life, health, safety or welfare of a person.

### **Option 1 – further prescribe certain ISEs as risk assessment entities with information handling powers based on their function**

Certain ISEs could be further prescribed as risk assessment entities with additional information handling powers based on their function. Organisations prescribed as ISEs that play a core role in assessing family violence risk at the initial stages would be prescribed as risk assessment entities. This would enable them to request, collect, use and disclose information to establish the presence of family violence risk, and then assess the seriousness of risk presenting. Organisations prescribed as ISEs that are not responsible for establishing and assessing risk at the initial stages would only be authorised to request, collect, use or disclose information for the purposes of managing risk that has already been established (including to support ongoing risk assessment to understand changes in risk over time).

Under this option, ISEs engaged in the family violence service system response would have access to the information needed to perform their functions and nothing more.

### **Option 2 – prescribe all ISEs as risk assessment entities**

Another option would be to prescribe all ISEs as risk assessment entities with the power to request, collect, use and disclose information to establish and assess risk at the initial stages, including about alleged perpetrators.

This would ensure that all ISEs would have access to the broadest range of information.

## **What record keeping obligations will be imposed on ISEs?**

Reform options considered regarding the imposition of record keeping requirements on ISEs were:

- **Base case** – continuation of existing record keeping activity
- **Option 1** – require ISEs to record case-level information
- **Option 2** – impose additional requirements on ISEs to record and report on aggregated data.

These options are outlined in further detail below.

### **Base case**

In the absence of the proposed record keeping requirements, organisations would continue to keep records consistent with current practice and standards, and this may differ across organisations resulting in inconsistent, and in some cases inadequate, record keeping across the sector.

While this would encourage timely sharing of information between ISEs by ensuring that there would be no additional regulatory burden imposed, if some ISEs did not keep appropriate records, it would be difficult for them to correct information that has been shared but subsequently found to be incorrect. It would also make it difficult to adequately evaluate the information sharing scheme in the future.

### **Option 1 – recording case-level information**

One option would be to impose record keeping obligations on ISEs to the extent that they would ordinarily be required in accordance with their ordinary professional obligations and to the extent necessary to correct information that has been shared (e.g. in cases where that information has been found to be incorrect or has subsequently changed), record complaints and undertake appropriate evaluation of the scheme. Under this option, the Regulations would specify the type of information to be recorded in case notes, but would not impose any obligations to aggregate that data and report on it.

### **Option 2 – recording and reporting on aggregated data**

Another option would be to impose obligations on ISEs to record and report on aggregated (de-identified) data to capture information such as:

- the number and details of formal information requests received and made (i.e. those received and made in writing)
- the number of formal refusals for information the ISE has received and made including reasons why (i.e. those received and made in writing)
- the number of times information was formally shared (i.e. in writing) about a primary person without their consent (whether adult or child) and reasons why
- the number of privacy complaints made by persons whose information was collected and shared pursuant to Part 5A.

Under this option, ISEs would be required to put a system in place for aggregating de-identified data from case notes or some other system and report on it periodically.

## **Other elements of the proposed Regulations for which options are not considered**

In addition to prescribing the scope of entities to be prescribed as ISEs, the categorisation of ISEs and the scope of reporting obligations on those ISEs, the proposed Regulations also prescribe:

- the secrecy and confidentiality provisions in other laws that are proposed to be displaced under the information sharing regime, in accordance with Part 5A of the Amending Act
- the entities that will be CIP requesters and CIP data custodians.

Proposed provisions relating to these areas are outlined further below. Options for these other elements have not been considered in this RIS as Family Safety Victoria expects that they will have a regulatory impact that is either minimal or not attributable to the proposed Regulations.

### **Displacement of secrecy and confidentiality provisions**

The Amending Act contains a specific regulation making power that allows provisions in other Acts that prevent information being shared, and would otherwise be relevant to assessing and managing risks of family violence, to be overridden. All entities prescribed as ISEs will therefore be able to share information under the information sharing regime that would otherwise be restricted under other laws.

Consultation occurred with relevant government agencies to identify the secrecy and confidentiality provisions contained in other legislation that should be expressly overridden in the Regulations to enable the regime to function effectively.

The information that would be able to be shared under the proposed Regulations is set out in Table 1 below.

**Table 1 – Secrecy and confidentiality provisions to be displaced**

Other legislation that restricts information sharing that would be overridden by the proposed Regulations	Information that could be shared under the information sharing regime
Section 35(2) <i>Children, Youth and Families Act 2005</i>	Information provided by DHHS related to a report concerning the wellbeing of a child.
Section 537(3) <i>Children, Youth and Families Act 2005</i>	Final orders of the Children’s Court on the Court Register without the approval of a magistrate.
Section 582(5) <i>Children, Youth and Families Act 2005</i>	Information that may be of use in the enforcement of court orders and fines.
Section 39(3) <i>Disability Act 2006</i>	Information related to the provision of a disability service to a person.
Section 18(3) <i>Magistrates’ Court Act 1989</i>	Final orders of any proceeding.
Section 99A(5) <i>Magistrates’ Court Act 1989</i>	Information obtained by the Infringements Registrar, sheriff or any contractor or sub-contractor for enforcement of court orders and fines.
Section 124J(2) <i>Magistrates’ Court Act 1989</i>	Information acquired by reason of being a contractor, sub-contractor or person employed by or engaged to provide services for a contractor or subcontractor or as a person authorised by the Secretary to the Department of Justice.
Sections 347(2) <i>Mental Health Act 2014</i>	Health information about a consumer by a mental health service provider.
Section 181 <i>Personal Safety Intervention Orders Act 2010</i>	Information provided to a police officer to assist in locating the respondent to serve documents under the FVPA.

While the displacement of these provisions may allow ISEs to share information relevant to assessing or managing a risk of family violence that would otherwise be restricted from being shared, this will have little additional regulatory impact on prescribed entities. The broader impact of overriding these laws will be considered as part of the five year legislative review.

### Entities prescribed as CIP data custodians

Currently, the different roles and diverse approaches of family violence services mean that perceptions and assessments of risk can differ across the sector. This can create communication barriers when workers share risk-related information. The CIP will facilitate a shared understanding of different risks by providing workers with a consistent base data set to use in their professional practices. The initial CIP will service the Hubs.

Information sharing process inefficiencies hinder workers' ability to do their jobs, requiring workarounds. These informal practices are time consuming to implement and impose cognitive costs on workers. They also produce system risks associated with ad hoc processes. Systematising information sharing through the CIP is expected to reduce the risk of details falling through the cracks and make additional time available for all workers to concentrate on providing their service.

The proposed Regulations enable the operation of the initial CIP by prescribing entities as CIP data custodians, which will be required to disclose information to the CIP to respond to a request for information.

CIP data custodians, all of which are government agencies, will face costs in meeting their obligations to participate in the CIP. These costs were the subject of budget deliberations and funding for implementation of the CIP was allocated as part of the 2017-18 State Budget. Family Safety Victoria

does not consider that these costs should be attributed to the proposed Regulations as, despite the fact that the proposed Regulations are necessary to enable the operation of the CIP, the CIP is largely a government spending measure not a regulatory scheme. These costs are therefore not included in the RIS analysis. However, the costs of the CIP are outlined in the implementation chapter for reference.

# Determining the preferred option

## Approach

This RIS considers a range of options for the scope of the proposed information sharing regime, as outlined in the previous chapter. In contemplating the full range of techniques available for determining the preferred option in this RIS, multi-criteria analysis (MCA) was considered the most appropriate. This is due to the difficulty involved in drawing a clear causal link between information shared as a result of the scheme and associated reductions in the escalation of family violence. This is compounded by the fact that these reforms are only a small part of a larger reform program to address family violence and improve the lives of victim survivors.

MCA is typically adopted in cases where full cost-benefit analysis is infeasible due to an inability to quantify benefits. MCA allows options to be compared through both quantitative and qualitative analysis and enables a wider range of criteria, such as social considerations, to be included in the analysis. It involves determining a set of criteria considered to be most pertinent to weighing up options and then scoring each option with reference to the selected criteria, where a positive score indicates an option is better than the base case and a negative score indicates an option is worse than the base case. The criteria are also weighted according to their relative importance in the overall decision.

The MCA criteria, weightings and scale for assessing options in this RIS are outlined below.

## Criteria

The following criteria were used to assess options for the scope of entities prescribed as ISEs under the scheme, the associated powers of those ISEs and the scope of reporting obligations on those ISEs:

- **Effectiveness of the reform** – assesses the degree to which the option would be effective in meeting the intended objectives of the regime
- **Costs to ISEs** – assesses the degree to which the option imposes costs on the sector, including both upfront and ongoing costs
- **Risk of inappropriate information sharing** – assesses the degree to which the option increases the risk of inappropriate information sharing.

## Weightings

Consistent with standard practice, the above criteria were weighted such that considerations over benefits (scheme effectiveness) were treated with equal importance to considerations over costs (costs to ISEs and scheme risks), as follows:

- Effectiveness of the reform – 50 per cent
- Risk of inappropriate information sharing – 25 per cent
- Costs to ISEs – 25 per cent.

## Scale

The criterion rating scale ranges from -10 to +10, with a score of zero representing no change from the base case. Using this scale allows for greater understanding of the proposed options. The scale is shown in Table 2 below.



**Table 2 – MCA scale**

Score	Description
-10	Much worse than the base case
-5	Somewhat worse than the base case
0	No change from the base case
+5	Somewhat better than the base case
+10	Much better than the base case

## Assessing the options

Options for the scope of the proposed information sharing regime are assessed below, separately in relation to:

- the entities prescribed as ISEs under the scheme
- the categorisation of those entities
- record keeping obligations to be imposed.

The outcomes of the multi criteria analysis indicate that, in relation to the entities to be prescribed as ISEs under the scheme, Option 2 is the preferred option, in relation to the categorisation of entities, Option 1 is the preferred option, and in relation to record keeping obligations, Option 1 is the preferred option. The results are summarised in Tables 3, 4 and 5.

**Table 3 – Outcomes of the multi-criteria analysis – entities prescribed as ISEs under the scheme**

Criterion	Option 1 – RAMPS and Hubs only	Option 2 – select entities, incl. based on criticality	Option 3 – all entities holding relevant info.
Effectiveness weighted score	1.0	2.5	3.5
Risk weighted score	-0.25	-0.75	-2.5
Cost weighted score	-0.25	-1.0	-2.5
<b>Weighted Total</b>	<b>0.5</b>	<b>0.75</b>	<b>-1.5</b>

**Table 4 – Outcomes of the multi-criteria analysis – categorisation of entities**

Criterion	Option 1 – categorise by function	Option 2 – all entities prescribed as risk assessment entities
Effectiveness weighted score	2.5	3.0
Risk weighted score	-0.5	-1.25
Cost weighted score	-0.25	-0.75
<b>Weighted Total</b>	<b>1.75</b>	<b>1.0</b>



**Table 5 – Outcomes of the multi-criteria analysis – record keeping obligations**

Criterion	Option 1 – record case-level data	Option 2 – record and report aggregate data
Effectiveness weighted score	4.0	5.0
Risk weighted score	1.0	1.0
Cost weighted score	-0.5	-2.5
<b>Weighted Total</b>	<b>4.5</b>	<b>3.5</b>

### Entities prescribed

Each of the options for the scope of entities prescribed as ISEs under the scheme are assessed in Tables 6, 7 and 8 below.

**Table 6 – Option 1: RAMPS and Hubs only**

Criterion	Comments	Score	Weighted Score
<b>Effectiveness</b>	<p>This option would support the continued operation of RAMPs, which are currently able to share information under the base case, while also enabling the operation of Hubs. However, limiting the information sharing regime to these organisations would minimise the potential of the reforms to facilitate broader information sharing for more comprehensive and accurate risk assessment and risk management.</p> <p>On this basis, effectiveness of reform is scored at +2 under this option relative to the base case.</p>	2.0	1.0
<b>Risk</b>	<p>The risk of inappropriate information sharing under this option would be minimal, as both RAMPs participants and Hubs represent a highly experienced workforce that is family violence literate and that interacts with family violence as a core part of their service. Nonetheless, this option would involve additional information sharing activity from entities providing risk assessment services to Hubs and this would pose a level of additional risk, albeit minor.</p> <p>On this basis, risk is scored at -1 under this option relative to the base case.</p>	-1.0	-0.25
<b>Cost</b>	<p>Under this option there would be an increased cost to those ISEs providing risk assessment services to the Hubs, as RAMPs participants currently share information under an existing IUA. These costs include training and minimal changes to existing policies, procedures and systems. Costs across the sector would be limited due to the small number of ISEs prescribed under this option.</p> <p>On this basis, cost to ISEs is scored at -1 under this option relative to the base case.</p>	-1.0	-0.25
<b>Total</b>			<b>0.5</b>

**Table 7 – Option 2: Based on characteristics of criticality, family violence literacy and ability to operate in a regulatory environment**

Criterion	Comments	Score	Weighted Score
<b>Effectiveness</b>	<p>This option would allow relevant information from a broader range of entities (incl. Child FIRST, refuges and Women’s and Men’s family violence services) to be used in the assessment and management of family violence risk enabling a more comprehensive picture of risk to be developed compared to the base case.</p> <p>On this basis, effectiveness is scored at +5 under this option relative to the base case.</p>	5	2.5
<b>Risk</b>	<p>Under this option, risk of inappropriate information sharing is minimised, as many of the proposed ISEs interact with family violence as part of their core function and/or have a high capacity to operationalise the reforms within a short time frame. However, as the scheme authorises the sharing of information to a broader number of entities, there would still be some risk of inappropriate information sharing compared to the base case.</p> <p>On this basis, risk is scored at -3 under this option relative to the base case.</p>	-3.0	-0.75
<b>Cost</b>	<p>To effectively operationalise the reforms under this option, the proposed ISEs would need to train their relevant workforce and adapt their existing policies, procedures and systems (including updating legacy IT systems). They would also face an ongoing cost associated with increased information sharing activity.</p> <p>On this basis, cost to ISEs is scored at -4 under this option relative to the base case.</p>	-4.0	-1.0
<b>Total</b>			<b>0.75</b>

**Table 8 – Option 3: All entities that may hold relevant information**

Criterion	Comments	Score	Weighted Score
<b>Effectiveness</b>	<p>This option would broaden the scope of information available to inform risk assessment and risk management to facilitate the development of a more comprehensive and accurate picture of risk. However, under the implementation timeframe, this option would not necessarily improve the effectiveness of the regime by much given the constraints involved in training large workforces over such a short time period – constraints of which would result in an inability for many entities to effectively participate in the regime.</p> <p>On this basis, effectiveness is scored at +7 under this option relative to the base case.</p>	7.0	3.5
<b>Risk</b>	<p>Under this option, a broad range of information would be accessible for assessing and managing risk of family violence. However, many of the proposed ISEs and associated workforces would not have the capacity to participate in the necessary training under the implementation timeframe. ISEs participating in the scheme with inadequately trained staff would pose a significant risk of information being shared inappropriately and in a way that could compromise victim survivor safety.</p> <p>On this basis, risk is scored at -10 under this option relative to the base case.</p>	-10.0	-2.5
<b>Cost</b>	<p>This option would require significant investments over a short time period under the implementation timeframe. This would include training for large workforces and upfront costs to ISEs in preparing for the scheme. Given the short timeframes, these costs would likely be higher than usual and in some cases excessive due to demand pressures.</p> <p>On this basis, cost to ISEs is scored at -10 under this option relative to the base case.</p>	-10.0	-2.5
<b>Total</b>			<b>-1.5</b>

## Categorisation of entities

Each of the options for the scope of information handling powers are assessed in Tables 9 and 10 below.

**Table 9 – Option 1: Categorise by function**

Criterion	Comments	Score	Weighted Score
<b>Effectiveness</b>	<p>This option would allow entities for which risk assessment is part of their function to have access to the broadest range of information under the regime, including in relation to alleged perpetrators.</p> <p>On this basis, effectiveness is scored at +5 relative to the base case.</p>	5.0	2.5
<b>Risk</b>	<p>This option would ensure that risk assessment for the purposes of establishing and assessing risk at the initial stages would be undertaken only by those entities for which risk assessment for information sharing purposes is part of their function. Under this option, ISEs would be clear about their powers and responsibilities under the scheme, which should minimise the risk of inappropriate sharing of information.</p> <p>On this basis, risk is scored at -2 under this option.</p>	-2.0	-0.5
<b>Cost</b>	<p>Under this option, entities for which risk assessment is part of their function would be able to share information for the purposes of establishing risk at the initial stages. This may require these entities to establish separate policies and procedures for sharing information for this purpose. They may also face a small additional ongoing cost associated with increased information sharing for this purpose.</p> <p>On this basis, cost to ISEs is scored at -1 under this option.</p>	-1.0	-0.25
<b>Total</b>			<b>1.75</b>

**Table 10 – Option 2: All entities prescribed as risk assessment entities**

Criterion	Comments	Score	Weighted Score
<b>Effectiveness</b>	<p>This option would allow all ISEs to obtain the broadest range of information available under the regime, including in relation to alleged perpetrators. However, this would not necessarily improve the overall level of effectiveness of the regime by much, if at all, as it would involve many entities sharing information to establish risk at the initial stages, when they're not necessarily qualified to do so.</p> <p>On this basis, effectiveness is scores at +6 under this option.</p>	6.0	3.0
<b>Risk</b>	<p>This option would result in a lack of clarity about when an ISE can share information in order to establish risk at the initial stages or to undertake ongoing risk assessment to manage risk. The consequences of this may be higher instances of inappropriate information sharing, particularly in relation to alleged perpetrators. In addition, this option could cause confusion about what services are qualified to undertake specialist comprehensive risk assessments, thus posing a risk to the broader reform program.</p> <p>On this basis, risk is scored at -5 under this option.</p>	-5.0	-1.25
<b>Cost</b>	<p>Under this option, all ISEs would be able to share information for the purposes of establishing risk at the initial stages, regardless of whether they were qualified to do so. This may require all ISEs to establish separate policies and procedures about whether or not information should be shared for this purpose. Some may also face an additional ongoing cost associated with increased information sharing for this purpose.</p> <p>On this basis, cost is scored at -3 under this option.</p>	-3.0	-0.75
<b>Total</b>			<b>1.0</b>

## Record keeping obligations

Each of the options for the record keeping obligations are assessed in Tables 11 and 12 below.

**Table 11 – Option 1: Record case-level data**

Criterion	Comments	Score	Weighted Score
<b>Effectiveness</b>	<p>This option would standardise what records need to be kept to ensure ISEs keep the types of records that are necessary to fulfil professional obligations, to respond appropriately to complaints and to ensure that appropriate information is collected for evaluation purposes. Many ISEs would already capture much of this information according to their existing practices, but this requirement would ensure consistent application.</p> <p>On this basis, effectiveness is scored at +8 under this option relative to the base case.</p>	8.0	4.0
<b>Risk</b>	<p>Under this option, ISEs would be required to record who information has been shared with. This would make it easier to correct any information that has been shared and subsequently found to be incorrect, thereby minimising the risk of inappropriate sharing by other entities. Including specific requirements to keep records in relation to information sharing activity would be an improvement on the base case, therefore reducing this risk.</p> <p>On this basis, risk is scored at +4 under this option relative to the base case.</p>	4.0	1.0
<b>Cost</b>	<p>This option would involve upfront costs in relation to updating existing policies, procedures and systems, and ongoing costs of recording information each time information is shared. However, these costs are expected to be minimal.</p> <p>On this basis, cost is scored at -2 under this option relative to the base case.</p>	-2.0	-0.5
<b>Total</b>			<b>4.5</b>

**Table 12 – Option 2: Record and report aggregate data**

Criterion	Comments	Score	Weighted Score
<b>Effectiveness</b>	<p>This option would standardise record keeping requirements to ensure ISEs keep records to fulfil professional obligations, to be able to respond appropriately to complaints and to ensure that appropriate information is collected for evaluation purposes. Further, this option would also assist policy and decision makers to evaluate the scheme and monitor information sharing activity by requiring them to provide aggregate data.</p> <p>On this basis, effectiveness of reform is scored at +10 under this option relative to the base case.</p>	10.0	5.0
<b>Risk</b>	<p>This option would enable a more thorough evaluation of the scheme with data on the information sharing activities of each ISE. This would help reduce the risk of inappropriate information sharing by allowing for easier identification of ISEs that are not complying with the requirements of the scheme. Including specific reporting requirements in relation to information sharing activity would be an improvement on the base case, therefore reducing this risk.</p> <p>On this basis, capacity to respond is scored at +4 under this option relative to the base case.</p>	4.0	1.0
<b>Cost</b>	<p>Under this option, compliance costs would be high for ISEs as most are not equipped to report this information with their current systems and upgrades to systems would likely be required. Given the requirement for rapid changes under the implementation timeframe, these costs would likely be higher than usual and in some cases excessive due to demand pressures. Any such changes would be more appropriate and less costly over a longer time horizon allowing for a considered response by ISEs.</p> <p>On this basis, cost to ISEs is scored at -10 under this option relative to the base case.</p>	-10.0	-2.5
<b>Total</b>			<b>3.5</b>

# Preferred option and its impacts

On the basis of the analysis outlined in the previous chapter, the preferred option for the scope of the Regulations is as follows:

- entities are to be prescribed as ISEs based on their criticality, family violence literacy and ability to operate in a regulatory environment
- ISEs are to be further categorised as risk assessment entities based on their function
- ISEs will be required to record certain information in case notes, with no requirement to record aggregated data nor report on it.

Key features of the preferred option and its impacts are summarised below.

## Summary of preferred option

### Who will be affected?

Under the proposed scheme, entities will be selected as ISEs based on the following characteristics:

- criticality – entities that play (or are expected to play) a critical or core role in responding to family violence
- family violence literacy – entities that have a family violence risk literate workforce or that can be trained quickly to develop family violence risk literacy
- rule based – entities that have a strong rule based or regulatory operating environment to ensure information is handled appropriately.

The following state-funded non-government entities will be permitted to share information under the scheme<sup>18</sup>:

- entities that provide specialist women's family violence case management services under a State contract
- entities that provide specialist men's family violence services (including men's behaviour change programs) under a State contract
- persons or bodies approved to assess or provide counselling services under section 133 of the FVPA
- entities that provide Child and Family Information Referral and Support Team (Child FIRST) services under a State contract
- entities that provide services to victims and survivors of sexual assault under a State contract
- entities that provide case management services to victims of crim under a State contract
- persons or bodies that 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
- persons, classes of persons or bodies employed or contracted by the Department of Justice and Regulation to perform functions for a family violence protection purpose of family violence assessment purpose in relation to victims of crime services or programs
- entities that provide offender rehabilitation and reintegration services and programs under a State contract
- entities that provide prisoner services or programs under a State contract
- persons or bodies to the extent they participate in a RAMP meeting, including preparation for and attendance at a meeting and associated follow-up actions or activities.

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<sup>18</sup> Please refer to the proposed Regulations for an exact definition of non-government entities that will be permitted to share information under the scheme. Note that if an entity is providing the above services under a State contract, that contract must specify that the entity has information sharing functions before they can share information under the information sharing scheme.



The following government entities will also be permitted to share information under the scheme:<sup>19</sup>

- Victoria Police
- persons or bodies providing correctional services under an agreement under section 9 of the *Corrections Act 1986*<sup>20</sup>
- persons employed or appointed under section 12 of the *Corrections Act 1986*<sup>21</sup>
- specified Magistrates' Court staff
- specified Children's Court staff
- some Department of Health and Human Services (DHHS) staff (i.e. Child Protection workers co-located in a Support and Safety Hub established by Family Safety Victoria, RAMPs participants and those DHHS staff employed, engaged or contracted to provide information to the CIP).

This allows for information sharing between entities that play a core role in assessing and managing family violence risks. It balances victim survivor safety with the need to ensure workforce readiness and sector capacity to share information responsibly and appropriately. It also minimises the risk of inappropriate information sharing.

However, Family Safety Victoria recognises that, while this option is preferred in order to commence the operation of the scheme by early 2018 and ensure information is shared appropriately, it is expected that this analysis may change once broader reforms to the family violence system are rolled out in 2018-19. It is therefore anticipated that the implementation of the information sharing reforms will be aligned to the broader Framework redevelopment reforms, with further entities to be prescribed as part of future tranches of reform (as outlined in the Background chapter). Implementation of the reforms is discussed further in the Implementation chapter.

## What can prescribed ISEs do?

Under the proposed scheme, ISEs with the function to establish and assess risk at the initial stages will be prescribed as 'risk assessment entities' to enable them to request and share information where family violence is suspected. This may include identifying who the victim survivor or perpetrator is, and the level of seriousness of risk present.

ISEs prescribed as risk assessment entities will be:<sup>22</sup>

- Victoria Police
- Child Protection personnel co-located in a Support and Safety Hub established by Family Safety Victoria
- DHHS staff employed, engaged or contracted to provide information to the CIP
- entities providing specialist women's family violence case management services (including refuges) under a State contract
- entities providing specialist men's family violence services (including men's behaviour change programs) under a State contract
- persons or bodies approved to assess or provide counselling services under section 133 of the FVPA
- entities that provide Child FIRST services under a State contract
- entities providing services to victims or survivors of sexual assault under a State contract
- entities that provide case management services to victims of crime under a State contract

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<sup>19</sup> Please refer to the proposed Regulations for an exact definition of government entities that will be permitted to share information under the scheme.

<sup>20</sup> Work is underway to ensure that only relevant Corrections Victoria staff will be prescribed under the scheme. This Regulation may therefore be subject to change.

<sup>21</sup> Work is underway to ensure that only relevant Corrections Victoria staff will be prescribed under the scheme. This Regulation may therefore be subject to change.

<sup>22</sup> Please refer to the proposed Regulations for an exact definition of ISEs that will be prescribed as risk assessment entities under the scheme. Note that if an entity is providing the above services under a State contract, that contract must specify that the entity has information sharing functions before they can share information under the information sharing scheme.

- persons or bodies employed, engaged or contracted to provide services for family violence risk assessment purposes in relation to a Support and Safety Hub established by Family Safety Victoria
- persons, classes of persons or bodies employed or contracted by the Department of Justice and Regulation to perform functions for a family violence assessment purpose in relation to victims of crime services or programs.

This option balances the protection of victim survivors with the privacy of others as it ensures that ISEs engaged in the family violence service system response have access to the information needed to perform their functions while restricting access to information about persons alleged to pose a risk of family violence (but the risk has not been established) to those entities that require the information and are best placed to deal with the information appropriately.

### What record keeping obligations will be imposed on ISEs?

Under the proposed scheme, ISEs will be required to record certain information in case notes but not to record or report on aggregated data. The information that will be required to be recorded by ISEs under the scheme and the reasons why is outlined in Table 13.

**Table 13: Information to be recorded and why**

Information to be recorded	Reason
When disclosing confidential information about a person who is alleged to pose a risk of family violence, a primary person who is an adult, a primary person who is a child, or a linked person: who requested the confidential information; what confidential information was requested; the date the confidential information was requested; what confidential information was disclosed and the date it was disclosed; a record of the information disclosed; the date on which the information was disclosed; and who the confidential information was disclosed to	<ul style="list-style-type: none"> <li>• To allow shared information to be corrected</li> <li>• To enable ISEs to respond to privacy complaints</li> <li>• To ensure ISEs are able to review their practice to ensure information sharing rules are being complied with</li> <li>• To enable the two and five year review to determine how the scheme is operating</li> </ul>
When disclosing confidential information about a person of concern: a record of the confidential information disclosed; the date on which the information was disclosed; and who the confidential information was disclosed to	As above.
Record of consent (where required) or when information is shared without the consent of a primary or linked person from whom it is ordinarily required: the reason why consent was not obtained; whether the person was informed that their confidential information would be disclosed without their consent; and if the confidential information was disclosed without informing the person, the reason why	<p>As above, plus:</p> <ul style="list-style-type: none"> <li>• To ensure that ISEs are complying with their obligations in relation to consent</li> </ul>
<p>When information is shared about a primary person who is a child:</p> <ul style="list-style-type: none"> <li>• whether or not the ISE sought and obtained the views of the child or the child’s parents having regard to the appropriateness of doing so and the child’s age and maturity</li> <li>• when information is disclosed contrary to the views of the child or the child’s parent, the reason why the information was disclosed contrary to their views; whether they were informed that confidential information would be disclosed contrary to their views; and if confidential information was disclosed without</li> </ul>	<p>As above, plus:</p> <ul style="list-style-type: none"> <li>• To allow the two and five year review to determine how the scheme is operating in relation to sharing information about children</li> </ul>

Information to be recorded	Reason
informing them, the reason for not informing them	
Any risk assessment or safety plan developed for a victim survivor and, if they are a child, whether a safety plan is in place for any other members of the child's family who are at risk of being subjected to family violence and a copy of that safety plan	As above, plus: <ul style="list-style-type: none"> <li>To enable ISEs to determine how information sharing is contributing to effective risk assessment and risk management</li> </ul>
When a request for information is being declined: details of the request and the reason why it was declined	As above, plus: <ul style="list-style-type: none"> <li>To enable ISEs to determine if declining requests for information is being done in compliance with the legislation</li> </ul>
When a complaint is received by an ISE: the date the complaint was made and received; the nature of the complaint and relevant details; action that was taken by the ISE to resolve the complaint; 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; the time taken to resolve the complaint; and if the ISE was unable to resolve the complaint, what (if any) further action was taken	As above, plus: <ul style="list-style-type: none"> <li>To ensure ISEs keep a record of complaints and action taken, including where complaints are then taken to the Office of the Victorian Information Commissioner or the Health Complaints Commissioner</li> </ul>

Entities to be prescribed as ISEs under the regime are expected, in accordance with their ordinary professional obligations, to already be recording much of this information in case notes in order to be able to correct information that has been shared and subsequently found to be incorrect and investigate and respond to complaints. Family Safety Victoria assumes that requesting or responding entities will be able to record this information in around five minutes, on average, and uses this assumption to inform the estimated costs of recording the specified information.

## Impacts of the preferred option

The proposed Regulations are anticipated to result in a range of impacts including:

- costs to government of establishing the information sharing regime
- upfront costs to ISEs of transitioning to the new regime
- ongoing costs to ISEs associated with information sharing activity under the regime.

The burden imposed by the reforms on ISEs will vary depending on the volume of requests, the specifics of each request and the systems in place at each ISE to respond to requests. Given uncertainty over these aspects, this RIS seeks to provide an indicative guide to the potential range of impacts, including quantifying an upper and lower bound estimate of the overall cost of the new regime.

The approach taken to determining the impacts on government and funded organisations involved a mapping exercise to scope out the key up front and ongoing activities required under the scheme, the various tasks associated with those activities and the potential minimum and maximum impacts in terms of staff time and other costs such as training. This mapping was undertaken with consideration of how the impacts may differ across different types of ISEs, including the form of information sharing (requesting or providing or both), the potential volume of requests and the existing IT and other systems capacity. This mapping was undertaken and informed by internal staff with direct service delivery experience based on their understanding of the various sectors and government agencies and how they may respond.

The mapping was then used as the basis for quantifying the potential range of impacts, including through valuing staff time, the cost of training and the cost of system upgrades, and then scaling this up according to the size of the relevant workforces, the number of organisations impacted and the potential volume of requests under the scheme.

Costs included in the RIS analysis are costs to government of establishing the information sharing regime, upfront costs to ISEs associated with training, updating policies, procedures, and systems, and ongoing costs to ISEs of training and staff time spent sharing information. These are outlined in more detail below.

## Costs to government of establishing the regime

### Reform development and implementation

To ensure that the information sharing reforms are effectively designed and successfully implemented, Family Safety Victoria has been funded to undertake a range of activities, including to:

- establish an internal coordination unit that will oversee the implementation of the family violence information sharing regime, including the rollout of cultural change initiatives and the development of training materials
- undertake an implementation review of the family violence information sharing regime
- fund the cost of responding to complaints made to the Office of the Victorian Information Commissioner and the Health Complaints Commissioner (in relation to the sharing of health information) under the information sharing regime and as a result of changes to privacy legislation.

Funding for these activities was allocated as part of the 2017-18 State Budget. The details of this funding are provided in Table 14.

**Table 14 – Reform development and implementation costs (\$ million)**

2017-18	2018-19	2019-20	2020-21
\$4.7	\$2.4	\$2.7	\$1.8

Source: Department of Treasury and Finance (2017) *Victorian Budget 17-18, Service Delivery, Budget Paper No. 3*, Family violence information sharing – Implementing legislative reform and preparing the sector.

For the purposes of this analysis, \$2.3 million of the \$4.7 in funding for 2017-18 is treated as a once-off upfront cost and the remaining \$2.4 million an ongoing implementation cost. Funding for the subsequent years is also treated as an ongoing cost and, when added to the \$2.4 million in 2017-18, can be averaged to \$2.33 million in ongoing costs per year.

### Change management

In addition to the above implementation activities undertaken by Family Safety Victoria, departments will need to review and amend all contracts with ISEs in the scheme, establish sector-specific guidelines, training, communications materials and information sharing agreements, and engage in capacity building programs. This will require change management resources within DHHS, DJR, Court Services Victoria (CSV) and Victoria Police to provide support, training and advice to frontline service staff and oversee the delivery of internal workforce training.

These resources will vary depending on the size and speciality of the relevant workforces and other preparatory work required to establish the regime. Estimates developed as part of the cost mapping exercise are outlined in Table 15.

These costs have, in part, been funded through the Framework redevelopment allocation received as part of the 2017-18 State Budget. Although this funding was earmarked for the development of the Framework, it is anticipated that the resources funded for change management (14 FTE) will be mainly focussed on the information sharing reforms in 2017-18 as part of the initial tranche of the broader Framework and information sharing reform program.

**Table 15 – Estimated change management costs to departments (2017-18, \$ million)**

Department	Minimum impact	Maximum impact	Minimum cost <sup>1</sup>	Maximum cost <sup>1</sup>
DHHS	6 FTE	8 FTE	\$0.9	\$1.2
DJR	5 FTE	10 FTE	\$0.8	\$1.5
CSV	2 FTE	4 FTE	\$0.3	\$0.6
Victoria Police	4 FTE	6 FTE	\$0.6	\$0.9

Notes: <sup>1</sup>Assumes an average cost per FTE of \$151,682, including both direct and indirect staff costs. The average cost of a staff member is assumed to be equivalent to the mid-point of the VPS 5 salary range. The salary estimate is based on 2017-18 VPS salary rates and internal guidance regarding on-costs, staff operational costs and overheads.

## Upfront costs to ISEs

Under the initial tranche of information sharing reforms, it is anticipated that entities prescribed as ISEs will respond to the scheme within the context of their existing systems and policy frameworks and that costly policy redesigns or system rebuilds will not be necessary in most cases. However, ISEs will still be required to train key staff in the regime and adapt existing policy frameworks and systems to align policies and ensure information can be retrieved and the details recorded. On that basis, it is anticipated that ISEs will face the following costs as they transition to the new scheme:

- Training of key staff in how to effectively handle sensitive information and their obligations when disclosing information under the scheme. Training will be necessary for all staff within an ISE who has responsibility for sharing information under the scheme. In some cases, this may include all client-facing staff and in others it may be restricted to a small team. The cost associated with this will include both the cost of the training itself and the cost of staff resources being diverted whilst attending training
- Updating existing policies, procedures and systems to effectively respond to the scheme. This will include aligning existing policies, procedures, practice guidance and tools to the specific requirements of the regime. It will also include adapting existing systems so that information can be retrieved and the details of instances of information sharing recorded. This may include changes to adapt electronic systems, such as the setting of standards for recording information in case notes and the insertion of flags to assist with searching, or changes to adapt paper-based systems, such as the setting of standards for keeping written records and/or changes to filing processes. Some entities will have teams in place that will be able to undertake this work on a quick turnaround, whereas others may not have this capacity and will therefore be required to contract it out.

Estimates of these costs were quantified as part of the cost mapping exercise, the results of which are summarised in Table 16.

It is important to note that these estimates exclude information technology, system change and associated project management costs that will apply to some government agencies in order for them to effectively operate under the new regime. This includes any changes that may be required among some ISEs in order for them to store information in compliance with the Standards for Victoria Police Law Enforcement Data Security. These costs will vary across agencies and are likely to be substantial in some cases. The nature and extent of these costs will be the subject of future evaluation.

**Table 16 – Estimated upfront costs to ISEs<sup>1</sup>**

Cost/entity type	Minimum impact	Maximum impact	Minimum cost	Maximum cost
<b>Training existing staff<sup>2</sup></b>				
Funded organisations	Training cost (\$225) + 0.5 days' time	Training cost (\$300) + 1 days' time	\$507 per staff member	\$865 per staff member
Government agencies	Training cost (\$225) + 0.5 days' time	Training cost (\$300) + 1 days' time	\$532 per staff member	\$914 per staff member
<b>Updating policies, procedures and systems</b>				
Funded organisations	2 weeks of staff time	4 weeks of external provider's time	\$3,680 per organisation	\$40,000 per organisation
Government agencies	2 months of staff time	6 months of staff time	\$25,280 per agency	\$75,840 per agency

Notes: <sup>1</sup>In estimating costs, the value of staff time is based on average weekly earnings for internal staff within funded organisations, an assumed daily rate of \$2000 for external providers' time and \$151,682 per annum for staff within government agencies. The estimate of average weekly earnings includes an assumed 75 per cent for on-costs, staff operational costs and overheads and is based on Australian Bureau of Statistics data (ABS (2017) *Average Weekly Earnings, Australia, Nov 2016*, cat. no. 6302.1). The value of government staff time assumes the mid-point of the VPS 5 salary range and is based on 2017-18 VPS salary rates and internal guidance regarding on-costs, staff operational costs and overheads.

<sup>2</sup>Training costs (\$225-\$300) are based on the approximate cost of externally provided training in the Risk Assessment and Risk Management Framework and assumes 20 participants per session.

## Ongoing costs to ISEs

ISEs will also face a number of ongoing costs as a result of the new regime, namely:

- Training new staff in how to effectively handle sensitive information and their obligations when disclosing information under the scheme. It is not anticipated that this training will be able to be absorbed into entities' existing induction training, thus necessitating an additional ongoing cost to train new staff in how to effectively share information under the regime, including requirements and procedures specific to an organisation or agency. This will be the same training as outlined above in relation to the upfront training of existing staff.<sup>23</sup>
- Staff time spent requesting information under the regime. This will involve identifying the required information, going through the process of requesting the information and recording the details in the relevant system.
- Staff time spent responding to an information request under the scheme. This will involve receiving the initial information request, confirming the identity of the person requesting the information, determining whether the sharing of the requested information is permitted under the scheme, retrieving the information, providing it to the requesting entity and recording the details in the relevant system.

In relation to the latter two of these costs, step-by-step process flows and indicative time estimates were developed as part of the cost mapping exercise, separately for requesting entities and responding entities. The analysis suggests that, on average, requesting entities would face between approximately 10 and 30 minutes per information request, and responding entities between approximately 10 and 100 minutes per response.<sup>24</sup> This work is summarised in Appendix A.

<sup>23</sup> A potential further ongoing cost relates to refresher training of existing staff. However, this cost is excluded from this analysis as the necessity for, and scope of, refresher training under the information sharing regime is yet to be determined. The need for such training will be explored in preparation for the tranche 1 reforms and any such costs included in a separate RIS on the amended regulations.

<sup>24</sup> It is understood that the time taken to respond to information requests may be longer than this for some ISEs in some cases, particularly where it is necessary to retrieve information from hard copy files. However, one hour and forty minutes is considered reasonable as an average upper bound estimate across all impacted ISEs.



Estimates of these costs were quantified as part of the cost mapping exercise, the results of which are summarised in Table 17.

**Table 17 – Estimated ongoing costs to ISEs**

Cost/entity type	Minimum impact	Maximum impact	Minimum cost	Maximum cost
<b>Training new staff<sup>1</sup></b>				
Funded organisations	Training cost (\$225) + 0.5 days' time	Training cost (\$300) + 1 days' time	\$507 per new staff member	\$865 per new staff member
Government agencies	Training cost (\$225) + 0.5 days' time	Training cost (\$300) + 1 days' time	\$532 per new staff member	\$914 per new staff member
<b>Information sharing activity<sup>2</sup></b>				
All ISEs	10 mins for requestor and 10 mins for responder	30 mins for requestor and 100 mins for responder	\$24.56 per instance of information sharing	\$159.66 per instance of information sharing

Notes: <sup>1</sup>Training costs (\$225-\$300) are based on the approximate cost of externally provided training in the Family Violence Risk Assessment and Risk Management Framework and assumes 20 participants per session. The value of staff time is based on average weekly earnings for internal staff within funded organisations and \$151,682 per annum for staff within government agencies. The estimate of average weekly earnings includes an assumed 75 per cent for on-costs, staff operational costs and overheads and is based on Australian Bureau of Statistics data (ABS (2017) *Average Weekly Earnings, Australia, Nov 2016*, cat. no. 6302.1). The value of government staff time assumes the mid-point of the VPS 5 salary range and is based on 2017-18 VPS salary rates and internal guidance regarding on-costs, staff operational costs and overheads.

<sup>2</sup>The cost of staff time spent sharing information across all ISEs is based on an average of the hourly rate for funded organisations and government agencies (as valued above), and includes estimated on-costs and overheads for these organisations.

## Overall costs of the regime

When factoring in the number of entities and associated workforces impacted, and the potential number of requests for information under the regime, the total cost of the regime is estimated to be between \$9 and \$20 million in upfront costs in the first year and \$5 and \$22 million in ongoing costs annually. A breakdown of these results is provided in Table 18.

In net present value terms, the total cost of the regime is estimated to be between \$47 and \$196 million over ten years, assuming a discount rate of 4 per cent.

To put these costs in perspective, the key benefit of the scheme will be a reduction over time in the number of incidents of family violence that escalates to major injury, trauma or death of a family member. This benefit is difficult to quantify given the inability to draw a clear causal link between information shared as a result of the scheme and associated reductions in the escalation of family violence. Nonetheless, it is reasonable to assume that the scheme will reduce the number of cases that escalate to serious harm and will, therefore, reduce the costs of family violence to the Victorian community, estimated to be \$5.3 billion in 2015-16.<sup>25</sup> The costs of the proposed regime represent a very small proportion of this cost to the Victorian community (around 0.3%) and are therefore regarded as reasonable when considered within this broader context.

Another key benefit of the scheme is that it will improve the culture of information sharing across the workforces that engage with family violence victim survivors and perpetrators and set the foundations for a more widespread and robust framework for assessing and managing the risk of family violence. In doing so, this will empower these workforces to act in good faith in support of victim survivors. Training in the new regime will also increase the capability and capacity of these workforces, particularly when coupled with training in the new Framework, and will result in an improved service experience and more effective outcomes for victim survivors of family violence. Importantly, this will also empower these workforces to hold perpetrators to account.

<sup>25</sup> KPMG (2017) *The cost of family violence in Victoria: Summary report*.

**Table 18 – Estimated overall costs under the proposed regime (\$ million per year)<sup>1</sup>**

Cost/entity type	Volume <sup>2</sup>	Minimum cost	Maximum cost
<b>Upfront costs in the first year</b>			
Initial reform development/implementation	1 entity	\$2.3	\$2.3
Change management	4 entities	\$2.6	\$4.2
Training existing staff			
<i>Funded organisations</i>	1,930 workers	\$1.0	\$1.7
<i>Government agencies</i>	2,961 workers	\$1.6	\$2.7
Updating policies, procedures and systems			
<i>Funded organisations</i>	221 entities	\$1.2	\$8.8
<i>Government agencies</i>	6 entities	\$0.2	\$0.5
<b>Total</b>		<b>\$8.8</b>	<b>\$20.3</b>
<b>Ongoing costs per year</b>			
Ongoing reform implementation	1 entity	\$2.3	\$2.3
Training new staff			
<i>Funded organisations</i>	386 workers <sup>3</sup>	\$0.2	\$0.3
<i>Government agencies</i>	592 workers <sup>3</sup>	\$0.3	\$0.5
Information sharing activity	78,000-117,000 disclosures <sup>4</sup>	\$1.9	\$18.7
<b>Total</b>		<b>\$4.7</b>	<b>\$21.9</b>

Notes: <sup>1</sup>These estimates are based on costings outlined in Tables 14 to 17 that were subsequently scaled based on the volume of entities, workers or disclosures. Estimates of the number of entities and workers are based on the figures provided in Appendix B.

<sup>2</sup>The estimated number of workers requiring training does not represent the total size of the impacted workforces as, in some cases, it is assumed that only part of a workforce would actively participate in the initial stage of the regime given the proposed approach to implementation, and the practical considerations that have informed the phasing of training. More extensive workforce training is anticipated as part of the broader reform rollout in 2018-19, the impact of which will be captured in a separate RIS. Assumptions regarding the number of workers participating in the initial stage of the regime are outlined in Appendix B.

<sup>3</sup>Estimates of the number of new workers requiring training each year are based on the number of existing workers requiring training and an assumed turnover rate of 20 per cent per year.

<sup>4</sup>Estimates of the volume of information that will be shared under the regime are based on the number of reported instances of family violence in 2015-16 (78,000 as quoted in Department of Premier and Cabinet (2017) *Ending Family Violence: Victoria's Plan for Change*, 2) and assuming that between 50 and 75 per cent of reported instances will involve two disclosures of information on average. This takes into account that some reported instances are repeats for the same victim/family and that not every reported incident progresses to a service response. This estimated number of requests is considered to be in addition to the existing volume of information being shared under existing laws and agreements, including through RAMPS.

Family Safety Victoria believes that the benefits of enabling the regime through these regulations will exceed the cost on the basis of the qualitative benefits of information sharing that were described by the Royal Commission. In particular, the information sharing regime will make it easier for a range of organisations dealing with family violence to identify, assess and manage risks, and will therefore help to intervene earlier and more effectively respond to incidents of family violence.

It is important to note that this analysis excludes information technology, system change and associated project management costs that will apply to some government agencies in order for them to effectively operate under the new regime. Given uncertainty over these costs, the nature and extent of them will be the subject of future evaluation.



# Implementation

## Proposed approach to roll-out of the regime

In order to ensure workforce readiness and sector capacity (thereby minimising risks of inappropriate information sharing) while gaining immediate traction for those directly responding to family violence risk, Family Safety Victoria proposes a phased approach to implementing the information sharing reforms as follows:

- early 2018 – initial prescription of ISEs (consistent with the preferred option in this RIS) to facilitate the establishment of the first Hubs (i.e. organisations who play a core role in assessing and managing family violence risks, have a good understanding of family violence or can be trained quickly and operate in a well-regulated rule-based environment)
- mid 2018 – prescription that will align with the broader Framework rollout (i.e. remaining organisations who play an important role in working with family violence victim survivors, such as housing and homelessness workers, out-of-home care workers and maternal and child health nurses)
- mid 2020 – prescription that will align with a larger group of entities that will be part of the broader Framework roll out (i.e. more mainstream sectors with larger workforces that may be less family violence literate and require longer lead-in times to train).

## Regulation of prescribed entities – complaints

The Office of the Victorian Information Commissioner (OVIC) and the Health Complaints Commissioner (HCC) currently receive complaints for privacy breaches in relation to personal information and health information respectively. Complaints about breaches of privacy under the information sharing regime will also be made to these Commissioners.

Given the information sharing reforms displace a number of existing privacy protections, the Amending Act ensures that individuals whose privacy is breached under the family violence information sharing regime will be able to make complaints to the OVIC if they believe that information has been shared about them other than in accordance with the legislation and the *Privacy and Data Protection Act 2014* would not otherwise apply to them. Complaints may also be made to the HCC in relation to privacy breaches when sharing health information under the scheme.

The complaints mechanism is crucial to the information sharing regime as workers will be protected from all liability in relation to any damage caused by the sharing of information in good faith and with reasonable care. Consequently, the complaints mechanism will provide the only recourse to justice available to those whose privacy has been breached and who have suffered damage as a result.

Ongoing funding will be provided to the OVIC and HCC to support this function.

## Implementation of the CIP

The establishment of the CIP will initially provide information to support the Hubs. Establishing the CIP will involve developing the information technology systems to collect and store information from those entities prescribed as CIP data custodians. Initially, the CIP will be operated manually, with system capabilities expected to be expanded over time through system enhancements and integration as well as process improvements.

Funding of \$89.5 million has been allocated over two years to establish the CIP and operate a program of continuous improvement and information gathering to inform the business case for a sustainable CIP solution.

# Consultation

Targeted consultation has occurred on the proposed Regulations with government agencies and key stakeholders. These stakeholders are listed below in Table 19.

**Table 19 – Consultation**

Key stakeholders consulted	
<ul style="list-style-type: none"><li>• Anglicare</li><li>• Bendigo Health</li><li>• Berry Street</li><li>• Centre for Non-Violence</li><li>• Centre for Excellence in Child and Family Welfare</li><li>• Council to Homeless Persons</li><li>• Department of Education and Training</li><li>• Department of Health and Human Services</li><li>• Domestic Violence Victoria</li><li>• Domestic Violence Resource Centre Victoria</li><li>• Family Care</li><li>• Gatehouse</li></ul>	<ul style="list-style-type: none"><li>• Good Shepherd</li><li>• Magistrates' Court</li><li>• Melbourne Research Alliance to End Violence against women and their children</li><li>• No to Violence/Men's Referral Service</li><li>• The Royal Women's Hospital</li><li>• Safe Steps</li><li>• Victorian Aboriginal Child Care Agency</li><li>• Victorian Aboriginal Community Services Association Limited</li><li>• Victoria Legal Aid</li><li>• Victoria Police</li><li>• Women's Legal Service Victoria</li></ul>

The release of the RIS begins the final phase of consultation through which interested members of the public can provide input into the development of the Regulations. For a minimum of 28 days, Family Safety Victoria will invite public comments or submissions to consider before it finalises the proposed regulations.

Information on how to lodge submissions can be found on the Victorian Government's family violence reform website at: [State Government of Victoria <familyviolence.vic.gov.au>](http://familyviolence.vic.gov.au). Submissions on this RIS are to be received by Family Safety Victoria no later than 5pm Friday 13 October 2017.

Family Safety Victoria will also be undertaking targeted consultation with the family violence sector on the content of the Regulations. The Regulations may change in response to that consultation process.

While consultation has taken place with the affected sectors on the entities that will be prescribed in the regulations, consultation has not taken place on the impact of the reforms. This will be undertaken in conjunction with the 28 day consultation period on the RIS.

# Review

The Amending Act requires that the information sharing regime must be reviewed within two years and within five years of its commencement. These reviews must be independent and must consider any adverse effects of the legislation. The reviews must be tabled in Parliament within six months of the two year and five year periods.

## Two year implementation review

To comply with this legislative requirement an independent reviewer will be appointed to:

- determine whether the scheme is being implemented effectively
- inform the proposed roll-out of the scheme by providing recommendations for improvement
- determine whether the scheme is achieving its intended outcomes (increased levels of information sharing that improves outcomes for victim survivors and keeps perpetrators in view) and is avoiding unintended outcomes (for example, decreased engagement in services, increased safety risks)
- meet the legislative requirement for an independent review of the scheme within two years of commencement.

The two year review will utilise both quantitative and qualitative data gathering tools. Research methodology will be determined in partnership between Family Safety Victoria and the contracted reviewers. The record keeping obligations to be imposed on ISEs will enable the reviewers to obtain quantitative data – through analysis of a sample of de-identified case notes where practical – on the impact of the information sharing regime. In developing the research methodology, care will be taken to ensure the approach is both practical from the perspective of the participating entities and appropriate in terms of the use of individuals' private information.

To the extent possible, emerging findings from the two year implementation review will be used to inform a separate RIS on amended regulations relating to the next tranche of reform in 2018. This will include investigation of the key barriers and enablers for implementation of the regime (including upfront system change costs) and whether implementation of the scheme has had any adverse impacts on workforces in ISEs (e.g. increased workload or changes in ways of working).











Given uncertainty over information technology, system change and associated project management costs that will apply to government agencies, the investigation of key barriers and enablers for implementation will include consideration of the extent of these costs. Specifically, the details of existing information technology and other systems in place will be captured through the process of gathering the baseline data. To the extent possible under the implementation timeframe, the details of any changes to these systems would then be assessed as part of subsequent investigation into how the regime has been implemented in the initial tranche and the associated impacts.



## Five year legislative review

An independent legislative review will be undertaken five years after commencement of the legislation. This review will consider the appropriateness of the legislative model and make recommendations for reform.











## Appendix A – Mapping of information sharing activity




**Table A.1: Estimated process and staff time associated with information sharing activity for a requesting entity**

REQUESTING ENTITY			
Minimum time		Maximum Time	
Process	TIME	Process	TIME
 Requesting ISE identifies that further information is required for assessment/management of family violence risk. <u>The worker knows who to call</u> in order to obtain the relevant information.		Requesting ISE identifies that further information is required for assessment/management of family violence risk.	
 Phone call to prescribed ISE to request information. They answer in a <u>timely manner</u> and discuss request.	<b>1 minute</b>	 Phone call to prescribed ISE to request information. The responding ISE is a large organisation with an intake service that has wait times. <u>Worker waits on hold.</u>	<b>5 minutes</b>
 Responding ISE requests confirmation from worker that they are who they say, in the form of an email. <u>Workers do not hang up</u> , instead they stay on the phone during a quick email exchange.	<b>1 minute</b>	 Responding ISE answers and information request is <u>briefly discussed.</u>	<b>3 minutes</b>
 Discussion on what information is required and why, outlining that the information is required for a risk assessment or management purpose. <u>The relevant information is shared</u>	<b>4 minutes</b>	 Responding ISE requests confirmation fax or email to be sent in order to confirm the worker is who they say. They cannot stay on the phone for this confirmation and advise <u>they will call back</u> when confirmation is received. Phone call ends and email is sent.	<b>2 minutes</b>
 <u>Enter record into CRM system.</u> This includes updating the risk assessment or safety plan, documenting the service contacted and who the requestor spoke with, as well as documenting the information that was obtained.	<b>4 minutes</b>	 Worker <u>waits</u> until much later in the day when responding entity calls to confirm the email was received. Discussion on what information is required and why, outlining that the information is required for a risk assessment or management purpose.	<b>5 minutes</b>
		 The responding entity needs to consult with a supervisor before information can be shared and	<b>5 minutes</b>

<b>REQUESTING ENTITY</b>				
		<p>advise <u>they will call back the worker</u>. Requestor records contact into CRM, including service they contacted, who they have spoken with, where the information sharing process is currently at etc.</p>		
		<p> Responding entity calls back and has a further discussion on the outcome of the consultation with their supervisor. <u>The relevant information is shared.</u></p>	<b>5 minutes</b>	
		<p> <u>Enter record into CRM system.</u> This includes updating the risk assessment or safety plan, documenting the service contacted and who the requestor spoke with, as well as documenting the information that was obtained.</p>	<b>5 minutes</b>	
<b>TOTAL TIME</b>		<b>10 minutes</b>	<b>TOTAL TIME</b>	<b>30 minutes</b>
<p><b>PLEASE NOTE:</b></p> <ul style="list-style-type: none"> <li>• The above processes may be repeated multiple times for the same client if information is required from numerous sources.</li> <li>• The processes may in fact take considerably longer to complete, taking into account waiting for services to re-contact and waiting for them to consult with management etc. However, the <b>total</b> demonstrates the amount of time actually spent on the task of information sharing and does not include time spent on other activities while waiting for a call-back etc.</li> <li>• Not every situation has been presented in the worker timeline. For example, time has not been allocated when a responding entity refuses to share information and the time this takes to receive and document the refusal in writing. It has been assessed that this situation and other non-represented situations could be substituted within the above scenarios, therefore not impacting the estimate of the broad range of time (minimum to maximum) expected to be taken to complete the information sharing process.</li> </ul>				

**Table A.2: Estimated process and staff time associated with information sharing activity for a responding entity**

<b>RESPONDING ENTITY</b>			
<b>Minimum time</b>		<b>Maximum Time</b>	
<b>Process</b>	<b>TIME</b>	<b>Process</b>	<b>TIME</b>
 Initial phone call received from requesting ISE. They <u>briefly outline</u> the purpose of the call.	<b>1 minute</b>	 Initial phone call received from requesting ISE. They <u>briefly outline</u> the purpose of the call.	<b>3 minutes</b>
 Worker requests confirmation from the requesting ISE that they are who they say, via email or fax. Workers <u>do not hang up</u> , instead they stay on the phone during a quick email exchange.	<b>1 minute</b>	 Worker requests confirmation from the requesting ISE that they are who they say, via email or fax. The worker is <u>unable to stay on the phone</u> while confirmation is sent either due to demand and having people on hold, or because the requesting ISE is unable to fulfil this request immediately.	<b>2 minutes</b>
 There is discussion on what information is required and why, confirming that the information is required for a risk assessment or management purpose. The information is <u>readily available on the IT system</u> and the <u>worker is trained</u> in information sharing policies and procedures. <u>Information is shared.</u>	<b>4 minutes</b>	 Identity confirmation from the requesting ISE is received and the worker returns their call, but the requesting ISE has a wait time on their intake phone lines. <u>Worker waits on hold.</u>	<b>5 minutes</b>
 <u>Enter record into CRM system.</u> This includes documenting the service who contacted and who the worker spoke with, attaching confirmation of identity and information that was disclosed.	<b>4 minutes</b>	 There is discussion on what information is required and why, confirming that the information is required for a risk assessment or management purpose. Worker explains they will <u>need to consult</u> with their manager before sharing information.	<b>5 minutes</b>
		 Worker checks that the information requested is not excluded and confirms relevant consent thresholds have been met, where required. They then <u>consult with their</u> supervisor about the request, confirming what information should be shared.	<b>10 minutes</b>
		 Worker <u>reviews the client's file</u> (possibly on a less advanced IT system, including paper files), identifying relevant information that should be shared and discarding information not relevant to family violence risk.	<b>60 minutes</b>

RESPONDING ENTITY			
		 Worker calls back the requesting ISE, again having to wait on hold due to the service having a busy intake service. <u>Worker waits on hold.</u>	<b>5 minutes</b>
		 There is discussion with requesting ISE about the outcome of the conversation with their supervisor. <u>Information is shared.</u>	<b>5 minutes</b>
		 <u>Enter record into CRM system.</u> This includes documenting the service that contacted and who the responder spoke with, attaching confirmation of identity and information that was disclosed etc.	<b>5 minutes</b>
<b>TOTAL TIME</b>	<b>10 minutes</b>	<b>TOTAL TIME</b>	<b>100 minutes</b>

**PLEASE NOTE:**

- The above processes may be repeated multiple times for the same client if information is required from numerous sources.
- The processes may in fact take considerably longer to complete, taking into account waiting for services to re-contact and waiting for them to consult with management etc. However, the **total** demonstrates the amount of time actually spent on the task of information sharing and does not include time spent on other activities while waiting for a call-back etc.
- Not every situation has been presented in the worker timeline. For example, time has not been allocated when a responding entity refuses to share information and the time this takes to receive and document the refusal in writing. It has been assessed that this situation and other non-represented situations could be substituted within the above scenarios, therefore not impacting the estimate of the broad range of time (minimum to maximum) expected to be taken to complete the information sharing process.

## Appendix B – Impacted workforces and entities

For the purposes of the RIS, the number of workers requiring training and entities requiring system updates was estimated. Unless otherwise stated, these figures are based on internal data on the total number of workers/entities for each service. A breakdown of these results is provided in Table B1. Note that the estimated number of workers does not represent the total size of the impacted workforces in some cases as it is assumed that only part of some workforces would actively participate in the initial stage of the regime given the proposed approach to implementation, and the practical considerations that have informed the phasing of training. More extensive workforce training is anticipated as part of the broader reform rollout in 2018-19, the impact of which will be the subject of a further RIS.

**Table B.1 – Estimated number of workers and entities impacted under the regime<sup>1</sup>**

Entity type	No. workers requiring training	No. entities requiring updates to policies, procedures and systems
<b>Funded organisations</b>		
Child FIRST	230	19
Men's family violence services	100	33
Refuges <sup>2</sup>	230	23
Sexual assault services	300	18
Women's family violence services (excl. refuges)	770	72
Victims Assistance Program	200	6
Corrections-funded organisations <sup>3</sup>	100	50
<i>Subtotal</i>	<i>1,930</i>	<i>221</i>
<b>Government entities</b>		
Child Protection representatives (DHHS) <sup>4</sup>	30	1
Corrections <sup>5</sup>	1,180	1
Victims Support Agency	30	1
Victoria Police <sup>6</sup>	1,200	1
Magistrates' Court <sup>7</sup>	400	1
Children's Court	13	1
RAMPS <sup>8</sup>	108	N/A
<i>Subtotal</i>	<i>2,961</i>	<i>6</i>
<b>Total</b>	<b>4,891</b>	<b>227</b>

Notes: <sup>1</sup>Unless otherwise stated, these figures are based on internal data on the total number of workers/entities for each service.

<sup>2</sup>Assumes 10 staff per refuge.

<sup>3</sup>The specific Corrections-funded organisations that will be permitted to share information under the regime is a matter for further deliberation. For the purposes of this RIS, it is assumed that approximately 50 of these organisations will be impacted under the initial tranche of reform and that only two workers per organisation will require training.

<sup>4</sup>For the initial tranche of reforms, it is anticipated that only a small number (approx. 30) of Child Protection representatives within DHHS will share information under the regime. This is in addition to approximately 36 workers who participate in RAMPS.

<sup>5</sup>Assumes the initial tranche of reforms will necessitate training of a proportion of the Corrections workforce, namely staff from: public prisons (excl. prison officers and general duties staff), community correctional services, Adult Parole Board and Corrections Victoria head office. The extent to which the three private prisons (incl. Ravenhall) will directly share information under the regime is a matter for further deliberation. For the purposes of this RIS, these three entities are excluded.

<sup>6</sup>Approximate estimate of the number of Victoria Police workers that will require training under the initial tranche of reforms. This is in addition to approximately 18 workers who participate in RAMPS.

<sup>7</sup>Assumes approximately 30 registrars, 30 practitioners and 70 CISP/CROP staff will be responsible for sharing information under the initial tranche of reforms.

<sup>8</sup>Assumes six RAMPS members per RAMP, of which there are 18. Systems are already in place for RAMPS, so any additional system update costs are anticipated to be minor.