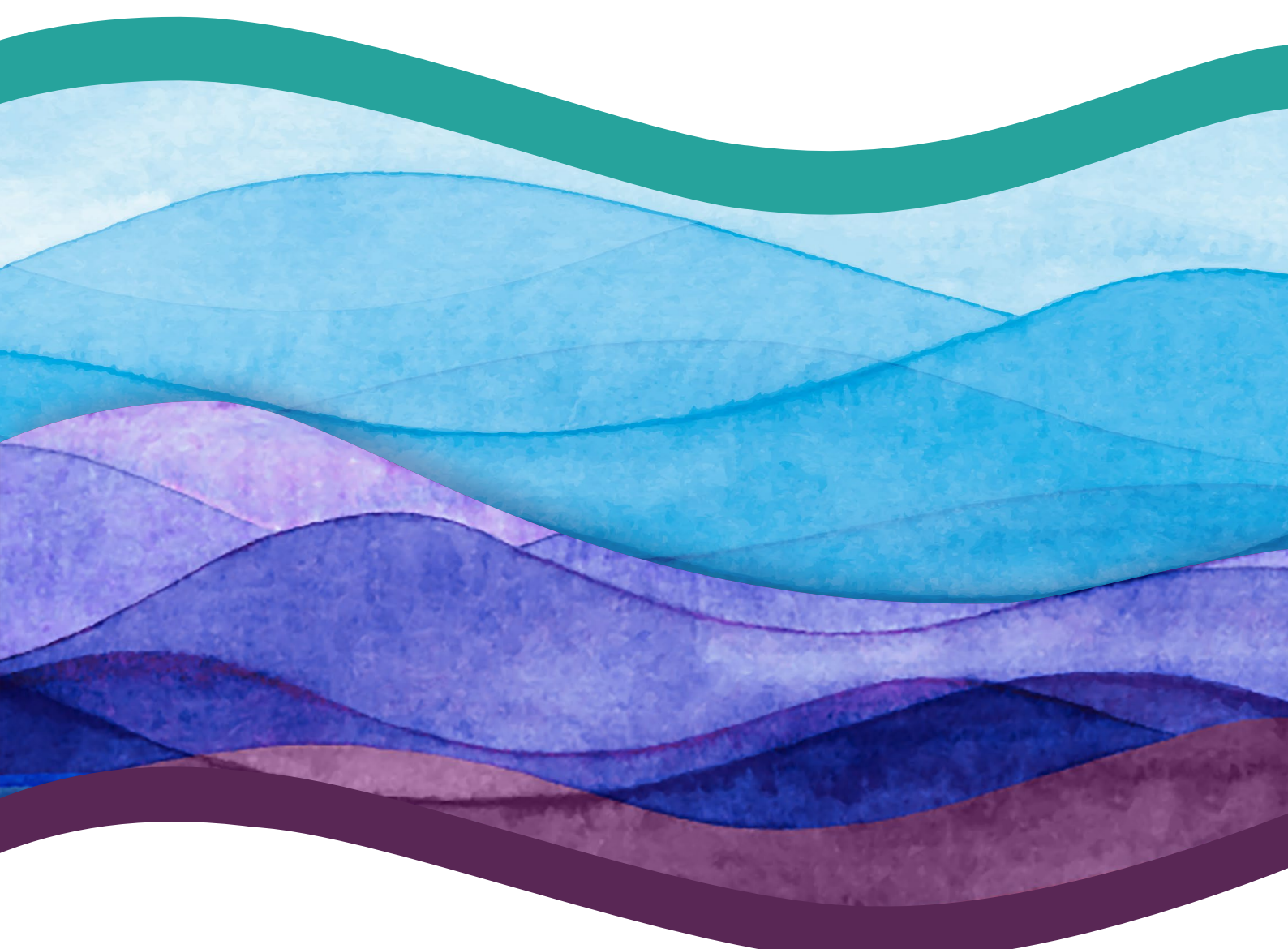


DOMESTIC AND FAMILY VIOLENCE

Information Sharing Guidelines



Acknowledgements

The Queensland Government respectfully acknowledges all victim-survivors who have experienced domestic and family violence and victims who have passed away as a result of domestic and family violence.

The Queensland Government acknowledges the Traditional Owners of the lands across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander people's history, culture, and knowledge. We acknowledge the violence that has been perpetrated against First Nations women since colonisation and the ongoing trauma and violence that continues to impact First Nations women today.

In 2017, the Queensland Government introduced new domestic and family violence information sharing provisions under the *Domestic and Family Violence Protection Act 2012*. The Information Sharing Guidelines (the Guidelines) were originally developed in 2017 to support practitioners to understand and implement the new provisions. The Queensland Government acknowledges the work of Australia's National Research Organisation for Women's Safety (ANROWS) in developing the first version of the Guidelines.

The Queensland Government also acknowledges the commitment and time of the Queensland Privacy Commissioner, the Integrated Service Systems Oversight Committee, and the Information Sharing Focus Group in supporting and contributing to the development of the revised Guidelines.

Content warning

The contents of this document may bring up strong feelings in some readers. Be assured you are not alone, and that there are many services and support groups available to assist.

Advice and support

DVConnect (www.dvconnect.org/) on **1800 811 811** (24/7 telephone support).

1800 Respect (www.1800respect.org.au) on **1800 737 732** (24/7 telephone and online crisis support).

Lifeline (www.lifeline.org.au) on **13 11 14** (24/7 crisis support and suicide prevention).



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Introduction

The Domestic and Family Violence Information Sharing Guidelines (the Guidelines) are part of the Queensland Government's commitment to a Queensland free from domestic and family violence where people feel safe and where children can grow and develop in safe, secure environments.

The Guidelines are intended to support practitioners and others to make informed decisions about sharing information appropriately in order to assess and manage domestic and family violence risk. It aims to provide practical guidance on the interpretation and application of the information sharing provisions to promote consistent responses that help to keep the victim-survivor safe and hold the person using violence to account.

The first version of the Guidelines was developed in 2017, following amendments to the *Domestic and Family Violence Protection Act 2012* (DFVP Act) passed in October 2016 and effective from 30 May 2017. The amendments provided clear legislative support for information sharing for the purposes of assessing and managing domestic and family violence risk. The Guidelines were aimed at supporting practitioners and others to understand and implement the new provisions.

Since 2017, integrated service responses to domestic and family violence have continued to grow and mature. There is now a greater understanding of how agencies, organisations and communities can work together to respond to domestic and family violence. Yet, information sharing across the integrated service system continues to be a challenge.

The Domestic and Family Violence Death Review and Advisory Board and the Women's Safety and Justice Taskforce found that the information sharing provisions were being interpreted and applied inconsistently, and were not being used in the most effective way to keep victim-survivors and children safe.¹

In response to these findings, the Queensland Government committed to reviewing the Guidelines to increase awareness, understanding, and consistent use of the information sharing provisions.

The revised Guidelines have expanded to consider areas where there has been uncertainty or conflicting application of the information sharing provisions and aim to provide clarity for practitioners and other users.

The Guidelines should be considered in the context of the [Domestic and Family Violence Common Risk and Safety Framework](#) which guides the delivery of integrated service responses to domestic and family violence.

Note: The Guidelines provide guidance on how to interpret and apply information sharing provisions in the DFVP Act. While there is some consideration of intersecting legislation, it is not intended to provide guidance on the interpretation and application of other Acts. The Guidelines do not constitute formal legal advice.

1. Domestic and Family Violence Death Review and Advisory Board Annual Report 2019-20, recommendation 5; Hear her voice – Report one – Addressing domestic and family violence and coercive control in Queensland, recommendation 20.

A note on language used in the Guidelines

There are a number of different terms used in the Guidelines that may or may not be familiar to all readers. Many different terms are used when referring to domestic and family violence, and terms are often dependent on the context, including the age of the person being spoken with or about, the service setting and who is present. Some practitioners and others may identify with or use different terms to those used in the Guidelines.

It is recognised that in practice, professionals and services will use the language that works for their service users in place of the terms used in the Guidelines. For example, terms such as applicant, respondent and aggrieved may be used.

Victim-survivor

The term 'victim' can be a stigmatised and disempowering term that can limit a person's self-agency and identity. The Guidelines acknowledge that a person is not defined by their experiences of violence and uses the term 'victim-survivor' in recognition of a person's choice to identify as either victim or survivor, or both.

Person using violence

The term 'person using violence' is used throughout the Guidelines in recognition of a person's ability to undergo personal development, be accountable for their actions, and transform their behaviours. It also acknowledges that many people using violence (particularly children and young people using violence) have been victim-survivors of violence themselves. Persons using violence are less likely to engage with support services and attempt to change if they feel that once labelled a perpetrator they will always be known as a perpetrator.

It is acknowledged that the DFVP Act refers to 'perpetrators' of domestic violence and that the terms 'perpetrator' and 'person using violence' are often used interchangeably.

Young person using violence

For young people, the term 'young person using violence' is used. This reflects that young people who use violence are often victim-survivors of violence themselves. It recognises that this is a form of family violence requiring distinct responses, given the age of the young person and their concurrent safety and developmental needs.

Children and young people

We recognise children as victim-survivors in their own right, and recognise their unique experiences and additional vulnerabilities, and consider these in the contexts of their ages and stages of development. In these Guidelines, the terms children and young people are used interchangeably and refer to all people under the age of 18 years.

Domestic and family violence screening and assessment

The Domestic and Family Violence Common Risk and Safety Framework (CRASF) underpins integrated service responses to domestic and family violence. While there is an important distinction between 'screening' and 'assessment' in the CRASF, the distinction does not apply to the information sharing provisions under Part 5A. This is because Part 5A uses the term assessment to refer to both the screening assessment that could be conducted by anyone who might come into contact with a person experiencing domestic and family violence (CRASF Level 1), and a risk assessment which requires a strong understanding of domestic and family violence (CRASF Level 2 and 3).

Privacy and confidentiality

The terms 'privacy' and 'confidentiality' are used interchangeably throughout these Guidelines to refer to the general protection of information.

Principles for information sharing

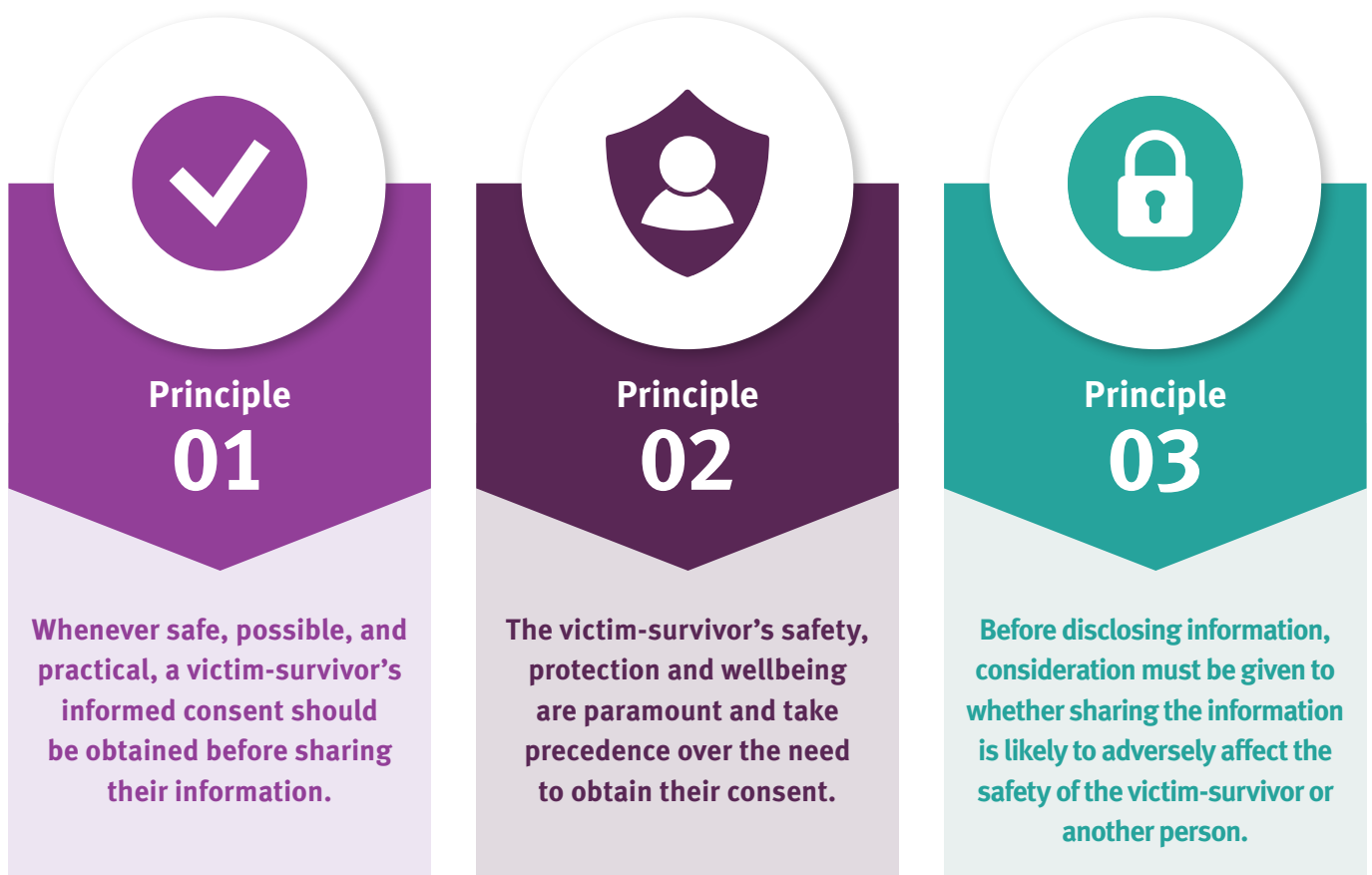
The underlying intent of the information sharing provisions is to enable relevant entities to share information on a confidential basis for the purpose of assessing or responding to a serious domestic and family violence threat, **in the interest of maximising the victim-survivor's safety, protection and wellbeing.**

If an entity believes that sharing information would help to keep the victim-survivor safe (and information sharing requirements are met – refer to Understanding Part 5A) then it may be appropriate to share the information.

Only information that may help to keep the person safe should be shared. If sharing information would not help to keep the victim-survivor safe, it should not be shared.

This underlying intent should form the basis of decisions around whether or not information should be shared. The legislation provides protection from liability where a person acts honestly in sharing the information. Such protection enables practitioners to use professional judgement to determine whether sharing specific information is in the interest of maximising the victim-survivor's safety, protection, and wellbeing.

The DFVP Act outlines three underlying principles for information sharing:



These Guidelines will unpack in more detail the three principles as they are essential in ensuring that the dignity, needs and safety of victim-survivors is central.

Informed consent is at the heart of information sharing and all responses to domestic and family violence. However, there are some situations where information can and should be shared without consent. A person's safety takes precedence over consent.

In almost all cases, the consent of the person using violence should not be sought as this could place the victim-survivor at increased risk.

In addition to the three underlying principles for information sharing included in the DFVP Act, there are other principles that practitioners and others should also consider when sharing information:

- » Practitioners and others use professional judgment in determining when and how information is shared in line with the information sharing provisions. Decisions are made on a case-by-case basis with the underlying intent of the information sharing provisions in mind.
- » The expertise of other entities is respected.
- » No single agency or organisation is responsible for holding all of the risk. Information is shared to support and inform integrated service responses to help keep the victim-survivor and children safe.
- » Neither the sharing entity, nor the receiving entity, own the information. Information sharing should not come from a position of whose information it is to share, but what information is available to support risk assessment and safety management.
- » Children and young people are recognised as victim-survivors in their own right. Risks to children and young people from domestic and family violence will be assessed individually and will not be assumed to be the same as their parent's.
- » A culturally aware and intersectional approach is adopted when sharing information. Any information that is shared or collected should be done in a manner that promotes cultural safety, is culturally sensitive, and considers the person's familial and community connections. Practitioners and others should have regard for a person's cultural, sexual, and gender identity, and their religious faith (if any).

Supporting the self-determination of victim-survivors

Whenever safe, possible and practical, a victim-survivor's informed consent should be obtained before sharing their information.

Information sharing should always be approached from a place of informed consent. Victim-survivors are the experts in their own lives. They know the patterns of behaviour the person using violence uses, and the impacts on themselves, their children, and their family. Victim-survivors are actively managing risk and making decisions about their safety everyday. Breaching the confidentiality of a victim-survivor can be dangerous to their safety and may also have implications for the service or staff working with the victim-survivor.

Any engagement with the victim-survivor should place them, their needs, and preferences at the centre. The focus should be on empowering the victim-survivor and supporting and increasing their self-determination and control over their life.

This requires services who are engaged with the victim-survivor to support them to make informed decisions and exercise their right to self-determination without coercion and free from judgement.

In almost all cases, the consent of the person using violence should not be sought as this could place the victim-survivor at increased risk.

Understanding informed consent

Information sharing should always be approached from a place of informed consent.

For a victim-survivor to give informed consent, they must be provided with adequate and transparent information. All reasonable efforts must be made to ensure that the victim-survivor has all the relevant facts and information they need to understand what they are consenting to, and what the consequences of consenting or not consenting may be.

This should include:

- » what information is shared, when, and with whom
- » what will happen with their information, including how it will be collected, recorded, stored, and used
- » how they can access their information.

Practitioners and others engaging with the victim-survivor must also be clear about limits to the victim-survivor's privacy and confidentiality. This includes being open and transparent about situations where information can be shared without the victim-survivor's consent and where their right to confidentiality may be limited. Limits to the victim-survivor's confidentiality must be explored and those engaging with the victim-survivor must check that they have clearly understood.

It must also be made clear to the victim-survivor that they can withdraw their consent at any time. Obtaining the victim-survivor's consent is an ongoing process and persons engaging with victim-survivors should clarify whether there is still consent at various stages of engagement.

Persons engaging with victim-survivors must be aware of factors that may limit or impair a person's ability to provide informed consent. This could include where the victim-survivor is a child or young person, has a cognitive impairment, or where English is a second language. Information must be tailored to meet the individual needs of victim-survivors, and practitioners and others should check in multiple times to confirm the victim-survivor understands.

More information about the principles of informed consent can be found in the [Office of the Information Commissioner guidelines on agreement and consent](#).

Understanding why a victim-survivor may not want to give consent

There are a number of reasons why a victim-survivor may not want to provide consent for their information to be shared.

Firstly, as the experts in their own experience of domestic and family violence, the victim-survivor may be aware that sharing the information may unintentionally put them at increased risk. Or they may fear that the details they disclose will be accessible by the person using violence (for example, via litigation).

A history of marginalisation and discrimination against some communities may result in victim-survivors from those communities fearing that authorities or service providers may misuse their information or breach their confidentiality.

This can be a particular concern for victim-survivors from culturally and linguistically diverse communities, First Nations victim-survivors, LGBTIQ+ victim-survivors, victim-survivors with disability, and others.

In rural and remote areas, there may be particular challenges in maintaining privacy and confidentiality due to the small and often close-knit population. A victim-survivor may be reluctant to consent to their information being shared if they feel this could lead to others in their community knowing about their personal circumstances. This could also increase the risk to the victim-survivor if the person using violence is also in, or known in, the community.

People engaging with victim-survivors have an obligation to address these concerns and to be honest about any limits to confidentiality.

The strength and resilience of victim-survivors that experience multiple forms of discrimination should be acknowledged and services should support the victim-survivor to make choices for themselves. Services and practitioners should not impose goals or outcomes on victim-survivors.

Understanding Part 5A

The information sharing provisions set out in Part 5A of the DFVP Act are enabling provisions. The provisions do not compel a person or entity to share information.

Part 5A requires practitioners and others engaging with victim-survivors, their children, and persons using violence to make a determination about whether and how information can be shared, based on professional judgement.

Part 5A of the DFVP Act allows for information to be shared without consent in some situations.

In some cases, it may not be safe, possible, or practical to seek consent. At times, the victim-survivor may refuse to provide consent. When sharing without consent, the victim-survivor should be informed of the intent to share the information, and which information will be shared. A victim-survivor should also be informed once information has been shared without consent so that they are aware of what has occurred (subject to any concerns that could adversely impact their health).

Confidential information may be shared in two circumstances:

- a. For the purposes of **assessing** a domestic violence threat
- b. For the purposes of **responding** to a serious domestic violence threat.

In almost all circumstances, consent should not be sought from the person using violence.

There are three key things to consider when determining whether information can be shared. All criteria must be met before information can be shared:

1. **The practitioner must work in an organisation that is classified as a prescribed entity, specialist domestic and family violence service provider (specialist DFV service provider), or support service provider; and**
2. **The practitioner's role within the organisation must include assessing or responding to domestic and family violence threats and/or taking action to lessen or prevent threats to life, health or safety because of domestic and family violence; and**
3. **The purpose for sharing the information must be either to assess or respond to a domestic and family violence threat.**

1. The practitioner must work in an organisation that is classified as a prescribed entity, specialist DFV service provider, or support service provider

Which entities can share information? (Entity classification)

Information can only be shared without consent if the organisation is classified as a prescribed entity, specialist DFV service provider or support service provider.

References to 'domestic violence' in the definitions of each entity includes 'associated domestic violence' which is defined as behaviour mentioned in section 8(1) by a respondent towards a child of an aggrieved, a child who usually lives with an aggrieved, a relative of an aggrieved, or an associate of an aggrieved.

Prescribed entity

A prescribed entity is a Queensland Government department that provides services to persons who fear or experience domestic violence or who commit domestic violence.

This includes government departments responsible for corrective services, justice, education, public health services, housing, child protection, and welfare.

Specialist DFV service provider

The DFVP Act defines a specialist DFV service provider as a Queensland non-government entity funded by the State or Commonwealth Government to provide domestic and family violence services to persons who fear or experience domestic violence, or who commit domestic violence (DFVP Act pt. 5A, div 1, s 169C).

The entity does not need to be funded to provide frontline services, but persons who fear or experience domestic violence (or who commit domestic violence) should be the intended beneficiary of the services for which the funding is provided.

Examples of government funded domestic and family violence services that would classify an entity as a specialist DFV service provider include, but are not limited to:

- » Domestic violence counselling for victim-survivors and/or children.
- » Domestic and family violence court-based services.
- » Intervention programs for persons using violence.
- » Crisis accommodation providers for victim-survivors fleeing domestic and family violence.
- » Local domestic and family violence integrated service system development, coordination, and response.

The entity does not have to exclusively provide services to people who fear, experience or use domestic violence to be considered a specialist DFV service provider. For example, the entity may be funded to provide general counselling as well as domestic violence counselling and would still meet the specialist DFV service provider criteria.

Prescribed entity examples

The Department of Education **is a prescribed entity** because it is a government department that provides services for persons who may fear, experience, or use domestic violence, and it is responsible for education, a portfolio responsibility listed under s169C(1)(a)(vi) of the DFVP Act.

A government department mainly responsible for mental health services **is a prescribed entity** because it provides services for persons who may fear, experience, or use domestic violence, and it is responsible for a public health service, a portfolio responsibility listed under s169C(1)(a)(viii) of the DFVP Act. In contrast, the Queensland Mental Health Commission **is not a prescribed entity** because it is an independent statutory body and its portfolio responsibilities do not include the delivery of services.

Queensland Treasury **is not a prescribed entity** because the department is not mainly responsible for one of the specified responsibilities under s169C(1)(a) and does not provide services to persons who fear, experience, or use domestic violence.

Examples of specialist DFV service providers

A local First Nations organisation is funded by the Queensland Government to provide a First Nations Cultural Advisor to work as a core member of the local High Risk Team (HRT).

The local First Nations organisation is classified as a **specialist DFV service provider** because it receives State Government funding to provide a service which:

- a) directly participates in and supports the HRT (part of the local integrated service response); and
- b) supports people at high risk of imminent harm or lethality from domestic and family violence (through the HRT response).

A local non-government organisation provides various support services for a range of clients, including counselling services for children and adults. Generalist counselling services, as well as domestic and family violence specific counselling services, are offered. The organisation receives funding from the Queensland Government for delivery of the domestic violence counselling.

The organisation can be classified as a **specialist DFV service provider** because it receives State Government funding to provide a domestic and family violence service (domestic violence counselling for children and adults) and the intended beneficiary of the service is people who fear or experience domestic violence.

If the organisation only received funding for general counselling, even though counselling may be offered to people experiencing domestic and family violence, it would not be considered a specialist DFV service provider.

Support service provider

A support service provider is a Queensland non-government entity that provides assistance or support services to persons, which may include persons who fear or experience domestic violence or commit domestic violence.

However, a support service provider differs from a specialist DFV service provider in that they are not funded specifically for the provision of domestic and family violence services. Support service providers may receive Government funding for non-DFV related services or may not receive Government funding at all.

Services may be offered to a wide range of people, which may include, but is not limited to, persons who fear or experience domestic violence or who commit domestic violence.

Examples of assistance or support services include, but are not limited to:

- » counselling
- » disability services
- » health services
- » housing and homelessness services
- » legal services
- » sexual assault services.

Note: An entity cannot be both a specialist DFV service provider and a support service provider. If an entity receives specific government funding for the provision of services to those impacted by domestic and family violence, then that entity is a specialist DFV service provider. If the entity does not receive that funding, they may be a support service provider.

Examples of support service providers

A General Practitioner is a **support service provider** as they provide support services (health services) to persons that may include persons who fear or experience domestic and family violence.

The General Practitioner is not a specialist DFV service provider as they do not receive government funding to deliver specific domestic and family violence support services. They are not a prescribed entity as they are not employed by the Department of Health (or a health service under the Hospital and Health Boards Act 2011).

A community legal service provides legal services to persons, including those who may fear or experience domestic and family violence. The funding is not linked specifically to domestic and family violence supports. Therefore, the community legal service is a **support service provider**.

A disability support organisation provides disability support services, including to people who may fear or experience domestic and family violence. The funded supports are not specific to domestic and family violence. The disability support organisation is a **support service provider**.

2. The practitioner's role within the organisation must include assessing domestic and family violence threats and/or taking action to lessen or prevent threats to life, health, or safety because of domestic and family violence

Once a person, or organisation, has determined their entity's classification, they must determine **who in the organisation can share information (Practitioner's role)**.

For a person to share, receive, or use information, they must be employed (or engaged) by either a prescribed entity, a specialist DFV service, or a support service. Regardless of the classification of the organisation, the person's duties in the role must include (but are not necessarily limited to):

- » assessing threats to life, health, or safety because of domestic and family violence; **or**
- » taking action to lessen or prevent threats to life, health, or safety because of domestic and family violence.

This does not mean that the practitioner must be a specialist in domestic and family violence but does mean that the requirement to assess or respond to domestic and family violence threats is a foreseeable requirement of the role.

Example – Practitioner's role

A family support service is funded by the government to provide family support on a range of family and parenting challenges. As the funding does not specifically relate to domestic and family violence services (though people experiencing domestic and family violence may use the services), the organisation is a **support service provider**.

Eva is a support worker at the organisation and often works with families where there is violence in the home. In her role, Eva needs to make judgements about the level of risk to family members and what steps can be taken to help mitigate the risk. This includes determining when a referral should be made to a specialist DFV service provider.

Eva meets the 'practitioner's role' requirement and can share information on behalf of a support service provider because her role includes assessing threats to life, health, or safety because of domestic and family violence and taking action to lessen or prevent threats to life, health, or safety because of domestic and family violence.

Fulan visited her local Counselling

CASE STUDY

PRACTITIONER'S ROLE

service to speak with a counsellor about homesickness and difficulties she was having at her place of employment. At the time of making the appointment, Fulan disclosed to the administration officer that she was struggling with her husband controlling her.

On the day of her appointment, Fulan did not mention the domestic and family violence to the counsellor, but the notes from the administration officer prompted the counsellor to complete the [Level 1 Common Risk and Safety Framework](#) (CRASF) tool. Completion of the tool indicated to the counsellor that domestic and family violence was occurring and, upon further discussion with Fulan, the counsellor held serious concerns for Fulan's safety.

The counsellor requested Fulan's consent

to refer her to a specialist DFV service provider. However, Fulan declined as she was afraid this would only make things worse. The counsellor determined, based on their expertise and professional opinion, that the risk to Fulan warranted a referral to the specialist DFV service, even though Fulan had not given consent for her information to be shared.

The counsellor has determined that the entity she works for is classified as a support service provider. In her role as counsellor, she must make a professional judgement about the level of risk to her client and her duty of care requires her to take action (by referral or disclosure) to lessen or prevent the risk from domestic and family violence. This means that the counsellor is working in an appropriate role, within an appropriate organisation to share the information about Fulan without

consent, for the purpose of assessing the domestic and family violence threat against Fulan.

When Fulan called to make another appointment, the administration officer witnessed further evidence of domestic and family violence against Fulan. The administration officer's role does not include the assessment of, or response to, domestic and family violence threats, so they are not able to share information with another entity. However, the administration officer is able to raise their concerns with their supervisor or a specialist within their organisation. The administration officer discussed the concerns with Fulan's counsellor and the counsellor was able to act on these concerns.

3. The purpose for sharing the information must be either to assess or respond to a domestic and family violence threat

Finally, the person or organisation must determine **for what purpose is the information being shared? (Purpose)**.

The rules regarding information sharing under Part 5A differ depending on the classification of the entity and whether the purpose is to assess or respond to a domestic and family violence threat.

If information is being shared for the purpose of **assessing** domestic and family violence risk, information may only be shared with a prescribed entity or a specialist DFV service provider.

If information is being shared for the purpose of **responding** to a domestic and family violence risk, information may be shared with a prescribed entity, a specialist DFV service provider, or a support service provider.

Note: A person is protected from liability for sharing information under Part 5A of the DFVP Act. If a person, acting honestly, shares information they believe to be in compliance with Part 5A of the Act, they are not liable civilly, criminally, or under an administrative process, for giving the information (DFVP Act Part 5A, div 5, s 169N).

Information sharing requirements for prescribed entities and specialist DFV service providers

Where information is to be used for the purpose of **assessing** a domestic violence threat

Prescribed entities and specialist DFV service providers may share information without consent with another prescribed entity or specialist DFV service provider for the purpose of assessing a domestic violence threat if:

- » it reasonably believes a person fears or is experiencing domestic and family violence; and
- » giving the information may help the receiver assess whether there is a serious threat to the person's life, health, or safety because of the domestic and family violence.

Where information is to be used for the purpose of **responding** to a serious domestic violence threat

Prescribed entities and specialist DFV service providers may share information without consent with another prescribed entity, specialist DFV service provider, or support service provider for the purpose of responding to a serious domestic violence threat if:

- » it reasonably believes a person fears or is experiencing domestic violence; and
- » giving the information may help the receiver to lessen or prevent a serious threat to a person's life, health, or safety because of the domestic violence.

Prescribed entities and specialist DFV service providers may use information shared with it to the extent necessary to lessen or prevent a serious domestic violence threat. This may include, but is not limited to:

- a. contacting, or attempting to contact the person or another person involved in the domestic violence; or
- b. offering to provide assistance or a service to the person or another person involved in the domestic and family violence.

Information sharing requirements for support service providers

Where information is to be used for the purpose of **assessing** a domestic violence threat

Support service providers may share information without consent with a prescribed entity or specialist DFV service provider for the purpose of assessing a domestic violence threat if:

- » it reasonably believes a person fears or is experiencing domestic violence; and
- » giving the information may help the receiver assess whether there is a serious threat to the person's life, health or safety because of the domestic violence.

Support service providers cannot receive information for the purpose of assessing a domestic violence threat.

Where information is to be used for the purpose of **responding** to a serious domestic violence threat

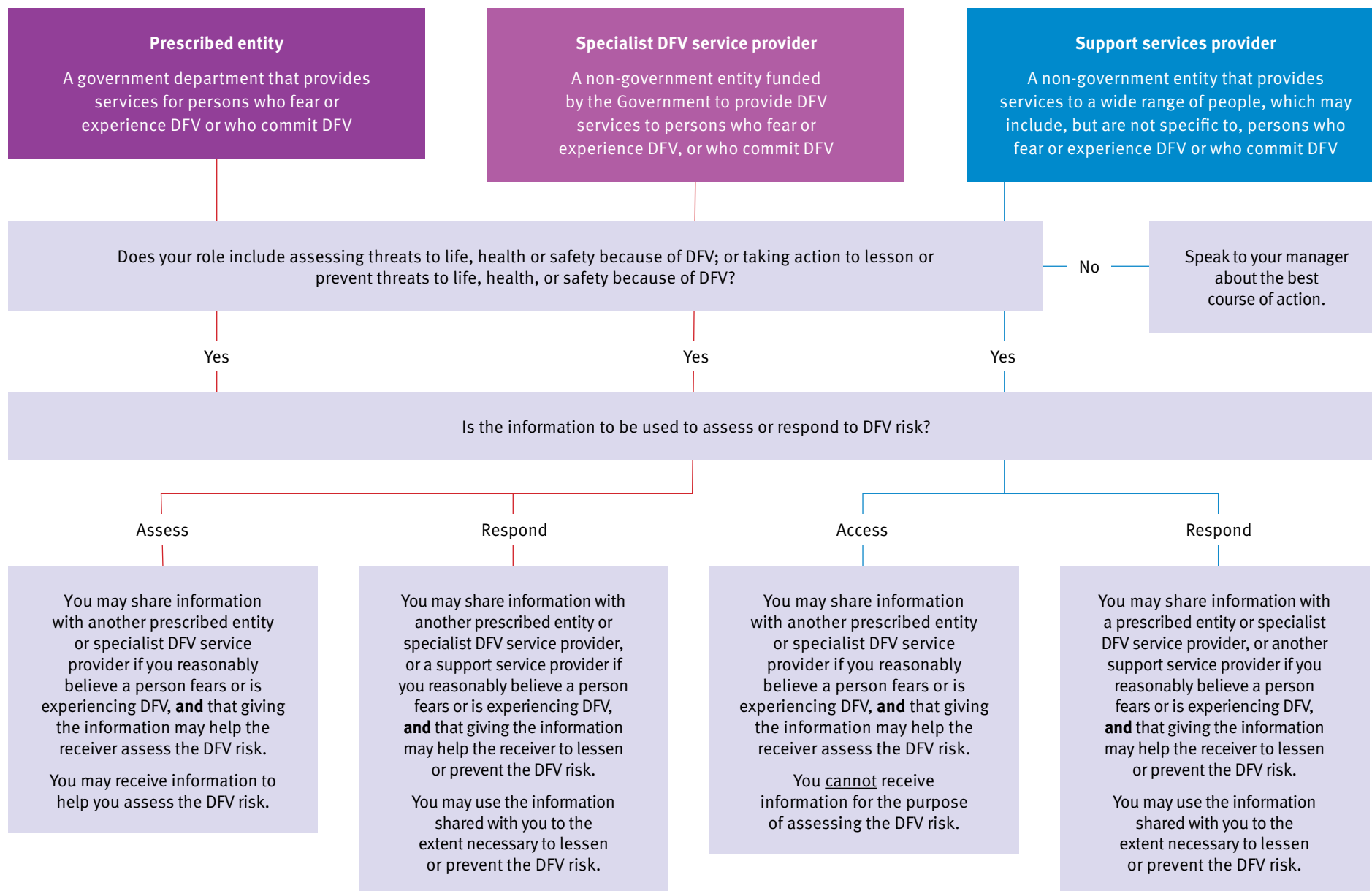
Support service providers may share information without consent with a prescribed entity, a specialist DFV service provider, or another support service provider for the purpose of responding to a serious domestic violence threat if:

- » it reasonably believes a person fears or is experiencing domestic violence; and
- » giving the information may help the receiver to lessen or prevent a serious threat to the person's life, health or safety because of the domestic violence.

Support service providers may use information shared with it to the extent necessary to lessen or prevent a serious domestic violence threat. This may include, but is not limited to:

- a. contacting, or attempting to contact the person or another person involved in the domestic violence; or
- b. offering to provide assistance or a service to the person or another person involved in the domestic violence.

What classification is the entity you work for?



Determining whether a threat is ‘serious’

The DFVP Act does not define the term ‘serious threat’. There is no set threshold or criteria that must be met before information can be shared.

It is up to practitioners and others to use their professional judgement to determine whether the risk warrants sharing a person’s information. In making this decision, practitioners and others must keep in mind the underlying intent of the information sharing provisions:

Would sharing the information help to maximise the victim-survivor’s safety, protection, and wellbeing?

Part 5A of the DFVP Act is enabling legislation, it is not mandatory. If a person believes, based on their professional opinion, that a victim-survivor is at sincere risk of harm and this harm could be mitigated through sharing information, they are enabled to share information.

To assist practitioners to make this assessment, it can be useful to consider the means, capacity, and intent of the person using violence.

The [Domestic and Family Violence Common Risk and Safety Framework](#) should be used when assessing the level of risk from domestic and family violence and can provide further guidance on risk factors, means, capacity, and intent.

Determining whether information is ‘relevant’

Practitioners and others who engage with victim-survivors, their children, or persons using violence must use their professional judgement to determine what information is relevant for the purposes of assessing or managing a domestic violence threat. What counts as relevant information is unique to each circumstance.

Relevant information may be comprised of facts or professional opinions.

Facts refer to absolutes. For example, the date the person using violence may be released on parole, or the number of charges against a person. Opinions may be based on professional judgement.

Relevant information may relate to the victim-survivor, their children and other family members involved, and the person using violence.

Relevant information is not limited only to information specifically about the violence experienced by the victim-survivor. It is recognised that domestic and family violence can impact on all aspects of a person’s life. Patterns of abuse may present in various and often subtle forms, including but not limited to substance use, threats of self-harm or suicide, breaches of police orders, anxiety/depression, and school avoidance. Relevant information should include any information that may assist in assessing risk (including understanding the patterns of behaviour) or in managing risk.

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

Obligations to consider safety implications of sharing information

As enabling legislation, the information sharing provisions do not mandate that information must, or even should, be shared. Practitioners and others must determine on a case-by-case basis whether sharing information is in the best interests of the victim-survivor and children.

The safety, protection and wellbeing of people who fear or experience domestic violence, including children, are paramount. Practitioners and others must consider whether disclosing personal information is likely to adversely affect the safety of the person or another person.

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

If the practitioner determines that the risk of sharing information is too high and mitigatory factors are unlikely to prevent or lessen the risk, it would be permissible for the entity to decide *not* to share that information.

However, the practitioner must take appropriate steps to help keep the victim-survivor and children safe. The [Domestic and Family Violence Common Risk and Safety Framework](#) can help to guide the development of a safety action plan.

The risk of a person using violence locating a victim-survivor as a result of information sharing can be countered by appropriate protective factors. Care should be taken to obscure identifying information about a victim survivor's whereabouts.

Relevant forms and tools used by practitioners and others engaging with victim-survivors should include privacy and confidentiality disclaimers to specifically note that confidential domestic violence information is contained within.

This can help those who are identifying information for courts proceedings to be aware of the confidential information and exclude all or part of those documents from being accessed by the person using violence or their legal counsel.



CASE STUDY



Jane is a victim-survivor of domestic and family violence. She has been experiencing physical and psychological violence at the hands of her partner, John, for decades.

Jane presented to hospital with some injuries. During this visit, hospital staff suspected Jane's injuries may be the result of intimate partner violence. They arranged to speak with Jane alone, without John's knowledge, and completed the CRASF level 1 screening tool. This indicated to staff that domestic and family violence was likely occurring.

Hospital staff requested Jane's consent to refer her information to a specialist DFV service and the Queensland Police Service. Jane did not provide consent and indicated that she believed that this would make her unsafe as John monitored Jane's

phone and watched her on video cameras when he was not home. She indicated that she had not disclosed the violence to any other person or service. The hospital staff determined that it was in Jane's best interest to share the information to the Queensland Police Service and the specialist DFV service without her consent.

However, hospital staff were conscious of respecting Jane's self-determination and recognised that she was the expert in her own experience of domestic and family violence. They decided to consult with the Queensland Police Service and the specialist DFV service using de-identified information.

In consultation with the Queensland Police Service and the specialist DFV service it was determined that further contact with Jane from the DFV service

or the Police would increase the risk to Jane's safety as they could not contact her without John's knowledge. It was determined that damaging trust with the hospital staff would further isolate Jane and reduce her ability to seek further help when she required it. They decided to continue monitoring the situation for a more appropriate time to act. Hospital staff worked with Jane to put a basic safety plan in place and let her know that when she was ready to seek support, there were services that could assist her.

When information should not be shared

The DFVP Act specifies there are certain circumstances and certain information that may not be shared under the Act.

Information must **not** be shared under the DFVP Act if:

- » The information is about a conviction for an offence other than a domestic and family violence offence and:
 - a. the rehabilitation period for the conviction under the *Criminal Law (Rehabilitation of Offenders) Act 1986* (Qld) has expired. This period is the later of:
 - i. 10 years from the date a conviction was recorded, or a later date on which an order made by the court in relation to the conviction is satisfied, where:
 - 1. the person was convicted of an offence;
 - 2. the person was not dealt with as a child for the offence; and
 - 3. an indictment was recorded in respect of that offence (trials of matters for which an indictment has been presented are generally heard in the Supreme or District Courts); or
 - ii. otherwise, five years from the date a conviction was recorded, or a later date on which an order made by the court in relation to the conviction is satisfied; and
 - b. the conviction has not been revived
- (see rehabilitation period: *Criminal Law (Rehabilitation of Offenders) Act 1986*, s3 and s11). A rehabilitation period does not apply where a person was not sentenced to a term of imprisonment for the conviction, or where the term of imprisonment was less than 30 months.
- » The information could identify a person who notified authorities (including police officers, doctors or nurses) of their suspicion that a child has been, is being, or is likely to be harmed (including, for an unborn child, that they may be at risk of harm after being born) (see ss186-186C of the *Child Protection Act 1999* (Qld)).
- » The information was acquired by an employee of the Director of Public Prosecutions and is considered confidential for the purposes of s24A of the *Director of Public Prosecutions Act 1984* (Qld), including under a guideline given by the Director of Public Prosecutions for that purpose.
- » The information is 'sensitive evidence' for the purposes of s590AF of the Criminal Code. This includes:
 - a. child exploitation material, or information that is alleged to be child exploitation material; and
 - b. anything containing or displaying an image of a person that is obscene or indecent, or that would interfere with the privacy of the person in the image.
- » The information is a recording, copy, soundtrack, or transcript of, or reproduction of any images from, a video recording of evidence given by:
 - a. a special witness (*Evidence Act 1977* (Qld), s21A); or
 - b. an affected child (*Evidence Act 1977* (Qld), ss21AA-21AD)

(see recording: *Evidence Act 1977* (Qld) s21AY).

- » The information was evidence in a criminal proceeding and is a statement made by a person who, at the time the statement was given, was: a child (under 16 years); a child between the age of 16 and 17 years and a special witness at the time of the proceeding; or a child or person with an impairment of the mind (see: *Evidence Act 1977* (Qld) s93A).
- » The information is a video or audio recording, or transcript of a recording, made by an adult complainant in relation to an alleged domestic violence offence (see definitions of 'recorded statement' and 'domestic violence offence' in *Evidence Act 1977* (Qld) ss103A and 103B respectively)
- » Giving the information would contravene an order of a court or tribunal.

This is a simplified explanation of the limitations that will apply in most cases and is not legal advice. If in doubt about whether one of these provisions apply to a specific case, practitioners may wish to seek legal advice or advice from an appropriate agency with experience in the operation of the relevant legislation.

CASE STUDY

WHEN INFORMATION SHOULD NOT BE SHARED

John was convicted for wilful damage in the District Court in January 2010. He was sentenced to three years imprisonment and released in January 2013.

In January 2021, a specialist DFV service is assisting John's wife, Jane. Jane has disclosed information to the provider that they consider is important to share for Jane's safety.

In addition to a number of other disclosures, Jane told the provider about John's conviction for wilful damage. The provider believes this information is relevant because it demonstrates the pattern of the abuse against Jane when he damages her possessions.

The rehabilitation period has expired for John's wilful damage conviction. As it has been more than 10 years since he was convicted in 2010 and it has not been revived, the information relating to the conviction **cannot** be shared.

However, if John's conviction had been recorded as a conviction for a domestic violence offence, the provider **could** share the information under Part 5A if they believed it relevant and necessary to do so.

Interaction with other legislation

Information sharing and other Queensland Acts

The Part 5A information sharing provisions enable practitioners and others to share relevant information to assess or respond to a domestic and family violence risk where sharing this information is not expressly permitted in other legislation. Information sharing powers, obligations and privileges provided through any other Act or law are not limited by Part 5A of the DFVP Act (s169O).

Except for the instances mentioned on page 20 (when information should not be shared), the DFVP Act enables practitioners to share relevant information to reduce the risks from domestic and family violence despite perceived contradiction with other Queensland laws.

This means that a practitioner should be able to share information to assess or respond to a domestic and family violence threat even if other Queensland legislation prohibits sharing the information, except in the circumstances outlined in s169J (as summarised on page 21) and subject to the following provisions:

- » the *Child Protection Act 1999*, chapter 6, part 6, division 2, subdivision 1;
- » the Criminal Code, s590AX;
- » the *Director of Public Prosecutions Act 1984*, s24A; and
- » the *Evidence Act 1977*, ss21AZB, 21AZC, 93AA and 103Q.

If a practitioner is unsure whether these scenarios apply to their situation, they should seek independent legal advice.

As a general rule, it is unlikely information can be shared under Part 5A if doing so would be in breach of a law of another State or the Commonwealth. In some cases, however, the restriction on disclosure of information imposed by the law of another State or the Commonwealth may be expressed to be subject to the laws of Queensland. In those cases, information should be able to be shared under the DFVP Act.

Mandatory reporting obligations

Mandatory reporting provisions obligate staff in certain roles to report suspicions of child harm.

Sharing information under the DFVP Act does not replace mandatory reporting obligations under other legislation. A person, or entity, who receives information under Part 5A may also be required to discharge their mandatory reporting requirements under other legislation.

If information received under Part 5A warrants a mandatory report, this information can be provided as part of that mandatory report because the disclosure of that information is required by law under the *Child Protection Act 1999*.

Human Rights Act 2019

The *Queensland Human Rights Act 2019* (HR Act) protects 23 human rights and must be considered in all decision making. The HR Act acknowledges that human rights are not absolute and may be subject under the law to reasonable limits that can be justified. A right may be limited or balanced with other rights to ensure that in protecting one human right, we are not impinging on others. Limitations on human rights must have a clear legal basis and must be reasonable and demonstrably justified in the circumstances.

While there may be concerns about breaches of a person's right to privacy and reputation by sharing information under Part 5A, this does not outweigh the victim-survivor's right to life, protection from torture and cruel, inhuman or degrading treatment, or protection of families and children.

Information use and other Acts

The DFVP Act provides guidance for how employees and entities can use the information they receive from other entities under Part 5A.

"...the DFVP Act enables practitioners to share relevant information to reduce the risks from domestic and family violence despite perceived contradiction with other Queensland laws..."

Information received should only be used for the purposes permitted by Part 5A, as required under the *Information Privacy Act 2009* (IP Act), or as otherwise required as permitted by law.

This means that the provisions regarding the use of information received under Part 5A does not limit requirements of any other Act. Employees and entities should use information received under Part 5A as per the normal requirements of their governing Act (s169K).

Information Privacy Act

The IP Act does not prevent information from being shared if another law (such as the DFVP Act) authorises information to be shared. The IP Act provides a framework to protect personal information and allows the sharing of personal information in limited circumstances. It guides decision making on the collection, storage, use and appropriate sharing of personal information.

Queensland Government agencies and many funded organisations are required to comply with the 11 Information Privacy Principles in the IP Act. Health agencies should also be aware of the National Privacy Principles (NPPs) when collecting, accessing, using and disclosing personal information. The NPPs enable individuals to be aware of the purpose their personal information is held by health agencies, whilst the provision also provides an individual with the right to access and amend such information. The NPPs are set out in schedule 4 of the IP Act.

Other jurisdictions

The provisions at Part 5A do not override Commonwealth legislation. Entities continue to be subject to their existing obligations under Commonwealth legislation.

However, sharing information about domestic and family violence is already permitted in certain circumstances under other laws. For example, the *Privacy Act 1988* (Cth) permits certain entities to collect, use, or disclose personal information without consent where it is unreasonable or impracticable to obtain consent, and the entity reasonably believes that the collection, use or disclosure is necessary to lessen or prevent a serious threat to the life, health or safety of an individual. It may be appropriate to share information under other legislation (such as the Privacy Act) in situations where sharing under Part 5A is not permitted.

The DFVP Act is applicable to Queensland only. Information cannot be shared or requested under Part 5A with government entities of other jurisdictions and non-government entities operating outside of Queensland.

It may be appropriate to share information under other legislation. For example, prescribed entities which are subject to the IP Act may use or disclose information obtained for a particular purpose for a different purpose if the entity is satisfied on reasonable grounds that the use of the information is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual.

A simple way to determine whether an entity is considered a Queensland entity (that is, they are operating in or for Queensland), is to consider whether the person to whom the information relates, or to whom the service is to be provided, is in Queensland. If so, the entity can be considered a Queensland entity.

Example

A national company may receive Commonwealth funding to provide services to persons who fear or experience domestic and family violence. Those services may be provided to people throughout Australia.

The company would be classified as a specialist DFV service provider and would be permitted to share and receive information relating to a victim-survivor in Queensland, in line with Part 5A.

CASE STUDY

SHARING INFORMATION UNDER OTHER LEGISLATION

A specialist DFV service provider operating in Queensland has been supporting a victim-survivor at risk of domestic and family violence. The victim-survivor lives in Queensland but wishes to relocate to New South Wales (NSW) to access supports and be closer to their informal supports.

The victim-survivor has consented to the specialist DFV service provider sharing relevant information with a service in NSW who will continue to assess and respond to the domestic and family violence risk. However, as the NSW organisation does not operate under the Part 5A provisions (given they are in another jurisdiction), the information is instead shared under the Commonwealth *Privacy Act 1988*.

If the victim-survivor had not provided consent, relevant information may still be able to be shared under other legislation. For example, the Commonwealth *Privacy Act 1988* provides for information to be shared without consent where there is a reasonable belief that disclosure of the information is necessary to lessen or prevent a serious threat to the life, health, or safety of an individual.

Protecting the confidentiality of information

Practitioners and others must consider appropriate ways to protect the confidentiality of the information, whether or not consent has been provided to share it.

All information shared with or without consent must comply with relevant information sharing legislation, including the IP Act, the [Information Privacy Principles](#) and the [National Privacy Principles](#). Some entities may also be subject to specific legislation which includes its own information sharing requirements. More information can be found on the [Office of the Information Commissioner website](#).

It is important to keep a record of any requests to share information, and retain a copy of all information shared, including who you shared the information with, why, and how.

When requesting information, be clear about why you need the information, what information you are seeking, and how it will be used. Information requests should not be used as 'fishing expeditions' for a broad range of information.

Entities should keep a record of the individual's consent (or non-consent), including what the individual was told about the information to be shared, the proposed use of the information, and the recipient and its intended proposed use of the information.

Remember, a victim-survivor can withdraw their consent at any time. Obtaining informed consent is an ongoing process and persons engaging with a victim-survivor should clarify at various stages of engagement whether there is still consent.

Secure management of confidential domestic and family violence information

Agencies covered by the IP Act must comply with the [Information Privacy Principles \(IPPs\)](#) or [National Privacy Principles \(NPPs\)](#) regarding storage, security, and access to personal information.²

Specifically, IPPs 4-7 require that, “once an agency has collected personal information, it must:

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

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

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

2. Take reasonable steps to ensure that an individual can find out whether the agency holds documents containing personal information, the type of information held, the purposes for which the information is used and what the individual should do to obtain access to a document containing their personal information.

Some agencies will publish this information in the form of a privacy policy which should be accessible from the agency in hardcopy or may be accessible through the agency's website (IPP5).

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

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

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

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

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

Generally, good practice means hard copies of documents with personal information are marked “confidential” and electronic copies are password protected. Personal information that may identify a victim-survivor must be stored securely, and only made accessible to professionals who are assessing the threats of domestic and family violence or providing a service. A written record of what has been shared should be stored on file.

As best practice, service providers should also add guidance to written communications where information is shared such as:

- » the inappropriate disclosure of the information will have harmful consequences for safety;
- » the information is provided on the basis that the receiving service provider does not use it for any purposes other than those outlined in the referral/information request; or

- » the receiving service provider must not disclose the information further without the victim-survivor's consent unless an appropriate exemption applies.

Entities should also have a process in place that allows for information received under Part 5A to be readily identified as information obtained under Part 5A and ensure that sufficient security measures are in place to:

- a. prevent unauthorised access to that information; and
- b. ensure that the information is only used for the purposes of assessing or responding to a domestic and family violence risk.

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

2. These Guidelines aim to provide general advice around good practice management of confidential information in line with the Information Privacy Principles. It is not intended to provide guidance around the sharing of personal information under other legislation, such as the Information Privacy Act 2009 or about the collection and storage of personal information. For further information, refer to the Information Privacy Act 2009 or the IPPs.

Checklist for information sharing

Use this checklist to help determine whether it is appropriate to request or share information under Part 5A.

What is the purpose of sharing the information?

- ☐ What is intended to be achieved by sharing the information?
 - ☐ What personal information needs to be shared or obtained?
 - ☐ Could the desired outcome be achieved without sharing the information?
-

Have you considered the situation from the victim-survivor's perspective?

- ☐ Have you sought consent if safe and appropriate to do so?
 - ☐ If the victim-survivor has not provided consent, why?
 - ☐ Would sharing the information without the victim-survivor's consent help to keep the victim-survivor and children safe?
 - ☐ What risks are associated with sharing the information?
 - ☐ Are systems in place to support the ongoing safety of the victim-survivor and to mitigate any increased risk from sharing the information?
-

What information is being sought?

Has the information request clearly articulated:

- ☐ The information that is needed?
 - ☐ Why the information is needed?
 - ☐ Who will be using the information?
 - ☐ How the information will be used?
-

Are processes in place to support secure sharing and storage of personal information?

- ☐ What is being shared? Is some of the information sensitive or subject to specific security considerations?
 - ☐ Has information been marked 'confidential' and additional security measures enacted, such as password encryption?
 - ☐ Have you considered where and how the information will be stored, and are provisions in place to identify that the information has been obtained under Part 5A?
-

What additional responses are needed?

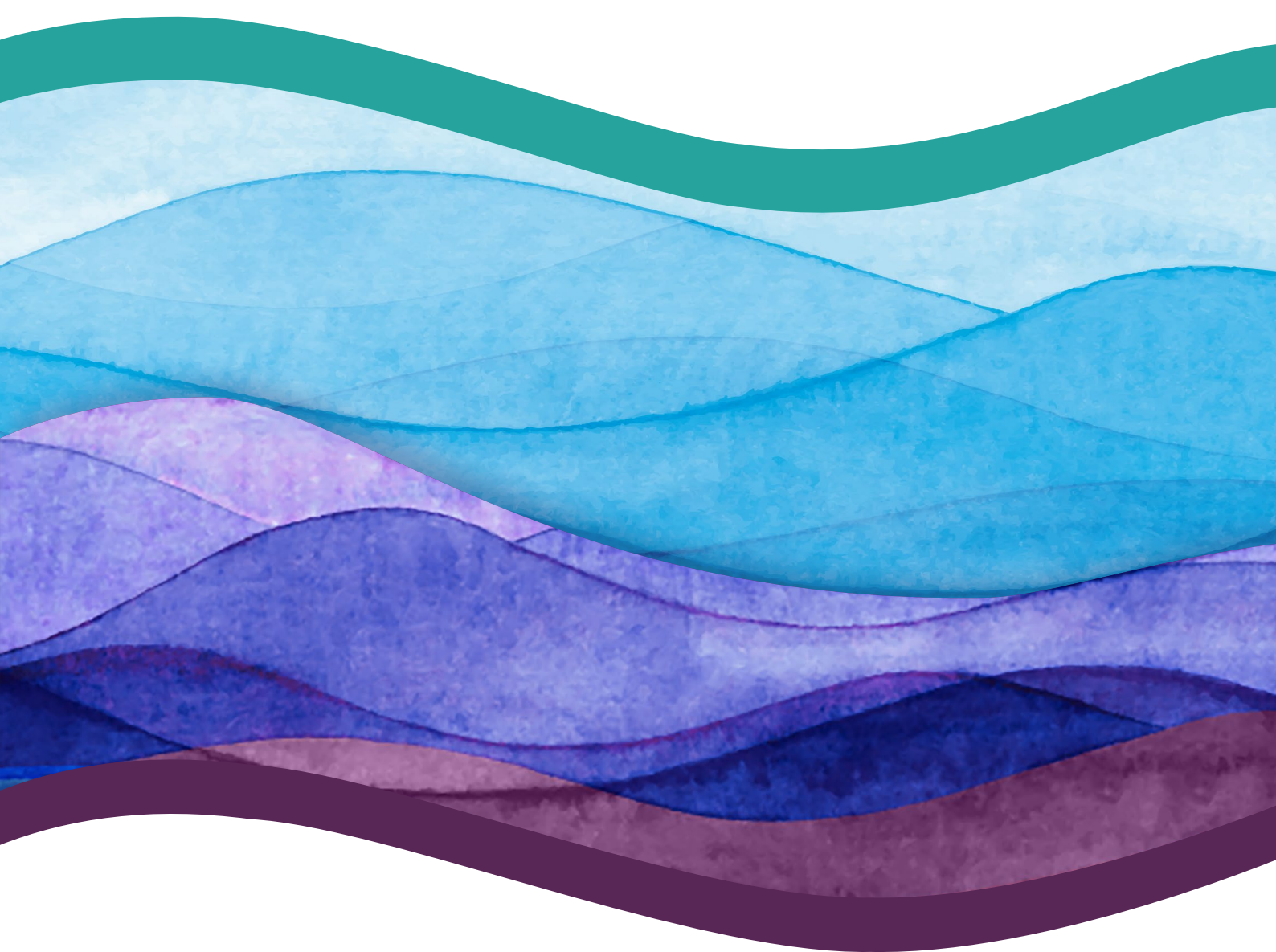
- ☐ Have you consulted with the entity that requested/provided the information to enact an integrated response and ensure appropriate use of the information?
 - ☐ Who will provide ongoing support for the victim-survivor?
-

Has the information request been appropriately recorded?

- ☐ If you have shared information, have you recorded what information you shared, with whom you shared it, for what purpose the information was shared, and whether consent was given?
- ☐ If you have determined not to share information, have you recorded the request that you received and the rationale for not providing the information?

Flow chart for information sharing

Check whether sharing the information aligns with the underlying intent of the information sharing provisions

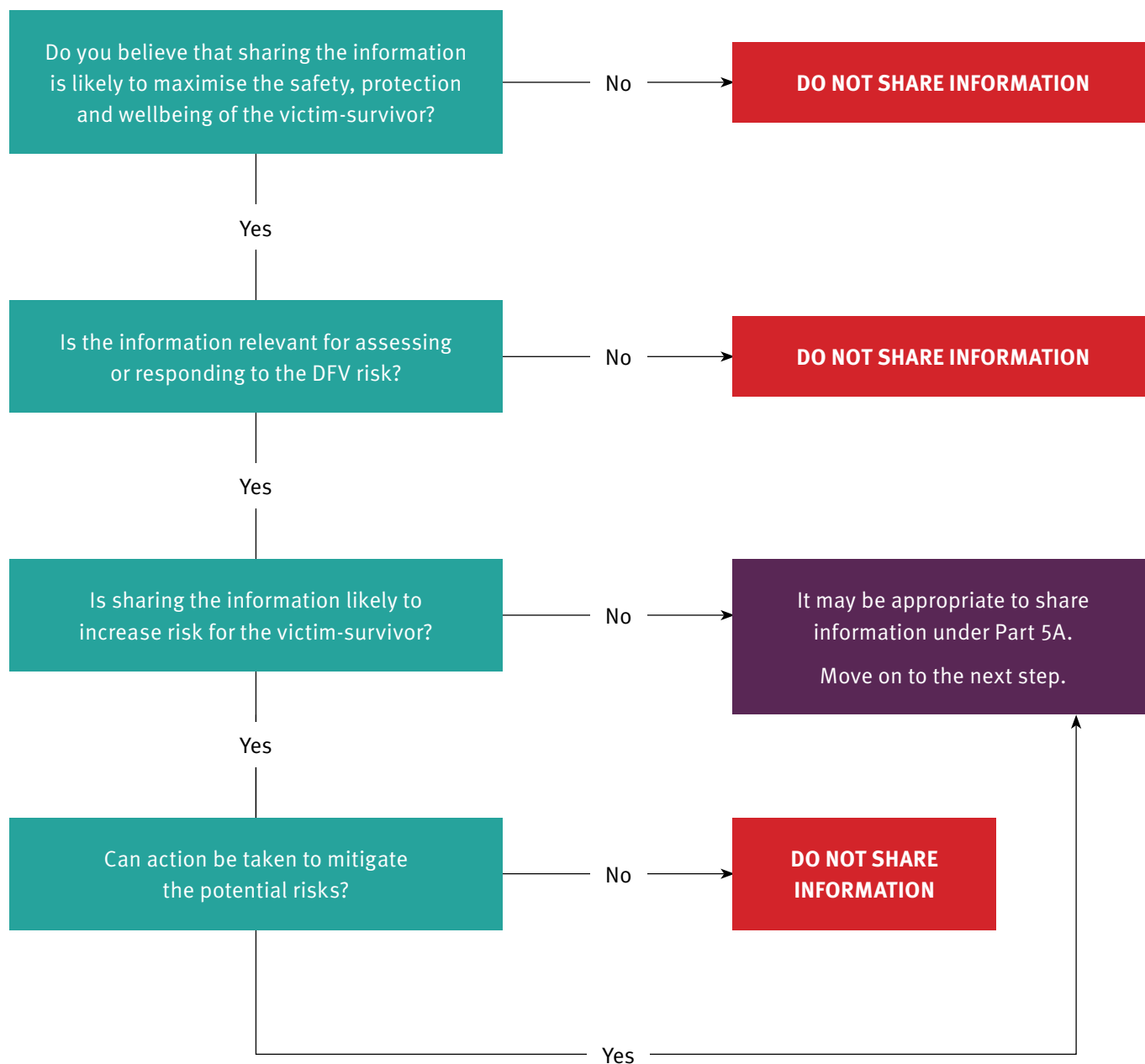


Flow chart for information sharing

Check whether sharing the information aligns with the underlying intent of the information sharing provisions

Step 1

Check whether sharing the information aligns with the underlying intent of the information sharing provisions



Step 2

If possible and appropriate, obtain the victim-survivor's consent



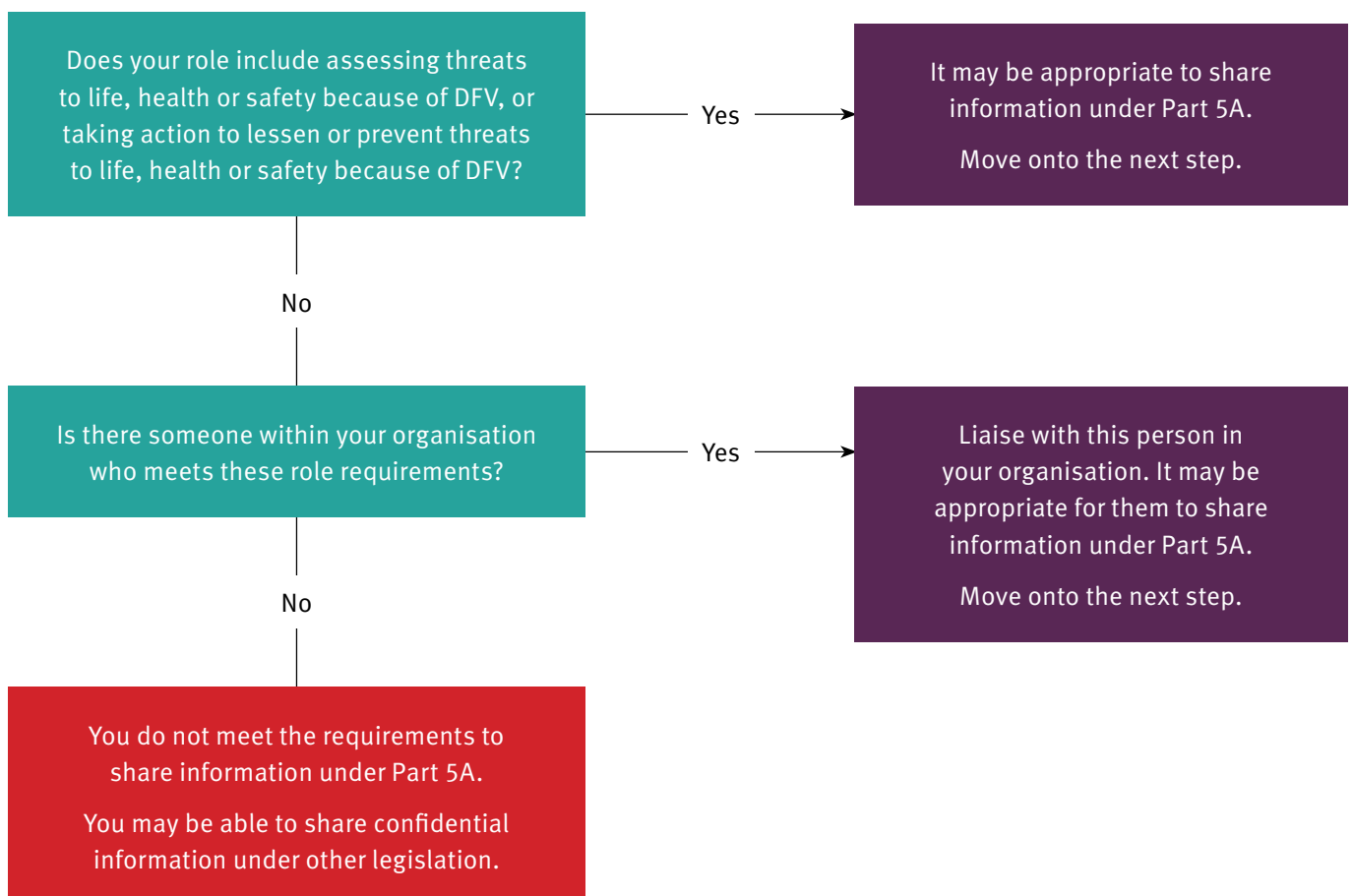
Step 3

Determine your entity's *classification*



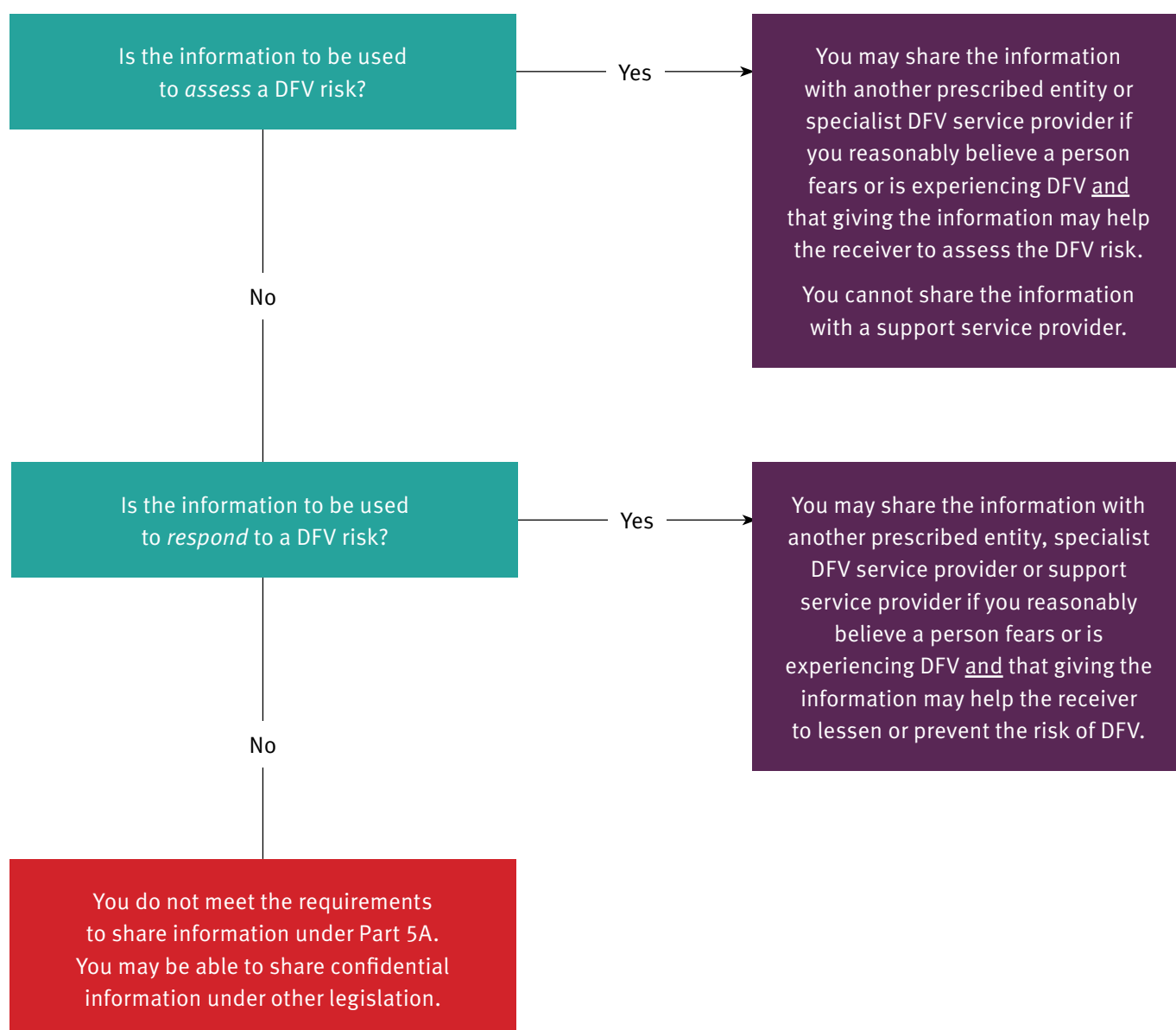
Step 4

Determine whether you meet the *practitioner's role* requirements



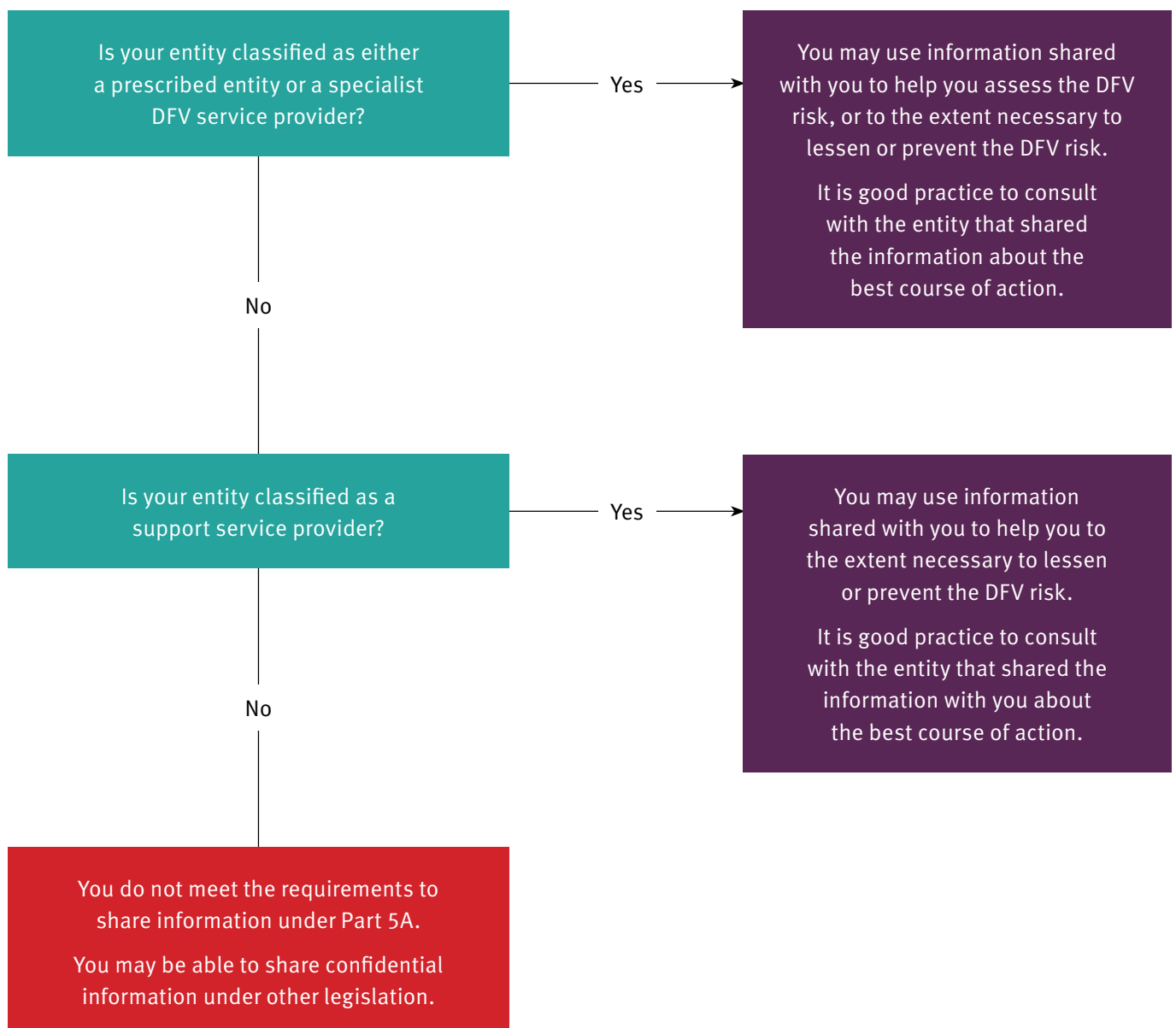
Step 5

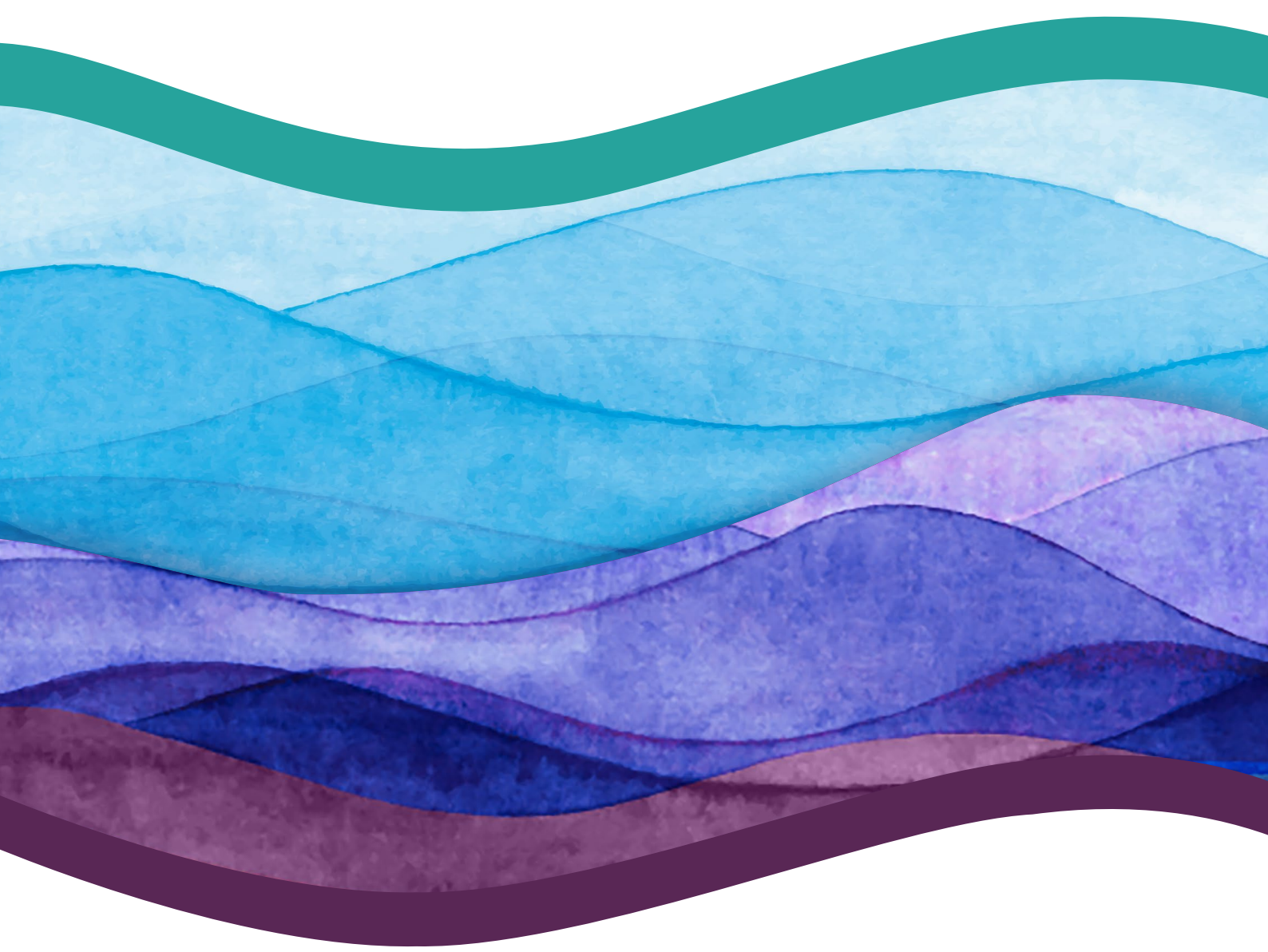
Determine the *purpose* for sharing the information



Step 6

Receiving information under Part 5A





DOMESTIC AND FAMILY VIOLENCE
Information Sharing
Guidelines

Version 2 – 2023