

2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Prevention of Domestic and Family Violence)

Domestic Violence Agencies (Information Sharing) Amendment Bill 2023

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(Minister for the Prevention of Domestic and Family Violence)

Domestic Violence Agencies (Information Sharing) Amendment Bill 2023

A Bill for

An Act to amend the *Domestic Violence Agencies Act 1986*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2021-745

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **1 Name of Act**

2 This Act is the *Domestic Violence Agencies (Information Sharing)*
3 *Amendment Act 2023*.

4 **2 Commencement**

5 (1) This Act commences on a day fixed by the Minister by written notice.

6 *Note 1* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).

8 *Note 2* A single day or time may be fixed, or different days or times may be
9 fixed, for the commencement of different provisions (see [Legislation Act](#),
10 s 77 (1)).

11 (2) If this Act has not commenced within 12 months beginning on its
12 notification day, it automatically commences on the first day after that
13 period.

14 (3) The [Legislation Act](#), section 79 (Automatic commencement of
15 postponed law) does not apply to this Act.

16 **3 Legislation amended**

17 This Act amends the *Domestic Violence Agencies Act 1986*.

18 **4 Dictionary**
19 **Section 2, note 1**

20 *substitute*

21 *Note 1* The dictionary at the end of this Act defines certain terms used in this
22 Act, and includes references (signpost definitions) to other terms defined
23 elsewhere.

24 For example the signpost definition '*family member*—see the [Family](#)
25 [Violence Act 2016](#), section 9.' means that the term 'family member' is
26 defined in that section of that Act and the definition applies to this Act.

1 **5 New sections 3A and 3B**

2 *in part 1, insert*

3 **3A Offences against Act—application of Criminal Code etc**

4 Other legislation applies in relation to offences against this Act.

5 *Note 1 Criminal Code*

6 The [Criminal Code](#), ch 2 applies to all offences against this Act (see
7 Code, pt 2.1).

8 The chapter sets out the general principles of criminal responsibility
9 (including burdens of proof and general defences), and defines terms used
10 for offences to which the Code applies (eg *conduct*, *intention*,
11 *recklessness* and *strict liability*).

12 *Note 2 Penalty units*

13 The [Legislation Act](#), s 133 deals with the meaning of offence penalties
14 that are expressed in penalty units.

15 **3B Objects of Act**

16 The objects of this Act include—

- 17 (a) to prevent and reduce domestic and family violence; and
18 (b) to promote the safety, protection and wellbeing of people,
19 including children or young people, who are, or are at risk of
20 being, subjected to domestic and family violence; and
21 (c) to promote the accountability of perpetrators of domestic and
22 family violence for their actions; and
23 (d) to promote the development of skills and expertise of
24 government and community-based organisations to understand,
25 respond to and prevent domestic and family violence.

1 **6 Sections 5 to 7**

2 *omit*

3 domestic violence and family violence

4 *substitute*

5 domestic and family violence

6 **7 New part 3**

7 *insert*

8 **Part 3 Information sharing between**
9 **certain entities**

10 **Division 3.1 Purpose and important concepts**

11 **11 Purpose—pt 3**

12 The purposes of this part are to—

13 (a) facilitate the sharing of information among information sharing
14 entities to establish, assess, manage, prevent and reduce risks of
15 domestic and family violence; and

16 (b) promote and support coordination and collaboration between
17 information sharing entities to establish, assess, manage, prevent
18 and reduce risks of domestic and family violence.

19 **12 Safety principle—pt 3**

20 A person exercising a function under this part must prioritise the
21 safety and protection of people experiencing, or at risk of, domestic
22 and family violence as far as possible.

1 **13** **Definitions—pt 3**

2 In this part:

3 ***at-risk person*** means—

4 (a) a person who an information sharing entity reasonably believes
5 has been, is being, or is at risk of being, subjected to domestic
6 and family violence; and

7 (b) includes a child or young person.

8 ***connected person*** means a person who has information, or about
9 whom information is, relevant to a protection purpose, other than—

10 (a) an at-risk person; or

11 (b) a person of concern.

12 **Example**

13 Anna is an at-risk person, David is a person of concern for Anna, they have children
14 at a school. An information sharing entity has concerns about Anna because she has
15 not been seen recently. The entity asks the school if there has been any change to
16 Anna’s routine in picking up the children from school. The children are picked up
17 some days by Anna and some days by Aunty Jo. Aunty Jo is a connected person in
18 this situation.

19 ***deal***, with information, means collect, use or disclose the information.

20 ***entity protocol***—see section 16AW (1).

21 ***information sharing coordinator*** means the entity declared to be the
22 information sharing coordinator under section 16AF (1).

23 ***information sharing entity***—see section 14 (1).

24 ***Ministerial protocol***—see section 16AV (1).

25 ***person of concern*** means a person who an information sharing entity
26 reasonably believes has engaged in, is engaging in, or is at risk of
27 engaging in, domestic and family violence.

28 ***protection purpose***—see section 15 (a).

1 *restricted entity* means an information sharing entity declared under
2 section 14 (2) if protection purposes are stated in the declaration
3 under section 14 (3).

4 *risk assessment and management framework*—see
5 section 16AU (1).

6 **14 Meaning of *information sharing entity*—pt 3**

7 (1) In this part:

8 *information sharing entity* means the following:

- 9 (a) the information sharing coordinator;
- 10 (b) an ACT education provider within the meaning of the *Children*
11 *and Young People Act 2008*, section 25 (3);
- 12 (c) the approved provider of an approved education and care service
13 under the *Education and Care Services National Law (ACT)*;
- 14 *Note* The *Education and Care Services National Law (ACT) Act 2011*,
15 s 6 applies the Education and Care Services National Law set out
16 in the *Education and Care Services National Law Act 2010* (Vic),
17 schedule as if it were an ACT law called the *Education and Care*
18 *Services National Law (ACT)*.
- 19 (d) the chief police officer;
- 20 (e) the commissioner appointed under the *Aboriginal and Torres*
21 *Strait Islander Children and Young People Commissioner*
22 *Act 2022*, section 10 (1);
- 23 (f) a commissioner under the *Human Rights Commission Act 2005*;
- 24 (g) the DFVR coordinator;
- 25 (h) the director-general;

- 1 (i) any other director-general of an administrative unit responsible
2 for 1 or more of the following matters:
- 3 (i) children and young people;
4 (ii) community services;
5 (iii) corrective services;
6 (iv) disability services;
7 (v) education, including early childhood development;
8 (vi) emergency services;
9 (vii) family safety and support services;
10 (viii) health regulatory and public health intervention programs;
11 (ix) health services and facilities, including mental health;
12 (x) housing services, including homelessness services;
13 (xi) restorative justice;
14 (xii) youth justice;
15 (xiii) other services or facilities in relation to at-risk people or
16 people of concern;
- 17 (j) the licensed proprietor of a childcare service licensed under the
18 *Children and Young People Act 2008*, section 747;
19 (k) the public trustee and guardian;
20 (l) the registrar of firearms;
21 (m) any other entity declared to be an information sharing entity
22 under subsection (2).
- 23 (2) The Minister may declare an entity to be an information sharing
24 entity.

1 (3) A declaration may state the protection purposes for which the
2 information sharing entity may have information disclosed to it or use
3 information under this part.

4 (4) A declaration is a disallowable instrument.

5 **Division 3.2 Information sharing requirements**

6 **15 Information sharing for protection purpose**

7 An information sharing entity must not deal with information under
8 this part other than to the extent necessary for—

9 (a) any of the following purposes (a *protection purpose*):

10 (i) establishing or assessing whether an at-risk person is being
11 subjected to, or is likely to be subjected to, domestic and
12 family violence;

13 (ii) establishing or assessing whether a person of concern is
14 engaging in, or is likely to engage in, domestic and family
15 violence;

16 (iii) taking action to prevent or reduce the risk of domestic and
17 family violence occurring;

18 (iv) managing domestic and family violence or suspected
19 domestic and family violence; or

20 (b) a purpose provided for under division 3.5.

21 **16 Requirements for information sharing**

22 (1) In dealing with information under this part, an information sharing
23 entity must—

24 (a) comply with any requirement for consent under division 3.6 in
25 relation to the information; and

- 1 (b) comply with any requirements for dealing with the information
2 under each of the following:
- 3 (i) a risk assessment and management framework;
4 (ii) a Ministerial protocol;
5 (iii) an entity protocol; and
- 6 (c) disclose information to a restricted entity only for a protection
7 purpose stated in the restricted entity's declaration; and
- 8 (d) if the entity is a restricted entity—use information only for a
9 protection purpose stated in the restricted entity's declaration.
- 10 (2) In exercising a function under this part in relation to an at-risk person,
11 an information sharing entity must—
- 12 (a) take into account the person's—
- 13 (i) cultural, sexual and gender identity; and
14 (ii) religious or spiritual beliefs (if known); and
- 15 (b) if the person identifies as Aboriginal or Torres Strait Islander—
- 16 (i) promote the person's right to self-determination and
17 cultural sensitivities; and
- 18 (ii) consider the person's family and community connections;
19 and
- 20 (c) if the person is a child or young person—take into account the
21 age, maturity and decision-making ability of the child or young
22 person.

1 **Division 3.3** **Information sharing for protection**
2 **purposes**

3 **16AA** **Meaning of *relevant ground*—div 3.3**

4 For this division, a *relevant ground* for not disclosing information
5 exists if the disclosure—

- 6 (a) would contravene a requirement for information sharing under
7 section 16; or
- 8 (b) could reasonably be expected to—
- 9 (i) endanger a person’s life or physical safety; or
- 10 (ii) prejudice an investigation; or
- 11 (iii) prejudice a coronial inquest or inquiry; or
- 12 (iv) enable the existence or identity of a confidential source of
13 information for the enforcement or administration of a law
14 in force in the ACT to be revealed; or
- 15 (v) prejudice the effectiveness of a lawful method or
16 procedure for preventing, detecting, investigating or
17 dealing with a contravention, or possible contravention, of
18 a law in force in the ACT; or
- 19 (vi) prejudice a proceeding in a court or tribunal; or
- 20 (vii) contravene an order of a court or tribunal; or
- 21 (viii) be contrary to the public interest.

22 *Note* The [Legislation Act](#), s 170 and s 171 deal with the application of
23 the privilege against self-incrimination and client legal privilege.

1 **16AB Information sharing entities may share information**

- 2 (1) An information sharing entity may disclose information held by it to
3 another information sharing entity if the disclosing entity reasonably
4 believes—
5 (a) the information is relevant to the exercise of the functions of the
6 other entity; and
7 (b) the disclosure is necessary for a protection purpose.
8 (2) However, the information sharing entity must not disclose
9 information if the entity reasonably believes a relevant ground for not
10 disclosing the information exists.

11 **16AC Information sharing entity must share information**

- 12 (1) An information sharing entity may ask another information sharing
13 entity to disclose information for a protection purpose.
14 (2) The information sharing entity must disclose the requested
15 information if it reasonably believes—
16 (a) the information is relevant to the exercise of the functions of the
17 other entity; and
18 (b) the disclosure is necessary for a protection purpose.
19 (3) However, the information sharing entity must not disclose
20 information if the entity reasonably believes a relevant ground for not
21 disclosing the information exists.
22 (4) An information sharing entity that does not disclose information
23 under this section must tell the information sharing coordinator, in
24 writing, the following:
25 (a) the name of the requesting information sharing entity;

- 1 (b) the nature of the information requested;
- 2 (c) the relevant ground for not disclosing the information.

3 **16AD Information sharing coordinator may require sharing of**
4 **information**

- 5 (1) This section applies if an information sharing entity (other than the
6 information sharing coordinator) has not disclosed information
7 requested under section 16AC (1).
- 8 (2) The information sharing coordinator may, by written notice, require
9 the information sharing entity to disclose the information if the
10 coordinator reasonably believes that—
- 11 (a) the information is relevant to the exercise of the functions of the
12 information sharing entity that requested the information; and
- 13 (b) the disclosure is necessary for a protection purpose.
- 14 (3) However, the information sharing coordinator must not require the
15 information sharing entity to disclose the information if the
16 coordinator is satisfied that a relevant ground for not disclosing the
17 information exists.
- 18 (4) The information sharing entity must comply with the notice.

19 **16AE Information sharing entity may share information with**
20 **at-risk person**

- 21 (1) An information sharing entity may disclose information about a
22 person of concern held by it to an at-risk person if the entity
23 reasonably believes the disclosure is necessary for a protection
24 purpose.
- 25 (2) However, the information sharing entity must not disclose any
26 information if the entity reasonably believes that a relevant ground
27 for not disclosing the information exists.

1 **Division 3.4 Information sharing coordinator**

2 **16AF Information sharing coordinator**

3 (1) The Minister may declare an entity to be the information sharing
4 coordinator if satisfied that the entity has suitable expertise and
5 experience to exercise the functions of the information sharing
6 coordinator.

7 (2) A declaration is a disallowable instrument.

8 **16AG Functions of information sharing coordinator**

9 The functions of the information sharing coordinator are to—

10 (a) facilitate the sharing of information among information sharing
11 entities under this part; and

12 (b) identify and take appropriate action for a protection purpose;
13 and

14 (c) any other function given to the coordinator under this part.

15 **16AH Use of information by information sharing coordinator**

16 (1) The information sharing coordinator may consider any information
17 disclosed to it under this part and take action in relation to the
18 information that the coordinator reasonably considers appropriate for
19 a protection purpose, taking into account the following:

20 (a) the safety and protection of the at-risk person;

21 (b) the at-risk person's views about the proposed action, where safe,
22 reasonable and practicable to seek their views;

23 (c) the seriousness of the circumstances;

1 (d) anything else prescribed by regulation.

2 *Note* The information sharing coordinator must also take into account the
3 matters mentioned in s 16 (2).

4 (2) Without limiting subsection (1), the actions the information sharing
5 coordinator may take include the following:

6 (a) seeking information from an information sharing entity to
7 decide the most appropriate action to take;

8 (b) giving advice to an information sharing entity about appropriate
9 action to take;

10 (c) coordinating information sharing entities in taking action;

11 **Example**

12 holding a service coordination meeting with information sharing entities

13 (d) providing assistance to the at-risk person and, if appropriate,
14 their family members, for example, by giving advice or
15 providing or arranging support services;

16 (e) referring the at-risk person and, if appropriate, their family
17 members to a government or non-government entity for advice
18 or support services.

19 **Division 3.5 Disclosure and use of information**
20 **other than for protection purpose**

21 **16AI Disclosure and use of information other than for**
22 **protection purpose**

23 (1) An information sharing entity must not disclose or use information
24 disclosed to it under this part other than—

25 (a) with the consent of the at-risk person or connected person; or

26 (b) to the extent required or allowed under a territory law to lessen
27 or prevent a serious and urgent threat to the life, health or safety
28 of an individual, or to public health or safety; or

- 1 (c) to comply with—
- 2 (i) a mandatory reporting requirement under the *Children and*
3 *Young People Act 2008*, section 356; or
- 4 (ii) a reportable conduct requirement under the *Ombudsman*
5 *Act 1989*, division 2.2A; or
- 6 (d) to the extent required or allowed under a territory law prescribed
7 by regulation.
- 8 (2) The information sharing entity (other than the information sharing
9 coordinator) must tell the information sharing coordinator and the
10 information sharing entity that disclosed the information, in writing,
11 about the disclosure or use.
- 12 *Note 1* Reportable conduct information may be given to certain entities under the
13 *Children and Young People Act 2008*, div 25.3.3 despite any territory law
14 to the contrary (see that *Act*, s 863F).
- 15 *Note 2* Other laws may restrict dealing with information under this part.
16 For example, for restrictions on sharing information about who makes a
17 report, see the *Children and Young People Act 2008*, s 857.

18 **Division 3.6** **Consent to dealing with sensitive** 19 **information**

20 **16AJ** **Application—div 3.6**

21 This division applies in relation to any proposed dealing with
22 sensitive information about a person under this part.

23 *Note* Other requirements for information sharing are set out in s 16.

1 **16AK Meaning of *sensitive information*—div 3.6**

2 In this division:

3 *sensitive information* means information or an opinion about an
4 identified individual, or an individual who is reasonably
5 identifiable—

- 6 (a) whether the information or opinion is true or not; and
7 (b) whether the information or opinion is recorded in a material
8 form or not.

9 **16AL Consent—at-risk adults**

10 (1) An information sharing entity must not deal with sensitive
11 information about an at-risk person who is an adult without the
12 person's consent.

13 (2) In seeking consent, the information sharing entity must, as far as
14 practicable, provide the at-risk person with access to all reasonable
15 support necessary for the at-risk person to make and communicate
16 their decision about giving consent.

17 **Examples**

- 18 1 offering the person an opportunity to contact a support person
19 2 offering additional time to make the decision

20 (3) However, the information sharing entity may deal with the sensitive
21 information without the at-risk person's consent if—

- 22 (a) the entity reasonably believes that dealing with the information
23 is necessary for the safety and protection of the at-risk person;
24 and

- 1 (b) the entity—
- 2 (i) reasonably believes that seeking the at-risk person’s
- 3 consent may cause a risk to the life, health or safety of the
- 4 at-risk person or a connected person; or
- 5 (ii) is unable to locate or contact the at-risk person despite
- 6 taking reasonable steps; or
- 7 (iii) reasonably believes that failing to deal with the
- 8 information may cause a serious risk to the life, health or
- 9 safety of the at-risk person or a connected person.

10 **16AM Consent—at-risk young people generally**

- 11 (1) This section applies if an information sharing entity proposes to deal
- 12 with sensitive information about an at-risk person who is a young
- 13 person, other than a young person mentioned in section 16AN (1) (b).
- 14 (2) The information sharing entity must not deal with sensitive
- 15 information about the young person without the person’s consent.
- 16 (3) In seeking consent, the information sharing entity must, as far as
- 17 practicable, provide the young person with access to all reasonable
- 18 support necessary for the young person to make and communicate
- 19 their decision about giving consent.
- 20 (4) However, the information sharing entity may deal with the sensitive
- 21 information without the young person’s consent if—
- 22 (a) the entity reasonably believes that dealing with the information
- 23 is necessary for the safety and protection of the young person;
- 24 and
- 25 (b) the entity—
- 26 (i) reasonably believes that seeking the young person’s
- 27 consent may cause a risk to the life, health or safety of the
- 28 young person or a connected person; or

- 1 (ii) is unable to locate or contact the young person despite
2 taking reasonable steps; or
- 3 (iii) reasonably believes that failing to deal with the
4 information may cause a serious risk to the life, health or
5 safety of the young person or a connected person.

6 **16AN Consent—at-risk children and certain young people**

- 7 (1) This section applies if an information sharing entity proposes to deal
8 with sensitive information about an at-risk person who is—
- 9 (a) a child; or
- 10 (b) a young person who the entity reasonably believes does not have
11 sufficient decision-making ability to give consent under
12 section 16AM, taking into account the young person’s age and
13 maturity.
- 14 (2) The information sharing entity must not deal with sensitive
15 information about the child or young person without the consent of a
16 person with parental responsibility for the child or young person.
- 17 (3) In seeking consent, the information sharing entity must, as far as
18 practicable, provide a person with parental responsibility for the child
19 or young person with access to all reasonable support necessary for
20 the person with parental responsibility to make and communicate
21 their decision about giving consent.
- 22 (4) However, the information sharing entity may deal with the sensitive
23 information without the consent of a person with parental
24 responsibility for the child or young person if—
- 25 (a) the entity reasonably believes that dealing with the information
26 is necessary for the safety and protection of the child or young
27 person; and

- 1 (b) the entity—
- 2 (i) reasonably believes that seeking the consent of a person
- 3 with parental responsibility may cause a risk to the life,
- 4 health or safety of the child or young person, or a
- 5 connected person; or
- 6 (ii) is unable to locate or contact a person with parental
- 7 responsibility despite taking reasonable steps; or
- 8 (iii) reasonably believes that failing to deal with the
- 9 information may cause a serious risk to the life, health or
- 10 safety of the child or young person, or a connected person.
- 11 (5) Despite anything else in this section, the information sharing entity
- 12 must not contact or seek the consent of a person of concern in relation
- 13 to the child or young person.
- 14 (6) In this section:
- 15 *person with parental responsibility*, for a child or young person,
- 16 means a person with parental responsibility for the child or young
- 17 person under the *Children and Young People Act 2008*,
- 18 division 1.3.2.

19 **16AO Consent—connected people**

- 20 (1) An information sharing entity must not deal with sensitive
- 21 information about a connected person without the person’s consent.
- 22 (2) In seeking consent, the information sharing entity must, as far as
- 23 practicable, provide the connected person with access to all
- 24 reasonable support necessary for the connected person to make and
- 25 communicate their decision about giving consent.

- 1 (3) However, the information sharing entity may deal with the sensitive
2 information without the connected person’s consent if—
- 3 (a) the entity reasonably believes that dealing with the information
4 is necessary for the safety and protection of an at-risk person;
5 and
- 6 (b) the entity—
- 7 (i) reasonably believes that seeking the connected person’s
8 consent may cause a risk to the life, health or safety of the
9 connected person or an at-risk person; or
- 10 (ii) is unable to locate or contact the connected person despite
11 taking reasonable steps; or
- 12 (iii) reasonably believes that failing to deal with the
13 information may cause a serious risk to the life, health or
14 safety of the connected person or an at-risk person.

15 **16AP No consent of person of concern**

- 16 (1) An information sharing entity must not seek the consent of a person
17 of concern to deal with sensitive information about the person.
- 18 (2) Not having the person of concern’s consent does not limit the
19 information sharing entity’s ability to deal with the sensitive
20 information.

21 **Division 3.7 Informing people about disclosure**
22 **and use of information**

23 **16AQ Certain people to be told about disclosure for protection**
24 **purpose**

- 25 (1) This section applies if an information sharing entity discloses
26 information in relation to an at-risk person or connected person for a
27 protection purpose under this part.

- 1 (2) The information sharing entity must tell the at-risk person or
2 connected person about the disclosure, including—
- 3 (a) the name of the information sharing entity to which the
4 information was disclosed; and
- 5 (b) when the information was disclosed; and
- 6 (c) the nature of the information disclosed; and
- 7 (d) any outcomes of the disclosure.
- 8 (3) However, the information sharing entity need not tell the at-risk
9 person or connected person about the disclosure if—
- 10 (a) the person has indicated, in writing, that they do not wish to be
11 told; or
- 12 (b) another entity has already told the person; or
- 13 (c) it is not practicable in the circumstances to tell the person; or
- 14 (d) the entity reasonably believes that telling the person may cause
15 a risk to the life, health or safety of the at-risk person or
16 connected person.

17 **16AR Certain people to be told about action for protection**
18 **purpose**

- 19 (1) This section applies if—
- 20 (a) an information sharing entity proposes to take action for a
21 protection purpose as a result of information dealt with under
22 this part; and
- 23 (b) the information sharing entity reasonably believes that the
24 proposed action may cause a risk to the life, health or safety of
25 an at-risk person or connected person.

26 **Example—par (a)**

27 the chief police officer proposes to increase the monitoring of a person of concern

- 1 (2) The information sharing entity must tell the at-risk person or
2 connected person about the proposed action and the risk.
- 3 (3) However, the information sharing entity need not tell the at-risk
4 person or connected person about the proposed action and the risk
5 if—
- 6 (a) another entity has already told the person; or
- 7 (b) it is not practicable in the circumstances to tell the person; or
- 8 (c) the entity reasonably believes that telling the person may cause
9 a risk to the life, health or safety of the at-risk person or
10 connected person.

11 **16AS Certain people to be told about disclosure and use other**
12 **than for protection purpose**

- 13 (1) This section applies if an information sharing entity discloses or uses
14 information in relation to an at-risk person or connected person for a
15 purpose other than a protection purpose under section 16AI.
- 16 (2) The information sharing entity must tell the at-risk person or
17 connected person about the disclosure or use, including—
- 18 (a) the name of the information sharing entity to which the
19 information was disclosed or which used the information; and
- 20 (b) when the information was disclosed or used; and
- 21 (c) the nature of the information disclosed or used; and
- 22 (d) any outcomes of the disclosure or use.

23 *Note* Other laws may restrict dealing with information under this part.
24 For example, for restrictions on sharing information about who makes a
25 report, see the [Children and Young People Act 2008](#), s 857.

- 1 (3) However, the information sharing entity need not tell the at-risk
2 person or connected person about the disclosure or use if—
- 3 (a) the person has consented to the disclosure or use; or
- 4 (b) the person has indicated, in writing, that they do not wish to be
5 told; or
- 6 (c) another entity has already told the person; or
- 7 (d) it is not practicable in the circumstances to tell the person; or
- 8 (e) the entity reasonably believes that telling the person may cause
9 a risk to the life, health or safety of the at-risk person or
10 connected person.

11 **16AT Telling person of concern not required**

12 An information sharing entity must not tell a person of concern that
13 information has been dealt with under this part.

14 **Division 3.8 Miscellaneous**

15 **16AU Risk assessment and management framework**

- 16 (1) The Minister must declare a framework (a *risk assessment and*
17 *management framework*) about dealing with information by an
18 information sharing entity under this part.
- 19 (2) A declaration is a notifiable instrument.

20 **16AV Information sharing protocols—Minister**

- 21 (1) The Minister must make protocols in relation to the operation of this
22 part (a *Ministerial protocol*).

- 1 (2) Without limiting subsection (1), a Ministerial protocol may—
- 2 (a) state requirements for dealing with information under this part,
- 3 including in relation to the following:
- 4 (i) seeking the consent of a person;
- 5 (ii) dealing with information without consent;
- 6 (iii) how information sharing entities are to engage with each
- 7 other and the information sharing coordinator;
- 8 (iv) identifying whether a protection purpose exists;
- 9 (v) timeframes for disclosing information or telling at-risk
- 10 people about information dealt with under this part;
- 11 (vi) complying with privileges against self-incrimination and
- 12 exposure to civil penalty, and use and derivative use
- 13 immunities;
- 14 (vii) operating requirements for information sharing entities;
- 15 and
- 16 **Examples—subpar (vii)**
- 17 1 who may give or receive information on behalf of an entity
- 18 2 processes to support clients who have intersecting vulnerabilities
- 19 (b) state requirements for storing and managing information dealt
- 20 with under this part, including disposal requirements if the
- 21 information is no longer necessary for a protection purpose; and
- 22 (c) include information to provide guidance on complying with
- 23 requirements for—
- 24 (i) dealing with information under this part; and
- 25 (ii) storing and managing information dealt with under this
- 26 part.
- 27 (3) A Ministerial protocol is a notifiable instrument.

- 1 (4) In this section:
2 *disposal*, of information dealt with under this part, includes the
3 deletion or destruction of the information from a record keeping
4 system.

5 **16AW Information sharing protocols—entities**

- 6 (1) An information sharing entity may make protocols about dealing with
7 information by the entity under this part (an *entity protocol*).
8 (2) An entity protocol must not be inconsistent with—
9 (a) a risk assessment and management framework; or
10 (b) a Ministerial protocol.
11 (3) An entity protocol must be—
12 (a) available for inspection by anyone, without charge, during
13 ordinary office hours at the office of the information sharing
14 entity; or
15 (b) published on a website controlled by the information sharing
16 entity.

17 **16AX Disclosure and use of shared information**

- 18 (1) An information holder commits an offence if—
19 (a) the information holder does something that discloses
20 information; and
21 (b) the information is shared information about someone else
22 (the *protected person*); and
23 (c) the information holder is reckless about whether—
24 (i) the information is shared information about the protected
25 person; and

- 1 (ii) doing the thing would result in the information being
2 disclosed to someone else.
- 3 Maximum penalty: 50 penalty units, imprisonment for 6 months or
4 both.
- 5 (2) An information holder commits an offence if—
- 6 (a) the information holder uses information; and
- 7 (b) the information is shared information about a protected person;
8 and
- 9 (c) the entity is reckless about whether the information is shared
10 information about the protected person.
- 11 Maximum penalty: 50 penalty units, imprisonment for 6 months or
12 both
- 13 (3) Subsections (1) and (2) do not apply if the information holder—
- 14 (a) discloses or uses the shared information—
- 15 (i) in relation to the exercise of a function, as an information
16 holder, under this part; or
- 17 (ii) as required in relation to a court proceeding; or
- 18 (iii) with the protected person’s consent; or
- 19 (b) discloses the shared information to the chief police officer in
20 connection with a possible domestic and family violence
21 offence.
- 22 *Note* The defendant has an evidential burden in relation to the matters
23 mentioned in s (3) (see [Criminal Code](#), s 58).
- 24 (4) An information holder need not disclose shared information to a
25 court, or produce a document containing shared information to a
26 court, unless it is necessary to do so for this Act or another law
27 applying in the ACT.

- 1 (5) In this section:
- 2 *court* includes a tribunal, authority or person having power to require
3 the production of documents or the answering of questions.
- 4 *information holder* means anyone who exercises, or has exercised, a
5 function under this part.
- 6 *produce* includes allow access to.
- 7 *shared information* means information about a person that is
8 disclosed to, or obtained by, an information holder because of the
9 exercise of a function under this part by the information holder or
10 someone else.

11 **16AY Continuation of use and derivative use immunities**

12 To remove any doubt, nothing in this part affects a use or derivative
13 use immunity that applies to information obtained, directly or
14 indirectly, because of the operation of a law applying in the ACT.

15 **Examples**

- 16 • *Aboriginal and Torres Strait Islander Children and Young People*
17 *Commissioner Act 2022*, s 33 (2)
- 18 • *Human Rights Commission Act 2005*, s 75 (4)
- 19 • *Integrity Commission Act 2018*, s 176

20 **16AZ Relationship with Freedom of Information Act 2016**

21 The *Freedom of Information Act 2016* does not apply to information
22 to the extent that the information is held by an information sharing
23 entity only because the information was disclosed to the entity under
24 this part.

1 **16AZA Protection from liability—public employees**

2 (1) A public employee is not civilly liable for conduct engaged in
3 honestly and without recklessness—

4 (a) in the exercise of a function under this part; or

5 (b) in the reasonable belief that the conduct was in the exercise of a
6 function under this part.

7 (2) Any civil liability that would, apart from this section, attach to the
8 public employee attaches instead to the Territory.

9 (3) In this section:

10 *conduct* means an act or omission to do an act.

11 **16AZB Protection from liability—generally**

12 (1) Civil or criminal liability is not incurred only because a person deals
13 with information as permitted under this part, honestly and without
14 recklessness.

15 (2) Also, dealing with information honestly and without recklessness
16 under this part is not a breach of—

17 (a) confidence; or

18 (b) professional etiquette or ethics; or

19 (c) a rule of professional conduct.

20 **16AZC Review of part**

21 (1) The Minister must arrange for an independent entity to review the
22 operation of this part as soon as practicable after the end of its
23 2nd year of operation.

1 (2) The Minister must present a report of the review to the Legislative
2 Assembly within 12 months after the day the review is started.

3 (3) This section expires 4 years after the day it commences.

4 **8 Meaning of *domestic or family violence incident*—pt 3A**
5 **Section 16C (3), definition of *family member***

6 *omit*

7 **9 Use and disclosure of protected information**
8 **Section 16U (5), definitions of *disclose, information* and**
9 ***use***

10 *omit*

11 **10 Section 18**

12 *substitute*

13 **18 Disclosure of information to an approved crisis support**
14 **organisation**

15 (1) This section applies if a police officer or a staff member of the
16 Australian Federal Police suspects on reasonable grounds that a
17 family violence offence has been, is being or is likely to be committed
18 in relation to a person.

19 (2) The police officer or staff member may disclose to an approved crisis
20 support organisation any information that is likely to aid the
21 organisation in rendering assistance to the person or to any child of
22 the person.

- 1 (3) In this section:
2 ***child***, of a person, includes—
3 (a) a child or young person who normally lives with the person; and
4 (b) a child or young person for whom the person is a person with
5 parental responsibility.
6 ***person with parental responsibility***, for a child or young person,
7 means a person with parental responsibility for the child or young
8 person under the *Children and Young People Act 2008*,
9 division 1.3.2.

10 **11 Dictionary, note 2**

11 *insert*

- 12 • adult
- 13 • public employee
- 14 • public trustee and guardian
- 15 • registrar of firearms
- 16 • working day

17 **12 Dictionary, new definition of *at-risk person***

18 *insert*

19 ***at-risk person***, for part 3 (Information sharing between certain
20 entities)—see section 13.

21 **13 Dictionary, definition of *child***

22 *substitute*

23 ***child*** means a person who is under 14 years old.

-
- 1 **14 Dictionary, new definitions**
- 2 *insert*
- 3 *connected person*, for part 3 (Information sharing between certain
4 entities)—see section 13.
- 5 *deal*, with information, for part 3 (Information sharing between
6 certain entities)—see section 13.
- 7 **15 Dictionary, definition of *DFVR coordinator***
- 8 *substitute*
- 9 *DFVR coordinator*—see section 16D (1).
- 10 **16 Dictionary, new definitions**
- 11 *insert*
- 12 *disclose* includes—
- 13 (a) communicate; or
- 14 (b) publish.
- 15 *domestic and family violence*—see the *Family Violence Act 2016*,
16 section 8, definition of *family violence*.
- 17 *domestic and family violence incident*, for part 3A (Domestic and
18 family violence incident review)—see section 16C.
- 19 **17 Dictionary, definition of *domestic or family violence***
20 ***incident***
- 21 *omit*

1 **18 Dictionary, new definitions**

2 *insert*

3 *entity protocol*, for part 3 (Information sharing between certain
4 entities)—see section 16AW (1).

5 *family member*—see the *Family Violence Act 2016*, section 9.

6 *information* means information, whether true or not, in any form and
7 includes an opinion and advice.

8 *information sharing coordinator*, for part 3 (Information sharing
9 between certain entities)—see section 13.

10 *information sharing entity*, for part 3 (Information sharing between
11 certain entities)—see section 14 (1).

12 *Ministerial protocol*, for part 3 (Information sharing between certain
13 entities)—see section 16AV (1).

14 *person of concern*, for part 3 (Information sharing between certain
15 entities)—see section 13.

16 *protection purpose*, for part 3 (Information sharing between certain
17 entities)—see section 15 (a).

18 *relevant ground*, for division 3.3 (Information sharing for protection
19 purposes)—see section 16AA.

20 *restricted entity*, for part 3 (Information sharing between certain
21 entities)—see section 13.

22 *risk assessment and management framework*, for part 3
23 (Information sharing between certain entities)—see
24 section 16AU (1).

25 *sensitive information*, for division 3.6 (Consent to dealing with
26 sensitive information)—see section 16AK.

1 *use*, in relation to information, includes make a record of the
2 information.

3 *young person* means a person who is 14 years old or older, but not
4 yet an adult.

5 **19 Further amendments, mentions of *domestic or family***
6 ***violence***

7 *omit*

8 domestic or family violence

9 *substitute*

10 domestic and family violence

11 *in*

- 12 • section 16B, definition of *register*
- 13 • section 16C
- 14 • sections 16K and 16L
- 15 • sections 16O and 16P
- 16 • section 16R
- 17 • section 16V

18 **20 Further amendments, mentions of *family violence***

19 *omit*

20 family violence

21 *substitute*

22 domestic and family violence

23 *in*

- 24 • long title
- 25 • section 16A (a) to (c)

- 1 • section 16C (1) and (2)
 - 2 • section 16E (c) to (f)
 - 3 • section 16L
 - 4 • section 16V
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Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 November 2023.

2 Notification

Notified under the [Legislation Act](#) on 2023.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
