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**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELEVENTH ASSEMBLY

Domestic Violence Agencies Amendment Bill 2026

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, s 37)**

**Presented by
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Domestic Violence Agencies Amendment Bill 2026

This explanatory statement relates to the Domestic Violence Agencies Amendment Bill 2026 (the Bill). It has been prepared to assist the reader of the Bill and to help inform debate. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The Bill **is** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

OVERVIEW OF THE BILL

The Bill amends the information sharing provisions that were introduced by the *Domestic Violence Agencies (Information Sharing) Amendment Act 2024* (the Amendment Act (2024)). The Amendment Act (2024) created the Domestic and Family Violence Information Sharing Scheme (the Scheme) and was passed by the ACT Legislative Assembly on 14 May 2024. This Bill also amends the *Domestic Violence Agencies Act 1986*, to formalise the dissolution of the Domestic Violence Prevention Council and makes relevant consequential amendments.

The overarching objectives of the Bill are to:

- clarify the intended operation of the Scheme, to support its safe and effective implementation when it automatically commences on 24 November 2026. The Bill clarifies and mitigates certain implementation risks that have been identified through a significant work program to support prospective ‘information sharing entities’ (ISEs) to share information using the provisions of the Scheme. The process to support implementation revealed the need for targeted legislative reform to ensure the Scheme, upon commencement, operates as intended by the Amendment Act (2024).
- responds to stakeholder feedback, including through consultation to support development of the Domestic, Family and Sexual Violence (DFSVM) Strategy 2026-2036, that a new and more flexible DFSVM governance model is needed instead of a rigid legislated governance model which has proven to be ineffective.

Scheme overview under the *Domestic Violence Agencies (Information Sharing) Amendment Act 2024* (Amendment Act (2024))

The Scheme was introduced with the overarching objectives to promote the safety, protection and wellbeing of victim-survivors, prevent the occurrence and escalation of violence, and hold persons of concern (i.e., people who use violence) to account. The Amendment Act (2024) legislated a framework to clearly authorise information sharing between prescribed ISEs to establish, assess, prevent, reduce and manage domestic and family violence risk. The Scheme responded to important findings of several reports and inquiries that demonstrated the critical need for information sharing law reform in the domestic and family violence context. The vast majority of

Australian states and territories have legislated domestic and family violence information sharing schemes, and the Amendment Act (2024) brought the ACT in-step with those jurisdictions. The objects, history and consultation approach is detailed extensively in the Explanatory Statement of the Amendment Act (2024).

Delayed commencement to support implementation work

The Amendment Act (2024) was due to automatically commence on 18 April 2025. On 10 April 2025, the ACT Legislative Assembly passed the *Domestic Violence Agencies (Information Sharing) Amendment Act 2025* to delay the automatic commencement of the Scheme by a further 18 months, to 24 November 2026. The commencement of the Scheme was delayed because additional time was required to establish and deliver foundational elements of the Scheme alongside its commencement. The Act to delay commencement acknowledged that it was an important opportunity to review and refine the Amendment Act (2024) in advance of the Scheme taking effect, to ensure it operates effectively in practice, and as originally intended.

This Bill: Review and refinement of the Scheme legislation

The work to review and refine the Amendment Act (2024) ahead of commencement has taken place. Significant work occurred alongside relevant stakeholders to support readiness for the commencement of the Scheme. Through this process, targeted legislative reforms were identified to clarify the intended operation of the Amendment Act (2024) and address any unintended consequences of implementation. The Bill seeks to support implementation of the Scheme as originally intended, and in such a manner that aligns with the findings and recommendations of the various reviews and inquiries that precipitated the critical need for information sharing law reform.

This Bill proposes the following amendments to the information sharing provisions introduced by the *Domestic Violence Agencies (Information Sharing) Amendment Act 2024* (the Amendment Act (2024)):

1. clarifying which organisations are included under the Scheme, to align with the original policy intent. This includes, among other things, clarifying amendments regarding the delegation of ISE functions, to ensure that all ISEs can delegate their information sharing functions.
2. clarifying that the Information Sharing Coordinator, as established under Division 3.4 of the Amendment Act (2024), is not subject to the direction of any person or entity in the exercise of its functions.
3. minor clarifying amendments to the terminology used in the offence provision of the legislation, to align with other laws.
4. minor clarifying amendments to terminology used in relation to cultural rights and sexuality, to improve the legislative standard of language use.
5. amendments to preserve existing information sharing functions and arrangements that are part of the DFV system. This includes preserving existing information sharing powers utilised by key multi-agency forums for

information sharing, such as the Family Violence Safety Action Program (FVSAP) and the Wraparound Support Program (Wraparound), who operate under various interacting laws including when sharing information with non-ISEs. This reform acknowledges the necessary integration of pre-existing information sharing functions, to prevent unintended information silos from impeding system responses and jeopardising victim-survivor safety.

6. amendments to the existing notification requirements under Division 3.7 of the Amendment Act (2024) to ensure that those requirements appropriately balance the need to keep victims-survivors informed about the disclosure and use of their information, without impeding the safe and effective operation of the Scheme.
7. amendments to legislate procedural safeguards for subpoena requests to ISEs for information they hold only because of the operation of the Scheme.

Repeal of the Domestic Violence Prevention Council

The Bill also proposes to formalise the dissolution of the Domestic Violence Prevention Council (DVPC) to enable a flexible and refreshed governance model that sits outside of legislation. The Bill amends the *Domestic Violence Agencies Act 1986* and makes consequential amendments to the *Territory Records Regulation 2009* to remove all reference to the DVPC from legislation.

In 1997, the *Domestic Violence (Amendment) Act (No 2) 1997* amended the *Domestic Violence Agencies Act 1986* to establish the DVPC. The object of that council was to perform an advisory role and provide a collaborative inter-agency framework for government agencies involved in law enforcement and the provision of health or welfare services to victims or perpetrators of domestic violence.

The limitations of the DVPC were acknowledged through consultations undertaken to inform development of the [ACT Domestic, Family and Sexual Violence Strategy](#) (DFSV Strategy). The Strategy was presented to the Legislative Assembly on 27 May 2026. The DFSV Strategy and the actions committed to in the [First Action Plan](#) are the product of extensive consultation with victim-survivors, the domestic, family and sexual violence sector, Aboriginal Community Controlled Organisations, other community organisations and government agencies.

A legislative approach to governance for the DFSV system has not provided the flexibility required to adapt and respond effectively to the evolving and complex DFSV landscape. Consistent with Strategy feedback, the DVPC will no longer form a part of system governance arrangements and its repeal enables this refreshed governance arrangement.

The amendments related to repeal of the DVPC have a delayed commencement of 6 months or sooner through written notice provided by the responsible Minister, pending the formalisation of new governance arrangements.

In the 2026-27 Budget, \$939,000 in funding was announced to support a refreshed system governance model. Of this, \$815,000 in funding over 3 years to 2028-29 has been allocated to establish a DFSV sector network to

support advocacy, coordination and workforce development for DFSV services. This supports Strategy Outcome 5 – that the ACT has a coordinated, sustainable, integrated, and capable DFSV system – by contributing to Action 5.2 of the First Action Plan, to establish a mechanism for coordinated sector advice. The ACT Government will work closely with the DFSV sector to design the network. The total funding includes \$124,000 to support the DFSV Aboriginal and Torres Strait Islander Reference Group which is being elevated to directly advise the Minister, delivering on Action 2.1 of the First Action Plan.

Government is committed to strengthening local governance in a way that reflects the national context and that will drive greater system integration and cross agency accountability. Government considers it critical that the governance model embeds lived experience of victim-survivors and through outcome 2, that Aboriginal and Torres Strait Islander communities are a core part of governance and decision making.

Government is working with current members of the DFSV Aboriginal and Torres Strait Islander Reference Group on recruitment for the refreshed body. Work to scope and establish a refreshed broader DFSV governance system will be delivered under the First Action Plan of the DFSV strategy. As part of this, the ACT Government will work closely with the DFSV sector to design the new network model.

TERMINOLOGY

This document refers to *victim-survivors* in recognition of this term being widely used in the community. The term *victim-survivor* has the same meaning as *at-risk person* in Part 3 of the Amendment Act (2024). A person is a victim-survivor if an ISE reasonably believes the person has been, is being or is at risk of being subjected to domestic and family violence. The term victim-survivor incorporates all stages of domestic and family violence. Any person who has experienced, is currently experiencing or is at risk of experiencing domestic and family violence is considered a victim-survivor for the purpose of the Amendment Act (2024) and this Bill. The term victim-survivor refers to victim-survivors of all ages, including adults, children and young people.

CONSULTATION ON THE PROPOSED APPROACH

This Bill has been informed by the preparatory work to support implementation of the Scheme upon its commencement on 24 November 2026. This work has spanned several interrelated and foundational elements of Scheme implementation, including:

- establishing the new Information Sharing Coordinator, which is an important role to oversee the Scheme and facilitate information sharing between ISEs.
- development, revision and finalisation of the Ministerial Protocol.
- updating the ACT Domestic and Family Violence Risk Assessment and Management Framework (RAMF), including the development of new tools for frontline workers.

- delivering training on the updated RAMF to key workforces to support the commencement of the Scheme.
- developing and delivering centralised Scheme training through an e-learn platform to staff within agencies prescribed as ISEs.

Throughout the delivery of this work, the Domestic, Family and Sexual Violence Office (DFSVO) within the Health and Community Services Directorate (HCSD) has continued to convene and chair a regular working group that brings together representatives from various ACT Government directorates that are prescribed ISEs under the Amendment Act (2024). This working group has been a key governance body since 2022 that informed the development of the Amendment Act (2024). This working group has continued to provide strategic oversight to the development of the foundational elements of Scheme implementation, which has also directly informed the amendments of this Bill.

The Bill specifically responds to the breadth of feedback and input of prescribed ISEs which identified operational implementation risks. As stated above, the Bill seeks to support implementation of the Scheme as originally intended, and in such a manner that aligns with the findings and recommendations of the various reviews and inquiries that precipitated the critical need for information sharing law reform.

The amendments in the Bill were developed in consultation with the following key government agencies, statutory office holders and community stakeholders:

- ACT Courts and Tribunal
- ACT Health
- ACT Human Rights Commission
 - Human Rights Commissioner
 - Information Privacy Commissioner
 - Victims of Crime Commissioner
 - Public Advocate and Children and Young People Commissioner
- ACT Policing
- Canberra Health Services
- Canberra Rape Crisis Centre
- Chief Minister, Treasury and Economic Development Directorate (including Treasury)
- Domestic Violence Crisis Service
- Education Directorate
- EveryMan
- Health and Community Services Directorate
- Human Rights and Social Policy Team (JACS)
- Justice and Community Safety Directorate
- Toora Women Inc
- Victim Support ACT

The amendment to repeal the Domestic Violence Prevention Council from legislation was informed by previous extensive sector consultation undertaken to support development of the ACT DFSV Strategy. This amendment formalises the dissolution of the DVPC, which has already occurred.

CLIMATE IMPACT

The Bill has no climate impacts.

CONSISTENCY WITH HUMAN RIGHTS

During the development of the Bill, due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004* (ACT). As discussed above, the ACT Human Rights Commission was consulted on the proposed amendments.

Domestic and family violence is a significant issue with devastating impacts on the lives, health, wellbeing, and safety of people, families and communities in the ACT and across Australia. The prevalence of domestic and family violence in our community is not inevitable and can be prevented, but it requires consistent, coordinated and evidence-informed responses across a myriad of domains. An effective government response to domestic and family violence prevention must be multifaceted but necessarily include a legislative response.

This Bill will support the effective implementation of the Information Sharing Scheme made under the Amendment Act (2024). Overall, this Bill aims to promote the safety of victim-survivors and their families in the ACT community and ensure that systems are adequately equipped to hold people who use violence to account. This Bill achieves this by improving the intended operation of the Scheme, to ensure that the full objectives and intent are able to be realised.

While this Bill is classed a significant Bill, the repeal of the DVPC does not engage human rights. The DVPC repeal is an administrative reform to allow for other flexible and responsive governance arrangements to develop outside of a rigid and static legislative framework, consistent with the consultative work undertaken for the development of the DFSV Strategy detailed in this Explanatory Statement.

Rights engaged

The Bill is a significant Bill. It engages a number of human rights protected by the *Human Rights Act 2004* (ACT) (HRA). This Bill balances the human rights of victim-survivors, people using violence and the interests of the community in protecting everyone's right to safety.

Rights Promoted

This Bill promotes the following rights in the HRA:

- Section 8 – Recognition and equality before the law
- Section 9 – Right to life

- Section 10 – Protection from torture and cruel, inhuman or degrading treatment
- Section 12 – Right to privacy and reputation
- Section 18 – Right to liberty and security of the person
- Section 27– Cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities

This Bill amends the legislation that created the Scheme, which is due to automatically commence on 24 November 2026.

The primary object of the Scheme introduced under the Amendment Act (2024) was to improve systemic responses to domestic and family violence and to centre the safety of victim-survivors. It was intended that the Amendment Act (2024) would facilitate greater integration and coordination of system and service responses to domestic and family violence, by embedding consistent approaches to information sharing to assess and respond to DFV risk.

This Bill promotes the primary objectives of the Amendment Act (2024), by clarifying key aspects of the Scheme’s operation in line with extensive stakeholder consultation. Ultimately, the Bill prioritises the safety of victim-survivors and is an important mechanism of human rights promotion.

Section 8 – Right to recognition and equality before the law

Section 8 of the HRA entitles everyone to equal protection of the law and enjoyment of their human rights without discrimination.

This Bill promotes the right to recognition and equality before the law through the amendment to section 16 (2)(a)(i) and (ii). The requirements under section 16(2) relate specifically to requirements on ISEs when they exercise a function in relation to an at-risk person. These requirements seek to ensure that information sharing functions are exercised in a manner that is responsive and adaptive to the distinct needs of individual victim-survivors, including priority cohorts.

The amendments reflect best practice terminology which recognises the interests of particular groups in the community who experience domestic and family violence. For LGBTIQ+ communities, replacing the term ‘sexual identity’ with ‘sexuality’ ensures consistency with the protected attribute under the *Discrimination Act 1991*. For Aboriginal and Torres Strait Islander people, replacing reference to ‘cultural sensitivities’ with ‘cultural rights’ aligns an ISE’s considerations under section 16(2)(i) with the HRA.

Section 9 – Right to life

The Bill promotes the right to life under section 9 of the HRA. This right places a positive obligation on public authorities to take reasonable steps to safeguard and

protect an individual's life.¹ The right to life is a fundamental and non-derogable right, which is recognised as a prerequisite for the enjoyment of all other human rights.² The duty to protect the right to life requires States to take special protection measures for people whose lives have been placed at risk because of specific threats, including in relation to domestic and family violence.³

This Bill promotes the right to life broadly through the measures it places on ISEs to support the safety of people whose lives have been placed at risk because of domestic and family violence. This Bill will support services to implement the Scheme created by the Amendment Act (2024), which fundamentally seeks to improve systemic responses to domestic and family violence to ensure they are collaborative, informed and integrated. The clarifying amendments of the Bill will support services to establish and assess threats to life, and take appropriate actions to prevent, reduce and respond to domestic and family violence risk. This Bill therefore directly promotes and supports the right to life of victim-survivors and their families.

Notification requirements

Broad stakeholder input for Scheme implementation identified that certain provisions of the Amendment Act (2024) may run contrary to the object and purpose of the legislation or are at risk of not operating as intended. The notification requirements under Division 3.7 have been identified as one part of the Scheme that may create unnecessary complexity and frustrate its safe and effective operation.

The amendments to sections 16AQ and 16AS uphold the original policy intent of the Amendment Act (2024) by supporting victim-survivor agency to manage their own safety when they know how their information has been or will be used. Without amending these provisions, prospective ISEs raised operational concerns that the prescriptive notification requirements would result in excessive notification processes that were formalised in writing to meet the requirements of contents for notification under sections 16AQ(2)(a)-(d) and 16AS(2)(a)-(d). Depending on the particular case scenario, the prescriptive nature of the notification requirements could result in system generated risk to victim-survivors.

The amendments to sections 16AQ and 16AS promote the right to life for victim-survivors by placing a positive and *ongoing* obligation on ISEs to keep victim-survivors informed about the use of their information, while ensuring that the prescriptive aspects of notification requirements do not frustrate the safe and effective operation of the Scheme.

Increased, overly formalised and unnecessary interaction with victim-survivors can increase the likelihood of system generated risk to victim-survivors. The

¹ *Opuz v Turkey* [2009] ECHR 33401/02 (9 June 2009).

² UN Human Rights Committee, *General Comment No. 36: Article 6: Right to life* (2019), [2].

³ UN Human Rights Committee, *General Comment No. 36: Article 6: Right to life* (2019), [23].

amendments clarify that notification is an ongoing obligation on ISEs, but that the process of notification can and should be operationally adaptive to each case scenario. This will support ISEs to practically implement these requirements of the Scheme, while maintaining a critical safeguard for victim-survivor safety that at-risk people must be kept informed about the use of their information on an ongoing basis.

Supporting services in their practical implementation of the Scheme ensures the Scheme can operate effectively and will support the safety and right to life of victim-survivors. Importantly, these amendments also align with the approach to consent under the Amendment Act (2024).

Preserve existing information sharing functions

The right to life is similarly promoted through the amendments to Division 3.5, section 16AI. These amendments seek to preserve existing information sharing functions and arrangements that are part of the domestic and family violence service system, but are not presently incorporated in the information sharing framework of the Scheme. This includes consideration of key multi-agency forums for information sharing, such as the Family Violence Safety Action Program (FVSAP) and the Wraparound Support Program (Wraparound), who operate under various interacting laws including when sharing information with non-ISEs.

Currently, information sharing about domestic and family violence occurs pursuant to different generic legislative provisions and arrangements between government and non-government organisations. A key finding of the Glanfield Inquiry in 2016 was that existing information sharing mechanisms created an “impenetrable labyrinth” of laws and requirements that, in part, contributed to systemic cultures at all levels – within and outside government – that did not facilitate information sharing practices.⁴ Organisations often cited there was considerable reluctance to share information, with legal constraints cited as one of the more prevailing reasons. The Scheme created by the Amendment Act (2024) aims to address evidenced cultural and systemic barriers to information sharing.

The Scheme as created by the Amendment Act (2024) only applies to ISEs. Through dedicated and ongoing engagement with the domestic and family violence service system, it has been identified that when the Scheme commences, there is a risk the Scheme may fragment existing information sharing pathways, including between government entities and key non-government organisations. This is because, once an ISE receives information under the Scheme, an ISE *cannot share that information with a non-ISE except in accordance with section 16AI*. However, section 16AI does not expressly clarify that it may be relied upon for information sharing with non-ISEs. Additionally, section 16AI presently creates ambiguity about what may constitute a ‘purpose’ other than a protection purpose.

⁴ Laurie Glanfield, *Report of the Inquiry: Review into the system level responses to family violence in the ACT*, April 2016, page 81.

This creates a legal and operational complexity for agencies that already experience inconsistent and fragmented information sharing practices under existing laws. This risk has been directly informed by legal advice and stakeholder engagement in preparation for Scheme commencement. Stakeholder input, including through the ACT Human Rights Commission, has noted the need for clarity in the interpretation of Division 3.5 regarding secondary use and disclosure between ISEs and non-ISEs.

It is critical that existing information sharing functions and pathways, including through FVSAP and Wraparound, can continue to operate alongside the Scheme upon its commencement. These forums and functions directly relate to promoting the right to life for victim-survivors by enhancing perpetrator visibility and accountability across the system, and providing high-quality, coordinated, targeted, and timely responses to victim-survivor safety and support needs in high-risk matters.

The clarifying amendments to Division 3.5 and section 16AI will ensure that information sharing powers under existing laws are preserved in appropriate circumstances. These amendments will address the unintended consequence of fragmenting existing information sharing arrangements for the domestic and family violence service system. In doing so, the right to life for victim-survivors is promoted, in accordance with the original objectives and intent of the Scheme. This amendment does not arbitrarily broaden disclosures for a secondary purpose, but rather clarifies that lawful and authorised secondary uses can apply between ISEs and non-ISEs based on legal advice and stakeholder feedback.

Subpoena amendment

This Bill further promotes the right to life through the amendment relating to subpoena production. A victim-survivor's right to life is promoted by the procedural safeguards introduced in this amendment.

It is well established that systems abuse, including through legal proceedings, can be a mechanism for the ongoing perpetration of domestic and family violence on a victim-survivor. This can include a person weaponising procedural rights in legal proceedings to control, threaten or harass a victim. For instance, systems abuse tactics identified by Australia's National Research Organisations for Women's Safety (ANROWS) include "using legal processes to gain access to victim-survivor's medical or therapeutic records to harass, threaten or inflict harm".⁵ These are known and material risks that already occur in legal system responses to domestic and family violence through subpoena processes.

The Scheme's objectives are in part designed to support improved collaboration across a wide service system. A product of this new authorising environment under the Amendment Act (2024) is that there will be increased information sharing activities to assess and manage domestic and family violence risk, particularly over

⁵ Commonwealth Inquiry by the Standing Committee on Social Policy and Legal Affairs, *Inquiry into family violence orders* (pg 63), ANROWS Submission 62 page 9.

time as the service system develops its operational capacity to use the new legislative provisions. The practical result of the Scheme is that many ISEs will:

- hold information that they have generated themselves (such as a risk assessment) or that they have received directly from a primary source (such as information about a victim from the victim directly or other means), and
- hold information that they have received second hand, or have otherwise received through multiple instances of on-sharing between various entities.

These circumstances create additional opportunities for people who use violence to engage in systems abuse, by seeking to subpoena records from various sources other than those organisations that provide services to victim-survivors and are the original holders of the information.

This risk raises the policy concern that organisations who hold ‘shared information’ under the Scheme are less likely to be the organisations providing services directly to the victim-survivor, whose information may be sought on the subpoena request. That entity is therefore less likely to have visibility of the risks of document production in relation to a victim-survivor.

The amendment to introduce section 16AXA seek to legislate a procedural safeguard for subpoena requests, which is focused on ensuring that appropriate entities produce records that are in their possession, custody and control for the purposes of compulsory production required by a disclosure requirement under section 131A(2) of the *Evidence Act 2011*.

By amending the Scheme to include procedural safeguards for subpoena production, the right to life for victim-survivors is directly promoted.

Section 10 – Protection from torture and cruel, inhuman or degrading treatment

This Bill promotes the right to protection from torture and cruel, inhuman or degrading treatment. This absolute right seeks to protect individuals from behaviour that causes bodily injury, mental or physical suffering, or that shocks the community conscience. Domestic and family violence takes many forms, and according to the International Committee on the Elimination of Discrimination against Women, ‘Gender-based violence against women may amount to torture or cruel, inhuman or degrading treatment in certain circumstances, including in cases of rape, domestic violence or harmful practices’.⁶

Preserve existing information sharing functions

This right is promoted through the amendments to Division 3.5, section 16AI. By ensuring that the Scheme does not frustrate or further fragment key information

⁶ International Committee on the Elimination of Discrimination against Women, *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19* (2017), [16].

sharing functions in the ACT, this will ensure that appropriate organisations in the domestic and family violence service system are able to work together to promote this right for victim-survivors and their families. This includes the critical preservation of information sharing functions through FVSAP and Wraparound.

Subpoena amendment

This Bill further promotes this right through the amendment relating to procedural safeguards for subpoena production. Noting the significant impact of systems abuse through legal proceedings, introducing section 16AXA will seek protect victim-survivors from the weaponisation of subpoena processes in the ACT Magistrates Court and ACT Supreme Court that can occasion suffering, including mental injury.

Section 12 – Right to privacy and reputation

The Right to privacy in section 12 of the HRA, protects people from unlawful or arbitrary interference with their privacy, family, home, or correspondence. This means no interference can take place except in circumstances authorised by law. This Bill promotes the right to privacy in a number of ways.

Clarify who is an ISE under the Scheme

The amendments to section 14 of the Amendment Act (2024) clarify the appropriate scope of the Scheme in line with the original policy intent by narrowing the meaning of an ‘ACT Education Provider’. The previous section 14(1)(b) relied on the definition of an ACT Education Provider under section 25(3) of the *Children and Young People Act 2008*. Adopting this definition in full had the unintended consequence of including registered training organisations and higher education providers as ISEs. This inadvertently broadened the list of prescribed ISEs to include entities who were not explicitly contemplated. Additionally, this Bill creates the power for the Chief Police Officer to delegate their functions. This ensures that all ISEs can delegate their functions appropriately to engage in information sharing through this Scheme. By clarifying the scope and delegability of ISE functions, intrusion into people’s privacy (victim-survivors, connected people and persons of concern) is proportional, moderated and through this amendment, promoted.

Information Sharing Coordinator not subject to direction

The right to privacy is also promoted through the new clarifying provision at section 16AG(2).

It is intended that the Information Sharing Coordinator (ISC) functions as a key oversight mechanism, safeguard and escalation point to determine whether and how information should or should not be disclosed to comply with the requirements of the Scheme,. This is to ensure information is dealt with safely and as authorised by law. This function critical to support the effective and prompt disclosure of information among ISEs as necessary for a protection purpose, to support coordinated and

capable responses to establish, assess, prevent, reduce and manage domestic and family violence risk. This also ensures ISEs have support and oversight when considering their responsibilities and obligations under the Scheme.

The independence of the ISC is necessary for their critical role as an oversight mechanism that is not subject to arbitrary interference from ISEs or others. This amendment preserves safeguards contemplated by the Amendment Act (2024), in that the ISC will be able to exercise impartial decision-making and give confidence to other ISEs about the fidelity of the exercise of its functions. Other critical functions across the statute book, including the DFVR Coordinator function in the DVA Act adopts the same approach of ensuring the exercise of functions are not subject to direction of others. The amendment to create section 16AG(2) adopts this approach.

Notification requirements

Division 3.7 of the Amendment Act (2024) acts as a proportional safeguard so that the sharing of victim-survivor information is balanced by victim-survivors knowing when and how their information is being shared or used. Reframing the notification requirements through this Bill to a positive and ongoing obligation rather than an exhaustive tick-box list preserves the best practice approach of keeping people informed, while embedding some operational flexibility to ensure notification procedures can be adaptive and responsive to victim-survivor needs. The amendments to sections 16AQ and 16AS align with the Territory Privacy Principle 5 in the *Information Privacy Act 2014* by ensuring that the victim-survivor or connected person is notified of certain matters or aware of those matters. This directly promotes the right to privacy of victim-survivors.

Subpoena amendment

The proposed amendments that create procedural safeguards for subpoena production additionally promotes the right to privacy for victim-survivors. Providing a mechanism to ensure that the most appropriate entity is producing relevant information, rather than every entity subpoenaed for second-hand information, limits the risk of unsolicited intrusion by other individuals. Especially by individuals who use legal processes to perpetrate systems abuse through subpoena processes to conduct fishing expeditions to collect as much information about a victim-survivor for the purposes of enacting harm. Importantly, section 16AXA does not prevent information being put before a court, nor does it prevent production of the same material held by a person or entity that is the original holder of information outside the operation of the Scheme.

Section 18 – Right to liberty and security of the person

Section 18 of the HRA provides that ‘everyone has the right to liberty and security of person’. Section 18 is sourced from article 9 of the International Covenant on Civil and Political Rights (ICCPR) and the Human Rights Committee states in their general comment that security of person includes ‘freedom from injury to the body

and the mind, or bodily and mental integrity'.⁷ This right to security of person persists whether the victim-survivor is detained or non-detained and imposes obligations on the government to take measures to prevent future injury in response to past injury.⁸ This includes responding appropriately to patterns of violence against categories of victims, such as victims of domestic and family violence.⁹

Preserve existing information sharing functions

This Bill recognises that the government has a positive obligation to protect individuals from future injury based on the patterns of past injury, such as domestic and family violence. The amendments to section 16AI aim to preserve existing information sharing functions, including those performed by key-multi agency forums such as FVSAP and Wraparound, that provide essential DFV response services in the ACT. FVSAP specifically works through the sharing of information between government and non-government organisations about risks of harm or lethality to victim-survivors, including children and young people. The work of FVSAP is indisputably linked to responding to patterns of violence against categories of victims (family violence victim-survivors, in this case). Similarly, Wraparound operates to provide holistic support to victim-survivors of sexual violence, many of whom have experienced sexual violence in the context of DFV. Wraparound can only operate effectively if the members are able to share relevant DFV information to coordinate the needs of their clients. Current section 16AI may not adequately allow for these forums to engage in critical information sharing functions between ISEs and non-ISEs. By amending section 16AI, this Bill ensures that the right to liberty and security owed to victim-survivors is promoted through the continuing preservation of the information sharing powers relied upon by these multi-agency forums.

Notification requirements

The amendments to sections 16AQ and 16AS continue to uphold right to liberty and security of person. This right obliges government to respond to patterns of violence. One aspect of responding to violence is the best practice approach of working in partnership with victim-survivors and reducing system generated risk. The amendments to the notification requirements create a positive obligation on ISEs to keep victim-survivors and connected people informed about the use of their information. The amendment simultaneously removes excessive notification requirements with the aim of reducing overly formalised, unnecessary or unsafe contact with victim-survivors. This amendment ensures that ISEs have flexibility to work with the victim-survivor to determine how they want to stay informed and manage their own safety and security.

⁷ Human Rights Committee, *General Comment No. 35 on liberty and security of person (art. 9)*, CCPR/C/GC/35, (16 December 2014), [3].

⁸ Ibid, [9].

⁹ Ibid.

Subpoena amendment

The right to security of person, through freedom from injury to the body and mind, is directly promoted through the amendments that enshrine procedural safeguards for subpoena requests. Both physiological and psychological harm to victim-survivors can be perpetrated by systems abuse. Section 16AXA acknowledges that through the sharing and on-sharing of information to various ISEs, there is risk that victim-survivor information may be subpoenaed from organisations who do not work directly with the victim-survivor and therefore have no visibility of the risk that production could cause. This amendment seeks to legislate a safeguarding mechanism which is focused on ensuring that appropriate entities produce records that are in their possession, custody and control for the purposes of compulsory production required by a disclosure requirement under section 131A(2) of the *Evidence Act 2011*. This procedural safeguard mitigates the risk of harm perpetrated by systems abuse.

Section 27– Cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities

Section 27(2) of the HRA provides that Aboriginal and Torres Strait Islander peoples hold distinct cultural rights and must not be denied the right:

- (a) to maintain, control, protect and develop their
 - (i) cultural heritage and distinctive spiritual practices, observances, beliefs and teachings;
 - (ii) and languages and knowledge;
 - (iii) and kinship ties.

The amendment to section 16(2)(b)(i) upholds this right by replacing ‘cultural sensitivities’ with ‘cultural rights’. Reference to the ‘cultural sensitivities’ of Aboriginal or Torres Strait Islander victim-survivors is insufficiently precise and creates ambiguity regarding what ISEs need to consider when exercising an information sharing function. Additionally, focusing on ‘sensitivities’ in the language of the Act emphasises the attitude or perspective of the person or entity providing the service, as opposed to centring the experience or rights of the Aboriginal or Torres Strait Islander person. The term ‘cultural rights’ aligns with legislative terminology in section 27 of the HRA.

Rights Limited

Section 12 – Right to privacy and reputation

1. Nature of the right and the limitation (s28(a) and (c))

Section 12 of the HRA protects people from unlawful or arbitrary interference with their privacy, family, home, or correspondence. The right to privacy is not absolute and may be reasonably limited by laws which can be demonstrably justified.

Clause 16 of this Bill amends section 16AI of the Amendment Act (2024) which limits the right to privacy by providing a mechanism for ISEs to share or use sensitive information for a secondary purpose. The primary purpose of the Scheme (a protection purpose) is circumscribed by several proportional safeguards. Disclosure or use of information for a secondary purpose may limit a person's right to informational privacy.

2. *Legitimate purpose (s28(b))*

The legitimate purpose of this amendment is to ensure pre-existing information sharing arrangements are not impeded. Existing information sharing functions, including through critical multi-agency forums such as FVSAP and Wraparound, operate in the ACT to provide critical services that work to assess, manage, prevent and respond to serious DFV risk. As the Scheme was established in response to explicit concerns about barriers to information sharing, it is essential that the Scheme does not fragment information sharing further and create unintended silos that may jeopardise the safety of victim-survivors.

This amendment seeks to manage the risk of fragmenting information sharing mechanisms by acknowledging that not all agencies involved in information sharing forums are ISEs under this Scheme. The Scheme is intended to be complimentary to existing legislative functions and government-authorised powers that ISEs may have which support and protect public safety but are outside the scope of a protection purpose for this Scheme. The amendments to section 16AI in clause 16 are the means proposed to ensure that information sharing to non-ISEs through the existing secondary use power is clearly and appropriately restricted.

3. *Rational connection between the limitation and the purpose (s28(d))*

This limitation is directly connected to the legitimate purpose of the Bill and the Amendment Act (2024) to facilitate safe and prudent information sharing to improve responses to domestic and family violence. Section 16AI of the Amendment Act (2024) contemplated the need for a secondary use power as many ISEs are legally required or authorised to disclose or use information for specific purposes which may be outside the scope of the Scheme. This Bill does not create the secondary use power but clarifies the intended scope.

Through consultation, it was identified that the existing multiagency forums share information relying on a variety of generic legislative powers, including section 136 of the *Crimes (Sentencing) Act 2005*, the *Health Records (Privacy and Access) Act 1997* (HRPA) and TPP 6.2(c) of the *Information Privacy Act 2014* (IPA). Consultation feedback also identified concerns that the existing section 16AI(1)(b) may not effectively capture the specific serious or imminent disclosure exceptions contemplated by the HRPA and IPA, despite the intention of the Amendment Act (2024) that they did.

This Bill progresses amendments to avoid any doubt and expressly identify that ISEs can use or disclose information for a secondary purpose in accordance with:

- the IPA to lessen or prevent a serious threat to the life, health or safety of an individual, or to public health or safety; or
- the HRP to:
 - prevent or lessen a serious and imminent risk to the life or physical, mental or emotional health of a consumer or someone else (disclosure only).
 - prevent or lessen a significant risk to the life or physical, mental or emotional health of the consumer or someone else (use of information only).

Other than the inclusion of the HRP and IPA, amended section 16AI(1A)(a)-(e) is largely identical to existing section 16AI(1).

The specific serious, significant and/or serious and imminent circumstances contemplated by the relevant provisions in HRP and IPA are consistent with the limited exceptional circumstances where an ISE might share information to another ISE about an at-risk or connected person without their consent. This means that secondary use and disclosure continues to be confined to serious and urgent scenarios already permitted under other common information privacy laws in the ACT.

The rationale to expressly name the HRP and IPA as secondary purposes also responds to the identified complexity where not all agencies who participate in the existing information sharing forums are ISEs in this Scheme. The Scheme operates by regulating information that is disclosed under it. This means that once information has been shared using Part 3 or an ISE receives information under that Part, an ISE cannot share that information with a non-ISE except in accordance with section 16AI. Through Scheme implementation work, relevant stakeholders conveyed that a clarifying provision which expressly states that ISEs are permitted to share with non-ISEs for the secondary purposes provided in section 16AI was necessary to support their confidence in applying the section. This Bill introduces section 16AI(1B) for this purpose. Should an ISE invoke a secondary purpose in section 16AI(1A)(a)-(e), that ISE is empowered to disclose information they have received through the Scheme to a non-ISE. For example, in an FVSAP meeting, an ISE may use the IPA secondary purpose to share information they have received from another ISE to an agency who is not an ISE for that legitimate, legislatively authorised purpose. FVSAP and Wraparound provide critical, high-quality, coordinated, targeted, and timely responses to support victim-survivor safety in high-risk matters. Clarifying the scope of Division 3.5 empowers ISEs to disclose to any entity for those clear and legitimate secondary purposes that are already authorised under existing laws. This amendment mitigates the legal and operational complexity for agencies that already experience inconsistent and fragmented information sharing practices

under existing laws. This is also consistent with the repeated findings of reviews and inquiries mentioned throughout this Explanatory Statement.

4. Proportionality (s28 (e))

The limitations on the right to privacy are necessary and reasonable to ensure the Bill does not frustrate or impede the lawful, government-authorised powers and functions of ISEs. For some ISEs, those functions include information sharing in existing multi-agency forums for the purposes of responding to risk of domestic and family violence.

Narrowing the regulation making power

Section 16AI(1A)(f) moderates the limitation on the people's right to privacy. This section amends the existing regulation making power in section 16AI(1)(d) by requiring that any secondary use or disclosure under a prescribed law also promotes the objects of the Act. The objects of the Act can be found in section 3B of the Amendment Act (2024).

The Amendment Act (2024) considered that a regulation making power was necessary to ensure the provision remains consistent and responsive to legislative reforms over time. The Human Rights Commission has previously raised that the Act's consistency with human rights relies on any scope for secondary use or disclosure being narrowly confined or wholly excluded. Narrowing the regulation making power by requiring that any use or disclosure of information must promote the objects of the Act lessens the impact on a person's right to privacy. The objects of the Act capture the broad functions and purposes of information sharing functions to manage DFV risk, including in key multi-agency forums. This means that if generic information sharing laws are prescribed under this regulation making power, sharing under that prescribed law is moderated and limited to the original object and intent of the Scheme.

This approach is consistent with information privacy laws which permits the disclosure or use of personal information for a secondary purpose when it is related to the original primary purpose for which that information was collected. Additionally, any regulations made under section 16AI(1A)(f) will be subject to a human rights assessment and will be disallowable by the Legislative Assembly, ensuring they will be transparent, accountable and open to scrutiny. As FVSAP and Wraparound are non-statutory bodies, they cannot be 'named' in legislation. The approach taken in this Bill is the least restrictive means to achieve preservation of key information sharing functions in the ACT.

Safeguards

The Scheme provides for several safeguards that ensure the sharing or use of information for a secondary purpose does not unreasonably limit a person's right to privacy.

Existing section 16AI(2) is not amended through this Bill. This existing section requires ISEs relying on a secondary purpose to use or disclose Scheme information to inform the Information Sharing Coordinator and the ISE who they received the information from. As contemplated by the Amendment Act (2024), this provides important oversight over uses of information under other laws and ensures such uses of information are kept within view. This also contributes to developing a systematic understanding of which ISEs are required to use information under which laws, which may be considered in the 2-year review of the Scheme.

Additionally, existing section 16AS ensures that victim-survivors have visibility over how their information is being used and can manage their safety accordingly. Amendments in this Bill do not displace the considerations in the Explanatory Statement for the Amendment Act (2024) regarding compliance with other relevant laws they have dealt with information under (as authorised by section 16AI).

Section 21 – Right to a fair trial

1. *Nature of the right and the limitation (s28(a) and (c))*

Section 21 of the HRA recognises that everyone has the right to have criminal charges and rights and obligations recognised by law decided by a competent, independent and impartial court or tribunal after a fair and public hearing. This includes rights to procedural fairness and equality in proceedings.

Production of information or documents required by a disclosure requirement as defined in section 131A(2) of the *Evidence Act 2011* promotes the right to a fair trial. Section 16AXA of this Bill creates a procedural safeguard for production of information in relation to a disclosure requirement under section 131A(2) of the *Evidence Act 2011*, which includes subpoena requests. This may limit the right to a fair trial for litigants by resulting in requested information not being produced by the addressee.

2. *Legitimate purpose (s28(b))*

It is well established that systems abuse through legal proceedings, including subpoena processes, is a common mechanism for the ongoing perpetration of domestic and family violence on a victim-survivor. ANROWS refers to the use of a legal process to gain access to a victim-survivor's sensitive information as a tactic to “threaten, harass or inflict harm”.¹⁰

ACT stakeholders who primarily interface with victim-survivors of DFV have identified an increase in the instances of subpoenas to produce documents relating to records of victim-survivors. There is a risk that through the operation of the Scheme, more agencies will hold information about victim-survivors they have received second hand, or otherwise through multiple instances of on-sharing.

¹⁰ ANROWS [5].

While the sharing of information is desirable to support system responses to DFV, this circumstance creates additional opportunities for people who use violence to engage in systems abuse, by seeking to subpoena victim-survivor records from various sources, including through government organisations that may not be the original holders of victim-survivor information nor have a service relationship or be in contact with the victim-survivor.

This amendment pursues the legitimate objective of ensuring that appropriate entities produce information in response to a disclosure requirement, not ISEs who only hold that information because they have received it from another ISE through the Scheme.

3. *Rational connection between the limitation and the purpose (s28(d))*

The amendment achieves the legitimate purpose by presuming that information an ISE holds only because they received it from another ISE under the Scheme is not within its ‘possession, custody or control’ for the purposes of production. The effect of this disapplies the disclosure requirement to that information.

This amendment generally aligns with the approach taken to disapply freedom of information laws in section 16AZ in the Amendment Act (2024), which prevents access to information an ISE holds only because it was disclosed to it under the Scheme. It is already a matter for any addressee of a subpoena to identify documents in their possession, custody or control for the purposes of document and information production.

4. *Proportionality (s28 (e))*

This Bill has been drafted to ensure that the limitation of a litigant’s right to a fair trial is proportionate to the legitimate purpose of ensuring that appropriate entities produce relevant subpoenaed information. Section 16AXA triangulates the interests of the victim-survivor, litigants and the community when considering all parties’ right to a fair trial.

Interests of the victim-survivor

Where this amendment may be perceived to limit the right to fair trial for a litigant, it promotes this right for victim-survivors. A fulsome discussion on how section 16AXA additionally promotes victim-survivors right to life, security and privacy is included earlier in this Explanatory Statement.

Section 16AXA intends to reduce the opportunity of systems abuse used to perpetrate DFV, such as using subpoena processed to conduct fishing expeditions to collect as much information about the victim-survivor with the purpose of enacting harm. This is a particular concern for victim-survivors who access essential services from organisations, that may share – or be required to share – sensitive victim-survivor information with other government entities through the Scheme.

Entities that receive second-hand information may not understand and apply interacting laws which govern potential immunities, protected confidences and processes for contesting the validity of subpoenas or the admissibility of the records being sought. This may result in swathes of information being produced to a court without effective consideration of other laws that may regulate its admissibility. Where information obtained through multiple sources is produced on subpoena, questions about the reliability and admissibility of that subpoenaed evidence remains a live issue. It is in the victim-survivors interest, therefore, that not every ISE subpoenaed produces information if they have received it second hand or through multiple instances of on-sharing through this Scheme. This supports a victim-survivors right to a fair trial by ensuring that appropriate entities that are the original holders of information are empowered to produce information in response to a disclosure requirement. This supports their right to a fair trial because it creates a procedural mechanism that may better support victim-survivors to vindicate their own legal interests in subpoena applications. This amendment therefore balances the right to a fair trial for both victim-survivors and litigants.

Interests of litigants

Section 16AXA is intended to be a procedural safeguard. It moderates limitations on the right to a fair trial by ensuring that the Scheme does not create a class of documents that are privileged. Section 16AXA(4) specifically provides that this provision does not prevent relevant information from being put before the Court, nor does it prevent production of the same material held by a person or entity that is the original holder of information outside the operation of the Scheme. These amendments are not intended to inadvertently interfere with the power of the Court to require a party produce certain information or documents.

It is still the prerogative of a litigant to issue subpoenas to obtain evidence they may need to support their claims and legal proceedings from whichever and however many people or organisations. Procedurally, this amendment means that an ISE who is the addressee of that subpoena request will determine what information they have that is in their possession, custody or control to answer that disclosure requirement. Information that they have received only from another ISE under this Scheme is considered not in their 'possession, custody or control' and therefore is not captured by the disclosure requirement. That ISE is not prevented by this amendment from producing other relevant information they hold outside of the Scheme, nor does it prevent the litigant from subpoenaing the original holder of the information.

Additionally, section 16AXA only applies to ISEs. It does not extend to non-ISEs who may receive information from one of the permitted secondary purposes. The potential limitation to a right to a fair trial is restricted to the context of this Scheme.

In undertaking this human rights analysis, it was considered whether this amendment possibly limited the right to equality before the law (section 8 of the HRA) for a litigant who is a person using violence. However, these amendments are not limited to information about victim-survivors. The provision applies to all information an ISE may have received from another ISE under the Scheme, including information about a person using violence. Regardless of who the information is about, it is not taken to be in the possession, custody or control of the ISE for the purposes of meeting a disclosure requirement, such as a subpoena. The right to equality before the law of a litigant or person using violence is therefore not limited as there is no differential treatment to their information.

Interests of the community

Subpoena requests can entail complicated and resource intensive legal processes if the producing party wishes to contest the subpoena. This is particularly the case where the records sought to be produced are subject to special provisions regarding partial immunities and admissibility considerations as informed across the statute book (including the *Evidence (Miscellaneous Provisions) Act 1991* and uniform evidence law at both a Territory and Federal level). Section 16AXA(3) provides an exception to the presumption in section 16AXA(2), meaning that an ISE who is required by a disclosure requirement, such as a subpoena, can obtain the consent of the ‘disclosing entity’ (i.e., the original information holder), to produce the material to the Court. This provision specifically contemplates potential unintended consequences of section 16AXA(2) for NGOs and other front-line services. Given those organisations will hold the vast majority of information generated outside the operation of the Scheme, section 16AXA(3) creates flexibility for an ISE to produce subpoenaed records with the consent of those organisations. This safeguards everyone’s right to a fair trial by creating a mechanism for disclosure requirements to be responded to by the appropriate entity.

DOMESTIC VIOLENCE AGENCIES AMENDMENT BILL 2026

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Domestic Violence Agencies Amendment Bill 2026**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly **is** consistent with the *Human Rights Act 2004*.

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Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

Clause 1 Name of Act

This clause provides that the name of the Act is the Domestic Violence Agencies Amendment Act 2026.

Clause 2 Commencement

This clause provides that the Act commences on the later of two proposed dates: the day after the Act's notification day or the commencement of the *Domestic Violence Agencies (Information Sharing) Amendment Act 2024*, section 3. This commencement date excludes the provisions outlined in subsection (2) which reference the formal dissolution of the DVPC.

Subsection (2) provides that Clauses 4, 28, 30 and Schedule 1 commence on a day fixed by the Minister for the Prevention of Domestic, Family and Sexual Violence.

Clause 3 Legislation amended

Clause 3 provides that the Act amends the *Domestic Violence Agencies Act 1986* and, consequentially, the Territory Records Regulation 2009.

Clause 4 Omit Part 2

Clause 4 removes Part 2 from the *Domestic Violence Agencies Act 1986*. Part 2 established and defined the functions of the Domestic Violence Prevention Council (DVPC).

Clause 5 Meaning of *information sharing entity*—pt 3 Section 14 (1), definition of *information sharing entity*, paragraph (b)

Clause 5 substitutes the term 'ACT Education Provider' with a list of education-related information sharing entities (ISEs) under the *Education Act 2004*, namely government schools, non-government schools and school-related institutions.

Clause 6 Section 15 heading

Clause 6 substitutes the previous heading with 'information sharing purposes'.

Clause 7 Section 15

Clause 7 omits the phrase 'to the extent necessary for'.

Clause 8 Section 15 (a)

Clause 8 inserts 'to the extent necessary for' at the beginning of subsection 15(a).

Clause 9 Section 15 (b)

Clause 9 substitutes subsection (b) with 'in accordance with division 3.5 (Disclosure and use of information for secondary purposes etc).'

Clause 10 Requirements for information sharing – section 16 (2)(a)(i) and (ii)

Clause 10 substitutes the phrase ‘sexual identity’ with ‘sexuality’ to align with best practice terminology and ensure consistency with the *Discrimination Act 1991*.

Clause 11 Section 16 (2) (b) (i)

Clause 11 substitutes the phrase ‘cultural sensitivities’ with ‘other cultural rights’ to better centre the experiences and rights of Aboriginal and Torres Strait Islander people and align with the *Human Rights Act 2004*.

Clause 12 Section 16AG heading

Clause 12 amends the previous heading of section 16AG to refer to the Information Sharing Coordinator’s ‘independence’. This is consistent with the newly added section 16AG (2) (see Clause 13).

Clause 13 New section 16AG (2)

Clause 13 clarifies the nature of independence of the Information Sharing Coordinator. This clause does not displace the original policy intent of the Information Sharing Coordinator, including their obligations as a public authority under the *Human Rights Act 2004*.

Clause 14 Division 3.5 heading

Clause 14 substitutes the previous division heading with ‘Disclosure and use of information for secondary purposes etc’.

Clause 15 Section 16AI heading

Clause 15 substitutes the previous section heading with ‘Disclosure and use of information for secondary purposes etc’ to align with the revised heading for Division 3.5 (see Clause 14).

Clause 16 Section 16AI (1)

Clause 16 substitutes section 16AI with the following:

Section 16AI (1) (1) clarifies how section 16AI operates. It states that information received under the Scheme may be disclosed or used for certain secondary purposes, or with consent of at-risk or connected people.

Section 16AI (1) (1A) (a-e) defines what a permitted ‘secondary purpose’ is under this Act. It lists all the common laws and legal requirements where an ISE may need to use or disclose information for a secondary purpose. This is largely identical to current section 16AI(1), but now expressly includes the *Information Privacy Act 2014* and *Health Records (Privacy and Access) Act 1997*. The *Health Records (Privacy and Access) Act 1997*, schedule 1, principle 9 (1) (b) or principle 10 (2) (d) is included at S16AI(1A)(c) and the *Information Privacy Act 2014*, schedule 1, TPP 6.2 (c) is included at s16AI(1A)(d).

Section 16AI(1A)(f) amends the existing regulation making power in section 16AI(1)(d). It narrows the scope of the regulation making power, by requiring that any secondary use or disclosure under a prescribed law also promotes the objects of Part 3 of the *Domestic Violence Agencies Act 1986* (introduced by the *Domestic Violence Agencies (Information Sharing) Amendment Act 2024*).

Section 16AI (1) (1B) is a clarifying provision. It provides that ISEs may disclose information to non-ISEs for a purpose provided under Section 16AI.

Clause 17 Section 16AI (2), new note

Clause 17 inserts an additional legislative note directing the reader to section 15(b) and section 16AS of the Act for further context.

Clause 18 New Section 16AI (3)

Clause 18 inserts a third subsection that defines the term ‘TPP’ (Territory Privacy Principle) by reference to section 13 of the *Information Privacy Act 2014*.

Clause 19 Certain people to be told about disclosure for protection purpose Section 16AQ (2)

Clause 19 substitutes the existing list of notification requirements with a continuing obligation for ISEs to keep victim-survivors informed about the use of their information. As no specific timeframe for notification is provided, section 151B of the *Legislation Act 2001* applies.

Clause 20 Section 16AQ (3) (a)

Clause 20 omits the words ‘in writing’ from Section 16AQ (3) (a). This enables the at-risk or connected person to flexibly communicate their wishes regarding notification and disclosure.

Clause 21 Section 16AS heading

This clause substitutes the previous section 16AS heading with ‘Certain people to be told about disclosure and use for secondary purposes etc’.

Clause 22 Section 16AS (1)

Clause 22 omits the end of subsection (1) and substitutes ‘for a purpose other than a protection purpose under section 16AI’ with ‘under division 3.5 (Disclosure and use of information for secondary purposes etc)’.

Clause 23 Section 16AS (2), except note

Clause 23 substitutes the existing list of notification requirements with a positive obligation for ISEs to tell victim-survivors about the disclosure and use of their information for a secondary purpose. As no specific timeframe for notification is provided, section 151B of the *Legislation Act 2001* applies.

Clause 24 Section 16AS (3) (b)

This clause omits the words ‘in writing’ to enable the at-risk or connected person to flexibly communicate their wishes about the disclosure or use of their information for a secondary purpose.

Clause 25 New section 16AWA

Clause 25 creates a new section that provides that the Chief Police Officer has the power to delegate a function under this Part to a police officer. This section includes a legislative note directing the reader to pt 19.4 of the *Legislation Act 2001* for further context regarding delegations.

Clause 26 Disclosure and use of shared information Section 16AX (3)(b)

Clause 26 omits the word ‘domestic and’ from section 16AX (3)(b) to align with ‘family violence offence’ terminology across the ACT statute book.

Clause 27 New section 16AXA

Clause 27 inserts a new section titled ‘Disclosure of information – courts’. This establishes a procedural safeguard for disclosure requirements of the ACT Magistrate Court and Supreme Court, including subpoena requests, focused on ensuring the appropriate entity produces information.

Section 16AXA(1) clarifies that this provision applies when an ISE is required under a disclosure requirement to give information or produce a document they have received under Part 3 of the *Domestic Violence Agencies Act 1986*.

Section 16AXA(2) provides that information an ISE has received under this part is not in its ‘possession, custody or control’. This means the disclosure requirement does not apply to information an ISE holds, if the ISE only holds that information because it was disclosed to them under this Part 3 of the *Domestic Violence Agencies Act 1986*.

Section 16AXA(3) provides that an ISE can obtain written consent from the ‘disclosing entity’ (i.e., the original information holder), to give the information or produce the document required by the disclosure requirement.

Section 16AXA(4) clarifies that this section does not prevent the production of the information itself, generally. It does not prevent relevant information from being put before the Court, nor does it prevent production of the same material held by a person or entity that is the original holder of information outside the operation of Part 3 of the *Domestic Violence Agencies Act 1986*.

Section 16AXA(5) defines a disclosure requirement by applying the *Evidence Act 2011*. It also defines ‘document’.

Clause 28 Dictionary, definition of *council*

Clause 28 omits the definition of ‘council’ from the Act. This definition is no longer required following the repeal of Part 2 which established the Domestic Violence Prevention Council (see Clause 4).

Clause 29 Dictionary, definition of *family violence*

Clause 29 omits the definition of ‘family violence’ in light of section 20 in the *Domestic Violence Agencies (Information Sharing) Amendment Act 2024*.

Clause 30 Dictionary, definition of *member*

Clause 30 omits the meaning of ‘member’ from the dictionary. This definition is no longer required following the repeal of Part 2 which established the Domestic Violence Prevention Council (see Clause 4).

Schedule 1 Territory Records Regulation 2009 - Consequential amendment

Clause [1.1] Schedule 1, item 7

This Clause omits reference to the Domestic Violence Prevention Council from Schedule 1 of the *Territory Records Regulation 2009*. This is consistent with the repeal of Part 2 which established the Domestic Violence Prevention Council (see Clause 4).