Workplace Support: Responding to staff who perpetrate family violence:

Resources for Victorian hospitals and health services

The previous SHRFV Family Violence Workplace Support Program supported hospitals to embed policies and procedures in all hospitals to respond to staff who are victim survivors of family violence. Some hospitals have expressed an interest in developing procedures and policies to assist Managers and Human Resources to respond to staff who perpetrate family violence.

Disclosures of family violence perpetration by staff are rare, however when a disclosure is made, knowing how to respond appropriately is important.

Every case is unique, requiring a tailored response. It is important that those who are responding to the staff member who is perpetrating family violence understand their role as Manager, Family violence Contact officer or Human Resources consultant, as well as the role of the hospital as an employer. Further, it is important that staff understand that they are not family violence specialists and consult with specialist family services and their hospital legal services where appropriate.

The attached guides and templates draw on the following current good practice principles in responding to staff who perpetrate family violence[[1]](#footnote-1):

* Prioritising the safety of victim survivors, as well as staff and patients
* Holding perpetrators accountable for their actions and behaviour
* Not condoning family violence regardless of the socio-economic status, ethnicity, sexuality, gender identity, residential postcode, occupation, education or other aspects of the identity, background or attributes of either the perpetrator or victim/survivors.
* Encouraging perpetrators of family violence to seek support from specialist family violence services such as Men’s Referral Service on 1300 766 491
* Having a clear understanding of the role of the hospital as an employer in responding to staff.

Prevention as a priority

In recognition that workplace actions to respond to individual instances of family violence alone are unlikely to significantly reduce the prevalence of family violence, it is recommended that hospitals focus principally on primary prevention / gender equality efforts. Gender Equality Actions within hospitals is now mandated through the Gender Equality Act (2020) which comes into effect in September 2020.

The template policy included in this toolkit includes information on the importance of prevention efforts. A *Prevention of Violence against Women Policy/Strategy* or *Prevention of Family Violence Strategy* is recommended to embed actions within hospitals that challenge disrespect and the condoning of violence against women/family violence and promote equality for people of all genders.

This resource package provides hospitals with a suite of templates for responding to staff who perpetrate family violence, which can be tailored to your hospital’s unique operating environment. These have been written to be embedded in workplace policies and procedures in addition to current policies and procedures for supporting staff who are victim survivors. The current Victorian Public Health Sector Enterprise Agreement does not stipulate training and procedures related to staff who perpetrate family violence as it does for victim survivors.

Many workplaces have found that current disciplinary and other Human Resources procedures are sufficient.

The package includes: ​

1. [Family violence - Workplace responses to staff who perpetrate family violence - Policy](#bookmark=id.1fob9te)A template policy outlining the hospital’s position on preventing violence against women and responding to staff who perpetrate family violence. This document could form the basis of a perpetrator policy or be the basis of information for other prevention of violence against women policies. The document recommends that hospitals prioritize prevention of violence against women/equality initiatives.
2. ​[Family violence - Workplace responses to staff who perpetrate family violence – Manager Guidelines](#bookmark=id.17dp8vu)Detailed Guidelines (template) on responding to individual disclosures from perpetrators for Managers without HR responsibilities.
3. [Family violence - Workplace responses to staff who perpetrate family violence – Guidelines for Human Resources staff](#bookmark=id.3whwml4) Detailed HR Guidelines (template) for staff who have HR responsibilities, which may include non-HR Managers in some hospitals.
4. [Family violence - Workplace responses to staff who perpetrate family violence –Clause](#bookmark=id.23ckvvd) A brief clause that could be inserted into a current victim survivor focused Workplace Support policy or other violence policy.
5. [Case studies in responding to staff who perpetrate family violence](#bookmark=id.ihv636) A set of fictional case studies​​ that could be used in training. The case studies have been written to support Managers and Human Resources staff to understand their responsibilities and workplace policies and procedures. They can be used in training or to prompt discussion and reflection when developing policies or procedures.

**A note on training.** No specific training tools have been developed to accompany these resources. Content can be taken from these documents to develop training if hospitals wish to implement specific training on perpetrators.

Training resources related to prevention/gender equality are being developed to support the implementation of the Gender Equality Act. Please refer to the Department of Premier and Cabinet website for more information, <https://www.vic.gov.au/dpcs-gender-equity-action-plan>

References

* Australian Bureau of Statistics, 2017, Personal safety, Australia, 2016. Canberra, ACT: ABS. Available from: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>
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* Our Watch, 2017, *Practice Guidance:* *Workplace Responses to staff who perpetrate violence,* Melbourne, Our Watch, Available from <https://workplace.ourwatch.org.au/resource/practice-guidance-workplace-responses-to-staff-who-perpetrate-violence/>
* Our Watch, 2020, Understanding and Responding to employees who use violence, Available from <https://workplace.ourwatch.org.au/employee-support/videos/understanding-and-responding-to-employees-who-use-violence/>
* Victorian Government, 2019, *MARAM Practice Guides: Foundation Knowledge*, Melbourne, Victorian Government, Available from <https://www.vic.gov.au/sites/default/files/2019-07/MARAM-practice-guides-foundation-knowledge.pdf>
* Victorian Government, Code of Conduct for Victorian Public Sector Employees, Available from, <https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees/>

Videos

* Our Watch, 2020, *Understanding and Responding to employees who use violence*. Available from <https://workplace.ourwatch.org.au/employee-support/videos/understanding-and-responding-to-employees-who-use-violence/>
* SBS, 2019, *Domestic and Family violence*. Available from <https://malechampionsofchange.com/sbs-inclusion-program-domestic-and-family-violence/>
* Our Watch, 2020, *Employee Support.* Available from <https://workplace.ourwatch.org.au/employee-support/>
* Our Watch, 2015, *Change the story*. Available from <https://www.ourwatch.org.au/the-evidence/videos/>
* [Kimberle Crenshaw, n.d., Intersectionality Ted Talk](https://www.ted.com/talks/kimberle_crenshaw_the_urgency_of_intersectionality?language=en). Available from [https://www.ted.com/talks/kimberle\_crenshaw\_the\_urgency\_of\_intersectionality?language=enKimberle Crenshaw intersectionality Ted Talk](https://www.ted.com/talks/kimberle_crenshaw_the_urgency_of_intersectionality?language=enKimberle%20Crenshaw%20intersectionality%20Ted%20Talk%20)

* [Our Watch](https://www.ourwatch.org.au/What-We-Do/Unpacking-Violence-A-storytelling-resource-for-pra), 2019, *Unpacking violence.* Available from <https://www.ourwatch.org.au/What-We-Do/Unpacking-Violence-A-storytelling-resource-for-pra>

The Royal Women’s Hospital thank Barwon Health for their contribution to this suite of resources.

Family violence - Workplace responses to staff who perpetrate family violence - Policy template

Family violence is a workplace issue

[Service name] recognises that family violence is a workplace issue and that we have the opportunity and a responsibility to take action when family violence intersects with the workplace.

[Service name] is committed to the ending violence against women and family violence, recognising that family violence, sexual harassment and other forms of gendered violence are prevalent, serious and impact many of our staff. The Family Violence Workplace Support Program, in line with our relevant Enterprise Agreement has embedded policies and procedures to identify and respond to victim survivors of family violence. We also [have introduced/will be introducing] procedures that support [managers and HR] to respond appropriately to individual staff who perpetrate family violence. *[Services to tailor statements related to other documents and training in line with current context]*

Managing perpetrators of family violence within the workplace is an area where public health and human rights fields intersect with that of industrial relations/workplace laws and rights.[[2]](#footnote-2) Whilst disclosures of family violence perpetration are rare, it is a complex space requiring appropriate human resource procedures, and training for managers to understand their role and responsibilities. Every case is unique requiring a tailored response that prioritises victim safety. [list procedural documents] provides managers and HR with guidance, within a safety framework on how to respond to disclosures of family violence perpetration from their staff.

Perpetrators do not belong to any one particular workforce demographic. They will be our peers, people who manage staff, or general staff. They will work in all professions within a hospital setting and may experience many forms of privilege or may also experience privilege and discrimination at the same time. In the same way that discrimination impacts a victim’s experience of violence, both privilege and discrimination can impact how and against whom perpetrators use violence. There is no single profile of a perpetrator and our procedures must acknowledge this and hold perpetrators to account, regardless of their position within the workplace.

**Prevention of family violence**

In recognition that workplace actions to respond to individual instances of family violence alone are unlikely to significantly reduce the prevalence of family violence, our workplace response to staff who perpetrate family violence will focus principally on primary prevention efforts. This includes the promotion of equality for all women as legislated by the Gender Equality Act (2020), the strengthening of equal and respectful relationships, the promoting of a culture where attitudes and behaviours that disrespect women are challenged, supported by policies that establish a baseline of behavioural expectation against which employees can be held to account for their actions.

Key principles underpinning this policy

In order to effectively prevent and respond to family violence and all forms of violence against women, [Service name] is committed to:

* promoting the workplace as a setting for prevention and response
* fostering gender equity measures within the workplace
* providing a safe and supportive work environment by promoting respectful workplace behaviour by all staff, contractors and associates
* articulating a position that family violence or violence against women in any form is not condoned
* acknowledging that the perpetrators of family violence are wholly responsible for their behaviour
* ensuring the safety of victim survivors is central in our responses to staff who perpetrate violence
* equipping staff with the required knowledge and skills to effectively address the issue whether the violence occurs inside or outside of the workplace
* recognising the potential cumulative trauma impact of other types of workplace violence (i.e., patients, colleagues) after family violence has occurred
* referring perpetrators of family violence to appropriate services and providing information for them to work towards behavioural change
* taking action against staff if they perpetrate violence at work
* supporting victim survivors of family violence with access to information and services

Workplace primary prevention to create equality and respect for all women

[Service name] acknowledges that all violence is unacceptable, regardless of the gender of the victim survivor or of the perpetrator of the violence. While anyone, male or female or non-binary can be a victim of violence, and family violence occurs in all types of family relationships, evidence demonstrates that family violence is gendered, with women being three times more likely than men to have experienced violence by a partner since the age of 15 (Australian Bureau of Statistics, 2017). Men are also more likely than women to perpetrate family violence with 3 in 4 victims of family violence reporting that the perpetrator was male (Australian Bureau of Statistics, 2017).

In addition to recognising the gendered nature of family violence, [Service name] also acknowledges that people’s experiences are shaped by multiple identities, circumstances or situations including their age, gender identity, sexual orientation, ethnicity, cultural background, language, religion, visa status, class, socioeconomic status, ability and geographic location. People who experience multiple forms of discrimination may be targeted for violence more often and in different ways to other women and therefore our work to build respectful and equal relationships and structures must also reflect this.

There are certain groups of people in Australia who are more likely to experience family or sexual violence, or that face additional barriers to accessing appropriate support to increase their safety and recovering from family, domestic and sexual violence(Australian Institute of Health and Welfare, 2018; Australian Institute of Health and Welfare, 2019; Victorian Government, 2019) including:

* Aboriginal and Torres Strait Islander people
* Children
* Young women
* Older people
* People with disability
* People from culturally and linguistically diverse backgrounds and faith communities
* Lesbian, gay, bisexual, transgender, Intersex, queer people
* People in rural and remote communities
* People who experience socioeconomic disadvantage
* Women experiencing mental health issues or mental illness
* Women in or exiting prison
* Male victims

Our workplace primary prevention efforts draws on two key frameworks. The first is Australia’s shared framework to end violence against women and their children *Change the story* (Our watch, ANROWS and VicHealth, 2015) which outlines the five areas of social change required to prevent violence against women:

1. Challenge the condoning of violence against women
2. Promote women’s independence and decision-making in public life and relationships
3. Foster positive personal identities and challenge gender stereotypes and roles
4. Strengthen positive, equal and respectful relations between and among women and men, girls and boys
5. Promote and normalise gender equality in public and private life.

The second framework that will guide our prevention work is *Changing the picture:* A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children (Our Watch, 2017).Changing the picture outlines key actions that can be taken to address the underlying drivers of violence against Aboriginal women as well as principles to guide our work.

[Service Name] acknowledges that specific effort is needed to address the high rates of violence against Aboriginal women who are 32 times more likely than other women to be hospitalised and 10 times more likely to die from violent assault (Australian Institute of Health and Welfare, 2018). ‘The higher prevalence of family violence against Aboriginal people, particularly Aboriginal women, is due to a number of factors, many of which relate to the generational impact of colonisation, invasion and dispossession on Aboriginal culture and communities’ (Victorian Government, 2019).

Responding to individual staff members who perpetrate family violence

In addition to our prevention work, [Service name] has introduced a [list procedural documents] for responding to staff who perpetrate family violence.

As employers it is the role of the hospital/health service to:

* provide a safe work environment
* provide a safe clinical service for patients
* to set and uphold expected codes of behaviour for our staff.

Perpetration of family violence can impact the workplace in a number of ways. It can be disruptive to the workplace and can impact the performance of the perpetrator, victim survivors who are also on staff, and other staff. It also has the potential to make the workplace unsafe.

[Service name] will respond to staff who perpetrate family violence in a way that conveys a clear message that they will be held accountable for their behaviour and that family violence or violence against women in any form will not be condoned, regardless of the experience of privilege or marginalisation that perpetrator may have in the workplace.

[Service name] considers the safety and wellbeing of victim survivors to be our first priority. Our policies and procedures reflect our commitment to holding staff who perpetrate violence accountable, whilst also supporting them to access the services they need to change their behaviour.

Workplace Support alignment with the Victorian Family Violence Multi-Agency Risk Assessment and Management (MARAM) Framework

The MARAM Framework is best practice for family violence risk assessment and management, based on current evidence and research (Victorian Government, 2019). It aims to establish a system-wide shared understanding of family violence and collective responsibility for risk assessment and management. A key aim of the MARAM framework is to keep perpetrators in view and hold them accountable for their actions and behaviours. A key principle of MARAM is that perpetrators should be encouraged to acknowledge and take responsibility to end their violent, controlling and coercive behaviour, and service responses to perpetrators should be collaborative and coordinated through a system-wide approach that collectively and systematically creates opportunities for perpetrator accountability (See Appendix A for a list of the 10 Guiding principles of the MARAM framework).

At the time of writing the practice resources for working with perpetrators had not been released by Family Safety Victoria. When this guidance is released it is expected that hospitals align any policies and procedures that relate to staff who perpetrate family violence with MARAM.

The current MARAM guidelines have noted that finalised guidance will make clear that only key/selected professionals and services will be trained/required to provide a service response to perpetrators related to their use of violence. It is as yet unclear if organsations’ responsibilities will extend to staff who perpetrate family violence.

This policy applies the principle of holding perpetrators accountable for their actions, prioritising safety of victims and acknowledges the expertise of specialist family violence service providers.

Supporting staff who perpetrate family violence to change behaviour

[Service name] support for perpetrators of family violence who wish to change their behaviour is achieved through the offer of referral information to external expert services.

Below is the referral information for perpetrators seeking support and assistance for behaviour change and can be found on the staff intranet page [insert hyperlink].

|  |  |
| --- | --- |
| **Men’s Referral Service**  The Men’s Referral Service takes calls from Australian men dealing with family and domestic violence matters. If your behaviour has brought you into contact with the police or courts and you’re facing issues such as an intervention order, behaviour change, anger management, access or custody.  Men’s Referral Service offers secondary consultation as well, that is advice to managers, colleagues, friends and family. | [**http://mrs.org.au/**](http://mrs.org.au/)  **1300 766 491**  **(NSW & TAS Open 24/7; ACT, NT, QLD, SA, VIC & WA Weekdays 8am-9pm, Weekends 9am-5pm)** |
| **1800 RESPECT**  1800 RESPECT provides a best practice, professional telephone and online, crisis and trauma counselling service 24 hours a day, 7 days per week to assist people experiencing the effects of sexual assault, domestic or family violence. | [**https://www.1800respect.org.au/**](https://www.1800respect.org.au/)  **1800 737 732**  **(Australia-wide, 24/7)** |
| **MensLine**  MensLine Australia is a professional telephone and online support and information service for Australian men. | [**https://www.mensline.org.au/**](https://www.mensline.org.au/)  **1300 789 978**  **(Australia-wide, 24/7)** |
| **Our Employee Assistance Program (EAP)**  An EAP provides outside counsellors, resources, and referrals to assist employees and their family members. The EAP can also speak with women who are concerned with their use of violence but do not specialise in this area. There are currently no specialist family violence services for women who are concerned about their use of family violence. |  |

Legislation, regulations and policies related to this policy

* Family Violence Protection Act 2008 (Vic)
* Occupational Health and Safety Act 2004 (Vic)
* Gender Equality Act 2020 (Vic)
* Victorian Government, Code of Conduct for Victorian Public Sector Employees, Available from, <https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees/>
* [Respectful Workplace Behaviours Policy and Guidelines]
* [Family Violence Information for Staff intranet page]
* [Family Violence Workplace Support Policy (Supporting Victim Survivors)](#bookmark=id.41mghml)
* ​Family violence Workplace Support Procedure (Supporting Victim Survivors)

References

* Australian Bureau of Statistics, 2017, Personal safety, Australia, 2016. Canberra, ACT: ABS. Available from <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>
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* Our Watch, VicHealth, ANROWS, 2015, Change the Story: A Shared Framework for the Primary Prevention of Violence Against Women and Their Children in Australia, Our Watch, Melbourne. Available from <https://www.ourwatch.org.au/change-the-story/>

Appendix A: A Principles-Based Approach to Practice

The MARAM Framework and each of the Foundation Knowledge and Responsibilities for Practice Guides are underpinned by ten principles. The principles are aimed at providing professionals and services with a shared understanding of family violence, and facilitating consistent, effective and safe responses for people experiencing family violence.

The principles are underpinned by the right of all people to live free from family violence. They should inform the ethical engagement of professionals and services in their engagement with all service users (victim survivors or perpetrators).

**The ten principles are:**

1. Family violence involves a spectrum of seriousness of risk and presentations, and is unacceptable in any form, across any community or culture

2. Professionals should work collaboratively to provide coordinated and effective risk assessment and management responses, including early intervention when family violence first occurs to avoid escalation into crisis and additional harm

3. Professionals should be aware, in their risk assessment and management practice, of the drivers of family violence, predominantly gender inequality, which also intersect with other forms of structural inequality and discrimination

4. The agency, dignity and intrinsic empowerment of victim survivors must be respected by partnering with them as active decision-making participants in risk assessment and management, including being supported to access and participate in justice processes that enable fair and just outcomes

5. Family violence may have serious impacts on the current and future physical, spiritual, psychological, developmental and emotional safety and wellbeing of children, who are directly or indirectly exposed to its effects, and should be recognised as victim survivors in their own right

6. Services provided to child victim survivors should acknowledge their unique experiences, vulnerabilities and needs, including the effects of trauma and cumulative harm arising from family violence

7. Services and responses provided to people from Aboriginal communities should be culturally responsive and safe, recognising Aboriginal understanding of family violence and rights to self-determination and self-management, and take account of their experiences of colonisation, systemic violence and discrimination and recognise the ongoing and present day impacts of historical events, policies and practices

8. Services and responses provided to diverse communities and older people should be accessible, culturally responsive and safe, client-centred, inclusive and non-discriminatory 9. Perpetrators should be encouraged to acknowledge and take responsibility to end their violent, controlling and coercive behaviour, and service responses to perpetrators should be collaborative and coordinated through a system-wide approach that collectively and systematically creates opportunities for perpetrator accountability

10. Family violence used by adolescents is a distinct form of family violence and requires a different response to family violence used by adults, because of their age and the possibility that they are also victim survivors of family violence.

Family violence - Workplace responses to staff who perpetrate family violence – Manager Guidelines (Template)

Purpose

This document outlines the proposed process for Managers when responding to staff who are known to have or are alleged to have perpetrated family violence. Managers with HR responsibilities should also refer to the Human Resources Guidelines.

Introduction

It is important that our response to staff who are identified as perpetrators of family violence conveys a clear message that we do not condone family violence and that perpetrators will be held accountable for any perpetrating behaviour within the boundaries of employer/employee relations.

These guidelines have been developed within a framework which:

* prioritises the safety and wellbeing of victim survivors, staff and patients, and
* recognises the role and expertise of specialist family violence services that work with perpetrators, recommends early consultation and referral to these services as soon as possible to l ensure that perpetrators are held accountable and access the services they need to change their behaviour.

Understanding family violence

[Service name] uses the following operational definition of Family Violence:

Family violence is defined by the Family Violence Protection Act 2008 (Vic) as behaviour by a person towards a family member that is:

* physically, sexually, emotionally, psychologically or economically abusive, threatening, coercive or in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of themselves or another family member; or
* behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of the behaviour.

A note on language

The terms ’perpetrator of family violence’ and ‘staff who perpetrate family violence’ are used to describe someone who is or is allegedly perpetrating family violence. Whilst the term ‘perpetrate’ is appropriate for policies and training, when speaking to a staff member about their behaviour we advise that you don’t use the word ‘perpetrate’ but say ‘your use of violence’.

What is our role as an employer?

As an employer we are in an employment relationship with a staff member who perpetrates family violence. This is distinct from [Service name’s] role as a health service provider to patients.

As employers it is the role of the hospital to:

* provide a safe work environment as mandated through the Occupational Health and Safety Act (Vic) 2004
* provide a safe clinical service for patients
* set and uphold expected codes of behaviour for our staff.

Family violence is a problem that is often invisible in the workplace as perpetrators are good at hiding their behaviour at work. As employers we do not routinely screen for family violence through direct questioning or inquiry of all staff, however family violence may be indicated through disclosure on a police check or if a staff member is charged by police and this is brought to our notice by way of the staff member’s contractual obligations.

When a staff member is identified as a perpetrator, an assessment of the potential risk to other employees, patients and visitors should be taken into consideration, in the context of the organisation’s policy position on family violence. Disciplinary procedures are only appropriate when the identified staff member’s behaviour intersects with the workplace.

Staff identified as perpetrators should be encouraged to seek external professional assistance through a specialist behaviour change family violence service. They can use their personal leave or take unpaid leave to attend appointments if they cannot attend in their own time.

Key Responsibilities

**CEO**: It is the responsibility of the Chief Executive Officer to ensure compliance with this policy and all procedures related to this policy, and to ensure that hospital policies and procedures meet legislative requirements.

**Director HR:** It is the responsibility of the [Director, HR] to ensure that staff and managers are trained, supported and resourced to respond to staff who are perpetrators of violence in accordance with their responsibilities.

**All Staff:** It is the responsibility of all staff to maintain strict confidentiality if information about another staff member’s family violence situation is disclosed to them. It is also the responsibility of staff to treat each other with respect and not to engage in behaviours or make statements within the workplace that are violence supportive or contribute to violence supportive attitudes.

**Managers:** When a Manager becomes aware that a staff member is, or is allegedly perpetrating family violence it is their responsibility to:

* contact the [HR Consultant] and/or specialist support service for advice
* meet with the staff member or refer staff member to HR/support service if appropriate, maintaining privacy and confidentiality
* performance manage the person (if required)
* be aware of their reporting obligations under Victorian law. Information on these obligations can be accessed through [link] and will be provided in Family Violence training
* provide guidance and advice on the implementation of any tailored workplace safety plan in consultation with the OHS Manager/Safety Officer where appropriate.

The Human Resources Consultant (HR) or appropriate specialist will:

* provide support to the Manager
* maintain a confidential file documenting any actions taken and will only disclose information as required with the consent of the staff member unless they are required to by law.

The [OHS Manager/ safety officer] will:

* provide guidance and advice to the Manager on the implementation of any tailored workplace safety plan to enhance the safety of all staff members and patients.

Procedure

The procedure outlines how Managers can respond effectively when they become aware a staff member is perpetrating or is alleged to have perpetrated family violence.

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1. Becoming aware

There are a range of circumstances in which a Manager may become aware that a staff member is perpetrating family violence:

* The staff member may disclose voluntary. This is rare and is likely to be made for personal benefit, to seek sympathy, to minimise their accountability, or to gain access to additional leave. However, it may also occur as part of a request for leave or change to work arrangements, to attend court for example.
* A disclosure may be made during performance management as a result of their obligations to disclose criminal convictions or due to a court orders that may prohibit them from being in certain locations, which might include the workplace.
* The victim survivor (who might also be a staff member) may disclose to a colleague or Manager. For example, they may be seeking support or information about the perpetrator’s movements to plan for their own safety.
* A third party, such as police or a legal representative may contact the workplace.
* A Manager or colleague may become aware of the misuse of company assets (email, phones, computers, etc) during or outside of work hours to perpetrate family violence. Examples of this include using assets to verbally abuse or control/monitor someone’s movements, using work IT systems to access private information about someone or manipulating pay or roster systems to avoid child support or other obligations.
* A Manager or colleague may notice that a staff member displays behaviour that is consistent with family violence, but which is not carried out using work assets. Examples include behaviour towards an (ex)partner or family member that:
  + dehumanises, belittles, humiliates or criticises them
  + controls financial or other resources
  + restricts/gatekeeps access to services, friends and family
  + talks about them in an emotionally abusive or degrading way
  + involves negative comments about their decisions and actions
  + monitors what they are doing, including reading emails and text messages
  + threatens to hurt family members or pets.

1. Prioritising the safety of victim survivors

If a Manager becomes aware that a staff member is or may be using family violence, they should consult with the [FV specialist or HR consultant]. Any decisions should be guided by whether the action will increase the safety of the victim survivor, other staff, patients and the alleged perpetrator[[3]](#footnote-3) and whether children are involved.

**As a first priority, determine if there is an immediate threat to a person’s health or safety.**

**If yes, contact the police by calling 000**

Be aware that police or other services’ intervention may escalate the situation for the person experiencing the violence. In situations in which the person experiencing the violence is not a staff member and/or you cannot communicate with them to ask them what they would like to happen, it is important to get advice from a specialist service about the best course of action. 1800RESPECT provides advice about what action you should take if you are concerned about the safety of a staff member or someone else outside your workplace.

Other actions to consider if there is an immediate threat to a person’s health or safety:

* Contact other emergency or crisis services for assistance.
* Contact building security as per usual emergency procedures

All staff members have responsibilities in relation to child welfare and safety. All staff a have responsibility to report to Victoria Police a reasonable belief they hold of the sexual abuse of a child who is 16 years of age or less. Further all staff must notify [HR] of any concerns regarding sexual abuse involving children or acts involving serious physical violence against or in the presence of a child or behaviour that causes significant harm to a child that is committed by a member of staff or volunteer. See [Legislated sharing of information related to children](#_heading=h.147n2zr) for more information.

1. Respond appropriately

If you perceive that there is no immediate safety threat then the next step is to understand how the behaviour intersects with the workplace and/or with the person's employment and therefore what action to take. Workplaces have a role in responding to family violence only where there is an intersection between family violence behaviour and the workplace, between the behaviour and their employment (role), or if the workplace becomes aware of a behaviour towards a child or children known as reportable conduct.

Intersections between workplace and family violence may include instances where the violence is directly in the workplace, including:

* The staff member using workplace resources (e.g. email, phone, car) or time to perpetrate family violence
* The staff member using family violence in the workplace. This is likely to be misconduct and/ or could be a criminal offence. Please refer to [Service Name Disciplinary Procedure]
* The staff member using their position or work resources to find out information about the whereabouts or other details about the victim survivor.

There may be a link between the family violence occurring at home, and the employment of the individual. The staff member’s behaviour may, for example,

* involve others in the workplace
* be incompatible with the staff member’s duties, for example, where the staff member’s position includes leadership, direct contact with vulnerable patients, access to personal information, or in cases in which criminal proceedings have resulted in the loss of a required approval or registration (e.g. ability to work with children)
* damage the relationship between the employer and the staff member, the employer’s interests or reputation.

An intersection between the family violence behaviour and the workplace also occurs where there is a Family Violence Intervention Order requiring the workplace to take certain measures to ensure the safety of others (e.g. victim survivors, work colleagues, patients, etc).

If one or more of the situations above applies, Managers should consult with HR on next steps. There is no ‘one size fits all’ approach to managing staff who perpetrate family violence. Employers need to tailor their response according to variables such as the risk of harm to the employee’s role, the nature of the organisation and the impact of the violence on the workplace (e.g. safety, performance, reputation) (Our Watch 2017a, 2017b). Any disciplinary action should be led by HR, and will be guided by internal workplace policies, applicable Enterprise Agreements (EAs) or awards and other relevant legislation.

Legislated sharing of information related to children

In your conversations with a staff member you may become aware that there is a child or there are children who are or may be at risk. There are three main legislative reporting obligations which all staff members should be aware of as all staff have obligations in relation to children.

The three main legislative reporting obligations are:

**1. Crimes Act (Vic) 1958** requires all adults to report to Victoria Police if there is a reasonable belief that a sexual offence has been committed by an adult against a child under the age of 16 years.

**2.** **Reportable Conduct Scheme under the Child Wellbeing and Safety Act 2005 (the Act)** requires the head of an organisation to report allegations the following by staff or volunteers of:

* sexual offences against, with or in the presence of a child
* misconduct against, with or in the presence of a child
* physical violence against, with or in the presence of a child
* behaviour that causes significant emotional or physical harm of a child
* significant neglect of a child.

These behaviours include but are not limited to sexual abuse, grooming, sexting, inappropriate physical contact, sexualised behaviour with a child.

Where a staff member believes any of the above may be occurring, [HR] should be immediately and confidentially notified.

**3.**  **Mandatory reporting obligations under the Children, Youth and Families Act 2005**. This obligation arises for a class of employees who, in the course of practising his or her profession or carrying out the duties of his or her office, position or employment, forms the belief on reasonable grounds that a child is in need of protection. Please refer to [Mandatory Reporting Policy] for which roles have mandatory reporting obligations under the Children, Youth and Families Act 2005.

Any staff member may seek confidential advice from the Women’s in-house legal team about mandatory reporting obligations and duty of care obligations.

Reports to Child Protection or the Police should be done in a respectful and transparent manner. The limits to confidentiality should be explained prior to a conversation related to family violence to support a disclosure of family violence being made with informed knowledge of how information is shared in Victoria.

It is best practice to share information with consent and involvement of the adult victim survivor, and their information knowledge of what information is being reported so they can manage their safety and the safety of the children accordingly. Sharing information without the informed knowledge of a victim survivor of family violence can increase their risk.

Please also refer to the following policies and procedures related to child welfare and safety: [name policies and procedures].

Discussions with the perpetrator / alleged perpetrator

After becoming aware that a staff member is or may be using family violence, it is likely that their Manager will be required to have one or more conversations with the perpetrator/alleged perpetrator.

When doing so, discuss the allegation in an impartial and respectful manner. Keep in mind that they may use tactics to try to align others with their position to justify, minimise or excuse their use of violence or coercive behaviour, or to present themselves as a victim survivor. This is known as collusion (see Appendix A).

Explain the intersection of the behaviour with the workplace and/or role, noting that they may not understand why their behaviour is a workplace issue.

Performance management when the behaviour impacts on the work of the perpetrator or others

All hospitals are required to provide a workplace that is safe and free from hostile behaviour. This means that Managers are expected to address behaviours that do not meet the expected standards of behaviour under the relevant guideline and/or code of conduct through a performance management process.

In situations where a staff member’s performance or conduct is below their normal standard and there are performance or workplace behaviour issues resulting from their perpetration of family violence, Managers should work with the staff member in a supportive and non-judgemental manner and offer referral options to specialist services. Managers should seek support from [HR] and/or from specialist family violence services, such as the Men’s Referral Service to ensure that in their conversations and actions they are not colluding with the staff member and that they are prioritising the safety and wellbeing of other staff, patients and the victim survivor/s.

It is not the role of Manager to engage perpetrators in a therapeutic relationship. Engaging with perpetrators in unskilled or misguided ways may inadvertently lead to collusion and may also significantly impact upon the safety of the victim survivor (see Appendix A).

Family Violence Leave

Managers may be asked by staff about the availability of family violence leave. Paid family violence leave is not available for staff at [Service Name] who perpetrate family violence to attend court or other appointments[[4]](#footnote-4). If the staff member has no other paid leave options available then they will need to apply for unpaid leave. Please note that the 20 days of paid family violence leave under the relevant staff EAs is intended for use by victim survivors not perpetrators of family violence.

When both victim survivor and perpetrator working within the same workplace

Circumstances where both victim survivor and perpetrator are employed by the same employer can be particularly challenging from a workplace-management point of view. Workplace safety for the victim survivor, other staff and patient safety should be the priority for guiding decisions and responses.

Where [HR] is involved in matters where both victim survivor and perpetrator are employed by [Service Name], separate staff will be allocated to provide support to each staff member and their Manager. This is to enhance the safety of the victim survivor.

In order to place the victim survivor at the centre of our response, it is important that we consult with them when making decisions about the organisation’s response to the perpetrator as this can have serious or even lethal safety impacts for the victim survivor. It is also important for the victim survivor to maintain control over their situation as well as providing crucial information as to how our actions may endanger them. For example, the perpetrator may hold the victim survivor responsible for any of their adverse workplace outcomes which may further compound their safety and risk issues. These considerations need to be balanced with employer obligations to maintain a safe workplace. Each action plan should be considered on a case–by-case basis by taking all the facts into account.

Workplace obligations in relation to areas such as sexual harassment, workplace bullying, gender-based discrimination and health and safety law will apply to the victim survivor, and need to be taken into account.

Notes taken in relation to family violence perpetration related to work are subject to the same confidentiality requirements as those taken about a victim survivor, except when the relevant Information Sharing Scheme applies (see below). This is to protect the privacy and safety of the victim survivor. Any sharing of information to external agencies will be done through [HR].

1. Refer to appropriate services

HR, Manager and workplace support to perpetrators of family violence who wish to change their behaviour is through the offer of referral information to external expert services.

To encourage the importance of action, try asking some simple questions to the perpetrator, such as:

* *Can you see yourself making the call?*
* *Sometimes people can find it hard to ask for assistance when there’s a problem. What will be helpful for you to remember so that you will make this call?*
* *Although I am here to help by giving you information, it is important that you make this call*

Whilst offering support is crucial, the offer of support or even uptake of support does not mean that the perpetrating behaviour will necessarily end. Whilst some people who perpetrate family violence want to change their behaviours, others may not wish to change their behaviour so may not access the support offered. Even those who seek support might not be able to access programs immediately, or might not change their behaviour even though they have sought support to change.

Below is the referral information for perpetrators seeking support and assistance for behaviour change and can be found on the staff intranet page [insert hyperlink].

|  |  |
| --- | --- |
| **Men’s Referral Service**  The Men’s Referral Service takes calls from Australian men dealing with family and domestic violence matters. If your behaviour has brought you into contact with the police or courts and you’re facing issues such as an intervention order, behaviour change, anger management, access or custody.  Men’s Referral Service offers secondary consultation as well, that is advice to managers, colleagues, friends and family. | [**http://mrs.org.au/**](http://mrs.org.au/)  **1300 766 491**  **(NSW & TAS Open 24/7; ACT, NT, QLD, SA, VIC & WA Weekdays 8am-9pm, Weekends 9am-5pm)** |
| **1800 RESPECT**  1800 RESPECT provides a best practice, professional telephone and online, crisis and trauma counselling service 24 hours a day, 7 days per week to assist people experiencing the effects of sexual assault, domestic or family violence. | [**https://www.1800respect.org.au/**](https://www.1800respect.org.au/)  **1800 737 732**  **(Australia-wide, 24/7)** |
| **MensLine**  MensLine Australia is a professional telephone and online support and information service for Australian men. | [**https://www.mensline.org.au/**](https://www.mensline.org.au/)  **1300 789 978**  **(Australia-wide, 24/7)** |
| **Our Employee Assistance Program (EAP)**  An EAP provides outside counsellors, resources, and referrals to assist employees and their family members. The EAP can also speak with women who are concerned with their use of violence but do not specialise in this area. There are currently no specialist family violence services for women who are concerned about their use of family violence. |  |

1. Recording and confidentiality of information

It is important to make a record of each conversation and action taken as a record of action taken to keep the victim survivor, staff and patients safe. Consider if you have any 'evidence' that may be helpful to the person experiencing the violence/abuse in any court proceedings (e.g. CCTV footage, computer data or phone records) but do not seek out evidence unless it is part of a disciplinary investigation or you are responding to a particular request for information which it is lawful for you to respond to.

[HR] will store the confidential record separate to the employment file which is locked and with limited access. Ensure that the perpetrator will not have access to these files or those of the victim survivor if they are also a staff member.

Maintain privacy and confidentiality of the person experiencing the family violence and the staff member who perpetrates family violence. Note that maintaining strict confidentiality may not be possible where you believe someone is at “immediate” risk of harm and you contact the police.

Never disclose to a staff member who perpetrates family violence any information that may put the person experiencing the violence at risk e.g. information that would suggest the person experiencing the violence has disclosed information about the situation.

Maintaining confidentiality and sharing information on a strictly ‘need to know’ basis will ensure minimal impact on other people close to the person experiencing the violence and the staff member who perpetrates violence, including fellow staff members.

When communicating to team members and other key contacts, avoid discussing the allegations of violence and abuse, be mindful of privacy, gain consent from the victim survivor where appropriate and safe to do so and ensure that only the required information is shared and.

Resources and contact information

[Service Name] intranet page provides referral points for staff who wish to change their behaviour. It also contains information for friends/colleagues of perpetrators.

Key guidelines and procedures related to this procedure

* The *Family Violence Workplace Support Policy*
* The *Family Violence Workplace Support Procedure*
* [Respectful Workplace Behaviours Policy and Guidelines - internal]
* [Policies related to child welfare and reporting]
* [Policies related to responding to staff who perpetrate family violence]

Legislation/Regulations related to this guideline or procedure

* Family Violence Prevention Act (Vic) 2008
* Children, Youth and Families Act (Vic) 2005.
* Occupational Health and Safety Act (Vic) 2004
* Child Wellbeing and Safety Act (Vic) 2005
* Crimes Act (Vic) 1958
* Victorian Public Sector Code of Conduct

References

* Our Watch, 2017a, *Workplace Responses to Perpetrators of Violence Against Women*, Our Watch: Melbourne, Available at <https://d2bb010tdzqaq7.cloudfront.net/wp-content/uploads/sites/2/2019/05/01042449/Workplace-responses-to-perpetrators_SummaryPaper_Dec-2018.pdf>
* Our Watch, 2017b, *Practice Guidance:* *Workplace Responses to staff who perpetrate violence.* Our Watch: Melbourne, Available at <https://workplace.ourwatch.org.au/resource/practice-guidance-workplace-responses-to-staff-who-perpetrate-violence/>
* Victorian Government, 2019, *MARAM Practice Guides: Foundation Knowledge*, Available at <https://www.vic.gov.au/sites/default/files/2019-07/MARAM-practice-guides-foundation-knowledge.pdf>
* Victorian Government, Code of Conduct for Victorian Public Sector Employees, Available at <https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees/>

Additional resources used to guide this policy and procedure

* Male Champions of Change, 2020, *Employees who use domestic & family violence: A workplace response* (In Press). Available from <https://malechampionsofchange.com/reports-and-resources/>
* North West Metropolitan Region Primary Care Partnerships, 2017, *Guideline for Identifying and Responding to People who Cause Family Violence Harm*, Available at <http://inwpcp.org.au/wp-content/uploads/2018/03/Final-Guidelines-for-identifying-and-responding-to-people-who-cause-family-violence-harm_April2018.pdf>
* Queensland Government, Australia’s CEO Challenge, 2019, Domestic and family violence. A workplace approach to employees who use or may use violence and abuse, Queensland Government, Available at <https://australiasceochallenge.org/wp-content/uploads/2019/08/workplace-approach-to-employees-who-use-or-may-use-violence-and-abuse-8-1.pdf>

Appendix A: What is collusion

Collusion is any response that encourages and supports the perpetrator’s violence-supporting story, such as agreeing with their views or minimising or playing down the violence[[5]](#footnote-5).

Many perpetrators have highly elaborate and culturally reinforced ways of denying, diminishing and/or justifying their behaviour and positioning themselves as the victim. For example, they may attempt to elicit sympathy and invite you to collude with them by sharing stories of an incompetent or mentally ill partner, or a partner who does not show them respect.

Perpetrators may try to establish credibility in a variety of ways, such as using the conversation to exchange pleasantries and humour to demonstrate that they are ‘normal’ and ‘reasonable’, and by asking you to understand and accept where they are coming from. In doing this, a perpetrator may seek to re-define themselves as the person who is ‘hard done by’ – as the person needing support.

Employer collusion with staff who perpetrate family violence can result in these excuses, minimisations, responsibility avoiding tactics becoming strengthened, potentially worsening the situation for the victim survivors.

No to Violence’s ‘[Tips for engaging men on their use of family violence’](http://www.thelookout.org.au/sites/default/files/tips-for-engaging-men-who-use-family-violence.pdf) provides more information on avoiding collusion when hearing a disclosure. Whilst HR, Managers and other staff should not as a rule engage in discussion regarding the violence, discussion of family violence may arise as part of performance management.

Family violence - Workplace responses to staff who perpetrate family violence – Guidelines for Human Resources staff (Template)

Purpose

This document outlines the process for Human resource (HR) staff and Managers with supervisory or Managerial responsibilities to respond to staff who are known to have or are alleged to have perpetrated family violence. It provides extra guidance for HR staff in line with their role to complement the Managers’ Guidelines.

Introduction

This guideline has been developed within a framework which prioritises the safety and wellbeing of victim survivors, staff and patients.

It is important that our response to staff who are identified as perpetrators of family violence conveys a clear message that we do not condone family violence and that perpetrators will be held accountable for any perpetrating behaviour within the boundaries of employer/employee relations.

Whilst disclosures of family violence perpetration are rare, it is a complex situation requiring appropriate human resource procedures, and training for HR personnel to understand their role and responsibilities. Every case is unique requiring a tailored response.

A note on language

The terms ’perpetrator of family violence’ and ‘staff who perpetrate family violence’ are used to describe someone who is, or may be, perpetrating family violence. Whilst the term ‘perpetrate’ is appropriate for policies and training, when speaking to a staff member about their behaviour we advise that you don’t use the word ‘perpetrate’ but say ‘your use of violence’.

Our role as an employer

As an employer we are in an employment relationship with a staff member who perpetrates family violence. This is distinct from [Service name‘s] role as a health service provider to patients.

Family violence is a problem that is often invisible in the workplace as perpetrators are good at hiding their behaviour at work.

As employers we do not routinely screen for family violence through direct questioning or inquiry of all staff, however family violence may be indicated through disclosure on a police check or if a staff member is charged by police and this is brought to our notice by way of the staff member’s contractual obligations.

When a staff member is identified as a perpetrator, an assessment of the potential risk to other employees, patients and visitors should be taken into consideration, in the context of the organisation’s policy position on family violence.

It is also not our role to discipline the staff member unless the behaviour intersects with the workplace, in which case we have a role in addressing the behaviour, through our disciplinary procedures.

Staff identified as perpetrators should be encouraged to seek external professional assistance through a specialist behaviour change family violence service. They can use their personal leave or take unpaid leave to attend appointments if they cannot attend in their own time.

Regulations, workplace policies, procedures, codes of conduct related to this guideline or procedure

There are a number of regulations, policies, procedures and guidelines that may guide our response to perpetrators within the workplace. These are as follows:

[Service Name - Workplace responses to staff who perpetrate family violence policy]

[Service Name Respectful Workplace Support Family Violence Policy]

**Occupational Health and Safety Act 2004**

This Act creates a responsibility on the employer to maintain a healthy and safe workplace. It also places a responsibility on staff to comply with instructions to maintain a safe work environment.

**Victorian Public Sector Code of Conduct and Organisational Values**

The Victorian Public Sector Code of Conduct and Values outline expected standards of behaviour for public sector staff. These standards include treating others with respect and upholding the Charter of Human Rights and Responsibilities. [Your service’s Respectful Workplace Behaviour Program] provides further information on expected workplace behaviour.

**Australian Human Rights Commission Act 1986**

Under the AHRC Act 1986, the Australian Human Rights Complaint Commission can handle complaints about discrimination in employment on the basis of a criminal record. There is an exception to discrimination in employment, known as the *inherent requirements* exception. This states:

*It is not discrimination if the person’s criminal record means that they are unable to perform the inherent requirements of the particular job.*

This may be of particular relevance when a Family Violence Intervention Order (FVIO) is in place. An FVIO is a civil order and does not constitute a criminal record. However, a conviction for breaching an FVIO is a criminal matter that may lead to a criminal record.

**[Service Name] Disciplinary procedure**

This procedure provides that committing an act of family violence during work time and/or using work-resources may result in disciplinary action, including the termination of employment. Any staff member who perpetrates family violence is entitled to procedural fairness according to this procedure and their relevant Enterprise Agreement. If the action is a criminal offence (such as assault or sexual assault), [Service name] will refer the matter to the police.

**Family Violence Prevention Act (Vic) 2008**

This Act provides the operational definition of family violence which is behaviour by a person towards a family member that is:

* physically, sexually, emotionally, psychologically or economically abusive, threatening, coercive or in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of themselves or another family member; or
* behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of the behaviour

**[Current Enterprise Agreements]**

Procedure

The proposed procedure outlines how Human Resources staff can respond effectively when they become aware a staff member is perpetrating or is alleged to have perpetrated family violence.

Like any other matter related to staff conduct, a range of responses to staff who use violence may be appropriate, from monitoring the situation up to immediate police involvement. Please seek advice from a specialist family violence service or legal advice when in doubt. ****

1. Becoming aware

There are a range of circumstances in which a Human Resources staff may become aware that an employee is perpetrating family violence:

* The staff member may disclose voluntarily. This is rare and is likely to be made for personal benefit; to seek sympathy; to minimise their accountability, or to gain access to additional leave. However, it may also occur as part of a request for leave or change to work arrangements, to attend court for example.
* A disclosure may be made during performance management as a result of their obligations to disclose criminal convictions or due to court orders that may prohibit them from being in certain locations, which might include the workplace.
* The victim survivor (who might also be a staff member) may disclose to a colleague or Manager. For example, they may be seeking support or information about the perpetrator’s movements to plan for their own safety.
* A third party, such as police or a legal representative may contact the workplace.
* A Manager or colleague may become aware of the misuse of company assets (email, phones, computers, etc) during or outside of work hours to perpetrate family violence. Examples of this include using assets to verbally abuse or control/monitor someone’s movements, using work IT systems to access private information about someone or manipulating pay or roster systems to avoid child support or other obligations.
* A Manager or colleague may notice that a staff member displays behaviour that is consistent with family violence, but which is not carried out using work assets. Examples include behaviour towards an (ex)partner or family member that:
* dehumanises, belittles, humiliates or criticises them
* controls financial or other resources
* restricts/gatekeeps access to services, friends and family
* talks about them in an emotionally abusive or degrading way
* involves negative comments about their decisions and actions
* monitors what they are doing, including reading emails and text messages
* threatens to hurt family members or pets.

1. Prioritising the safety of victim survivors

When responding to a staff member who is perpetrating family violence or alleged to have perpetrated family violence any decisions should be guided by whether the action will increase the safety of the victim survivor, other staff, patients and the alleged perpetrator[[6]](#footnote-6) and whether children are involved.

**As a first priority, determine if there is an immediate threat to a person’s health or safety.**

**If yes, contact the police by calling 000**

Be aware that police or other services’ intervention may escalate the situation for the person experiencing the violence. In situations in which the person experiencing the violence is not a staff member and/or you cannot communicate with them to ask them what they would like to happen, it is important to get advice from a specialist service about the best course of action. 1800RESPECT provides advice about what action you should take if you are concerned about the safety of a staff member or someone else outside your workplace.

Other actions to consider if there is an immediate threat to a person’s health or safety:

* Contact other emergency or crisis services for assistance.
* Contact building security as per usual emergency procedures

All staff members have responsibilities in relation to child welfare and safety. All staff a have responsibility to report to Victoria Police a reasonable belief they hold of the sexual abuse of a child who is 16 years of age or less. Further all staff must notify [HR] of any concerns regarding sexual abuse involving children or acts involving serious physical violence against or in the presence of a child or behaviour that causes significant harm to a child that is committed by a member of staff or volunteer. See [Legislated sharing of information related to children for more information.](#bookmark=id.2p2csry)

1. Respond appropriately

If there is no immediate safety threat, then the next step is to understand how the behaviour intersects with the workplace and/or intersects with the person's employment. Workplaces have a role in responding to family violence where there is an intersection between family violence and the workplace. This intersection may involve:

* the staff member using family violence in the workplace. This is likely to be misconduct and/ or could be a criminal offence. Refer to [name disciplinary procedure]
* the staff member using workplace resources (e.g. email, phone, car) or time to perpetrate family violence
* the staff member using their position or work resources to find out information about the whereabouts or other details about the victim survivor.

**There may be a link between the family violence occurring at home, and the employment of the individual, for example where the staff member’s conduct:**

* involves others in the workplace
* is incompatible with the staff member’s duties such as where the staff member’s position includes leadership, direct contact with vulnerable clients, access to personal information, or in cases in which criminal proceedings have resulted in the loss of a required approval or registration (e.g. ability to work with children)
* damages the relationship between the employer and the staff member, the employer’s interests or reputation
* involves Family Violence Intervention Order requiring the workplace to take certain measures to ensure the safety of others (e.g. victim survivors, work colleagues, patients, etc).

If one or more of the situations above applies, then consider taking the following actions.There is no ‘one size fits all’ approach to managing staff who perpetrate family violence. Employers need to tailor their response according to variables such as the employee’s role, the nature of the organisation and the impact of the violence on the workplace (e.g., safety, performance, reputation) (Our Watch, 2017).

* **Appoint a key contact person** to manage ongoing interactions with the victim survivor (if possible), the staff member who has perpetrated violence and any staff members impacted. Note, where the victim survivor is also in the workplace, ensure a different staff member liaises with them.
* **Meet with the staff member** to discuss the matter, the proposed response and next steps. Keep the focus on encouraging the staff member to access specialist support services to seek support to stop their use of domestic and family violence and encourage behaviour change.

If you are in contact with the victim survivor, let them know that you will be meeting with the alleged perpetrator. If you become concerned about the safety of the victim survivor or others during the meeting or at any time then consider calling the police or other family violence specialist service for advice.

Prepare well to ensure that you can be confident in having a conversation with the alleged perpetrator about the workplace impacts. Ensure you can clearly articulate the workplace connection/impact.

* **Discuss the allegation** in an impartial and respectful manner. In any interactions with the alleged perpetrator keep in mind that they may use tactics to try to align you to their position to justify, minimise or excuse their use of violence or coercive behaviour, or to present themselves as a victim survivor. This is known as collusion (see Appendix A for more information on collusion).
* **Explain the intersection** of the behaviour with the workplace and/or role. The staff member may not understand why their behaviour is a workplace issue (see above).
* **Explain the employer’s obligations in the instance of an intervention order** being in place noting that employers have a legal duty of care to protect the safety of all staff members and need to support strict compliance with the terms of any Family Violence Intervention Order that affects staff members at the workplace.

An employer can take into account the effect an order is likely to have on a staff member’s ability to perform the inherent requirements of their job and its impact on the operation of the business.

If the victim survivor is also on staff, it may be that the terms of the order are intended to permit both parties to continue working because it is deemed safe and practicable to do so.

* **Explain the proposed response (see below legislation that can guide your decision making).** It is worth noting that a breach of policy does not necessarily require disciplinary action but *may* lead to disciplinary action. If the victim survivor is also a member of staff, or if the victim survivor has directly notified hospital staff about the breach, they should be consulted before any action is taken in order that the victim is not put at further risk by the hospital actions. If the victim /survivor is not a member of staff, action taken against the perpetrator should be carried out in consultation with a family violence specialist service to determine whether the suggested course of action may impact safety of the victim. For example, action that results in the perpetrator being at home more, or reduces their finances, may increase risk.
* **Put in place a temporary workplace adjustment**. This may include directing the staff member to cease particular elements of their job (such as removing them from interactions with vulnerable people). Temporary adjustments may be similar to cases in which a bullying complaint has been made, and could include steps to keep the two parties separate including:
  + moving or transferring one staff member to a different working location, or implementing a work from home arrangement, where it is safe, being aware of locational limitations in some regional and rural areas.
  + changing work times for one or both staff members
  + considering the availability of a suitable alternative position which limits contact
  + discussing the possibility of the staff member taking leave to remove them from the workplace. Family violence leave should not be taken by perpetrators, rather they should use annual or personal leave.
  + suspending a staff member (only if no other options are available and the matter is a potential disciplinary matter).
* **Explain the follow up actions** the workplace will take.
* **Commence disciplinary process** if appropriate, in line with relevant policies, procedures and Enterprise Agreements (EAs) in place. The staff member who uses domestic and family violence should be made aware that there may be workplace consequences for their behaviour, even if the behaviour is occurring outside of the workplace. In some instances, while we may employ a person that is known to be a family violence perpetrator, as an employer, there are boundaries on a workplace response that involves an adverse outcome to the perpetrator. A strong workplace response to a family violence perpetrator, particularly where there is an adverse outcome to that staff member such as disciplinary action or termination of employment, requires a link between the action of the perpetrator and their employment (see Disciplinary action below).
* **Commence performance management** if appropriate.
* **Offer support to engage** with behavioural change and other specialist services (see Refer to specialist Family violence services below).
* **Report any crime** to the police.
* **Alert Child Safety Services** or other outside services as appropriate.

Disciplinary action

Where an employer becomes aware that an act of family violence has been perpetrated on work time or using work resources, as an employer we have clear authority to act. [Service name XXXX Procedure] provides the authorising framework for disciplinary action.

**Seek expert advice before taking any disciplinary action. This can mitigate against any adverse consequences and ensure you are complying with your legal obligations.**

As noted above disciplinary action may be appropriate in the following situations:

* Where there is an intersection of conduct at work with the workplace.
  + Sometimes family violence may impact the workplace directly and there may be very clear grounds for an employer to take disciplinary action. Examples of such intersections of conduct with the workplace include:
  + The staff member using family violence against the victim survivor in the workplace is likely to be misconduct and/or could be a criminal offence.
  + the staff member making use of workplace resources (e.g. email, phone, car) or time to perpetrate family violence.
  + the staff member using their position or work resources to find out details about the whereabouts or other details of the victim survivor/s.
* Links between the *conduct of staff member and their employment*:
  + When the conduct occurs outside of the workplace, there may be circumstances in which it may be appropriate for an employer to take disciplinary action. Taking disciplinary action may be appropriate where the employee’s conduct:
  + is likely to damage the relationship between the employer and the staff member
  + damages the employer’s interests
  + is incompatible with the staff member’s duties.
* Factors which may demonstrate a link between the conduct and the individual’s employment include the following:
  + the staff member’s conduct involves others in the workplace
  + the nature of the staff member’s position includes leadership, direct contact with vulnerable clients, access to personal information, or in cases in which criminal proceedings have resulted in the loss of a required approval or registration (e.g. ability to work with children).

Allegations and/or acts of violence during work or using work resources should be taken seriously. Consider when to engage an outside authority (e.g. lawyers, police etc.) to support a fair and robust investigation process. Investigation and disciplinary procedures are stipulated in the relevant industrial agreements and within [service name’s relevant policies and procedures]. It is important to consider the safety of the victim survivor/s at each stage of decision making as well.

**It is important to consider the information and/or evidence at hand before taking action.**

* Consider whether there is a sufficient factual basis to take disciplinary action.
  + The information and evidence base is likely to be clear in cases in which the staff member has been convicted of a family violence offence, when there is a Family Violence Intervention Order against the staff member, and/or where there is a relevant connection to the workplace (as described above).
* If you are told of a situation by a colleague or a third party, in these situations there may be little in the way of concrete factual ‘evidence’. It is important to note that:
  + Launching an investigation (in the same way you would investigate a bullying or sexual harassment complaint) may put the person experiencing the violence/abuse at risk of further harm and may not be appropriate
  + Asking the staff member probing questions to ‘screen’ for use of violence or carry-out any other fact-finding could trigger the staff member who is, or you suspect is, perpetrating family violence
  + In these situations, seek expert advice from family violence specialists, legal advisors and/or others in your human resources department.

An internal investigation of an incident that occurs during work time or using work assets should follow the Disciplinary Procedure. The action should be clearly framed to the perpetrator as a breach of workplace policy. It is strongly recommended that Managers/HR consultants seek the guidance of specialist violence services such as Men’s Referral Service before engaging in discussion with the alleged perpetrator to avoid collusion with the perpetrator.

Family Violence Leave

Paid family violence leave is not available for staff at [Service Name] who perpetrate family violence to attend court or other appointments[[7]](#footnote-7). If the staff member has no other paid leave options available then they will need to apply for unpaid leave. Please note that the 20 days of paid family violence leave under the relevant staff EAs is intended for use by those experiencing family violence, not for staff perpetrating family violence.

Where both victim survivor and perpetrator are both staff members

There are a number of complexities and practical implications of how to respond to a known perpetrator who is also a staff member. This is particularly magnified when the victim survivor of the perpetrator is also employed by the hospital.

Circumstances where both victim survivor and perpetrator are employed by the same employer can be particularly challenging from a workplace-management point of view. Workplace safety for the victim survivor, other staff and patient safety should be the priority for guiding decisions and responses.

Where HR is involved in matters where both victim survivor and perpetrator are employed by [Service name], separate staff will be allocated to provide support to each staff members’ Manager. This is to enhance the safety of the victim survivor.

In order to place the victim survivor at the centre of our response, it is important that we consult with them when making decisions about the workplace’s response to the perpetrator as this can have serious or even lethal safety impacts for the victim survivor. It is also important for the victim survivor to maintain control over their situation as well as providing crucial information as to how our actions may endanger them. For example, the perpetrator may hold the victim survivor responsible for any of their adverse workplace outcomes which may further compound their safety and risk issues. These considerations need to be balanced with employer obligations to maintain a safe workplace. Each action plan should be considered on a case–by-case basis by taking all the facts into account.

Some practical workplace responses may include:

* monitoring the situation
* referral to a perpetrator support service and/or victim survivor support service
* temporary adjustments to work-conditions, e.g., leave requests, reassigning areas or tasks, flexibility in start/finish times.
* a Behavioural Contract which includes consequences for breach of that agreement. This might include; specific agreement about movements within the hospital, copying in others to emails, having others present during meetings and other interactions, etc.
* the perpetrator taking a period of leave (but not Family Violence Leave)
* disciplinary action which may include termination of employment.

Don’t forget that workplace obligations in relation to areas such sexual harassment, workplace bullying, gender-based discrimination and health and safety law will apply to the victim survivor and perpetrator/ alleged perpetrator and need to be taken into account.

Notes taken in relation to family violence perpetration related to work are subject to the same confidentiality requirements as those taken about a victim survivor, except when the relevant Information Sharing Scheme applies (see below). This is to protect the privacy and safety of the victim survivor. Any sharing of information to external agencies will be done through HR.

Legislated sharing of information related to children

In your conversations with a staff member you may become aware that there are children who are or may be at risk. There are three main legislative reporting obligations which all staff members should be aware of as all staff have obligations in relation to children.

The three main legislative reporting obligations are:

**1. Crimes Act (Vic) 1958** requires all adults to report to Victoria Police if there is a reasonable belief that a sexual offence has been committed by an adult against a child under the age of 16 years.

**2.** **Reportable Conduct Scheme under the Child Wellbeing and Safety Act 2005 (the Act)** requires the head of an organisation to report allegations the following by staff or volunteers of:

* sexual offences against, with or in the presence of a child
* misconduct against, with or in the presence of a child
* physical violence against, with or in the presence of a child
* behaviour that causes significant emotional or physical harm of a child
* significant neglect of a child.

These behaviours include but are not limited to sexual abuse, grooming, sexting, inappropriate physical contact, sexualised behaviour with a child.

Where a staff member believes any of the above may be occurring, [HR] should be immediately and confidentially notified.

**3.**  **Mandatory reporting obligations under the Children, Youth and Families Act 2005**. This obligation arises for a class of employees who, in the course of practising his or her profession or carrying out the duties of his or her office, position or employment, forms the belief on reasonable grounds that a child is in need of protection. Please refer to [Mandatory Reporting Policy] for which roles have mandatory reporting obligations under the Children, Youth and Families Act 2005.

Any staff member may seek confidential advice from the Women’s in-house legal team about mandatory reporting obligations and duty of care obligations.

Reports to Child Protection or the Police should be done in a respectful and transparent manner. The limits to confidentiality should be explained prior to a conversation related to family violence to support a disclosure of family violence being made with informed knowledge of how information is shared in Victoria.

It is best practice to share information with consent and involvement of the adult victim survivor, and their information knowledge of what information is being reported so they can manage their safety and the safety of the children accordingly. Sharing information without the informed knowledge of a victim survivor of family violence can increase their risk.

Please also refer to the following policies and procedures related to child welfare and safety: [name policies and procedures].

1. Refer to appropriate services

HR, Manager and workplace support to perpetrators of family violence who wish to change their behaviour is through the offer of referral information to an external expert service.

To encourage the importance of action, try asking some simple questions to the perpetrator, such as:

* *Can you see yourself making the call?*
* *Sometimes people find it hard to ask for assistance when there’s a problem. What will be helpful for you to remember so that you will make this call?*
* *Although I am here to help by giving you information, it is important that you make this call.*

Whilst offering support is crucial, the offer of support or even uptake of support does not mean that the perpetrating behaviour will necessarily end. Whilst some people who perpetrate family violence want to change their behaviours, others may not wish to change their behaviour so may not access the support offered. Even those who seek support might not be able to access programs immediately, or might not change their behaviour even though they have sought support to change.

Below is the referral information for perpetrators seeking support and assistance for behaviour change and can be found on the staff intranet page [insert hyperlink].

|  |  |
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| **Men’s Referral Service**  The Men’s Referral Service takes calls from Australian men dealing with family and domestic violence matters. If your behaviour has brought you into contact with the police or courts and you’re facing issues such as an intervention order, behaviour change, anger management, access or custody.  Men’s Referral Service offers secondary consultation as well, that is advice to Managers, colleagues, friends and family. | [**http://mrs.org.au/**](http://mrs.org.au/)  **1300 766 491**  **(NSW & TAS Open 24/7; ACT, NT, QLD, SA, VIC & WA Weekdays 8am-9pm, Weekends 9am-5pm)** |
| **1800 RESPECT**  1800 RESPECT provides a best practice, professional telephone and online, crisis and trauma counselling service 24 hours a day, 7 days per week to assist people experiencing the effects of sexual assault, domestic or family violence. | [**https://www.1800respect.org.au/**](https://www.1800respect.org.au/)  **1800 737 732**  **(Australia-wide, 24/7)** |
| **MensLine**  MensLine Australia is a professional telephone and online support and information service for Australian men. | [**https://www.mensline.org.au/**](https://www.mensline.org.au/)  **1300 789 978**  **(Australia-wide, 24/7)** |
| **Our Employee Assistance Program (EAP)**  An EAP provides outside counsellors, resources, and referrals to assist employees and their family members. The EAP can also speak with women who are concerned with their use of violence but do not specialise in this area. There are currently no specialist family violence services for women who are concerned about their use of family violence. |  |

1. Recording and confidentiality of information.

It is important to make a record of each conversation and action taken as a record of action taken to keep the victim survivor, staff and patients safe. Consider if you have any 'evidence' that may be helpful to the person experiencing the violence/abuse in any court proceedings (e.g. CCTV footage, computer data or phone records) but do not seek out evidence unless it is part of a disciplinary investigation or you are responding to a particular request for information which it is lawful for you to respond to.

Store the confidential record separate to the employment file which is locked and with limited access. Ensure that the perpetrator will not have access to these files or those of the victim survivor if they are also a staff member.

Maintain privacy and confidentiality of the person experiencing the family violence and the staff member who perpetrates family violence. Note, maintaining strict confidentiality may not be possible where you believe someone is at “immediate” risk of harm and you contact the police.

Never disclose to a staff member who perpetrates family violence any information that may put the person experiencing the violence at risk e.g. information that would suggest the person experiencing the violence has disclosed information about the situation.

Maintaining confidentiality and sharing information on a strictly ‘need to know’ basis will ensure minimal impact on other people close to the person experiencing the violence and the staff member who perpetrates violence, including fellow staff members.

When communicating to team members and other key contacts, be mindful of privacy, gain consent from the victim survivor where appropriate and safe to do so, and ensure that only the required information is shared and avoid discussing the allegations of violence and abuse.

Legislation/Regulations related to this guideline or procedure

* Family Violence Prevention Act (Vic) 2008
* Children, Youth and Families Act (Vic) 2005.
* Occupational Health and Safety Act (Vic) 2004
* Child Wellbeing and Safety Act (Vic) 2005
* Crimes Act (Vic) 1958
* Victorian Public Sector Code of Conduct

References

* Our Watch, 2017a, *Workplace Responses to Perpetrators of Violence Against Women*, Our Watch: Melbourne, Available from <https://d2bb010tdzqaq7.cloudfront.net/wp-content/uploads/sites/2/2019/05/01042449/Workplace-responses-to-perpetrators_SummaryPaper_Dec-2018.pdf>
* Our Watch, 2017b, *Practice Guidance:* *Workplace Responses to staff who perpetrate violence.* Our Watch: Melbourne, Available from <https://workplace.ourwatch.org.au/resource/practice-guidance-workplace-responses-to-staff-who-perpetrate-violence/>
* Victorian Government, 2019, *MARAM Practice Guides: Foundation Knowledge*, Available from <https://www.vic.gov.au/sites/default/files/2019-07/MARAM-practice-guides-foundation-knowledge.pdf>
* Victorian Government, *Code of Conduct for Victorian Public Sector Employee*s, Available from <https://vpsc.vic.gov.au/resources/code-of-conduct-for-employees/>

Additional resources used to guide this policy and procedure

* Male Champions of Change, 2020, *Employees who use domestic & family violence: A workplace response* (In Press). Available from <https://malechampionsofchange.com/reports-and-resources/>
* North West Metropolitan Region Primary Care Partnerships, 2017, *Guideline for Identifying and Responding to People who Cause Family Violence Harm*, Available from <http://inwpcp.org.au/wp-content/uploads/2018/03/Final-Guidelines-for-identifying-and-responding-to-people-who-cause-family-violence-harm_April2018.pdf>
* Queensland Government, Australia’s CEO Challenge, 2019, Domestic and family violence. A workplace approach to employees who use or may use violence and abuse, Queensland Government, Available from <https://australiasceochallenge.org/wp-content/uploads/2019/08/workplace-approach-to-employees-who-use-or-may-use-violence-and-abuse-8-1.pdf>

Appendix A: What is collusion?

Collusion is any response that encourages and supports the perpetrator’s violence-supporting story, such as agreeing with their views or minimising or playing down the violence[[8]](#footnote-8).

Many perpetrators have highly elaborate and culturally reinforced ways of denying, diminishing and/or justifying their behaviour and positioning themselves as the victim. For example, they may attempt to elicit sympathy and invite you to collude with them by sharing stories of an incompetent or mentally ill partner, or a partner who does not show them respect.

Perpetrators may try to establish credibility in a variety of ways, such as using the conversation to exchange pleasantries and humour to demonstrate that they are ‘normal’ and ‘reasonable’, and by asking you to understand and accept where they are coming from. In doing this, a perpetrator may seek to re-define themselves as the person who is ‘hard done by’ – as the person needing support.

Employer collusion with staff who perpetrate family violence can result in these excuses, minimisations responsibility avoiding tactics becoming strengthened, potentially worsening the situation for the victim survivors.

No to Violence’s ‘Tips for engaging men on their use of family violence’ provides more information on avoiding collusion when hearing a disclosure. Whilst HR, Managers and other staff should not as a rule engage in discussion regarding the violence, discussion of family violence may arise as part of performance management.

<https://www.thelookout.org.au/sites/default/files/tips-for-engaging-men-who-use-family-violence.pdf>

Family violence - Workplace responses to staff who perpetrate family violence – Clause (Template)

[Service name] does not condone family violence regardless of the socio-economic status, ethnicity, sexuality, gender identity, residential postcode, occupation, education or other attribute of either the perpetrator or the victim survivor. We recognise that people who perpetrate family violence are responsible for their behaviour. There are no excuses for violent and abusive behaviour.

[Service name] will prioritise the safety of victim survivors of violence, staff and patients in our responses to staff who perpetrate family violence, taking into account the expressed safety and support needs of the victim/survivor where possible.

[Service name] will direct staff who are known to perpetrate family violence to appropriate services, such as the Men’s Referral Service to seek support to change their behaviour. Managers will not enter into a therapeutic relationship with the person perpetrating family violence but will encourage them to take responsibility to seek appropriate support.

[Service name] staff who misuse [Service name] resources such as phones, vehicles, email, post and online services to perpetrate family violence will be dealt with under the [Relevant industrial agreement, policy, guideline and code of conduct] provisions. Their behaviour may also be a criminal offence and/or a breach of a family violence intervention order and will be dealt with through the legal system.

Case studies in responding to staff who perpetrate family violence

Disclosures of family violence perpetration within workplaces are not common. Managers and Human Resource staff, however, should know how to respond appropriately when a disclosure is made by a perpetrator or victim survivor.

The following case studies have been written to support those who may receive a disclosure to understand their responsibilities and the relevant workplace policies and procedures. The case studies can be used in training or to prompt discussion and reflection when developing policies or procedures.

The procedures and responsibilities of staff outlined in the case studies below may differ to those in your hospital. In none of the scenarios are children part of the family. Policies and procedures should also reflect responsibilities related to children.

These case studies are fictional and have been written to demonstrate the following principles of good practice:

* Prioritising the safety of victim survivors, as well as staff and patients.
* Seeking advice from specialist family violence services or internally where appropriate.
* Holding perpetrators accountable for their behaviour and not condoning family violence regardless of the socio-economic status, ethnicity, sexuality, gender identity, residential postcode, occupation, education or other aspect of the background or attributes of either the perpetrator or victim survivors.
* Encouraging perpetrators of family violence to seek support from specialist family violence services such as Men’s Referral Service on 1300 766 491.
* Understanding the role of the hospital as an employer in responding to staff.

**The examples of actions taken by managers and Human Resources staff in these case studies do not replace legal advice. As each instance of perpetration is different, we recommend you seek appropriate advice including specialist family violence and/or legal advice where necessary before taking any action.**

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| **Topics for discussion**  At what points and in what ways is the safety of the victim survivor prioritised?  What information (FV information, workplace policy information, duty of care and reporting obligations, etc) is provided to the victim survivor and the perpetrator and at what points is this provided?  What perpetrator behaviour represents an intersection of family violence with the workplace that may result in further investigation or disciplinary action?  When does the manager or Human Resource consultant consult internally or externally?  How might your internal policies and procedures lead to a different response to the ones described? |

|  |  |
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| Case study 1: Disclosure by victim survivor (with 3 different endings)  **Background**  A staff member discloses to a Family Violence Contact Officer (FVCO), who is not a Human Resources (HR) consultant[[9]](#footnote-9), that they are experiencing family violence. They disclose this information as they need to apply for leave to attend court to obtain a Family Violence (FV) Intervention Order. The hearing for the order is set for a month’s time.  The staff member mentions that their partner, from whom they were recently separated is also an employee at the hospital but that the alleged perpetrator[[10]](#footnote-10) works in a different department. The interim FV Intervention Order specifies that the partner is not to come within a certain distance of the victim survivor.  The staff member does not ask for any changes to their working conditions or that of the alleged perpetrator as they believe that they would be more at risk if the alleged perpetrator knows that the hospital is aware of the family violence and because the alleged perpetrator does not work in the same building as the victim survivor.  As part of the conversation with the FVCO the victim survivor gives permission for their manager to be informed of the situation. The FVCO lets the staff member know that ‘An appropriate person within Human Resources would also be confidentially informed’. Information is then shared with Human Resources so that roster and leave changes can be made in the HR and payroll systems. A Workplace Safety Plan is considered but after consultation with a specialist family violence service and with the victim survivor, a workplace safety plan is not thought to be not necessary at the time. The victim survivor is provided with information about local and state-wide family violence services and the Employee Assistance Program (EAP). Their leave entitlements are also explained.  **Scenario 1**  **The following week** the staff member informs the FVCO that she has run into her ex/partner in the corridor at work and that she is fearful of this occurring again. Whilst this is a breach of the intervention order, she has not informed police as she thinks it might make him angry[[11]](#footnote-11). The fear of running into him is impacting her mental health and her ability to carry out her duties.  The victim later meets with HR and discusses what her safety and wellbeing needs are. She informs HR that she cannot work in a building where she might run into the alleged perpetrator, even if by accident. She mentions that she has looked at the Workplace Support family violence information on the hospital intranet and understands that leaving a relationship is a risk factor for the escalation of violence, as is the fact that she is pregnant.  HR discusses with the victim survivor her safety, workplace rights, and how the hospital will maintain her confidentiality. The victim survivor agrees that HR will meet with her partner. HR informs her of the date and time of that meeting in advance, so she can consider her safety needs.  HR makes a time to meet with the alleged perpetrator, reminding him that he can bring a support person. When they meet, he says that the encounter in the corridor was an accident and it wouldn’t happen again. They discuss how to manage his work arrangements so that he will not come within the specified distance named within the FV Intervention Order. The employer considers the risks and different courses of action available. They consult with the victim survivor who, after further consultation with the family violence service, is satisfied with the alleged perpetrator being moved to a different site. This new arrangement is noted on a Workplace Safety Plan which is drawn up in consultation with a family service. With her consent, security, the FVCO and her manager are informed about the safety plan.  The workplace then provides the alleged perpetrator with information about perpetrator services and explains that no further action will be taken unless he either breaches the code of conduct, uses work resources to perpetrate family violence or breaches the FV Intervention Order whilst at work. A plan is also drawn up for the alleged perpetrator outlining changes to his work arrangements so that he is compliant with the FV Intervention order. HR continues to monitor the situation. Action taken is noted in both employees’ confidential FV files (not their employee file) that are stored in a secure location and password protected.  HR and the manager note that if children had been involved, they would have sought further guidance from their legal team regarding their reporting obligations.  **Scenario 2**  **The following week** the victim survivor meets with the FVCO and says that she had run into her ex/partner in the lunchroom. A meeting is organised with the HR and they discuss her safety and wellbeing needs. She informs them that she cannot work in a building where she might see him, even if by accident.  Her manager informs her they will meet her ex/partner and tells her in advance of the date and time so she can consider her safety.  HR subsequently meets with the alleged perpetrator. He is angry and does not show remorse, instead arguing that he has a right to be wherever he wants to in the hospital. The employer considers the risks and different courses of action available. They note that the behaviour of the alleged perpetrator within the meeting does not meet their respectful workplace behaviours policy. They consult with his manager who had not witnessed any disrespectful behaviour, nor received any complaints. They consider what options they had to ensure his workplace behaviour is respectful and safe.  HR then meets with the victim survivor who is clear that she did not want any action taken against him until she is able to secure some additional support and put in place safety strategies. This she indicates may be difficult as she has no family in Australia and few contacts outside of work and his family. She also speaks English as a second language and is not confident to discuss these sensitive matters in English. HR works with the victim survivor to understand what supports are available and what she needs. They provided her with a referral to InTouch multicultural FV service.  HR also makes enquiries with their EAP about whether they can provide culturally appropriate FV counselling and also talks her through her leave entitlements. She says she has been unaware that she can take 20 days paid leave either by the hour or the day, as she does not have time to regularly read information on the intranet whilst at work. They also prepare a Workplace Safety Plan in consultation with InTouch.  The workplace decides not to take action against the alleged perpetrator at the time but to monitor his performance and behaviour. They address his angry behaviour as they would any conduct within the workplace that breaches the code of conduct. A plan is also drawn up for the alleged perpetrator that outlines changes to his work arrangements to enable him to be compliant with the Intervention Order. The workplace also provides him with information about perpetrator services.  HR institutes processes to regularly review the shifts and locations of both parties to ensure that in the future they will not have to cross paths at work.  HR and the manager note that if children had been involved, they would have sought further guidance from their legal team regarding their reporting obligations.  **Scenario 3**  **The following week** the victim survivor meets with the FVCO and says that he had run into his ex/partner in the lunchroom and he is fearful of this happening again.  The victim survivor then meets with HR and discusses what his needs are with regards to his safety and wellbeing. He informs them that he cannot work in a workplace where he might run into the alleged perpetrator. He said that he is very worried about the whole situation as his family does not know about the relationship and that he is a temporary resident in Australia.  HR assures him that he will not be penalised in any way for disclosing that he is a victim survivor of family violence. They assure him that the information will be kept in a secure family violence file (not his employee record) and not be recorded on any documents related to his residency and employment status. The workplace provides the victim survivor with information about LGBTI family violence services and family violence information for temporary visa holders. They also draw up a Workplace Safety Plan in consultation with a specialist family violence service.  The victim survivor’s manager informs him they would be meeting with his ex/partner and informs him of the date and time so he can consider his safety needs.  HR then met with the alleged perpetrator. They explained the respectful workplace policies and discussed flexible and other work arrangements, so that both parties are not at work at the same time. HR also offers referral options to specialist FV services, including those for LGBTI people.  Two weeks later the victim survivor informs his manager that, whilst he had not seen his partner at work, he had been receiving abusive emails from his ex/partner’s work email. The hospital has clear grounds for investigating this behaviour in line with the code of conduct disciplinary procedure which may lead to disciplinary action. They consult with the victim survivor to ensure that any action does not put him further at risk.  HR and the manager note that if children had been involved, they would have sought further guidance from their legal team regarding their reporting obligations.   |  | | --- | | Case Study 2: Disclosure by perpetrator  An employee puts in a request for family violence leave to attend court as a respondent in a Family Violence Intervention Order application. He also requests a change to his working conditions so that his regular place of work is at a different location. The employee’s manager is unaware that the staff member is alleged to have perpetrated family violence and has not had any complaints or comments from any other staff member about the employee. The employee says that they only mentioned the family violence as they thought the manager might hear about the situation ‘on the grapevine’, but that there is, ‘nothing to worry about as she is just overacting, as usual, and it will all blow over.’  As the employee has regular contact with children and women at risk in their role, the manager believes that they have a duty to determine if the employee’s use of family violence poses a risk to other staff, patients or their families attending the hospital.  The manager consults with a Human Resources Consultant to determine the best course of action. The Consultant advises that the employee cannot use family violence leave to attend court but can use their personal leave, annual leave or apply for unpaid leave. HR advises that the reason for leave would be recorded and stored in a locked file with limited access, not his employee file.  The manager rings Men’s Referral Service and consults on how best to approach the conversation, so that he does not collude with the employee or in any way put the victim survivor at further risk. The manager notes that he was tempted to accept the employee’s explanation in good faith as he had never behaved inappropriately at work. They discuss how minimising their own behaviour is a common tactic of perpetrators to discredit victim survivors. They discuss that the manager should prioritise the victim survivor safety and send a clear message that as an employer they do not condone family violence as they would with any other alleged perpetrator.  The manager then meets with the employee and provides him with information about leave entitlements and with information about their local specialist family violence service, which has specialised men’s behaviour change counsellors. The manager requests that the alleged perpetrator supply them with a copy of the order. This is not provided. Instead, the staff member tells them that the order says he cannot be within 500 meters of the victim survivor, who works at the school across the road.  As the workplace is obliged to support strict compliance with the terms of any FV Intervention Order that affects employees at the workplace, they work with the alleged perpetrator to consider possible changes to workplace arrangements that will ensure compliance. This includes the possibility of the alleged perpetrator changing shifts, taking leave, changing roles and/or changing his regular place of work.  As a change in work arrangements is able to be made, the employee moves his regular work location to another site. The manager also provides the employee with the hospital’s policy regarding family violence explaining that the hospital does not condone family violence and that their role is to ensure that they maintain a safe working environment, that no workplace resources are used to perpetrate violence, including the phone and computer, and that they encourage and support employees to seek appropriate support.  As the manager has not witnessed any disrespectful behaviour or had any complaints regarding the employee’s behaviour they do not instigate an investigation nor take any action against the employee. They do not make contact with the victim survivor as she is not an employee and the hospital is not provided with any information to give them the belief that she is at immediate risk or that any children are at risk. | |

1. The Victorian Family Violence MARAM Framework is best practice for family violence risk assessment and management, based on current evidence and research. It aims to establish a system-wide shared understanding of family violence and collective responsibility for risk assessment and management. At the time of writing, the practice resources for working with perpetrators are expected to be released by Family Safety Victoria in late 2020. When released it is expected that hospitals align their perpetrator policies with MARAM. The MARAM Framework is a legislative instrument under Part 11 of the Victorian Family Violence Protection Act 2008. Finalised guidance will make clear that only key/selected professionals and services will be trained/required to provide a service response to perpetrators related to their use of violence. [↑](#footnote-ref-1)
2. See also Queensland Government, 2019, Domestic and family violence. A workplace approach to employees who use or may use violence and abuse, Queensland Government [↑](#footnote-ref-2)
3. Threats or attempts to self-harm or commit suicide are a risk factor for murder–suicide. This factor is an extreme extension of controlling behaviours. Seek expert advice if the perpetrator is threatening suicide. [↑](#footnote-ref-3)
4. Some Victorian Health Services have chosen to allow perpetrators to access family violence leave, though the majority have not. Any paid Family Violence leave listed under an applicable EBA or award is intended to be an entitlement for use by those experiencing family violence not perpetrating violence. [↑](#footnote-ref-4)
5. <http://www.thelookout.org.au/sites/default/files/tips-for-engaging-men-who-use-family-violence.pdf> [↑](#footnote-ref-5)
6. Threats or attempts to self-harm or commit suicide are a risk factor for murder–suicide. This factor is an extreme extension of controlling behaviours. Seek expert advice if the perpetrator is threatening suicide. [↑](#footnote-ref-6)
7. Some Victorian Health Services have chosen to allow perpetrators to access family violence leave, though the majority have not. Any paid Family Violence leave listed under an applicable EBA or award is intended to be an entitlement for use by those experiencing family violence not perpetrating violence. [↑](#footnote-ref-7)
8. http://www.thelookout.org.au/sites/default/files/tips-for-engaging-men-who-use-family-violence.pdf [↑](#footnote-ref-8)
9. Note that not all FV contact officers in hospitals are HR consultants. [↑](#footnote-ref-9)
10. We have chosen to use the term ‘alleged perpetrator’ as the employee has not been found to be guilty of perpetration at this time. [↑](#footnote-ref-10)
11. Note that a victim is not required by law to inform police of the breach of an intervention order, though she is encouraged to and to keep notes of any breaches. The workplace is also not obliged to call the police unless there is an immediate threat to health and wellbeing or unless children are involved and the workplace or employee is required to by law. [↑](#footnote-ref-11)