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#### IN THE MATTER OF THE ROYAL COMMISSION INTO FAMILY VIOLENCE

## ATTACHMENT DM-9 TO STATEMENT OF ASSISTANT COMMISSIONER DEAN MCWHIRTER

Date of document: 27 July 2015 Filed on behalf of: State of Victoria Prepared by: Victorian Government Solicitor's Office Level 33 80 Collins Street Melbourne VIC 3000



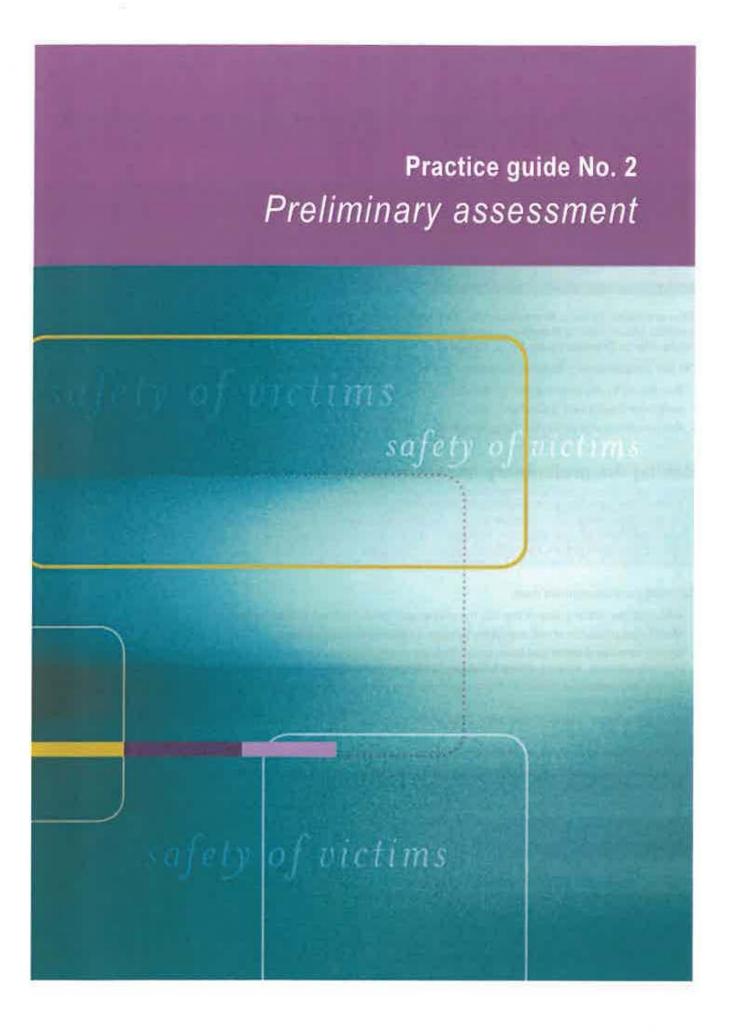
This is the attachment marked 'DM-9' produced and shown to DEAN MCWHIRTER at the time of signing his Statement on 27 July 2015.

Before me: .. . . . . . . . . . . . . . . . .

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An Australian legal practitionar within the meaning of the Legal Profession Uniform Law (Victoria)

Attachment DM-9



# Practice guide No.2

# Preliminary assessment

Practice guide No. 2: Preliminary assessment has been designed to assist professionals who work with victims of family violence but for whom it is not their only core business, including:

- > police and court staff
- > members of community legal centres
- members of community health centres, and
- > disability and housing services workers.

Other professionals such as maternal and child health nurses, general practitioners, teachers and health care providers should refer to *Practice guide No. 1: Identifying family violence*. Specialist family violence professionals should refer to *Practice guide No. 3: Comprehensive assessment*.

The risk assessments outlined in all practice guides combine three elements to determine the level of risk:

- 1. the victim's own assessment of their level of risk
- 2. evidence-based risk indicators, and
- 3. the practitioner's professional judgement.

## Making the preliminary assessment

Any person making a preliminary assessment must do so using a practice approach that is sensitive, collaborative, respectful, inclusive of diversity, strengths-based and rights focused. The assessment must be as comprehensive as possible, even when there is limited time or privacy, and any action taken must err on the side of caution to ensure the safety of the victim and child.

The preliminary assessment must:

- articulate the victim's view of the risk the perpetrator holds for them or their children
- identify the presence of risk indicators through a conversational approach
- identify whether a crime has been committed (for example, physical and sexual assault, threats, pet abuse, property damage, stalking and/or breaching Intervention Orders)
- identify any protective factors that may exist (for example, an Intervention Order, perpetrator incarcerated, or victim currently in a refuge)
- establish whether risk is present and identify actions required (for example, via appropriate referral and advice in relation to safety planning)
- · provide details of services currently involved and any referrals made as a result of the assessment
- record the assessment process and outcomes (police use 'L17' and other services use the recording template on page 48 of this guide)
- · obtain written consent from the victim for the risk assessment to be passed on as part of any referral made, and
- consider the safety and needs of any children or other family members affected by the violence.

## The practice approach

As a priority, professionals conducting the risk assessment must ensure that the victim is safe and able to communicate comfortably. For victims from culturally and linguistically diverse backgrounds, for example, every effort must be made to locate suitable interpreters. The telephone interpreter service can be used when an interpreter is not available in person. Assessments conducted in crisis situations or where ideal conditions are not available should still aim to gather the information needed to make a thorough assessment. In other words, the assessment must still be based on professional judgement and consider the victim's view of their risk and the risk and vulnerability factors in the 'aide memoire'.

The practice approach to working with victims of family violence needs to be informed by a sophisticated understanding of the victim's experience of the violence, their relationship with the perpetrator, other significant family relationships and the impact of the violence on daily functioning. At the time of assessment and from the moment of engagement, the victim will be making their own assessment about how much information to disclose.

The full extent of the violence a victim is experiencing is more likely to be disclosed if the victim feels they have support. Victims also need to be able to articulate their own assessment of their personal circumstances, which may include issues about their lifestyle and financial position, their relationship with the perpetrator and with their children, the children's relationship with the perpetrator, their emotional reactions to the perpetrator, and their assessment of their own risk and safety in relation to the perpetrator.

Risk assessment must be conducted in a conversational manner to ensure the victim feels understood and supported. Consider the following questions as a conversation trigger:

- · Tell me about what has brought you here today (to court)?, and
- · What can the police do to support you today/tonight?

## Aboriginal cultural competence

Agencies involved in responding to family violence for Aboriginal and Torres Strait Islander clients must develop a culturally appropriate service response, which must be based on:

- a real understanding of past government policies and practices in relation to Aboriginal people
- · a demonstrable understanding and respect for Aboriginal culture
- a connectedness to Aboriginal organisations and service providers in the local area, and
- a partnership approach to risk assessment and risk management with Aboriginal organisations and agencies in the local area.

Aboriginal or Torres Strait Islander victims must be offered a clear choice about referral options that includes referral to an Aboriginal-specific family violence service. Where this is not possible, referral should be to a non-Aboriginal family violence service to ensure the safety of the victim.

## Introducing the assessment

The risk assessment conversation should be introduced with an explanation about the purpose of the assessment, the possible outcomes of the assessment, and any actions that may be taken after the assessment, for example:

"I would like to have a chat with you to find out more about you, your family, and about [the perpetrator] so that I can understand your experiences and so that together we can work out any risks to you and your children. Once we have done that, we will then need to explore what happens next to keep you and your children as safe as possible from future harm. Does that make sense? Are you okay with starting?"

The person making the assessment and the victim must work together to determine the level of risk and safety. The purpose of the assessment process is to determine risk and safety for the victim by considering a range of victim and perpetrator characteristics that affect the likelihood and severity of future violence. Assessing risk in family violence is based on effective communication between the victim and the person making the assessment, and it must include:

- evidence-based risk factors
- the victim's own assessment of their level of risk, and
- professional judgement

## **Risk indicators**

The assessor must engage the victim in a conversation that will explore the presence of risk factors and the victim's own sense of their risk. Questioning and communication must demonstrate sensitivity, respect, support, validation and understanding of the victim's experience, a strengths and rights-based approach, transparency and clarity, and active listening.

The initial aim of the assessment is to encourage the victim to tell their story and define the problem in their own words. Broad questions to begin this process may be:

- Can you tell me what has been happening to you lately?
- · Tell me about your home life/your relationship with [the perpetrator]/what is worrying you?, and

· Is there someone that you are afraid of?

Once the victim has had the opportunity to respond to these broad questions, subsequent questions can be more specific, to determine severity/frequency, for example:

- · Could you tell me more about the last time he hurt you?
- · What is it exactly that he does that hurts/scares/controls you?
- · What is the scariest thing that he has done to you (or pets or others)?, and
- How long has this been going on?

## Children

A preliminary assessment must focus on the needs of any children involved in the violence and questions must be asked that establish whether children are affected by the violence, for example:

- · Do you have children/what are their names?
- Tell me about your children?
- How old are they?
- Where do they live?
- How do you think [names of children] are coping with things at home?
- · Does [the perpetrator] hurt the children?, and
- Where are the children when the violence occurs?

It is also important to establish whether Child Protection or Family Services have been, or are, involved.

It is imperative for both the assessor and the non-offending parent to understand the impact the violence is having on any children in the family. Asking women to consider whether they believe the children are safe (both physically and emotionally) in the family home is a good place to start. Women who do not understand that the violence affects their children need support to accept this fact. The assessor could, for example:

- provide her with a pamphlet on family violence from Child Protection or from another child focused agency
- present her with a summary of the literature about the impact of family violence on children, and
- encourage her to discuss the issue further with a professional who works closely with children.

If appropriate, children or young people present can be asked questions to determine the risk to them; for example, the assessor could ask:

- Has one of your parents or someone else in your family hurt or injured you physically, or have they tried to hurt or injure you?
- Do either of your parents constantly put you down and make you feel stupid or worthless, like you don't matter?
- · Have you ever tried to protect your mother from your father / step-father?, and
- Have any of the things we've just discussed happened to your brothers or sisters?

Considering children is an extremely important part of risk assessment. It is also important to consider whether any other adults in the family, such as elderly people or people with a disability, are at risk.

## **Aide memoire**

The aim of the aide memoire is to help practitioners collect relevant information through interview, including risk and vulnerability factors that should be explored to ensure that the risk assessment is based on as much information as possible. The aide memoire forms part of the recording template which can be found at the back of this guide.

The questions should not be used to collect data. Instead, they should be used as a 'memory jogger' to prompt the assessor about information that needs to be collected, and to 'flag' information that should be followed up at a later stage if appropriate.

Mental health issues such as depression and paranoid psychosis, which focus on the victim as hostile, translate into high risk when they are present with other risk factors, particularly a previous history of violence. The presence of a

mental health issue, therefore, must be carefully considered in relation to the co-occurrence of other risk factors.

Professional judgement is required to ensure only indicators that are current and relevant to the circumstances are used to determine whether risk is present. If the perpetrator has had a mental illness but is currently treated and well, for example, this risk factor is not currently present and should not add significant weight to the assessment. Evidence-based risk factors and their explanations are listed below:

Risk factor	Explanation
Vicitio	
Pregnancy/new birth	Family violence often commences or intensifies during pregnancy and is associated with increased rates of miscarriage, low birth weight, premature birth, foetal injury and foetal death. Family violence during pregnancy is regarded as a significant indicator of future harm to the woman and her child.
Depression/mental health issue	Victims with a mental illness may be more vulnerable to family violence due to their inability to accurately assess their situation.
Drug and/or alcohol misuse/abuse	Victims may use alcohol or other drugs to cope with the physical, emotional or psychological effects of family violence, which can lead to increased vulnerability.
Has ever verbalised or had suicidal ideas or tried to commit suicide	Suicidal thoughts or attempts indicate that the victim is extremely vulnerable and the situation has become critical.
Isolation	A victim is more vulnerable if they are isolated from family, friends and other social networks. Isolation also increases the likelihood of violence and is not simply geographical. Other examples of isolation include cultural factors, which may limit a new immigrant's access to social supports; disabilities, which may limit social interaction or support; and/or the perpetrator not allowing the victim to have social interaction

Risk factor	Explanation		
Perpetration			
Use of weapon in most recent event	Use of a weapon indicates a high level of risk because previous behaviour is a likely predictor of future behaviour. A weapon is defined as any tool used by the perpetrator which can injure, kill or destroy property, including guns.		
Access to weapons	Perpetrators who have access to weapons, particularly guns, are much more likely to seriously injure or kill a victim than others without access to weapons.		
Has ever harmed or threatened to harm victim	Psychological and emotional abuse has been found to be a good predictor of continued abuse, including physical abuse. Previous physical assaults also predict future assaults.		
Has ever tried to choke the victim	Strangulation or choking is a common method used by male perpetrators to kill female victims.		
Has ever threatened to kill victim	Evidence suggests that a perpetrator's threat to kill a victim is often genuine.		
Has ever harmed or threatened to harm or kill children	Evidence suggests that child abuse and family violence are likely to occur in the same family. Children witnessing, hearing or being subjected to violence will be adversely affected and may develop behavioural and emotional problems.		
Has ever harmed or threatened to harm or kill other family members	Threats by the perpetrator to hurt or cause actual harm to family members can be a way of controlling the victim through fear.		
Has ever harmed or threatened to harm or kill pets or other animals	A correlation between cruelty to animals and family violence is increasingly being recognised. Because there is a direct link between family violence and pets being abused or killed, abuse or threats of abuse against pets may be used by perpetrators to control family members.		
Has ever threatened or tried to commit suicide	Threats or attempts to commit suicide have been found to be a risk factor for murder-suicide.		
Stalking of victim	Stalkers are more likely to be violent if they have had an intimate relationship with the victim. Stalking, when coupled with physical assault, is strongly connected to murder or attempted murder. Stalking behaviour and obsessive thinking are highly related behaviours.		
Sexual assault of victim	Sexual assault includes when the perpetrator has forced the victim to have sex against their will, coerced sexual activity or carried out unwanted sexual touching. Women who report sexual assault are more likely to have a history of family violence.		
Previous or current breach of Intervention Order	Breaching Intervention Order conditions indicates the defendant is not willing to abide by the orders of a court. Such behaviour should be considered a serious indicator of increased risk of future violence.		
Drug and/or alcohol misuse/abuse	Serious problems with illicit drug, alcohol or prescription drugs and inhalants lead to impairment in social functioning and create a risk of family violence. This includes temporary drug-induced psychosis.		

Risk factor	Explanation
Perpetratoricon	
Controlling behaviours	The perpetrator can exercise complete control over the victim's activities by, for example, telling the victim who they can be friends with, controlling how much money the victim can access, and determining when the victim can see friends and family and when the victim can use the car. Men who think they 'should be in charge' are more likely to use various forms of violence against their partner.
Unemployed	Unemployment is associated with an increased risk of lethal assault, and a sudden change in employment status – such as being terminated and/or retrenched – may be associated with increased risk.
Depression/mental health issue	Murder-suicide outcomes in family violence have been associated with perpetrators who have mental health problems, particularly depression.
History of violent behaviour	Perpetrators with a history of violence are more likely to use violence against family members. This can occur even if the violence has not previously been directed toward family members. Other victims may have included strangers, acquaintances and/or police officers. The nature of the violence may include credible threats or use of weapons and attempted or actual assaults. Violent men generally engage in more frequent and more severe family violence than perpetrators who do not have a violent past.

Perlationship	
Separation	For women who are experiencing family violence, the high risk periods include immediately prior to taking action, and during the initial stages of or immediately after separation. Victims who stay with the perpetrator because they are afraid to leave often accurately anticipate that leaving would increase the risk of lethal assault. The data on 'time-since-separation' suggests that women are particularly at risk within the first two months.
Escalation – increase in severity and/or frequency of violence	Violence occurring more often or becoming worse has been found to be associated with lethal outcomes for victims.
Financial difficulties	Low income (less than that required to provide for basic needs) and financial stress including a gambling addiction are risk factors for family violence.

## Victim's level of fear

The victim's own level of fear and views about the likelihood of future violence is a critical determinant of the level of risk experienced by the individual The perpetrator's behaviour and most risk assessment tools are not as effective in assessing risk as this single measure.

There will be times, however, when women are unable to accurately describe their level of fear or assess their level of risk and caution must be taken in interpreting this

The following questions allow the interviewer to explore the victim's view about their level of risk:

- · How scared do you feel given what has just happened/the latest incident?
- · Do you think the violence will continue?, and
- · Is the violence getting worse?

Scaled questions may also be a useful way of determining fear levels; for example, the question could be asked, On a scale of 1 to 10, with 1 being 'not scared' and 10 being 'extremely scared', where would you put yourself? Scaled questions are also effective for use with children.

Observation of the victim will also provide information about their level of fear. Signs of fear, anxiety or terror should be recorded on the recording template at the back of this guide.

## **Protective factors**

It is important to determine whether protective factors are present that may serve to mitigate the risk. Protective factors may include, but are not be limited to:

- a victim's decision to move away from the perpetrator this factor can, however, significantly increase the level of
  risk and must be carefully examined because it is truly protective only if there is no chance of the perpetrator
  locating the victim
- the perpetrator being incarcerated or otherwise prevented from approaching the victim.

Other protective factors to consider may include the victim being employed (and therefore being less isolated), having a well developed social network and having access to resources such as money, transport, a place to stay and advocacy services.

While the presence of protective factors should be taken into account in making the risk assessment, caution must be taken not to place too much weight on them. The victim's own view of whether the factor can protect them is of vital importance.

## **Professional judgement**

Having collected as much information as possible about the victim and their situation, the assessor needs to use professional judgement to determine:

- if risk is present [yes or no]
- if action is required [yes or no].
- If risk is present, action is always required, and should include:
- immediate referral to an appropriate specialist family violence provider; referral could also be to the police or the courts if another service is conducting the assessment, and
- developing a safety plan with the victim.

It is important to note that separation is a time of extreme danger. Separation includes the victim leaving the perpetrator or the perpetrator being removed from the home due to an Intervention Order, police charges or holding powers, or otherwise against their will.

At a minimum, the safety plan should include:

- · the contact numbers for a family violence organisation
- other emergency contact numbers

- · the identification of a safe place to go if in danger
- · the identification of a friend or neighbours who can assist in an emergency
- . the identification of a way to contact the emergency support person and a plan to get to a safe place, and
- · access to cash money and quick access to important documents.

Identifying other services that might already be involved will strengthen the victim's safety planning. Family violence specialists may already be involved, for example, but may be unaware that police or the courts have been contacted. Details about the involvement of other services should be recorded, and with the victim's consent, the risk assessment recording template completed as part of the preliminary assessment should be faxed to these other services.

## **Recording the assessment**

Police should record the assessment on the Family Violence Risk Assessment and Management Report (L17), and other professionals should use the recording template at the back of this guide.

## Consent

Except as indicated on page 28, consent from the victim should be obtained if new referrals are required. The victim can sign the recording template giving their consent for their assessment record to be used as a referral to another organisation.

## **Referral pathways**

Referral pathways include:

- specialist family violence services for women and children experiencing family violence, including the 24-hour statewide crisis service, regional family violence services, housing, refuges and other support services
- Child Protection or Child FIRST, where children are identified as being in need of protection or their wellbeing is compromised respectively (does not need consent by victim)
- · a police response if a crime has been committed or if the victim's safety is not currently assured, and
- · referral to a legal centre or court if an Intervention Order is required.

A list of local referral pathways should be compiled using the template located in the inside cover of this guide.

# **Preliminary assessment**

## **Recording template**

Victim					
Family name					
First name	Second name				
Other names/aliases					
Current address					
					Postcode
Phone numbers	Home		Wo	rk	
	Mobile				
Date of birth	1	1	Age	Э	
Sex		emale			
Country of birth				a an 201 - 18 - 19 - 19 - 19 - 19 - 19 - 19 - 1	
Language spoken at home					
Interpreter required		es (specify langua	oe/diale	ect)	
Aboriginal and/or Torres	Aboriginal		<u>.</u>	Both	
Strait Islander	Neither			Cus Dour	
Disability		es (specify nature	of disat	oility)	
Relationship to	Wife	Defacto wif	and the second s		(including defacto)
perpetrator	L. Husband	Defacto hu		45 100	band (including defacto)
				+-mm2	
				Uther (pleas	se specify below)
	Boyfriend	Former boy	rriend		
	Father	Mother			
	Son	Daughter			
	Brother	Sister			
Emergency contact	Name		Ph	one number	12 340-400C - 1-
Perpetrator					
Family name			_		
First name			Seco	ond name	
Other names/aliases		10-			
Current address		<u>,</u>		30 · · · · · · · · · · · · · · · · · · ·	an and a second a
a mana na mana ina mana na mana in takin di sa kati naka di pang nang panganan anang manang na					Postcode
Phone numbers	Home	Y.11 (L. 2)-27-27-2000	Work		den is the second second
	Mobile	Tutto Heat down	<u></u>		
Date of birth	1	1	Age		1
Sex		emale			
Country of birth					
Language spoken at home					
Interpreter required		0 (0000)6 . 1	00/11-1-	ot)	
	No Yes (specify language/dialect)			nanna tartar an abaltana ana 18.572° na aka nana - antongan ang	
Aboriginal and/or Torres Strait Islander	Aboriginal	∐T.S.I.	Bo	th	
	Neither	Unknown			
Disability	No Ye	s (specify nature	of disab	oility)	and was not used and and ended to a supervise of the head of the dependence of the supervised of the s

# **Preliminary assessment**

# Recording template cont'd

Child 1		
Family name		
First name		Second name
Current address	Same as victim	
	Other, please specify	Postcode
Date of birth	/ /	Age
Sex	Male Female	
Relationship to perpetrator	Son Daughter	Other (please specify below)

Child 2		
Family name		
First name		Second name
Current address	Same as victim	
	Other, please specify	Postcode
Date of birth	1 1	Age
Sex	Male EFemale	
Relationship to perpetrator	Son Daughter	Other (please specify below)

Child 3		
Family name		
First name		Second name
Current address	Same as victim	
	Other, please specify	Postcode
Date of birth	1 1	Age
Sex	Male Female	
Relationship to perpetrator	Son Daughter	Other (please specify below)
Name of agency referred from (if applicable)		

## **Preliminary assessment**

#### Aide memoire

Note: these risk and vulnerability factors should be explored through the course of a conversation. Risk indicators are not intended to be asked as part of a data collection process and should not be used as such.

Risk or vulnerability factor	Presence	e of factor
	Yes	No
Victim		
Pregnancy/new birth*	l	- mercana
Depression/ mental health issue		
Drug and/or alcohol misuse/abuse		
Has ever verbalised or had suicidal ideas or tried to commit suicide		
Isolation		
Perpetrator		
Use of weapon in most recent event*		
Access to weapons*		
Has ever harmed or threatened to harm victim		
Has ever tried to choke the victim*		
Has ever threatened to kill victim*		
Has ever harmed or threatened to harm or kill children*		
Has ever harmed or threatened to harm or kill other family members		(an year)
Has ever harmed or threatened to harm or kill pets or other animals*		
Has ever threatened or tried to commit suicide*	[]	
Stalking of victim*		
Sexual assault of victim*	. 🗌	
Previous or current breach of intervention order		
Drug and/or alcohol misuse/abuse*		
Obsession/jealous behaviour toward victim*		
Controlling behaviour*		
Unemployed*		
Depression/mental health issue#		
History of violent behaviour (not family violence)		
Relationship		
Recent separation*		
Escalation - increase in severity and/or frequency of violence*		
Financial difficulties		

\* May indicate an increased risk of the victim being killed or almost killed. # Mental health issues such as depression and paranoid psychosis, which focuses on the victim as hostile, are high risk when they are present in conjunction with other risk factors, particularly a previous history of violence. The presence of a mental health issue must be carefully considered in relation to the co-occurrence of other risk factors.

# **Preliminary assessment**

Victim's own assessment of safety

#### Has a crime been committed?

Criminal offences include physical abuse, sexual assault, threats, pet abuse, property damage, stalking and breaching intervention orders. (See Classification Code Table for reference).

🗌 No	Ves 🗌	If yes, provide details.		

			C	ASE CLASSIFICATION	CODE TABLE *	
		Ins	structions: Describe the	most serious feature of the current	case, and use this code numb	er in the box above.
				CRIMINAL ABU	JSE	
		ASS	SAULTS	PROPERTY	STALKING	BREACHING
		rious Physical)	<ul> <li>nreats (non- physical)</li> </ul>	7 Serious (Damage)	10 Less than 2 weeks	13 Uniy 14 Plus Other
		nor (Physical) xual	5 Pet Abuse 6 Other types of	8 Minor (Damage) 9 Theft NON-CRIMINAL A	11 Between 2 & 4 weeks BUSE Constant than 4	Charges
15	Emotional	at Manipulative or controlling behaviour, humiliating or intimidating behaviour, subjecting victim to recidess driving, continual criticism, threatening to take children away or undermining the relationship between victim and children. Threatening to commit suicide.				
16	Verbal	Swearing or making derogatory insults to the victim.				
17	Social	ial Keeping victim away from family and friends, not letting victim leave the house, insulting victim in public.				
	Financial im's propert	Keeping victim to y if the relationship		ng victim enough money to buy thin	gs for the household or for ba	sic needs, threatening that victim will lose all
19	Spiritual	Ridiculing or insu	ulting victim's most value	d beliefs about religion, ethnicity, so	cio-economic background or a	sexual preferences.
				NON-ABUSIVE AND NON-CRIM	INAL BEHAVIOUR	
20	Conflict	Non-violent, non-	-abusive, non-criminal di	spute between family members cha	racterised by the absence of c	controlling or coercive behaviour
	222 <u>-00</u>				a a a a a a a a a a a a a a a a a a a	ent and Management Report (the L17).

# **Preliminary assessment**

Protective factors (refer to details on page 46)

#### **Risk level**

Is risk present? No Yes
Is action required? No 💭 Yes 💭

## Agencies already involved

Contact person and number	Type of involvement
······································	

Safety plan (refer to details on page 46)

# **Preliminary assessment**

## **Referrals** made

Type of organisation	Name of organisation	Name of contact person	Date of referral
Police			
Child protection			
Child FIRST			
24-hour state-wide crisis service			
Regional family violence service		anna anna anna an Sungann aith anna an an	
Counselling service			
Housing service			
Community Legal Centre/Legal Aid			
Centrelink			
Mental Health Service			
Drug and Alcohol Service			
Sexual Assault Service			
Other			

## Consent

Ь	(12)		
consent for this practitioner to share the information I have provided in this assessment with other agencies to which I am being referred.			
Signature:			
Date: /	1		
Verbal consent obtaine	d: Mes		