



COMMISSIONER FOR
BETTER REGULATION

GPO Box 4379
Melbourne Victoria 3001
Telephone: 03 9092 5800

10 May 2018

Ms Katy Haire
Deputy Secretary
Early Childhood and School Education Group
Department of Education and Training
Level 11, 35 Spring Street
East Melbourne, VIC 3000

Dear Ms ~~Haire~~ *Katy*,

I would like to thank your staff for working with our team on the preparation of the Regulatory Impact Statement (RIS) for the proposed Child Information Sharing Regulations which supports the operation of the *Children's Legislation Amendment (Information Sharing) Act 2018* (the Act).

Under section 10 of the *Subordinate Legislation Act 1994*, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RIS prepared in Victoria. The Commissioner's role is to advise on the adequacy of the analysis presented in the RIS, rather than the merits or otherwise of policy or regulatory proposals. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 9 May 2018 meets the adequacy requirements of the *Subordinate Legislation Act 1994*.

As the Department of Education and Training explains in the RIS, the objective of the Child Information Sharing (CIS) Scheme is to increase the amount and quality of information shared between relevant agencies including Police, the courts and health, education, child, family and community services. This aims to deliver:

- improvements in early risk identification and intervention;
- increased participation of children in services for their wellbeing and safety; and
- more timely targeted intervention when high risk factors exist in the safety and wellbeing of children.

The Scheme has been designed to operate alongside the Family Violence Information Sharing Scheme with the implementation timetable of the proposed Regulations being designed to align with the concurrent implementation of the Family Violence Information Sharing Scheme.

The objective of the proposed Regulations is to improve the quality and quantity of information shared. The Department has designed the regulations to balance the risks to privacy of sharing confidential information and the cost of implementation.

The Act authorises prescribed entities, known as information sharing entities (ISE), to request or disclose confidential information to another ISE for the purpose of promoting the wellbeing or safety of a child or group of children, and to assist the recipient (of this information) to deliver services in relation to them.

The Regulations outline:

- which organisations are prescribed as ISEs in the first of two planned phases; and
- the record-keeping requirements to support the operation of the Scheme.

In determining which entities should be prescribed as ISEs, the Department consider three options:

- **Option 1.** Targeted prescribing of entities based on their criticality and capacity. **(preferred option)**
- **Option 2.** Entities prescribed in Option 1 with the addition of universal and other key child service providers.
- **Option 3.** Prescribing all entities likely to hold information relating to children.

In determining the record-keeping requirements for ISEs, the Department consider two options:

- **Option 1.** Requiring ISEs to record case-level information. **(preferred option)**
- **Option 2.** Imposing additional requirements on ISEs to record and report on aggregate data.

The key principles used to group entities into each proposed option were:

- the protection and support of vulnerable children as the highest priority;
- services that have existing capability in formal risk assessment and management; and
- complementary service functions to provide for a more integrated service response for vulnerable children and families.

The Department explains why it used multi-criteria analysis (MCA) to assess the costs, effectiveness and risks of each option. It is difficult to quantify precisely the impacts of extending information sharing provision due to the nature of the changes. MCA allows the options to be compared using quantitative and qualitative techniques.

Using MCA, the Department explains why option 1 in both sets of options was preferred, noting the privacy concerns and the risks of disrupting the provision of services relating to child wellbeing and safety if the scheme roll-out was implemented too quickly or with too large a group.

The Department estimates the total impact of the scheme on prescribed entities and government to be \$243.4 million in net present value (NPV) terms over 10 years. Direct start-up costs to government in the first four years are estimated to be \$43.3 million, with ongoing funding of \$5.2 million per annum. Initial and ongoing costs to prescribed entities over 10 years is estimated to be \$0.25 million NPV.

The Department notes that the entities prescribed in the proposed Regulations are mostly government agencies or entities funded by government, therefore the burden of the scheme will fall predominantly on government.

The Department's estimates of likely impacts of the scheme are based on consultations with representative entities on the preferred option.

The Department states in the RIS that *"While the stakeholders consulted included both government and non-government organisations across a range of sectors, it should be noted that only a small sample of the organisations likely to be affected by the CIS Scheme could be consulted. As such, the*

impact estimates reported in this RIS should be considered very much an initial indication, rather than anything more definitive.” As pointed out in the RIS, the Department is encouraging stakeholders to provide feedback on the accuracy of the estimated impacts during the RIS consultation process.

The Department has outlined its plan to undertake an independent two-year review of this phase of the CIS Scheme which will inform the roll-out of phase two of the Scheme in 2020. The Act also requires an independent review at five years, and it is intended that this review will examine impacts as well as the legislative basis for the Scheme.

Both reviews are to be tabled in Parliament within six months after the end of the review period.

It is government practice that this letter be published with the RIS when it is released for public consultation.

Should you wish to discuss any issue raised in this letter, or the implications of new information or policy options identified through the public consultation process for your proposal, please do not hesitate to contact me on (03) 9092 5800.

Yours sincerely



Anna Cronin
Commissioner for Better Regulation