



COMMISSIONER FOR
BETTER REGULATION

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8 June 2018

Ms Sue Clifford
Chief Executive Officer
Family Safety Victoria
35 Collins Street
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Dear Ms Clifford

REGULATORY IMPACT STATEMENT FOR THE FAMILY VIOLENCE PROTECTION (INFORMATION SHARING AND RISK MANAGEMENT) AMENDMENT REGULATIONS 2018

I would like to thank the staff at Family Safety Victoria (FSV) for working with the Office of the Commissioner for Better Regulation on the preparation of the Regulatory Impact Statement (RIS) for the proposed *Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2018*.

As you know, 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 RISs 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 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 8 June 2018 meets the adequacy requirements of the *Subordinate Legislation Act 1994*.

Background

Following the Royal Commission into Family Violence (the Royal Commission), the Government is implementing a range of measures aimed at reducing the risk of family violence in Victoria. The introduction of new information sharing laws and the redevelopment of the Family Violence Risk Assessment and Risk Management Framework are key measures in the Government's approach. These measures are being introduced progressively.

In regard to information sharing, amendments to the *Family Violence Protection Act 2008* (the Act) made in 2017 enabled Government agencies and service providers to share information with one another for family violence risk assessment and risk management purposes.

The *Family Violence Protection (Information Sharing) Regulations 2018* were introduced in February and prescribed an initial tranche of Information Sharing Entities (ISEs) which were authorised to share information under the family violence information sharing scheme (the scheme). The initial tranche prescribed individuals with specific functions in key organisations that play a core role in assessing and managing family violence risks, and have a good understanding of family violence issues. For example, these individuals included those employed in organisations such as the Police, Courts, refuges and specialist family violence services.

Consistent with the progressive extension of the scheme, the *Family Violence Protection (Information Sharing and Risk Management) Amendment Regulations 2018* considered in this RIS propose prescribing a broader range of entities to be included in information sharing arrangements. These include a range of government-funded specialist services such as homelessness services, child protection services, DHHS Housing, Maternal and Child Health services and the Youth Parole Board. Beyond this group, however, there is a broader cross-section of agencies that may hold information relevant to assessing or managing risk. The RIS identifies that this group are likely to be included from mid-2020. FSV has noted a separate RIS will be prepared for those regulations.

The Act also empowers the Minister to approve a Family Violence Risk Assessment and Risk Management Framework (the framework), and require key organisations and funded agencies to align their practices to it.

The current framework, known as the Common Risk Assessment Framework (CRAF), was originally introduced in 2007. Several reviews have since identified limitations in family violence risk assessment and management practices, preventing services from addressing risks through timely and effective interventions.

The proposed Regulations continue these reforms and support the Act, extending the range of organisations prescribed as Information Sharing Entities (ISEs), and determining how prescribed organisations should align with a revised framework.

Analysis

As part of these reforms, the RIS estimates the impact of options for two key elements of the proposed regulations. Due to difficulties quantifying the social and indirect benefits of the proposed regulations, a Multi Criteria Analysis (MCA) methodology was used to evaluate each option's likely impacts on three criteria:

- effectiveness in meeting its objectives;
- risk of inappropriate practice; and
- implementation cost.

The analysis in the RIS focuses on the benefits and risks to victim-survivors of family violence.

Some other elements of the proposed Regulations are not considered in the RIS, either because their impacts are considered less significant or because they relate to decisions that have already been made. These included Ministerial reporting requirements, record-keeping obligations and the prescription of framework organisations.

Determining which organisations are prescribed as Information Sharing Entities (ISEs)

The current Regulations prescribe officers within organisations as ISEs. This has contributed to confusion about who information can be shared with.

This RIS considers options to address this issue and expand the organisations under the scheme to improve its reach and effectiveness, from prescribing the current organisations (rather than officers within those organisations), to including a broad range of services and activities capable of seeing evidence of, and addressing the consequences of, family violence.

The preferred option is to prescribe a limited group of additional organisations, based on their role in responding to family violence, their experience in managing family violence risks, and their familiarity with operating in a rule-based environment. These organisations include homelessness services, child protection services, DHHS Housing, Maternal and Child Health services and the Youth Parole Board.

The RIS considers these entities' exposure to family violence information and access to victim-survivors would significantly contribute to the framework's objectives, and that the costs and risks of including them would be relatively low.

Determining how prescribed organisations should align to the framework

The framework outlines principles and sets requirements against which prescribed organisations will align their policies, procedures, practice guidance and tools. These requirements are structured against "four pillars" for system-wide family violence risk assessment and management practice:

- shared understanding of family violence
- consistent and collaborative practice
- roles and responsibilities
- systems, outcomes and continuous improvement

In preparing the RIS, FSV considers the following options:

- **Option 1 (preferred)** – framework organisations are required to align their relevant policies, procedures, practice guidance and tools to the four pillars of the framework
- **Option 2** – framework organisations are mandated to use the framework tools and practice guides for risk assessment and risk management activities
- **Option 3** – framework organisations are mandated to use the framework tools and are also required to report annually on risk assessment and risk management practice.

By requiring organisations to align their own policies and procedures to the framework's four pillars, rather than specifying particular tools for doing that, FSV expects a significant improvement to the framework's effectiveness, without the additional administrative costs other options may bring.

Expected costs and benefits

Based on the assumptions outlined in the RIS, the proposed reforms are expected to cost \$86.8 million in upfront costs between 2017-18 and 2019-20, with ongoing annual costs of \$38.5 million in 2018-19 ramping up to \$75.3 million in 2020-21 and thereafter. FSV estimates the Net Present Value (NPV) of these costs to be \$647 million over the next ten years.

The RIS makes clear that the costs identified are not duplicating those already identified in the Child Information Sharing scheme. The two schemes complement one another.

The benefits of the different options are difficult to quantify given the inability to draw a clear causal link between information shared and reductions in family violence. FSV considers it reasonable that these reforms will lead to a reduction in the number and severity of family violence cases over the longer term (KPMG estimated the cost of family violence to Victoria in 2015-16 to be \$5.3 billion).

Implementation and Evaluation

The proposed Regulations are planned to be rolled out progressively based on the capabilities of different proposed ISEs and supported by a training program for affected workforces. The interactions between this Family Violence Information Sharing Scheme, the Family Violence Risk Assessment and Risk Management Framework and the Child Information Sharing Scheme have led to a joint implementation approach for the package of reforms, which should help to reduce confusion and “change fatigue” among workforces, and achieve cost efficiencies.

The Act requires a number of reviews of the scheme and framework, including:

- an independent review of the scheme’s implementation within two years of the Act’s commencement. This review is currently being conducted by Monash University and will be tabled in Parliament when complete.
- an independent review of the scheme within five years of the Act’s commencement, considering its appropriateness and any adverse effects it may be having.
- a review of the framework within five years of its commencement, and every five years thereafter.

These reviews will enable FSV to better understand the costs and benefits of these regulations and identify areas for improvement: they will be valuable in improving the effectiveness of the scheme and framework.

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