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Commissioner for Better Regulation
Red Tape Commissioner

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8 October 2019

Ms Kim Little
Deputy Secretary, Early Childhood Education
Department of Education and Training
2 Treasury Place, Ground Floor
EAST MELBOURNE VIC 3002

Dear Ms Little

REGULATORY IMPACT STATEMENT FOR CHILD WELLBEING AND SAFETY (INFORMATION SHARING) AMENDMENT REGULATIONS 2020

I would like to thank your staff at the Department of Education and Training (the Department) for working with my team on the preparation of the Regulatory Impact Statement (RIS) for the Child Wellbeing and Safety (Information Sharing) Amendment Regulations 2020 (the Regulations). These regulations are made under the *Child Wellbeing and Safety Act 2005* (the Act).

As you know, under section 10 of the *Subordinate Legislation Act 1994* (the SLA), the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and be 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 8 October 2019 meets the adequacy requirements of the SLA.

Background

Over the past decade, several inquiries and reviews have recommended reform to Victoria's child information sharing laws. A recurring finding of these reviews is that improved information sharing and service collaboration around children and families is a key factor in identifying a child's vulnerability and risk early, in order to allow for early support and prevention of harm.

As part of the Government's response to these challenges, changes to the Act were proclaimed in September 2018. These established the Child Information Sharing (CIS) scheme, which enables information sharing between prescribed entities to promote the wellbeing and safety of children. The scheme is modelled on recommendations made by the Royal Commission into Institutional Reponses to Child Sexual Abuse (the McClellan Royal Commission).

In addition to the CIS scheme, the *Family Violence Protection Act* 2008 was amended to include the Family Violence Information Sharing (FVIS) scheme, which enables information sharing between prescribed entities to assess and manage family violence risk to children and adults. The two schemes work alongside each other, and organisations permitted to share information under the CIS scheme are very similar to those permitted to share under the FVIS scheme.

The McClellan Royal Commission recommended that organisations be included in the information sharing scheme over time, in order to reduce administrative overload. To this end, Phase One entities for the CIS scheme were prescribed in 2018. These include organisation like Maternal and Child Health Services, Child Protection, Out of Home Care and Victoria Police.

The objectives of the amendment regulations are to prescribe ISEs for Phase Two of the CIS scheme, in order to promote child wellbeing and safety through information sharing. As with Phase One organisations, it will authorise prescribed information sharing entities (ISEs) to request, collect, use and disclose information to promote child wellbeing and safety, and obliged them to share that information when lawfully requested to do so by another ISE (subject to exclusions).

Analysis

The RIS analyses three options for prescribing Phase Two ISEs, assessed against a base case of Phase One ISEs only (the status quo).

The RIS assesses these options using a Multi-Criteria Analysis. Key criteria for assessing options are how effective prescribed ISEs would be in providing timely access to key information; how feasible the delivery of reform will be given the various cohorts' capacity for implementation; and what the cost impact on ISEs will be.

Option One – Targeted prescription of universal health services

Under this option, health services that are likely to already be sharing or will be in a position to share effectively with secondary and tertiary services already prescribed under Phase One will be included. This involves the universal health services hospitals and general practitioners as workforces that collect and have access to information deemed relevant to child wellbeing or safety. It is estimated to involve 1 750 organisations employing around 150 000 workers.

Option Two – Targeted prescription of universal health and education services and other key child service providers

This option builds on the previous one, by prescribing various government and non-government agencies responsible for the provision or supervision of services related to the safety or wellbeing of children, particularly in the education and health service sectors. This would include:

- government and non-government schools
- student support and child wellbeing services
- early childhood education services
- hospitals
- state funded aged care services
- general practice
- community health services

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- Ambulance Victoria
- government statutory bodies and organisations/services.

This cohort is considerably larger than Option One, with an estimated 7 500 organisations employing around 370 000 workers affected. This option would also likely result in significant increases in information sharing.

Option Three – Services prescribed in Option 2 with the addition of other universal health and education services and child service providers

This option would include all services under Option 2 as well as other health and education services. The list of additional ISEs prescribed under this option would include:

- disability services
- family day care services
- private aged care services
- private hospitals
- bush nursing hospitals and bush nursing centres
- community pharmacies
- non-emergency patient transport services
- private allied health services
- TAFE and universities
- private psychologists
- residential facilities in boarding schools

This option prescribes the largest number of entities, estimated to involve 10 000 organisations employing around 500 000 workers. It is estimated this would also result in the largest increase in information sharing.

Proposal

Based on the analysis in the RIS, the Department proposes Option Two – targeted prescription of universal health and education services and other key child service providers – as the preferred option. The Department argues that this option ensures the prescription of services that interact with the vast majority of Victorian children, and in particular those who are in greatest need of support. In addition, the ISEs prescribed under this option have the capacity to provide timely access to information required, and to deliver the reform within current timelines with support from government.

The RIS argues that Option Three, while having the largest cohort, would place significant pressure on organisations and government in implementing Phase Two within the required timeframes due to the extensive scale and varying degrees of organisational capacity. Options One and Three would also not align with the proposed prescription for the FVIS scheme.

All options would impose implementation costs, with Option One imposing the least and Option Three imposing the most, given the size of their cohorts.

The Department estimates the total cost to affected organisations of Option Two, which includes staff training, compliance and updating policies and procedures is $181.6 million over ten years. The RIS explains that for non-government organisations, the average ten-

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year cost of the proposed reform will be $13 890 for each non-government organisation. For government organisations, this average is estimated to be $59 948, largely driven by significantly higher ongoing costs to hospitals, than other prescribed ISEs.

The RIS notes that the Victorian Government has allocated $21.8 million for implementation of Phase Two for 2019-20 to 2021-22, and ongoing funding of $2.8 million per annum to continue supporting the roll-out of the scheme.

The impacts of proposed amendment regulations have been estimated through consultations with entities likely to be affected.

Implementation and evaluation

The Department outlines that the CIS scheme will be rolled out to workforces in a phased approach, to allow for workforce readiness and building sector capability. Phase One has already commenced.

Phase Two, covered in this RIS, will commence in the second half of 2020. Implementation will include government support and training, which is in line with recommendations of the McClellan Royal Commission. This will also be aligned with the FVIS' Phase Two implementation as well, to minimise the risk of stakeholder confusion, reform fatigue and allow for efficiencies and cost savings in rolling out both schemes.

The Act already commits to both a two-year and five-year review of the operation of the CIS scheme following commencement. The department will be responsible for this review, which will be carried out by a consultant. The overarching review focus will include:

- identifying key enablers and barriers to operation of the scheme;
- determining to what extent the CIS scheme has achieved its objectives;
- finding any adverse impacts of the CIS scheme; and
- making recommendations to address issues raised in the review and inform the continued roll-out of the scheme.

The two-year review report, focussing on Phase One of the scheme, is to be tabled in Parliament by March 2021. The five-year review will include Phase One and Phase Two of the CIS scheme, with the report to be presented in Parliament by March 2024.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 9092 5800.

Yours sincerely

Anna Cronin
Commissioner for Better Regulation

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