



COMMISSIONER FOR  
BETTER REGULATION

GPO Box 4379  
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Telephone: 03 9092 5800

14 September 2017

Ms Sue Clifford  
Chief Executive Officer  
Family Safety Victoria

Dear Ms Clifford

I would like to thank the staff of Family Safety Victoria (FSV) for working with the staff at the OCBR on the preparation of the Regulatory Impact Statement (RIS) for the proposed *Family Violence Protection (Information Sharing) Regulations 2017*.

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 or otherwise 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 14 September 2017 meets the adequacy requirements of the *Subordinate Legislation Act 1994*.

The proposed regulations are to be made under the *Family Violence Protection Amendment (Information Sharing) Act 2017* (the Act), and are part of a broader suite of reforms comprising the Government's response to recommendations of the Royal Commission into Family Violence.

The proposed regulations prescribe the organisations that will be able to share information under the information sharing regime set out in the Act. In doing so the proposed regulations distinguish between organisations whose powers:

- are limited to sharing or requesting information in cases where they have a reasonable belief that the information is necessary to protect people from family violence risk (where a risk has already been established); or
- allow them to share or request information for the purposes of establishing whether or not a risk of family violence exists (and for the purposes of assessing that risk), without needing to form a reasonable belief that the information is necessary to do so.

Prescribed organisations will be obliged to share information in response to a request from another prescribed organisation so long as consent thresholds under the Act have been met, unless the information is excluded under the regime by the Act (e.g. in cases where sharing information would prejudice an ongoing investigation or coronial inquest) (p.vi).

The regulations also prescribe record-keeping requirements for both types of organisations, which set out the specific information organisations are required to record whenever sharing information.

FSV explains in the RIS that by facilitating the information sharing regime set out in the Act, the proposed regulations are intended to contribute to 'a reduction in the number of incidents of family

violence that escalate to major injury, trauma or death’ and will ‘improve the culture of information sharing across workforces that engage with family violence victims and perpetrators and set the foundations of a more widespread and robust framework for assessing and managing the risk of family violence’ (p.vii). FSV notes that the exact scale and value of these benefits has been difficult to quantify ‘given the inability to draw a clear causal link between information shared as a result of the scheme and associated reductions in family violence’ (p. vii).

FSV notes in the RIS that the upfront costs to prescribed organisations associated with transitioning to the regime are estimated to be between \$8.8 million and \$20.3 million, with ongoing annual costs of operating under the regime estimated to be between \$4.7 million and \$21.9 million. FSV explains in the RIS that these ranges reflect uncertainty surrounding the likely volume of information that will be shared, the specifics of each instance of sharing of information, and the systems in place at each organisation to respond to requests. FSV also notes that these estimates ‘exclude information technology, system change and associated project management costs that will apply to some government agencies’, which are yet to be determined (p.viii).

FSV explains its belief that ‘the benefits of enabling the regime through these regulations will exceed the cost on the basis of the qualitative benefits of information sharing that were described by the Royal Commission’ (p.vii).

The RIS outlines the choices made by FSV in developing the proposed regulations, by focusing on each option in terms of:

- which organisations should be prescribed in the regulations;
- whether those organisations should be given risk assessment powers; and
- what type of record-keeping regime is necessary.

FSV outlines the judgements made in each of these three cases about which options would best achieve the Government’s objectives. Options are compared based on the extent to which each one:

- will promote the appropriate sharing of information in ways that reduce the incidence or escalation of family violence
- could result in inappropriate information sharing; and
- will result in upfront and ongoing costs to organisations operating under the information sharing regime.

FSV has invited feedback regarding these judgements as part of the public consultation process.

The RIS also includes relevant information about the cost to government of implementing the information sharing regime.

The Government has outlined its commitment to review the family violence reforms as a whole within two years of the commencement of the Act. This review will include evaluation of matters relating to the information sharing regime in general and these regulations in particular. FSV notes that an independent evaluator will be appointed as part of that review before the regime commences. The evaluation of the impact of this proposal on the prescribed organisations will inform any subsequent broadening of the regime to other entities.

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**