

# Victorian Child Information Sharing Scheme Consultation 2018

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## SECTION FOUR: Questions about the Ministerial Guidelines (Submitted 29 JUNE 2018)

### The following two questions refer to Chapter 1: Sharing Information Under the Scheme

#### **1. Do you think this Chapter is clear about how information can be shared under the Scheme? Do you have any general suggestions for improvement?**

I am a researcher investigating the way in which recordkeeping systems can better reflect and support the rights of the child, so my comments will focus on those issues. Having studied guidelines associated with information sharing in Scotland as part of my research, where the emphasis is on ensuring that information is only shared when 'relevant, necessary, legitimate, appropriate and proportionate to a worry or concern', I would like to see the legislative principle regarding only sharing 'confidential information to the extent necessary' being emphasised, e.g. in the key points table; at the start of the section 'Determining when and how to share information; and in Figure 4. While it is highlighted in the detail about the threshold steps I believe it is essential to have it to the fore.

One way in which to make the connections back to the legislative principles would be to use the icons that have been established for the principles on page 8 throughout the document. It would be a visual reminder, beyond the bolding of statements, to reinforce the connections and have those using the guidelines having a clear understanding of the principled basis of the approach.

Use of this icons could be helpful in developing Figure 4, as while to be able to summarise the thresholds visually is important, I am not sure what this diagram on page 12 is conveying. It could be improved with having flow/linkage to a decision to share or not share, to better convey the steps to meet the threshold for sharing, along with relationships to the principles, as a way to provide visual representation of the relationships and connections. It is a contrast to Figure 6 in chapter 4 which clearly conveys a whole lot of complexity and is an aid to decision making. At the consultation session that I attended, practitioners at the table I was seated at noted that it would be just the thing to have pinned to their workspace wall to have in line of sight when needed.

When it comes to recordkeeping, in the section Determining when and how to share information on page 11, it would be good to see the reference to chapter 6 stress the recordkeeping obligations, i.e. 'See Chapter 6 for information handling requirements and recordkeeping obligations'.

A particular concern about the scheme is to ensure the currency, accuracy and reliability of information that is shared. I believe this needs to be emphasised, particularly in the 'Information that can be shared' section when dealing with historical information and/or information from other sources. That there is limited discussion of responsibilities to ensure the quality of information to be shared in the guidelines is a concern. Particularly as one of the reasons for the recordkeeping requirements is so that there is an appropriate trail, such that if inaccurate information is shared, then a distribution trail is created to ensure timely and comprehensive correction when necessary.

I hope that there are plans in monitoring the scheme over the first phase of its deployment to look at issues around information quality and on sharing. There is potential for the CIS scheme to work against those which it is trying to protect if it too easily allows for inaccurate information to be distributed and remain throughout the network. I note in the volume of *the Royal Commission into Institutional Responses to Child Sexual Abuse* about information sharing, that the Tasmanian Government highlighted this issue (page 233 of Volume 8) 'Inevitably the more distant the information is from the source, exacerbated by a capacity to reuse information, the greater the likelihood of that information being misunderstood, misapplied, and having unintended negative consequences for a range of people including the child on whose behalf the information was originally shared.'

**2. What additional key principles and/or existing frameworks, if any, should be referenced in the Guidelines in relation to promoting children's wellbeing and safety?**

If working with children in out of home care then to make linkages between the CIS Scheme and the Charter for Children in Out of Home Care - <https://services.dhhs.vic.gov.au/charter-children-out-home-care>

**The following question refers to Chapter 2: Sharing Information about particular communities**

**3. What additional key principles or information should the Guidelines include, if any, in relation to sharing information about particular communities and other vulnerable children and young people?**

If working with children in out of home care then to make linkages between the CIS Scheme and the Charter for Children in Out of Home Care - <https://services.dhhs.vic.gov.au/charter-children-out-home-care>. As noted on p. 24 the need for ISEs to be particularly aware of the issues around stigma, which can be exacerbated by the promulgation of information throughout the system about their circumstance that a child or young person has no control over and that can harm their wellbeing. Listening and responding to a child's concerns about who gets to have access to sensitive and confidential information about them is vital, only with workers also being able to trust that the system as a whole will be respectful and mindful of impacts, and responsive to any unintended consequences.

**The following two questions refer to Chapter 3: Maintaining engagement with children and families when sharing information**

**4. Do you think this Chapter is clear about the key considerations for maintaining client engagement? Do you have any general suggestions for improvement?**

Missing from this chapter is the need to inform children and families about their rights in relation to the Child Information Sharing Scheme. While at the consultation forum that I attended there was examples of and discussions about the kind of guidance and tools that would be given to practitioners, the need to also ensure that there are appropriate guidances for children and families,

centred on their needs and view of the system. I hope that the departments will be working with children and families to develop those advices and tools.

In particular there is a need to be clear and explicit about the mechanisms by which they can raise concerns about the way their information is being handled and distributed. This is another area which should be monitored in the first phase of the roll-out to tackle any inadvertent barriers, which can serve to deepen distrust of any system. Being able to demonstrate how readily handle corrections to information are handled not only ensures the integrity of the CIS Scheme, but also its responsiveness to child and family concerns.

I would suggest that a key point be added at the start of the chapter that ISEs should not only seek views, but be capable of responding to complaints and concerns.

**5. What additional key principles, if any, should be included in the Guidelines for seeking and taking into account the views of the child and relevant family members in relation to information sharing?**

If working with children in out of home care then to make linkages between the CIS Scheme and the Charter for Children in Out of Home Care - <https://services.dhhs.vic.gov.au/charter-children-out-home-care>

**The following question refers to Chapter 4: Sharing information if family violence is believed to present**

**6. What additional information or clarification, if any, could be included in the Guidelines about how the two Schemes operate together?**

**The following question refers to Chapter 5: Relationship of the Scheme with other laws**

**7. What additional information or clarification, if any, could be included in the Guidelines about the relationship of the Scheme with other laws?**

**The following question refers to Chapter 6: Record keeping and information management**

**8. Do you think this Chapter is clear about record keeping and information management requirements? Do you have any suggestions for improvement?**

While this chapter spells out recordkeeping and information management requirements, it would be good for greater emphasis of their purpose – i.e. to ensure accountability for decisions and actions in any particular case, and that the CIS Scheme in implementation in any ISEs meets the legislative principles. They also go to the heart of being able to demonstrate acting in ‘good faith and with reasonable care’ – perhaps that point could be emphasised in the key points section at the start of the chapter.

Under the section ‘Recordkeeping requirements if a complaint is made’ there seems to be a circular reference on p. 40 ‘See Chapter 6 for more information on complaints’. I assume that it should read Chapter 7.

Under the section ‘Correcting information’ it is good to see that reasonable steps includes seeking correction ‘with any ISEs with which the inaccurate information was shared’. Perhaps this is again

where the purpose of recordkeeping can be highlighted, in that by keeping good, accurate and reliable records about information sharing then this obligation can be relatively easily fulfilled. My concern as a recordkeeping technologist is how well systems being used in ISEs can support this, another issue for monitoring to ensure the quality and integrity of the CIS Scheme in operation.

It is good to see here the link between correcting inaccurate information and the strengthening of relationships with children and/or families.

**The following question refers to Chapter 7: Safeguards**

**9. Do you think this Chapter is clear about the safeguards for this scheme? Do you have any suggestions for improvement?**

The complaints section is very dense and complex. It would be good to see this being presented in a more visually comprehensible way so that it is clearer to a child or family member as to who they approach, how and what obligations they have to respond. This is particularly necessary given that the context of the ISE impacts on who to raise an external complaint with. A healthy CIS Scheme would seek to make this as clear and user friendly as possible.

In the same way that visual tools are being developed for workers, to ensure that equivalent tools to help children and families navigate their way through the system are provided. To co-design these with children and families would be recommended.

In addition given that the first avenue of complaint is with the ISE, to convey as to how that may be independent of those that would be raising complaints about, and the safe guards to ensure that there would be no negative consequences from raising concerns.

**The following question refers to Chapter 8: Resources and further support**

**10. What materials, tools or resources in addition to the Ministerial Guidelines would assist practitioners to share appropriately under the scheme**

My concern is whether current recordkeeping and information systems are up to being able to fully support workers and ISEs in meeting their obligations under the CIS Scheme. The costs of technological development was in my opinion underestimated in the Regulatory Impact Statement, and where the Scheme will come undone is if it adds to the administrative burden of front line workers. I would hope this is an area that would be monitored and resourced as the Scheme rolls out, and ensuring that best practice models are identified and promulgated throughout the system.

**General questions about the Ministerial Guidelines**

**11. Do you have any general suggestions about the content or structure of the Guidelines to improve readability or clarity?**

These Guidelines represent the ISE view of the CIS Scheme. I wonder as we move into an era of participatory government and greater citizen engagement, whether as part of these guidelines or as a separate set, a view of them from the child and family (i.e. citizen) perspective could be developed?

**12. Do you have any general suggestions to improve the Guidelines to guide and encourage safe, appropriate sharing to promote children's wellbeing or safety?**

As noted in answering question 1, to make greater use of the icons for the legislative principle to emphasise the connections to the recommended actions and practices.

## SECTION TWO: Questions about the Regulatory Impact Statement (Submitted 15 June 2018)

### **1. Do you have any comments in regards to the Regulatory Impact Statement (Regulatory Impact Statement 'Child Wellbeing and Safety (Information Sharing) Regulations 2018')?**

As a recordkeeping researcher and educator I am concerned at the underestimating and downplaying of the costs associated with meeting the recordkeeping requirements for the Child Information Sharing Scheme. In so doing, there is a danger that the benefits of the scheme will be undermined. Cultural and behavioural change at management levels is needed to ensure that front line workers have access to the best quality information and recordkeeping systems – smart systems that reduce rather than add to administrative burdens – to improve their capacity to meet their obligations under the CIS Scheme. This requires continuing investment in better information and recordkeeping infrastructure as part of the systemic change needed to tackle the deficiencies in current systems. As well as more realistic numbers on the upfront costs (\$4,700 a woeful underestimation of what it takes to update policies, protocols and systems for the real cultural and behaviour changes that these reforms aim to engender), it would have been good to see governance, monitoring, evaluation and continuous improvement considered as part of the ongoing costs to the organisations (Table iv). Efficient and effective handling of complaints also needs to be an integral part of the Scheme so that children and families in vulnerable situations feel that the system is working in their best interests. To have greater emphasis on this in the costs would have been welcomed – particularly to highlight how investment in good recordkeeping around information sharing would decrease the costs associated with responding to complaints.

A lack of risk assessment for the recordkeeping options is also a concern. It effectively eliminates the aggregate recordkeeping which would as per p. 23 ‘support future evaluation of the CIS Scheme ... the impact on individual organisations ... and contribute to an increased understanding of the overall effectiveness of the Scheme.’ Lack of institutional oversight has underpinned the Royal Commissions and inquiries leading to these reforms. A risk assessment of the impacts a lack of aggregated recordkeeping requirements may have on the capacity of the regulations to ensure the outcomes of the scheme may have significantly altered the evaluation of the options. As highlighted in point e of Recommendation 8.7 of the Royal Commission into Institutional Responses to Child Sexual Abuse there is the need for ‘safeguards and other measures for oversight and accountability to prevent unauthorised sharing and improper use of the information obtained under the information exchange scheme’. To see this treated in the regulations would have sent a message to children in vulnerable situations that the government and other organisations were prepared to hold themselves to account, and proactively seek improvements.

As part of discounting Recordkeeping Option 2, it was not clear where the weekly requests for ISE aggregate level data comes from, and whether there could have been consideration of reporting frequencies that might better suit the range of ISEs involved in the Scheme. This may have shifted the cost assessment and the negative feedback from agencies on these requirements. Yes under the current fragmented, often paper based and legacy recordkeeping infrastructure such weekly reporting would be an administrative burden. But as an IT researcher I can also imagine how the development of smarter and more integrated systems could enable this reporting to be automated. The power of having this real-time information at the fingertips of individual organisations and across the network of ISEs would be of enormous benefit to achieving the aims of the Scheme and addressing exactly where and when children, families and workers are being let down. Ruling out

Option 2 consigns us to making do with a second class system. If this is to be the case then I urge the government departments and Minister to think creatively about how the other powers at their disposal may be used to foster this kind of systemic socio-technological innovation.

### **SECTION THREE: Questions about the Regulations**

**2. The Regulatory Impact Statement presents options for the Regulations in relation to prescribed entities and record keeping obligations. Do you have any comments in regards to the preferred regulatory option presented in the Regulatory Impact Statement?**

**Question relates to the Regulatory Impact Statement 'Child Wellbeing and Safety (Information Sharing) Regulations 2018' section 5, page 38**

The regulations cover the recording required for individual decisions to share information to be adequately documented with regards to the concerns for child safety and wellbeing that motivate them. This is critical to ensuring that information sharing is well considered and reasonable. They also ensure the tracking of the provenance of shared information, which will be vital when it comes to decisions to on-share, and for complaint handling.

In the absence of the aggregate recordkeeping in option 2 it is hoped that the records relating to complaint handling will be used as a vital source for ensuring that the Scheme operates in the best interests of children and families in vulnerable situation. It is vital that organisations are able to hold themselves to account for when they gets things wrong, and put the learnings from such situations into system improvement. It is also vital that those responsible for the oversight of the Scheme as a whole make sure that agencies that do not adequately deal with complaints and/or fall short of their recordkeeping requirements are held to account. It is hoped that ISEs embrace the need to ensure that they have in place the quality recordkeeping systems to meet their obligations, and see these as a vital part of their practices and services in support of children and families.