

SUBMISSION TO CONSULTATION PAPER

Proposed legislative model for Child Safety and Wellbeing Information Sharing

a) Based on your experience, do you agree with the legislative challenges identified?

The CASA Forum agrees with the legislative challenges identified as the current approach for sharing information is complex and confusing. This approach is focussed on the Department of Health and Human Services (DHHS) Child Protection (CP) acquiring information. It can be difficult to obtain information from DHHS CP when it is required to assist in dealing with a family.

The current situation with sharing information between organisations outside of DHHS can best be described as a black market economy where it depends on who you know and your relationship with them. This system needs to be formalised and operate in a uniform manner.

An additional issue is that the information being shared is narrowly defined. There is a limited focus on child protection. The focus should be broadened to include the well-being of the child and the family system.

b) Based on your experience, are there other legislative barriers to information sharing in the context of the child safety and wellbeing?

Victoria Police have a restricted capacity under their current legislation to share information with agencies, victims and families. At times this does not help the situation.

c) Which approach to the issue of a “threshold” for information sharing should Victoria’s proposed regime adopt:

- A “concern” threshold prior to information being shared; OR
- A system with “no:” threshold similar to NSW’s Chapter 16A (i.e. information only has to be related to a child’s safety or wellbeing prior to information being shared)?

We would support a system with “no” threshold similar to NSW’s Chapter 16A. We support this because we need obligatory sharing principles so each time information should be shared the negotiation takes place again. There needs to be uniformity across the legislation. Child Safety is the most important issue which overrides privacy.

In relation to the Scottish and United Kingdom systems we are concerned that there is the possibility of confusion due to the definitions and interpretation of these definitions.

d) Do you think that the list of principles is appropriate? Should any principles be added to or removed from the list?

We agreed with the principles as documented. However we would like to make the point that it can become difficult to preserve positive relationships with children, families and young people in circumstances where you have passed information on. On occasions it is important that people stay engaged to enable them to work toward positive change.

Before seeing clients, if these changes are brought in, it needs to be made clear that information can and will be passed on in the same way we discuss the issue of mandatory reporting. This should involve written information about these processes and signed consent forms. We accept that at times it will not be possible to obtain consent but every effort should be made as people generally deal with situations where they have remained in control of what is happening.

We are concerned with the comment on page 12

“assisting the child or young person and non-violent parent to understand the degree of any risk to the safety and wellbeing of the child posed by family violence”

and would query how this can be achieved without a systematic training program for parents and children. We also wondered whose risk assessment would be used.

The note “being honest about the fact, that even in the absence of consent, the prescribed organisation may share information about the child (and about anyone else, where that information is inextricably linked with information about the child) with another prescribed organisation to promote and protect the safety or wellbeing of the child” requires clarification of the word “honest” which can mean many things to various people. You would also hope that professionals are never actively dishonest with clients.

e) Do you think there are any specific organisations or workforces that should be included or excluded from Victoria’s proposed information sharing scheme? If so, please identify and provide rationale.

The NSW list of included organisations is sufficiently broad to enable an effective exchange of information. We, however, would like to raise the question of how this links to the criteria for Working With Children Checks (WWCC) and the Child Safe Standards requirements.

f) Are there any grounds for refusal on the excluded information list that should be added or removed? If so, please identify and provide rationale.

We think that some information in relation to sexual assaults and the actual details of the offences should be excluded. The fine details about what happened are not relevant to the level of risk. In principle we agree with the NSW Chapter 16A’s discrete list of excluded information but it will require training for professionals to ensure effective operationalisation.

g) Do you think consent model 1 or consent model 2 is preferable for the child information sharing regime? Why?

We prefer consent model 1 because it provides practitioners with clarity and makes a statement about societal intent. We think it is important workers try to obtain consent in writing. However, we understand that at times this is not possible.

h) Consent for young people needs to be looked at separately from their parents or carers. There needs to be a different model of consent for young people compared to small children.

i) Should a prescribed organisation be able to share information with a child, parent or carer to manage a threat to the child's safety? Should this list be narrowed or expanded?

We do not think the provision to provide a child with information to assist the child to assess and manage their own risk should be included. Children are not responsible for their own safety. They do not have the developmental capacity to assess and manage this. It also assume we know who is the perpetrator.

Young people need to be considered separately in any provision of this nature. They have difference capacities to small children.

j) Is "managing a threat to the child's safety" an appropriate test for the sharing of information outside the trusted circle of prescribed organisations? Should the test be expanded to managing a threat to a child's safety or wellbeing?

A prescribed organisation should be able to share information with people to manage a threat to the child's safety" This list should not, in our opinion, be narrowed or expanded.

K) Would a systematic and proactive approach to sharing key information (e.g. service participation) assist prescribed organisations in forming an overall assessment of the cumulative risk factors associated with the child?

A systematic and proactive approach to sharing key information would assist prescribed organisations in forming an overall assessment of the cumulative risk factors associated with the child. We think that a variation on the Risk Assessment and Management Panels (RAMPS) model would be of value in situations where there are serious concerns about the cumulative risk factors. RAMP deals with women who are identified as being and high and imminent risk of harm and require an immediate risk assessment and action plan. There would be children and young people who would fall into this category and the model of a group of people meeting together able to share information and devise an action plan appears to be effective with the high end risk victims of family violence.

l) Would this approach also assist prescribed organisations to identify when vulnerable children are participating in key services?

We would refer to the RAMP model again where the main agencies involved with families are part of the RAMP panel and are able to identify who has been providing services to the family.

m) Should data and de-identified information be linked to more effectively evaluate programs, design and plan services for children?

Using data and de-identified information for evaluation is an excellent idea and will lead to more effectively targeted programs.

n) Are there any risks associated with implementing a child information link as a means for facilitating information sharing as intended in the new legislation?

There are risks which include

- How you effectively provide access to data without running risks of unauthorised access.
- How you ensure that the data is reliable and accurate and errors do not become enshrined as fact.
- Making sure that data cannot be hacked and perpetrators get access.

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