DOMESTIC VIOLENCE VICTORIA

No to Violence
Working together to end men's family violence

Submission to Department of Health and Human Services and Department of Education and Training

Child Information Sharing Scheme: Regulatory Impact Statement and Regulations

19 June 2018

Introduction

Domestic Violence Victoria (DV Vic) and No to Violence welcome the opportunity to provide our feedback on the Child Information Sharing (CIS) Scheme Regulatory Impact Statement (RIS) and Regulations. DV Vic and NTV, in partnership with a range of other organisations, provided submissions during the development of the Child Information Sharing Scheme over the 2017 and 2018 period, prior to the passing of the legislation. This submission is a continuation of our input into this process.

The recent report delivered by the Family Violence Reform Implementation Monitor recommended that the Victorian Government take a more systemic approach to reform implementation planning, designing governance arrangements and reporting mechanisms and sequencing dependent initiatives. The report urged a necessary rethink of current reform strategies. With this report in mind, and in the context of the overlapping remits of the CIS Scheme, the Family Violence Information Sharing (FVIS) Scheme and the Family Violence Risk Assessment and Risk Management Framework (the Framework), DV Vic and NTV present the submission below to support the further development of a robust and clear legislative framework to support agencies and individuals to translate these reforms into safe practices.

The key points of our submission recommend:

- Managing the inter-dependencies of the CIS Scheme, FVIS Scheme, and the Framework by re-developing the current implementation plan and timeline.
- Training and capacity-building programs to develop consistent practices for child information sharing across prescribed organisations.
- Establishing an overarching governance group to provide oversight of the inter-dependent CIS Scheme, FVIS Scheme and the Framework.
- Aligning the reviews for both the CIS Scheme and FVIS Scheme to contribute to an overall understanding of the impacts of these Schemes.
- Further consideration of an implementation plan for data collection to strengthen the capacity of the two-year and five-year reviews.

About Domestic Violence Victoria and No to Violence

As the peak body for specialist family violence services in Victoria, Domestic Violence Victoria (DV Vic) has broad membership of more than 80 state-wide and regional family violence organisations across Victoria that provide a variety of responses to women and children who have experienced

family violence. Our members include every specialist family violence service, community health and women's health agencies, local governments and other community service agencies.

No to Violence (NTV) is the largest peak body in Australia representing organisations and individuals working with men to end family violence. We have an active role in: supporting and advocating on behalf of our organisational members that deliver specialist men's family violence interventions; the provision of telephone counselling, information and referrals for men in Victoria, New South Wales and Tasmania; and delivering professional development in male family violence.

Regulatory Impact Statement

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

In addition to our comments regarding the preferred regulatory options outlined below, there are four key areas we consider require further consideration to implement this significant reform initiative. These include:

1) managing the inter-dependencies of the CIS Scheme, FVIS Scheme and the Framework;

2) workforce capacity and reform-specific training;

2) implementing stronger information sharing governance arrangements, and;

3) creating an alignment of the CIS Scheme and FVIS Scheme reviews.

Managing the inter-dependencies

DV Vic and NTV appreciate the efforts of the Victorian government to align the Regulations and implementation of the CIS Scheme, the FVIS Scheme and the Framework to ensure that organisations and practitioners are supported to effectively work under all three key reform initiatives. We are concerned, however, that the current timelines and implementation plan does not adequately address the risks associated with the simultaneous implementation of these Schemes and the Framework. The success of the FVIS Scheme is highly dependent on the capacity of entities to understand, assess and manage family violence risk impacting on adult and child victims in order to share risk relevant information. Without the Framework and adequate training, the implementation of the FVIS Scheme, and its integration with the CIS Scheme, is undermined.

DV Vic and NTV are cognisant that a significant amount of work is being undertaken to finalise the Framework for September 2018, and we will respond to public consultation on this separately. We are not confident, however, that this key piece of work and associated training package will be completed with sufficient lead in time to prepare the prescribed workforces to ethically and safely share information about children and their parents on family violence and non-family violence safety and wellbeing issues.

DV Vic and NTV are also concerned that the practice guidance and tools for perpetrator-based risk assessment and risk management are not scheduled to be completed in time for Phase One implementation in September. This second task will remain a major gap in our system, carrying the risk that prescribed agencies and individuals who come into contact with perpetrators will not have

the adequate support, training and practice guidance to share information safely under both Schemes.

Practice guidance and training on perpetrator behaviours, tactics of abuse, control and collusion are essential to assessing and managing co-current child wellbeing and family violence risks and addressing issues related to the misidentification of perpetrators. This can have significant consequences for children's wellbeing and safety and that of the non-offending parent if information is shared without due confidence and capacity to address part three of the CIS Scheme threshold (i.e. identify that the information being disclosed is not excluded, including where the sharing of information could reasonably endanger a person's life or result in physical injury). DV Vic and NTV emphasise that without the appropriate sequencing of these reform initiatives, capacity and time to train large workforces in new ways of practice, under both Schemes and the new Framework, prior to September 2018, the reform effort risks overburdening services and increasing the potential for inappropriate information sharing practices.

In highlighting these concerns we are not suggesting that the finalisation of the Framework should be rushed in order for both the training program to be completed and support systems in place prior to the September implementation date. Rather, we recommend the current implementation plan and timeline for Phase One is re-developed to ensure that the Framework and associated tools and practice materials and the integrated CIS Scheme/FVIS Scheme/Framework training programs are developed, reviewed and endorsed by the Family Violence Steering Committee in a considered and robust way.

Workforce capacity and training

In line with the above comments and recommendation to re-develop the implementation timelines, DV Vic and NTV recommend further consideration of the current capacities of workforces in order to plan for and address any risks to implementation. While the RIS outlines that the proposed prescribed organisations were chosen due to their criticality and capacity, in line with those set to be prescribed in September 2018 under the FVIS Scheme, no assessment is presented on whether these entities will be adequately trained and ready to share information appropriately about family violence risk and child safety and wellbeing prior to the projected commencement date. Our members have provided feedback that the current implementation plan is moving too fast to effectively bring these large workforces on board with the knowledge, skills and support required to assess and handle children's information, parent's information, and family violence related information appropriately.

While it is yet to be finalised, we see the redeveloped Framework as a strength of, and essential to, appropriate and consistent risk relevant information sharing under the FVIS Scheme. Similar structures and mandates are not prescribed under the CIS Scheme, which, given the lack of a clear definition of wellbeing, is a potential risk for inappropriate information sharing practices. It is critical that a shared framework for assessing and promoting children's wellbeing and development is established and embedded across the proposed prescribed sectors. This includes providing training on the best interests and child development frameworks for those workforces and individuals for whom this practice is a gap, in order to strengthen a shared understanding about child wellbeing and safety as well as workforce capacity to exercise professional judgement in information sharing.

DV Vic and NTV have received strong messages from our members that any training package developed must be made available in a timely manner, with ample and frequent options in regional,

rural and metropolitan areas. Training must prioritise senior management, team leaders and other key staff who will be tasked with information sharing change management and handling information sharing transactions. DV Vic and NTV also recommend this transition is complemented by sector implementation support roles, similar to those established under the FVIS Scheme first tranche rollout, to provide specialist practice guidance and change management strategies to prescribed organisations.

There have been indications in our discussions with government representatives that there will be an integrated CIS Scheme, FVIS Scheme and Framework training program developed. In the context of our comments above, DV Vic and NTV highly recommend that the Framework is completed and this training is ready before the implementation of CIS Scheme and FVIS Scheme Phase One implementation.

Governance arrangements

As highlighted by the Family Violence Reform Implementation Monitor, clear governance is critical to avoid blurring of responsibilities and accountability and to ensure successful implementation of major reforms. In considering the information provided in 'Chapter 6: Implementation' of the RIS, we are concerned that the current governance arrangements will not facilitate high level oversight to ensure the effective operationalisation of both Schemes alongside the Framework. At present there is no obvious governance mechanism that sits across both the CIS Scheme and the FVIS Scheme and Framework. Given that the CIS and FVIS Schemes and the Framework overlap in many respects, including in their implementation and evaluation, we recommend that an overarching 'FVIS/Framework and CIS Committee' provides governance at a senior level for these inter-dependent initiatives. This may potentially involve re-arrangement and integration of the governance structures already described in Table 6.1.

In supporting implementation, our members have requested further clarity on the structures proposed to support ISEs to transition their information sharing processes and practices. While the RIS presents an assessment based on a workforce of 28,000, at the recent VCOSS consultation it was suggested that within some prescribed sectors delegates will be nominated within agencies to support their participation in the CIS Scheme Phase One. DV Vic and NTV request this piece of information is clarified for our members and all prescribed organisations, clearly noting which ISEs will practice with nominated delegates rather than whole workforces. We are concerned that the nominated delegate role may unnecessarily delay the timely transacting of information between agency practitioners and cause confusion in regard to the responsibilities individuals have to act on information to promote child wellbeing and safety. Reliance on nominated delegate roles will also potentially lead to large gaps across the workforce of prescribed organisations who will not be trained and adequately prepared to implement the Schemes and the Framework.

Review and evaluation

As the CIS Scheme and the FVIS Scheme overlap significantly we recommend that the two-year and five-year reviews for both Schemes are considered in a more integrated way to contribute to an overall understanding of the impacts of these Schemes. This should be reflected under the 'purpose of the two-year review' and the 'purpose of the five-year review' described in 'Chapter 7: Review' of the RIS. We believe that a review alignment better reflects the reality that prescribed organisations

and practitioners will be operationalising and sharing information under both schemes simultaneously.

Our recommendations for improving integration of the reviews are:

- create an overarching governance mechanism for the CIS Scheme, the FVIS Scheme and the Framework as described above, that can steer the direction of the reviews and evaluate the findings;
- utilise the early findings from the FVIS Scheme review (currently underway) to inform the implementation of the CIS Scheme review;
- align the review methodology and processes for both the Schemes, and;
- consider how any findings related to the additional offence of impersonating an ISE under the CIS Scheme bear any relevancy for the FVIS Scheme, which does not carry this offence.

Furthermore, in regard to aligning review methodology, we recommend that the review ensures that data collection allows organisations and practitioners to provide feedback about:

- how they experienced the alignment of roll out of the schemes including change management activities, training and support;
- how the schemes operate independently and how they interact in beneficial and detrimental ways, and;
- any concerns about client disengagement or deterrence (i.e. not even wishing to engage in services) from service utilisation because of lower thresholds and broad information sharing purposes.

In the examples of quantitative data provided, we are concerned that an unrealistic assumption has been made which conflates the regulated record keeping requirements with an ability to adequately collate information sharing data. DV Vic and NTV are aware agencies across the system have diverse case level recording practices, including paper-based systems and under-developed databases that cannot be modified due to current reporting requirements and ownership. We recommend further consideration of the proposed regulations and the limitations of this in creating a rigorous review process.

We also recommend further consideration of the proposed timelines for the review process. Given that Phase One is set to commence in September 2018 and Phase Two scheduled for 2020, it appears unlikely that the two-year review process would be completed with adequate time to fully consider findings and utilise learnings to support the rollout of this second stage.

Regulations

Question 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?

DV Vic and NTV agree with the recommendations in the RIS to implement:

Option 1: Targeted prescription of entities based on their criticality and capacity, and;

Option 1: Require ISEs to record case-level information.

These options align with the FVIS Scheme and reflect feedback from members that such alignment is crucial for effective phased implementation to mitigate any adverse impacts as much as possible. The comments provided below may assist to refine the Options selected in regard to the cost estimates and record keeping.

Cost estimates

In 'Chapter 4: Determining the preferred option', section 4.2.1.4 'Updating policy, procedures and systems', it states in the first paragraph that "[f]or the remaining 25% of entities, which have already been prescribed under the FVIS Scheme, the full cost of updating policies, protocols and systems for organisations is counted towards implementation of the CIS Scheme". We are unclear whether these estimations account for the fact that many of the ISEs prescribed under the first tranche of the FVIS Scheme since February 2018 will have to re-update their policies, procedures, and systems and re-train staff in accordance with the CIS Scheme. If this estimate does not take this into account, our advice is that the assumptions about cost estimates are revised to account for the re-updating and re-training of FVIS Scheme first tranche ISEs.

Considering the caveat within the RIS that 'only a small sample of organisations likely to be affected by the CIS Scheme could be consulted', the estimates presented of both the costs and impacts must be understood as only an initial indication. DV Vic and NTV expect that the actual costs of information sharing will be reviewed through the formal two-year and five-year review processes and the allocated budgets and Phase Two planning will be amended accordingly.

Record keeping

In 'Chapter 3: Options', section 3.2.1 it is stated that the case level record keeping requirements include information about whether the ISE "sought and obtained the views of the child or the child's parent and, if not, why not." We recommend that, in addition to whether or not those views were sought, the ISE should also record what those views were and how they informed the subsequent actions taken by the ISE.

We have received strong feedback from members that the development of templates is critical for supporting the timely transition of whole workforces. We also recommend that any templates developed to support prescribed entities with record keeping requirements under the CIS Scheme aligns with the templates for the FVIS Scheme. Ideally, prescribed entities should be using an integrated record keeping template that accounts for the requirements of both Schemes. This may involve replacing current templates that were already developed for the initial tranche of the FVIS Scheme.

While DV Vic and NTV support an alignment of the regulations for record keeping across the CIS Scheme and FVIS Scheme, we are concerned that ISEs will be required through contractual arrangement to report on aggregate data. If service providers are expected to undertake this work, they must be adequately resourced to do so and supported by consistent data definitions. For example, in the absence of an implementation plan for data collection, we are aware that some ISEs operating under the first tranche of the FVIS Scheme have developed and adopted spreadsheets and templates in preparation for aggregate data being requested, without direction or mandate. Members are concerned that they will be expected to provide such data for evaluation purposes and have no current means to adequately capture this. Importantly, the evaluation of the NSW child

information sharing scheme found that it was "exceedingly challenging for agencies to provide accurate, complete and up to date data" for the evaluation itself[1], and furthermore, data systems did not allow for analysis of outcomes about whether information sharing transactions resulted in improved outcomes for children's safety and wellbeing, thus ultimately impacting on an assessment of the scheme's overall effectiveness.[2]

3. The Regulations prescribe a selected set of Information Sharing Entities for Phase 1. Should any additional entities be prescribed, and if so why?

DV Vic and NTV support the alignment of Phase One CIS Scheme and FVIS Scheme prescribed entities and therefore do not recommend any changes or additions to the prescribed entities described.

In the future it will be useful for further clarity to be provided on which specific agencies or programs are prescribed. Members are particularly interested to understand their roles within the CIS Scheme when a program is funded through the Commonwealth rather than the State.

Summary

Domestic Violence Victoria (DV Vic) and No to Violence (NTV) thank you again for the opportunity to provide this submission. We look forward to further opportunities for discussion and consultation involving our member organisations and key family violence sector stakeholders.

This submission is endorsed by:

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Jacqui Watt, Chief Executive Officer, No to Violence

If you require further information regarding the above comments, please contact either Erin Davis (erindavis@dvvic.org.au) or Simone Tassone (simonet@ntv.org.au).

[1] Cassells R, Cortis N, Duncan A, Eastman C, Gao G, Giuntoli, G, Katz I, Keegan M, Macvean M, Mavisakalyan A, Shlonsky A, Skattebol, J, Smyth C and valentine k (2014), Keep Them Safe Outcomes Evaluation Final Report, Sydney: NSW Department of Premier and Cabinet, p.78.
[2] Ibid., p.69.