

Child Information Sharing

Legal assistance sector submission to the Department of Health and Human Services and Department of Education and Training

October 2017

Contents

[Victoria’s legal assistance sector 1](#_Toc495992890)

[Summary of legal assistance sector submission 1](#_Toc495992891)

[Summary of recommendations 2](#_Toc495992892)

[Child information sharing 3](#_Toc495992893)

[Engagement promotes safety 3](#_Toc495992894)

[Consent and agency promote safety 6](#_Toc495992896)

[Consent and agency of children and young people 6](#_Toc495992897)

[Consent and agency of parents and families 8](#_Toc495992898)

[Alignment of the family violence and child information sharing regimes 10](#_Toc495992900)

[Child Link 11](#_Toc495992902)

[Child Link’s risk to family violence survivors 11](#_Toc495992903)

[The risk of stigmatisation because of data on Child Link 12](#_Toc495992904)

# Victoria’s legal assistance sector

Together, Victoria Legal Aid (VLA) and members of the Federation of Community Legal Centres, including specialised Community Legal Centre Women’s Legal Service Victoria, alongside private practitioners providing legal aid services, provide legal assistance services to Victoria’s most disadvantaged families. We provide the Victorian community with on-going representation, legal advice, court-based legal services, legal education, and legal information related to child protection, family violence, family law, criminal law and civil law.

We assist clients with parenting disputes, family violence and child protection matters, as well as a range of other legal issues. Our most vulnerable clients present with complex problems that cross over the family law, child protection and family violence jurisdictions. As described in VLA’s 2015 submissions to the Family Law Council’s terms of reference,[[1]](#footnote-1) information sharing is particularly important for these clients.

# Summary of legal assistance sector submission

We thank the Departments (of Health and Human Services, and Education and Training) for the opportunity to participate in this ongoing consultation.

We have also made a joint submission to this consultation with Domestic Violence Victoria, No To Violence/Men’s Referral Service, Safe Steps Family Violence Response Centre, Domestic Violence Resource Centre Victoria and Berry Street (the “family violence sector joint submission”).

This submission supplements the family violence sector joint submission and addresses the proposed legislation in the context of our experience in other legal practice areas, including child protection and youth crime.

We support enhanced information sharing that develops better co-ordinated responses for vulnerable children and families. We support cultural change towards a culture of safety-focussed information sharing that promotes engagement with services.

As set out in the family violence sector joint submission, we support a refined threshold for information sharing. In our experience, consent-based sharing promotes safety through engagement. The information sharing threshold will be highly relevant when families first engage with a service and have their rights explained to them. Room for professional judgement when responding to information requests will allow professionals to give their clients greater reassurance when they first engage with a service.

We understand that VLA and other lawyers will be excluded from the information sharing regime. We support this, as detailed in the family violence sector joint submission. We ask for further timely consultation in the event that consideration is given to including lawyers in the regime.

We would welcome further consultation during the development of any guidelines, and would be particularly keen to see the safeguards in the family violence sharing guidelines carry through. (We are currently making submissions on those draft guidelines.)

We also urge further consultation and research before any implementation of Child Link. We welcome the recognition that any information sharing portal of this proposed scope would require thorough safeguards to respond to the new opportunities created for perpetrators of family violence and child sexual abuse to locate victims. We recommend that any implementation would need to involve safeguards including:

* Tightly controlled access to Child Link, and training for people with access to Child Link
* An easy process to block a record, including before any implementation of Child Link
* Ensuring requests for access would be responded to safely
* Not allowing access before enrolment in services
* Aboriginal and Torres Strait Islander groups to determine treatment of their own identification data
* Excluding potentially stigmatising information, including Youth Justice information.

All case examples in our submission are real cases, with details changed to protect the clients’ identity.

## Summary of recommendations

1. Refine the purpose for information sharing within a risk management and rights-based framework with clear definitions of children’s rights to safety, and directions for organisations and practitioners to act in response to risk.
2. Legislate for a professional consideration of informed consent, including for children, as part of the threshold for sharing information, and for an obligation to record what consideration was given to consent.
3. Align the generalist child information sharing regime with the specialist family violence sharing regime.
4. Undertake further research and consultation and ensure necessary safeguards are in place before any implementation of Child Link.

# Child information sharing

We appreciate and support the proposed legislation’s goal of changing the culture of information sharing in Victoria.

It is important that the culture change created by the legislation is towards a culture that is effective in increasing safety.

The changes that we suggest in this submission (and in the family violence sector joint submission to this consultation) aim to ensure that the regime operates to create a culture of information sharing that prioritises safety while supporting client agency and engagement with services, which themselves enhance safety.

## Engagement promotes safety

In our practice experience, when engagement with a service is voluntary, there is a risk clients will disengage from services if the service does not have a reputation for respecting confidentiality.

Community Legal Centres (CLCs) and VLA’s offices in regional Victoria report this is a significant issue in small communities where clients and staff of public services and community services are often all known to each other.

In these contexts our clients often don’t wish to engage with services where they fear that their neighbours, friends, and perhaps even family will end up ‘knowing their business’.

Community organisations have to work hard to gain the trust of the people they work with, and the information sharing regime needs to support them to do this and recognise their professional skill and good judgement in making decisions about retaining their clients’ trust.

CLCs often advise and educate non-lawyer community workers about meeting their obligations to clients. This includes explaining privacy laws to community organisations.

The conversations that workers have with clients at the beginning of their engagement needs to lay a foundation for ongoing open, honest engagement. It is helpful to understand the impact on this initial interaction between workers and clients that the threshold for sharing information will have.

Currently, non-lawyer support workers can use plain language with their prospective clients, saying something like:

*“Our conversations and all the information I have about you is confidential. I’ll share what I need to with my colleagues here who I work with – like if I’m not here I’ll tell [Co-worker] what you and I have been talking about so she can help you instead.*

*And I’ll talk with people outside [our organisation] if you and I plan that together – like when I’m calling your landlord to talk about your rent, I’ll say what you and I agree.*

*And if I’m really worried about your safety or your kids’ safety I might also have to share the information I think I need to share to keep you safe. If I think I have to do that, I’ll talk with you about it first unless I can’t safely talk with you.*

*Does that make sense? Do you have any questions about that?”*

These conversations will become more complicated as information sharing obligations increase, and will risk deterring clients from trusting workers.

Ideally, any new legislation would continue to allow a straight-forward and reassuring conversation in which a worker can make their own commitments about how they will interact with their client. A worker might exercise their professional judgment to commit to the highest standard of best practice consent-based sharing that the legislation allows, in order to develop a trusting relationship where their client controls the information shared as much as possible, for example:

*“Yes, you’re right, new laws say that other organisations working with your family can ask me for information about you, and the law allows me to provide the information.*

*But I think it’s important that you’re involved in decisions about your family’s information, so if another organisation asks for information, I’ll always tell you they’ve asked and see what you think before I share the information. The only time I won’t ask you is if it’s not safe to ask you. If I talk with you and you don’t want to give the other organisation the information they’re asking for, you and I can talk about that and decide what we’ll do. I’ll only share if I think I need to for your/your child’s safety – or for another child’s safety.”*

To support professionals to do this, it is important that the legislation makes clear that professional judgement can be exercised about the impacts of information sharing.

In the family violence sector joint submission, we explain our view that this would be best achieved through a clearly legislated information sharing purpose “*to assess and manage risks to the safety of a child or group of children”*.[[2]](#footnote-2) We believe this purpose would best support the effective integrated services that information sharing enables.

Some of the scenarios presented during consultation as evidence of the need for the current proposed threshold, highlight situations that could be better addressed by engaging parents in the decision to share information and seeking parental consent.

For example, one such case study describes a family’s frustration when they had limited understanding of their baby’s diagnosis. The visiting maternal and child health nurse was unable to inform them further because of the very limited information she had received from the diagnosing hospital. There is no indication in this case study that the parents would have refused consent for the hospital to share information with the maternal and child health nurse. Further, there is no discussion of the benefits of obtaining consent in building a relationship of trust.

A goal of the regime is to reduce the number of cases requiring the involvement of statutory DHHS Child Protection. We agree that this can be promoted by allowing organisations working with families to collaborate earlier. However, it is crucial to note that early intervention is undertaken by agencies who have no legal powers to intervene. Engagement with these services is voluntary, and as such it is critical that families are encouraged and supported to build trust in service providers in order to engage fully and constructively.

Information sharing that takes place in the context of cooperative work with the family must not unnecessarily undermine this engagement. This would run counter to the goal of sharing the information.

Another example of the potential impact of too low or unfocused a threshold for information sharing is provided by the current initiative MABELS, an integrated family violence support and legal services partnership.[[3]](#footnote-3)

#### MABELS

MABELS is an Eastern Community Legal Centre (ECLC) Health Justice Partnership (HJP) providing early intervention to families experiencing family violence within the Maternal and Child Health context. MABELS improves the responses of maternal and child health, legal and support services in a co-ordinated and integrated manner. For Aboriginal families, the MABELS program includes the support of the local Aboriginal Healing Service.

MABELS’ integration of legal, specialist family violence and Aboriginal services provides women with family violence and related legal advice, safety planning, cultural safety, information and referrals. This is all delivered in the same appointment. The multidisciplinary collaboration enhances each professional service and allows for comprehensive exploration of their experience of family violence and the management of risk to themselves and their children.

Women report that receiving information and advice from professionals in a single appointment is very helpful. A MABELS client reported “Having the family violence advocate and the lawyer together was great because you could get a bit of back and forth … the family violence advocate can help the lawyer understand what the actual effect and dynamic of family violence is like… For them to be communicating to one another was fantastic”.

When a Maternal and Child Health nurse identifies that a client is at risk of or experiencing family violence, the nurse emails a referral form to the MABELS lawyer directly, with the client’s consent.

The MABELS lawyer will contact the client and offer advice and assistance from the legal service and the specialist family violence service. The lawyer will explain the different professional obligations and confidentiality limitations of the two professions, and that the client has the option of having separate appointments with each professional. The lawyer will also explain the potential benefits of both services assisting the client together at the same time.

ECLC has found that women will often wish to explore how their information might be shared, and they engage actively with the decision of how to proceed.

The vast majority of women choose to have the family violence advocate present at the same time as the lawyer. In some cases, women will choose initially to have the advocate present and then at later appointments choose to exclude the advocate because of the advocate’s ability to share information without the client’s consent.

ECLC expects that a lower information sharing threshold without consent will lead to more women excluding the family violence advocate from legal appointments, thereby reducing the effectiveness of these multidisciplinary partnership models. Women would lose the benefit of the family violence advocate’s expertise, particularly the identification of risks and safety planning, as well as access to referrals and resources, in legal advice appointments. Importantly, there is also a heightened risk that women may not then engage with the family violence service at all.

A more focused threshold and purpose for information sharing is also more likely to be a demonstrably justifiable limit on the right to privacy and reputation under section 13 of the Victorian *Charter of Human Rights and Responsibilities Act 2006*. Improved information sharing can be achieved through a regime which relies less on sharing information without consent, and is more consistent with the right to privacy and reputation.

We also suggest that the legislation needs to clarify what occurs where a worker is asked for information about a child they work with, in order to promote another child’s well-being. It is unclear what factors the worker could take into account when deciding whether to share the information, if the professional’s view is that sharing the information will harm the child they are working with.

The impact of the proposed sharing threshold on the proportionality of the obligation to share one child’s information for another child’s benefit is also unclear and could raise issues regarding compliance with section 13 of the *Charter of Human Rights and Responsibilities Act* as against section 17 of that Act. We suggest that the legislation needs to ensure that any infringement on one child’s rights is proportionate to the purpose of the sharing.

### Recommendation:

Refine the purpose for information sharing within a risk management and rights-based framework with clear definitions of children’s rights to safety, and directions for organisations and practitioners to act in response to risk.

## Consent and agency promote safety

As described in the previous section, consent and agency support engagement with services, which in turn supports safety. Our experience is that safety is also directly promoted by involving children (as appropriate) and protective parents in decisions about information sharing.

This experience is largely detailed in the family violence sector joint submission to this consultation. However, we provide some important examples from our practice experience in other legal contexts below.

### Consent and agency of children and young people

We recommend that the proposed law better protect the rights of children to the dignity of privacy and control over their personal information, lest it inadvertently undermine their overall safety.

As detailed in the family violence sector joint submission,[[4]](#footnote-4) this can be achieved through inclusion of age-appropriate consent in the threshold test for sharing information, to put agency at the core of the new information sharing culture to be developed.

It is our experience that some current information sharing practices further disadvantage and endanger already stigmatised children.

“Alex’s” case below illustrates how some of Victoria’s most disadvantaged children are already subject to higher levels of surveillance, and experience additional disadvantage through information sharing. It emphasises the need for the legislated threshold for sharing to guide a culture of engaging children in decision-making about their information.

#### Case example – Alex

*Alex is 14. He experienced family violence from his father throughout his early childhood until his parents separated and he lived with his mother. His mother uses drugs as a coping mechanism and has poor mental health. She doesn’t have adequate family support to care for Alex and Alex has gone into DHHS care. He lives in a residential unit.*

*In a routine check of Alex’s room at the residential unit staff find some electronics that they suspect are stolen property. Alex gathers up the electronics and leaves the house. Staff call Police. Police find Alex and find the electronics nearby. They charge him with receiving stolen property.*

*The Police ask the residential unit to provide their notes about the room search and about Alex’s movements on the day. The residential unit provides these notes for use as evidence in the Police case against Alex.*

*Alex’s relationship with the residential unit is damaged by the unit’s decision to support the police prosecution. He considers that the role of the unit staff is not to support him but instead to monitor him and enforce the law against him.*

*The notes shared about Alex are notes that are only kept about children disadvantaged enough to live in residential care, and they are being used by Police to support a criminal charge against Alex.*

“Saskia’s” case study below shows the impact on another child when she was not involved in decisions to share her information.

#### Case example – Saskia

*VLA represents Saskia, who is 16. Her step-father sexually abused her when she was 11 and 12 years old. The abuse was reported to the Police, and the abuser is now in prison. Saskia’s mother was not seen to be adequately protective, so Saskia went into the care of DHHS Child Protection.*

*Saskia has lived in a number of DHHS placements. When she was 14 years old she lived in a residential care unit run by “Horizons”.\* At Horizons she had frequent conflict with the staff and with one other child.*

*Saskia has since moved to a new residential unit, run by “Caring Melbourne”, where she has been living for over two years. Saskia has been happier at the new unit, but she still wants to move in with her older sister, Ciara, who is 29. Ciara is happy to have Saskia come to live with her, but DHHS has some concerns about Saskia’s sexual activity with her 18-year-old boyfriend.*

*Saskia’s care team has been meeting to discuss whether DHHS will support a move to live with her sister. In the Court proceedings about whether Saskia will go to live with her sister, Saskia has seen notes from the care team meetings. She sees that DHHS has been talking with staff of the Horizons residential unit where she lived when she was 14. She sees that Horizons has said that she lied frequently and that she can’t be trusted. She also sees that Horizons staff have been given information about her sexual relationship with her boyfriend.*

*Saskia feels that her privacy has been invaded by Horizons staff having access to personal information about her that they don’t need because they’re not involved in her current care. She also feels that the information Horizons has given about her is unfair, because it is a generalised opinion about how she behaved more than two years ago, and she feels she has been branded a liar without getting a chance to respond. She is angry that she wasn’t asked whether Horizons could be involved in information sharing about her.*

*Saskia is very upset about the information sharing that took place without her consent and without her views being sought. Saskia has told her lawyer that she feels embarrassed that lots of people have been talking about the ways she was sexually abused and about her current sexual activity when she feels they don’t need to. She feels disrespected and like she has no power in the situation. As decision-making about Saskia’s placement continues, Saskia is disengaging further from school, and doing poorly when she does attend. She feels like she has no control over her own life and isn’t listened to.*

*\* Fictitious names are also used for service providers in this case study.*

Saskia’s case illustrates the impact of not supporting children’s informed decision-making about whether they consent to information sharing or not. While the sharing of information may have been well-intentioned in advancing the young person’s safety and wellbeing, in effect it can undermine that very safety and wellbeing.

We suggest that the legislation require professionals to consider obtaining the consent of a child or young person prior to the sharing of information, and to keep a record of this professional judgment. This appropriately elevates a child’s agency from a legislated principle to a core part of the sharing threshold.

Though we accept that it will not be possible or appropriate to seek consent from children of all ages, an age-appropriate consideration of consent from child or parent should be part of the legislated threshold for information sharing.

The family violence sector joint submission expands on this recommendation (under the heading “Create a four-part test to include informed consent”, beginning on page 7 of that submission).

### Consent and agency of parents and families

Consent and agency is also important in dealing with adult clients.

Another VLA case shows the safety risks associated with sharing information while not promoting the agency of the person who is most protective of the child (in this case the mother).

In this case below “Daniela”, a mother in regional Victoria, spoke little English, so English-speaking services found it easier to let other people (including her husband) speak for her. Information was shared without Daniela having the opportunity to respond to it effectively and provide other information.

The failure to involve Daniela in the information sharing, amplified the voice of the father, who was using family violence against the mother. Failure to have Daniela’s point of view before acting on information initially led to her children’s removal, and subsequently led to Daniela’s income support benefit being suspended and Daniela facing hunger and potential homelessness as a family violence survivor.

While this is an issue under current legislation, it risks being exacerbated by amendments which do not make consent a central aspect of information sharing. The issue is most stark in cases like Daniela’s, where the primary perpetrator of family violence is misidentified,[[5]](#footnote-5) but the same concerns can apply in many instances when information is shared without a parent of a child having a chance to respond to the information and contextualise it.

#### Case example – Daniela

*Daniela arrived in Australia in 2013 from Colombia, after marrying a Colombian man who lives in regional Victoria. Daniela has no family or friends in Australia and speaks very little English.*

*Daniela’s children are 1 and 3 years old. Her husband, who speaks much more English than she does, has been violent towards her for a number of years, and she decided to leave him. She moved into supported housing with the children, but on multiple occasions she returned to her husband’s house. She was feeling extremely isolated and exhausted and felt that she might cope better with her husband than without him, even with the violence. Daniela misses her family intensely and feels miserable.*

*Recently, neighbours called police when they overheard fighting between Daniela and her husband. When police arrived, the husband relayed his version of events in English. He told Police that Daniela was a risk to the children.*

*A report was made to DHHS Child Protection and they investigated. Daniela had little access to interpreting, and DHHS preferred her husband’s account of the incident, which made Daniela out to be the primary aggressor. DHHS filed a court application and placed the children with the husband.*

*Daniela’s Centrelink benefit has also been suspended, because Daniela hadn’t told Centrelink that she had tried to move back in with her husband. This information was shared with Centrelink by her housing support worker. The housing support worker also said Daniela would be evicted unless rent was paid.*

*Daniela’s lawyer has since successfully advocated to have Daniela’s benefit reinstated given that Daniela is not in fact residing with the husband.*

*Daniela is also now waiting for a contested court hearing that would allow her to test DHHS Child Protection’s evidence about whether or not she poses a risk to her children. The Court has provided no interpreter at each of Daniela’s court dates so far, even at the submissions contest where DHHS Child Protection’s lawyer, and Daniela’s lawyer, made lengthy submissions. Daniela couldn’t understand what was being said. Daniela’s lawyer contacted a telephone interpreter after the hearings to relay a summary.*

*There is a long wait for hearings in the region where she lives. While waiting for the contest date, Daniela’s children are still in her husband’s care. Daniela spends some supervised time with them.*

*Daniela is no longer eligible for the Family Tax Benefit, given the children have been removed from her care. Daniela is solely reliant on the benefit that was suspended. Daniela is also no longer a priority client for public housing, given the children are not with her.*

While this case study raises multiple issues, it particularly highlights the impact of information sharing that doesn’t involve the protective parent.

Daniela relied on other people to communicate for her because she could not speak English and interpreting was not provided. Service providers working with Daniela provided information to each other, on Daniela’s behalf, including an explanation of what happened when the police attended. Through various pathways this information fed into concerns held by Child Protection. When Daniela was asked through an interpreter, it was discovered that what happened when the police attended was different to the version relayed between service providers on her behalf.

While the issue occurred under current law, the current legislative proposals also do not require a consideration of consent, meaning situations such as the above have not been addressed and the resultant safety concerns remain. In laying the legislative foundation for a new culture of information sharing, it is important that the emphasis is on safe, consent-based sharing.

This issue was also highlighted in the Commission for Children and Young People’s (CCYP’s) 2014-15 annual report summary of child death inquiries.[[6]](#footnote-6) The summary points to the high proportion of child death inquiry reports which identified issues relating to service coordination and collaboration. The report expressed concern about the quality of risk assessments that have “insufficient contact with client/family” and “over-reliance on input of other professionals/agencies”.[[7]](#footnote-7) The CCYP expressed similar concerns again in 2015-16.

In an environment where there is an increasing focus on risk assessment, the CCYP summaries suggest caution against relying on information sharing without the engagement of the child and family.

Again we urge that the new legislation require consent where professional judgment indicates it is appropriate so that the legislated sharing threshold promotes a culture of fully informed information sharing that best promotes safety, by engaging families rather than relying excessively on other people’s interpretations of a family’s situation.

### Recommendation:

Legislate for a professional consideration of informed consent, including for children, as part of the threshold for sharing information and for an obligation to record what consideration was given to consent.

## Alignment of the family violence and child information sharing regimes

We understand that the child information sharing regime will apply to family violence survivors who have children. This concerns us, because most of our family violence survivor clients have children. The child information sharing regime has fewer safeguards and has not been developed with the same attention to the risks of family violence.

In consultation on the family violence information sharing regime, we have raised concerns about the regime’s impact on family violence survivors incorrectly identified as primary perpetrators of family violence. Risks associated with child information sharing are most acute when there is a risk of family violence. This is because, as illustrated in “Daniela’s” case study above, sharing without consent involves not only disengagement risks but also direct safety risks, when one parent is a danger to the children.

We consider that the safeguards of the family violence information sharing regime should remain available when children are at risk of family violence.

### Recommendation:

Align the generalist child information sharing regime with the specialist family violence sharing regime.

# Child Link

The legal assistance sector thanks the Departments for the information provided about Child Link.

As stated in the family violence sector joint submission (beginning at page 14 of that submission), we suggest further research and consultations before any implementation of Child Link.

We recommended that any further research and consultation into Child Link include developing vital safeguards, particularly in relation to the key concerns of family violence risk and stigmatisation risk.

## Child Link’s risk to family violence survivors

Some of our key concerns about the Child Link proposal are set out in the family violence sector joint submission to this consultation, and relate to Child Link’s potential to be used by perpetrators of family violence to locate children and protective parents who have fled the perpetrator. We appreciate that the Departments understand that these are very real concerns.

We are pleased that Child Link would not hold address details. We consider this to be an important safeguard.

Nonetheless we remain concerned that the information that would be contained on Child Link would effectively allow perpetrators to locate children by learning the addresses of services children are attending.

Accordingly we would strongly recommend further research and consultation before any legislation for Child Link, and thorough safeguards, including those discussed in the family violence sector joint submission,[[8]](#footnote-8) and:

* An easy process to block a record: The proposed ability to block access to certain records on Child Link would be vital, and should be very easily available in relation to the records of children at risk of family violence or other forms of targeted victimisation (for example sexual exploitation by a non-family member).
* Blocking records before any introduction of Child Link: As well as making it easy for records to be blocked proactively, it would be important that all existing records that needed to be blocked were blocked before Child Link was rolled out. Mechanisms would need to be developed, for example family violence services might need additional funding and time to contact past clients and assess the risk of a child’s Child Link record leading to the location of the family.
* Ensuring personal requests for records are responded to safely: We understand that children and parents would not have direct access to their families’ Child Link records. However, as the consultation paper recognises, parents and children would need to be able to access and correct their records in accordance with standard privacy laws. It is important that responses to these requests would be met safely, again ensuring that a parent who uses family violence could not locate their family through requesting and viewing their own child’s Child Link record.

## The risk of stigmatisation because of data on Child Link

We know the Departments are also aware of the serious concern that information on Child Link would be used to stigmatise already vulnerable children.

Our experience leads us to have concerns about how this information may be used, for example to exclude children with records of criminal offending, behavioural difficulties, or disability.

Some of the safeguards proposed in the family violence sector joint submission (for example consideration of a central agency model) could mitigate against stigmatisation.

Additional safeguards against the use of Child Link to stigmatise and further marginalise children would also be necessary, including:

* Not allowing access before enrolment: We understand it is intended that access to Child Link would be possible only in relation to the records of children who are or have been enrolled in a service (consultation paper page 16). We support this proposal and view it as a vital safeguard against exclusion from services. It is important that the mechanisms for implementing this safeguard do not rely solely on best practice. The pressures on services to exclude families with experiences of disadvantage are overwhelming. Implementation and monitoring of the effectiveness of this safeguard would be crucial.
* Excluding potentially stigmatising information:We support the exclusion of Children’s Court Criminal Division orders from Child Link, and we consider that Youth Justice should not be a prescribed organisation for the purposes of Child Link.

We understand a key rationale for Child Link is to keep families in view and prevent them from disengaging with services (as described in the case study on page 17 of the consultation paper). When a child is engaged with Youth Justice they are well within view of the system. In our experience they are also much more likely to have difficulty enrolling in schools, and schools may also be more likely to exclude a student when an opportunity arises if the child has a criminal record.

There are strong rationales for the prohibition of publication of youth justice orders, and those rationales are also relevant in relation to Child Link, given how broadly accessible Child Link might be.

We similarly suggest that Child Link should not include a disability marker. That information should not be automatically available to all services a child engages with.

We understand that it is not yet decided whether Child Link would record whether a child identifies as being Aboriginal and/or a Torres Strait Islander. Our view is that, if Child Link is to proceed, the decision about that identification data should be made by Aboriginal and Torres Strait Islander groups. Aboriginal and Torres Strait Islander decision-makers should be able to revise any decision to include identification data on Child Link, which they may wish to do for example if it is subsequently found to be leading to increased stigmatisation.

### Recommendation:

Undertake further research and consultation and ensure necessary safeguards are in place before any implementation of Child Link.

1. <http://www.legalaid.vic.gov.au/about-us/strategic-advocacy-and-law-reform/more-effective-responses-to-gender-inequality-including-sex-discrimination-and-family-violence/families-with-complex-needs> [↑](#footnote-ref-1)
2. Under the heading “Refining the purpose of information sharing”, beginning on page 5 of the submission. [↑](#footnote-ref-2)
3. Read more on the ECLC website at <http://www.eclc.org.au/what-we-do/partnerships-and-projects/mabels/>, [↑](#footnote-ref-3)
4. Under the heading “Create a four-part test to include informed consent” on page 7 onwards. [↑](#footnote-ref-4)
5. See further conversation in family violence sector joint submission under the heading “Safeguards against the misidentification of perpetrators”, beginning on page 17 of that submission. [↑](#footnote-ref-5)
6. Cited at page 4 of the consultation paper. The figures in the CCYP report appear different from those in the consultation paper, but the themes are consistent. [↑](#footnote-ref-6)
7. See page 55 of [CCYP 2014/15 annual report](https://ccyp.vic.gov.au/assets/corporate-documents/CCYP-annual-report-2014-15.pdf). [↑](#footnote-ref-7)
8. Including limiting Child Link access to a central agency (see page 16 of family violence sector joint submission). [↑](#footnote-ref-8)