# Consultation paper: Proposed legislative model for child safety and wellbeing information sharing

Mark Schultz

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Dear Mr Schultz

Thank you for the opportunity to attend a consultation workshop and make a written submission to this consultation.

Our submission sets out what Victoria Legal Aid (VLA) experience indicates will be important in an information sharing regime in order to encourage help-seeking behaviour and individual and community empowerment to make decisions that keep children safe.

We also request further consultation once more detail is available, particularly about the proposed child information link. VLA would want to be specifically consulted were there an intention to include VLA and/or other lawyers and legal services in the regime.

**Victoria Legal Aid and child safety and wellbeing information**

Victoria Legal Aid (VLA) is an independent statutory authority set up to provide legal aid in the most effective, economic and efficient manner. VLA is the biggest legal service in Victoria, providing legal information, education and advice for all Victorians.

We assist clients with parenting disputes, family violence and child protection matters. Our most vulnerable clients have problems that cross over the family law, child protection and family violence jurisdictions. As described in our 2015 submissions to the Family Law Council’s terms of reference,[[1]](#footnote-2) information sharing is particularly important for these clients.

**Information sharing that promotes children’s safety**

VLA supports enhanced information sharing that will support a better co-ordinated response for vulnerable children and families and reduce the need for people to have to repeat their story unnecessarily, as recommended by the Royal Commission into Family Violence.

Privacy also plays an important role in supporting child safety however, thus the balance is critical. In particular, privacy safeguards encourage help-seeking behaviour. It is VLA’s experience that clients (particularly Aboriginal families) will not seek help if they know they will lose control of their information when they do so. Further, privacy supports empowerment of survivors and self-determination for Aboriginal families and communities. Children’s safety is better served when families at risk feel empowered to seek help at an early stage. For information sharing to promote safety and empowerment, clients need to be able to understand clearly the narrow circumstances in which their information will be shared.

Different sharing thresholds should apply to different categories of information, relative to the inherent reliability of those categories. A prescribed range of objective information (criminal records, court orders) can and should be shared within a narrowly prescribed group of participants without consent. A best practice principle of consent should generally apply to the sharing of any other information, particularly the sharing of subjective information, like ‘narrative’ based reports without corroboration or verification, and the sharing of health information. Any sharing without consent should be only if high legislated thresholds are met, in only the most critical of circumstances, and shared in a targeted way.

Our submission to the government consultation on family violence information sharing discussed our experience with these issues further; we **attach** a copy of that submission.

**Further consultation is required once more detail is available**

Victoria Legal Aid would welcome further consultation once more detail of both the proposed family violence and child information sharing regimes is known. In our view it would be very beneficial if these two regimes were developed together, and we believe they could be consulted on together, taking into account the extensive overlap between family violence and child protection concerns.

VLA would particularly want to be consulted further if VLA and/or other legal service providers were to be included in the information sharing regime. We currently understand that the intention is to exclude VLA and other lawyers, which we support. We provided further information on this to the government as part of the consultations on the family violence information sharing regime, included in the attached submission.

We also ask that we be consulted further about the “child information link” proposal, as you continue to work on developing this proposal. We would be interested to discuss further, issues such as who will have access to the information, the right for people to know what information about them is being shared, and what opportunities or processes will be available for people to correct inaccurate information held in the link.

Thank you again for the opportunity to participate at this stage of the consultation. We look forward to engaging further with you in relation to this important reform. VLA’s contact officer for this matter is Hannah Northover, Senior Policy and Projects Officer, on 03 9280 3723 or [hannah.northover@vla.vic.gov.au](mailto:hannah.northover@vla.vic.gov.au).

Yours faithfully

**NICOLE RICH**  
Executive Director Family, Youth and Children’s Law  
Attach: VLA submission to Department of Premier and Cabinet: Family violence information sharing legislation consultation, 31 August 2016

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-2)