



Youth Affairs
Council Victoria

Proposed legislative model for Child Safety and Wellbeing Information Sharing

A response to the consultation paper by Nous Group

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About YACVic

Youth Affairs Council Victoria (YACVic) is the peak body and leading policy advocate on young people's issues in Victoria. YACVic's vision is that young Victorians have their rights upheld and are valued as active participants in their communities.

YACVic is an independent, not-for-profit, member driven organisation that represents young people (aged 12-25 years) and the sector that works with them. Through our research, advocacy and services, we:

- lead policy responses on issues affecting young people
- represent the youth sector and elevate young people's voices to government
- resource high-quality youth work practice.

We are driven by our members and prioritise their needs and concerns.

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Organisation submission details

1. Please specify the nature of your organisation. Peak body (not-for-profit).

2. Please provide the name of your organisation. Youth Affairs Council Victoria (YACVic). YACVic is the state peak body for young people aged 12-25 and the services that support them. In 2015-16 we had 313 members – approximately half of them young people, the others comprising local governments, community and health services and research bodies. Our vision is that young Victorians have their rights upheld and are valued as active participants in their communities.

3. Please specify your role within your organisation. Policy manager.

4. Please provide a contact email address for any questions we may have regarding your organisation's response. policy@yacvic.org.au

5. Is your organisation able to respond to the questions set out in the Consultation Paper using this online tool? (For example: procedures within your organisation may require that you respond via a written submission)? No - we will provide a written submission so that our advocacy can be shared with our members.

Executive summary: Improved data collection and information-sharing systems could potentially be of great benefit to young people, who are often negatively impacted by having to ‘tell their story’ many times to departments and services which do not always communicate or collaborate well with each other. However, we urge that any such reforms be based on explicit recognition of young people’s best interests, human rights, and developing independence. To be effective, such reforms must be backed by targeted, expert guidance for departments and organisations in dealing with complex issues of risk, privacy, wellbeing, ethics, partnership and consent. Relevant research and infrastructure to support the collection and sharing of data may also be needed. Otherwise legislative changes are unlikely to have a strong impact on the ground. At present, barriers to information sharing and use are often far more cultural and practical than legislative; changes to culture and practice are needed to transform this.

Challenges with the current legislative system

6. Based on your experience, do you agree with the legislative challenges identified in Section 2 of the Consultation Paper?

For the most part, yes. The consultation paper emphasises the challenges posed by complex legislative requirements, the very limited ‘flow’ of information out of DHHS to service providers who need greater access to relevant data, and a culture of risk aversion whereby some departments and services may automatically withhold information due to lack of clarity or confidence about legal or privacy issues. Broadly speaking, these points align with concerns raised by our members.

However, we would question the consultation paper’s placement of DHHS at the centre of a model of information-sharing, given that young people may be connected to a range of other services, as well as schools and DET.

We would also dispute the implication that organisations outside of DHHS are ‘unable’ to share information about child wellbeing with each other. As we will demonstrate, a number of localised initiatives are already piloting cross-sectorial information-sharing models, with some success.

Moreover, it is our experience that many of the most significant barriers to appropriate sharing and use of information are rooted in issues which occur at a departmental, organisational or practitioner level, rather than anything inherent in the legislation (although misunderstanding or lack of confidence in using the legislation can be a factor). Therefore, any genuine reforms to the system must be backed up by targeted, expert support to ensure changes in working culture and practice.

7. Based on your experience, are there other legislative barriers to information sharing in the context of child safety and wellbeing, in addition to those identified in Section 2 of the Consultation Paper?

Although the question focuses on ‘legislative barriers’, we wish to stress that a bigger challenge is represented by procedural and cultural barriers to appropriate information

sharing and use. These problems can stem from practitioners' lack of clarity or confidence in relation to legislative requirements. But they are also a product of departmental and organisational cultures. Broad challenges we have identified include:

- A. Practitioners do not always adhere to existing legislation and formal obligations
- B. Adequate data is not always collected or shared
- C. Methods of communication and data use can alienate young people and impede their successful engagement in services
- D. Young people's own views and knowledge are not always collected or acted upon.

Addressing these problems will require systematic interventions to strengthen and improve practice. Legislative change alone would not be sufficient.

A. FAILURE TO ADHERE TO EXISTING FRAMEWORKS OR OBLIGATIONS

In some instances, a service provider or department has a clear legal obligation or mandated framework to guide their use of information about young people – but this is not understood or acted upon. Some practitioners need expert guidance and improved capacity. Some departments and services also need stronger accountability and cultural change.

Example: Knowledge barriers to the proper placement of Aboriginal children in care

Under Victoria's Children, Youth and Families Act 2005, Aboriginal children placed in out-of-home care must be placed according to the Aboriginal Child Placement Principle (ACPP). However, despite this clear legislative requirement, two recent reports by the Commission for Children and Young People found that compliance with the ACPP was very poor. Inadequate sharing and use of information about young people was a key factor. Barriers to the implementation of the ACPP included: failure of Child Protection agencies to recognise and 'flag' the Aboriginal status of many children; inadequate communication structures to enable Child Protection agencies to work with the Aboriginal Children Specialist Advice and Support Service; skill shortages amongst Child Protection staff; and limited availability of Aboriginal community organisations to assist. The Commissioner's recommendations addressed the need for improved communication, accountability, monitoring, cultural competency, practical skills and Aboriginal representation within DHHS, DET and community sector organisations.¹

Example: Using information to keep children safe within organisations

As of January 2017, all Victorian organisations providing services to children are legally required to meet Child Safe standards. These standards have ramifications for how sensitive information about vulnerable children is handled within and between service providers. For example, Standard 5 urges organisations to ensure their reporting processes are appropriate, clear and robust, that support and referrals are provided for alleged victims, and that children and families feel comfortable following the reporting processes. Standard 7 urges that children be provided with appropriate, accessible information about how they can raise concerns about abuse, and with opportunities to express their views.

Our information is that while some organisations are highly competent with Child Safe standards, others are uncertain about their obligations and how to make reports, handle information and seek advice. We heard of some organisations which were legally required to be Child Safe by January 2016 but where staff were still unaware of this requirement several months later. The Commission for Children and Young People has provided welcome resources and assistance, but some ongoing support and information may be needed, especially for smaller organisations.

B. DATA IS NOT ALWAYS COLLECTED OR SHARED

Another problem departments and services face when making decisions on behalf of vulnerable young people is that relevant data is not always collected or made available. These barriers are sometimes rationalised in terms of ‘privacy’ – but we contend that this can have less to do with actual legislation than with organisational fears, limited capacity, and lack of confidence about how to manage information.

This issue affects the education sector, as well as the community sector. In their recent submission to the Productivity Commission’s inquiry into the national education evidence base, the Victorian Council of Social Service (VCOSS) observed that owners of education data can be reluctant to share information, due to uncertainty rather than legal barriers. VCOSS recommended that any legislative changes to encourage data collection and sharing be backed by clear departmental guidelines and consistent

policies, with a focus on driving change to combat inequality. They added that current gaps in education and wellbeing data appear to be adversely affecting policy and program planning as regards groups of children who are vulnerable to disadvantage, including children in out-of-home care, children with disabilities and chronic illness, and Aboriginal children.²

We appreciate the need to protect the privacy of individual students and communities. However, we maintain that appropriate gathering and sharing of relevant, de-identified data (sometimes within trusted local partnership groups of education and community service providers, and sometimes with the wider community, including parents and students) is important in order to develop shared policy and program solutions to community-wide problems such as school disengagement. Various partnership groups have already demonstrated how quality research, data collection and data sharing can be handled productively and sensitively at a local level. Their findings should inform future Victorian Government approaches.

Examples of effective approaches to the collection and sharing of data about education and related wellbeing issues include:

- The Children and Youth Area Partnerships, notably in the Mallee (outlined later),
- The Education Engagement Partnership, Port Phillip/Stonnington (outlined later),
- The Middle Years Development Instrument, piloted in Whittlesea, Frankston and South Australia. This is based on a self-reported survey of students aged 8-14, asking them about non-academic factors which affect their learning and participation, across areas including social and emotional development, connectedness, school experiences, physical health, wellbeing, and use of after-school time. The results are reported at school, community and state levels to help schools and services align their work better with students' needs.³
- The 'Under 16' reports, produced by a network of Youth Connections and Local Learning and Employment Network providers in Melbourne's north in 2012, supported by local government, NMIT and youth services, and working with local schools and DET. These projects aimed to identify the numbers of young people under 16 who were disengaged from education and training, assess the supports available to them, and recommend strategies to re-engage them.

Example: When data on school exclusion is not collected or shared

Students experiencing disadvantage appear to be at disproportionate risk of being excluded from school. However, a barrier to addressing this problem is the shortage of available data on suspensions, expulsions and informal exclusions, which is up-to-date, comprehensive and appropriately de-identified. Some data is collected by principals and the DET school census, but it is generally not made publically available.⁴

In the 2016 report *Always Was, Always Will Be Koori Children*, the Commissioner for Children and Young People observed high rates of school exclusion and disengagement amongst Aboriginal children in out-of-home care. A key barrier to responding to this issue was the lack of proper contextual information from DET and DHHS about suspensions and expulsions of children in care. The Commissioner also described:

‘concerning practices where a number of Aboriginal children were disengaged from school without formal processes or data collection, and no apparent accountability or transparency measures.’

These problems occur in spite of the existence of a formal partnering agreement between DHHS, DET, the Catholic Education Commission and Independent Schools Victoria, developed in 2011 to strengthen the educational engagement of children in out-of-home care. Thus, the problem is not that there is no legal or official basis for information sharing, but rather that practices on the ‘ground level’ appear to be inadequate, perhaps due to barriers in confidence or capacity. (The Commissioner made detailed recommendations in response.)⁵

Students with disabilities are another group known to be very vulnerable to poor educational outcomes – but again, there does not seem to be adequate data available on their rates of school exclusion. In their 2012 report *Held Back: The Experiences of Students with Disabilities in Victorian Schools*, the Victorian Equal Opportunity and Human Rights Commission raised serious concerns about the exclusion of students with disabilities, but stated that without accurate data they could not assess how common the problem was. In 2013, the Hon. Jenny Mikakos, the then-Shadow Minister for Youth, tabled a question in parliament about the number of students with a recognised disability who were suspended or expelled, and received a response that the education department did not keep this data.⁶

C. COMMUNICATION PROCESSES CAN ALIENATE YOUNG PEOPLE

Some vulnerable young people fail to access the help they need in areas such as homelessness or mental health, due to the way that providers handle client information. Again, the barriers to providers using information effectively are not always legal; they can be procedural and cultural.

Vulnerable young people often have diverse and complex needs; they tend to rely heavily on trusting individual relationships and networks of support. They may have communication or literacy barriers, and they are often very wary of specialist services and formal triage models. For example, the Centre for Multicultural Youth (CMY) have pointed that young people from refugee and migrant backgrounds can have a variety of communication needs (written and verbal), face particular pressures, and understand and express their cultural connections and bonds to family and tradition in a wide and dynamic range of ways, and some services struggle to communicate about all this.

Thus, young people can face significant problems if they must access a service system which requires them to tell their story many times (including in unfamiliar service settings), articulate their needs according to very narrow and specific criteria, or navigate multiple layers of ‘gate keeping’ and assessment. Also problematic are service systems which force young people to engage only via a ‘single intake point’, where the communication processes may be inappropriate for them.

D. BARRIERS PREVENT YOUNG PEOPLE’S VOICES FROM BEING HEARD

Finally, we note another issue affecting the use of information about vulnerable young people (a barrier which can be legal and/or cultural): the capacity of young people to express their own views, including to researchers and policy makers.

Many researchers have reported difficulties when seeking to engage, consult and represent very vulnerable young people, notably those in the child protection system. The Centre for Excellence in Child and Family Welfare and the CREATE Foundation have observed that highly vulnerable young people are often invisible in Australian research and policy/program development, due to ethical and legal barriers.

Of course, there are vital imperatives to protect the privacy and safety of young people and those around them. However, it is very concerning that some research projects and inquiries intended to enhance the safety, dignity and capacities of vulnerable young people are effectively unable to communicate with them.

'as ethics regulation directs research away from "difficult" populations, topics, and methods, it creates systematic areas of ignorance about social conditions' (Dingwall, 2016) ... 'ethical review of research is so heavily focused on minimising risk [that] ... young people's right to participate in discussion is often overlooked' (Daley, 2015).⁷

Further work is needed between DHHS, DET, Department of Justice, research bodies and youth support services to review the processes concerning legal and ethics clearance for conducting research with vulnerable young people. Here, the aim should be to ensure that adequate expert supports are in place to enable young people to take part in safe, ethical, age-appropriate and timely consultations concerning their experiences of the justice, education and community services systems, if they wish to do so.

A new child safety & wellbeing information sharing regime for Victoria

8. 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)?

At present YACVic would hesitate to support either model, as we feel more work is needed to develop and articulate a shared understanding of the key concepts, such as ‘safety’ and ‘wellbeing’ (discussed under ‘A’). The consultation paper appears to conclude that the NSW model is best practice, but the basis for this is not entirely clear.

Broadly speaking, we would be inclined to support a model with a low and clear threshold for information sharing and a focus on the best interests and human rights of the child. This should be backed by additional expert guidance and support for professionals (including within state government departments) to build their capacity

to navigate issues of child wellbeing, privacy and inter-sectorial collaboration, to help shift organisational cultures of ‘risk aversion’, where the quarantining of information has proven to be detrimental to the wellbeing of the young person. We also contend that any future approach to information-sharing about vulnerable children should be informed by a strong scoping of existing Victorian approaches.

A. DEFINITIONS AND SHARED UNDERSTANDING

The consultation paper outlines models by which ‘a prescribed body is permitted to share information relating to the safety, welfare or wellbeing of a particular child or class of children’. While this work clearly began with the findings of the Royal Commission into Family Violence, the paper implies that a new system would go beyond family violence to address a range of other wellbeing issues. However, the paper does not define ‘safety’, ‘welfare’ or ‘wellbeing’.

If services and departments are to work within a new system of information sharing about children’s ‘safety and wellbeing’, a clear, agreed understanding of these concepts is needed. This may need to be accompanied by targeted professional development for some workers whose professional background is not in the ‘wellbeing’ space.

Departments and service providers have diverse understandings of ‘safety and wellbeing’, and often view them as quite different concepts. Definitions of ‘safety’ tend to be relatively narrow and focus on freedom from abuse – although increasingly they may also encompass broader emotional and cultural safety. Meanwhile, concepts of ‘wellbeing’ are much broader, encompassing behaviours, interactions and relationships within homes, schools and communities. For example:

- Victoria’s Child Safe standards define ‘child safety’ in terms of proactive measures to protect children from abuse. They also provide specific definitions of cultural safety for Aboriginal children and children from culturally and linguistically diverse backgrounds, and safety for children with a disability.
- The Victorian Government’s annual *State of Victoria’s Children* report considers a range of evidence to measure the ‘wellbeing’ of Victorian children and young people. Their most recent report covered topics including physical health, disability, school engagement, students’ perception of their own ability,

adolescent risk-taking, bullying, abuse, neglect, youth crime, parental capability, parental mental health and wellbeing, family functioning, family violence, parental support networks, and social exclusion.⁸

- The Key National Indicators for Young People's Health and Wellbeing, developed in 2010 by the Australian Institute of Health and Welfare, include mental health, disability, physical activity, nutrition, substance use, sexual and reproductive health, injury, family functioning, social capital, community and civic participation, school relationships and bullying, homelessness, youth crime, victims of violence, education, employment, housing environment, teenage purchase of alcohol or tobacco, and how young people rate their own health.⁹

Sharing information concerning a child's risk of sexual abuse (for example) requires different knowledge and approaches to sharing information concerning a child's risk of education disengagement, risk-taking behaviours or social exclusion.

B. EXISTING APPROACHES TO INFORMATION-SHARING IN VICTORIA

The consultation paper suggests a preference for adopting the approaches of Chapter 16A of the *Children and Young Persons (Care and Protection) Act (1998)* NSW. However, there is little reference to approaches to information-sharing which have already had an impact in Victoria, albeit at local or regional levels.

Example: Children and Youth Area Partnerships

These initiatives work across eight Victorian sites, bringing together government departments, community service organisations, health and education providers, police, business, philanthropists, service users and the broader community to work together to reduce child and youth vulnerability. Some of the partnerships have concentrated on improving data collection and analysis concerning student enrolments versus attendance, strengthening partnerships between schools and community providers, and addressing concerns about information-sharing and privacy. The Mallee Area Partnership, which has a particular focus on such work, stresses the importance of a collective impact approach with strong backbone support.¹⁰ Further evaluation of the CYAP is being conducted at present.

Example: The Education Engagement Partnership

The Education Engagement Partnership (EEP) is a partnership of 19 agencies including local government, schools, youth services and community health, in the cities of Stonnington and Port Phillip. The EEP collects and analyses data about children and young people aged 10-19, who are either disengaged or at risk of disengaging from education, employment and training. Their mission is to develop and support a community of practice informed by ethical research that will influence policies, services and programs that benefit our young people.

The EEP helps schools and youth services to develop evidence-based and interagency responses to improve young people's engagement in education and work. A collective impact approach has been developed, with members from different sectors demonstrating a shared commitment to a common agenda. The data collected by EEP is used in numerous ways, including to identify common themes in the experiences of vulnerable young people to inform local responses to their needs; to strengthen collaboration within an Action Team of youth services to deliver effective collaborative responses to young people's needs; to document and share valuable responses, knowledge and resources; and to identify gaps in service sector knowledge and meet them with targeted professional development. The data is owned by the partnership, and partners are encouraged to use the data, case studies, reports and analysis, with the support of a project officer and a data analysis working group. EEP consults with young people to deepen understanding of their data, and seeks their consent before gathering and sharing their data. EEP works closely with Victoria Police, and is conducting new discussions with DHHS.¹¹

Example: The 'No Wrong Door' model of youth service delivery

The premise of 'No Wrong Door' is that wherever a young person presents within the service or school system, regardless of their identified need, they will be supported to find the right help without having to re-tell their story or navigate the system alone. Under 'No Wrong Door', once a young person has made initial contact they are deemed to have entered the service system, and that service is obligated to help them. Shared referral tools and request for service tools must be developed to support this.

(cont'd)

Cont'd: The 'No Wrong Door' model of youth service delivery

'No Wrong Door' organisations are not expected to provide all services to all young people. But they will offer a supported referral to any young person, helping them to access appropriate services, initiate contact and transfer information. If a supported referral is deemed inappropriate or the young person wants to manage their referral themselves, the professional will assist the young person to identify the right school or service to approach and complete a referral tool for the young person to pass on to the service or school. The professional must ensure that referrals are received by the intended recipient, who must then update them as to whether the referral was accepted or denied. If denied, a combined effort should be made to find a suitable alternative.

A range of services and schools can become signatories to a 'No Wrong Door' charter or memorandum of understanding, with different levels of obligation according to the skill set of their workers and volunteers, the core role of the organisation or school, and its capacity. 'No Wrong Door' models can be very effective, but they need dedicated resourcing and strong partnerships between stakeholders. (For example, one 'No Wrong Door' model works with young people aged 10-25 in Knox, Maroondah and Yarra Ranges; it arose out of a 2009 Better Youth Services Pilot funded by the Department of Planning and Community Development, and was extended through funding from DEECD's Youth Partnerships.)¹²

9. Do you think that the list of principles set out at 3.2 of the Consultation Paper is appropriate?

10. Which principles (if any) should be added to or removed from the list?

There are many strengths to the principles provided in the consultation paper. However, we contend there are some basic issues which have not yet been properly addressed.

As noted above, we feel strongly that a clear, shared definition of 'safety' and 'wellbeing' is essential (and currently not provided).

Nor is it sufficiently clear which forms of service provision, to which children, these principles are meant to apply. For example, do they apply to children who are clients of a family violence service; children who have experienced family violence and are receiving support for related issues (e.g. homelessness); children receiving support from a service for any wellbeing issue; or children engaged in universal services such as schools, who may present with no significant wellbeing concerns?

Moreover, we are concerned that a clear, fundamental basis for the principles has not been provided. Clearly the principles were informed by the recommendations of the Royal Commission into Family Violence, but we feel there is not sufficient clarity about the need for legislative changes concerning information-sharing about wellbeing – or about where the principles were derived from, especially the ‘General principles’.

In particular, the principles do not adequately recognise rights of the child. We suggest underpinning the principles with an explicit commitment to upholding children’s human rights, as set down in the UN Convention on the Rights of the Child.

Articles 3, 12, 16, 19, 27, 28, 29, 30, 34, 37 and 39 of the Convention would seem particularly relevant to a system for using and sharing information about vulnerable children. These articles cover topics including:

- The need for institutions to make decisions in the best interests of the child;
- Children’s right to express their views about matters affecting them and have their views taken into account according to their age and maturity;
- Children’s right to freedom from physical or mental violence, sexual exploitation, or neglect;
- Children’s right to a standard of living adequate to their physical, mental, spiritual, moral and social development;
- Children’s right to freedom from arbitrary or unlawful interference with their privacy;
- Children’s right to an education in order to develop their personality, talents and mental and physical abilities to their fullest potential;

- The need to promote physical and psychological recovery and social reintegration of a child who has been the victim of any form of neglect, exploitation or abuse;
- Children's right to be free from torture or other cruel, inhuman or degrading treatment or punishment;
- The imperative to use arrest, detention or imprisonment of a child only as a measure of last resort and for the shortest appropriate period of time;
- Children's right to enjoy their own culture, profess and practise their religion, and use their language, in a community with other members of that group.

Alternatively, or additionally, the principles for a new information-sharing system might be grounded in Victoria's *Charter of Human Rights and Responsibilities Act 2006*. Items 10, 12, 13, 17, 19, 21, 22 and 23 of the Charter appear relevant to the use of information about vulnerable children. They cover topics including:

- The right of all children to such protection as is in their best interests and is needed by them by reason of being a child;
- Families' entitlement to be protected by society and the state;
- Victorians' right to protection from torture and cruel, inhuman or degrading treatment;
- Victorians' right not to have their privacy, family or home unlawfully or arbitrarily interfered with.

Furthermore, as regards children aged 12-18, we urge that the principles underpinning a new information-sharing regime recognise the Victorian Government's commitment to a cross-government Youth Engagement Charter. The Youth Engagement Charter states:

‘Young people are the experts in their own experience. Young people must be at the centre of decision making about issues that are important to them. This leads to smarter and more effective policy and program design ... Young people must be supported and encouraged to act on their own authority and represent their own interests. Young people have the capacity and ability to drive change and shape their own destinies.’¹³

The Youth Engagement Charter undertakes, amongst other things, to:

- 3.1 Respect the rights of all young people to participate in decisions that affect their lives.
- 3.2 Value young people as experts in their own experiences, recognising them as equal partners in identifying and implementing solutions.
- 4.1 Recognise that young people must be at the centre of decision making about issues that are important to them.
- 4.2 Utilise innovative engagement mechanisms.
- 6.1 Value young people as genuine partners in decision-making processes.
- 6.2 Ensure respect, transparency and integrity underpin all aspects of youth engagement.¹⁴

We also feel it's important that the principles underpinning any new information-sharing system should articulate where such a system sits in relation to Victoria's Children, Youth and Families Act 2005 (Act No. 96/2005).

The sharing and use of information concerning vulnerable children would seem to relate to several sections of the Act, including:

- Division 2 (Best Interests Principles), which articulates that the best interests of the child must be paramount, and articulates these best interests in terms of protection from harm; protection of children's rights, family relationships and cultural identity; promotion of children's development; ascertaining the child's views and giving them appropriate weight; and continuity and stability in a child's care and education.
- Part 3.2 (Concern about wellbeing of child), which articulates the referral processes for people who have concerns about a child's wellbeing.
- Part 4.1 (Children in need of protection), which articulates when children need protection.
- The Act's articulation of the responsibilities of various stakeholders in relation to mandatory reporting, compulsory disclosure of information, and voluntary disclosure of information.

In addition, we refer the reader to the recommendations of VCOSS to the Productivity Commission's inquiry into the national education evidence base. Here, they outline key

principles and approaches to the effective collection and use of data to achieve positive social change for vulnerable children and young people. These approaches, which we contend would be relevant here, include:

- Target evidence development explicitly towards reducing unequal social outcomes through better practice.
- Treat all participants as equal partners in evidence development and use. This includes children and young people, families and carers, the education sector, health and community services, the professionals who work in these services, and all levels of government.
- Link data to provide stronger evidence for contributing factors and interventions improving children and young people's education and wellbeing.
- Include children and young people's perspectives. These perspectives can be gathered through qualitative research, interviews and survey tools, and can be very valuable in proving context for quantitative data, testing research assumptions and helping to explain why some practices are more effective than others.
- Map existing datasets to identify opportunities to enhance existing data, reduce duplication and ensure data collection provides value.
- Develop practical tools, professional development and resources to help professionals translate all this evidence into practice.
- Resource professionals and local communities to gather their own robust data and evidence to supplement research evidence.
- Provide timely feedback to people and organisations involved in collecting data, so that the providers, workers, children and families can understand the findings, take ownership of them, and drive change.¹⁵

11 – 12. A list of organisations that should be included in Victoria's proposed information sharing scheme is set out at Section 3.3 of the consultation paper. Which other organisations should be included and why?

Without more information on how the information-sharing system will work, it is difficult to give a definitive response. However, we note with some surprise that local government services are not named in the list provided. While some services provided to young people by local government are state-funded (e.g. activities funded through the Engage! grants), others are funded through other sources. As such, we submit that specific consideration is needed of the role local government services could play in enhanced systems of communication about the safety and wellbeing of young people.

Local government is the backbone of generalist youth service delivery in Victoria. Local government youth services work with large numbers of young people to prevent problems or address them early, and to build young people's wellbeing, opportunities and connections. Local government youth services promote young people's health, social inclusion, skill development and leadership, and give young people opportunities to engage in arts and culture, community strengthening and civic life. They assist young people (especially those without supportive adults in their lives) to navigate challenges, develop pro-social coping skills, and access specialist services if needed.

Most local governments do not provide direct service delivery at a tertiary level for critical issues like family violence, mental health or drug use. However, they do work with young people experiencing these issues. The work of local government youth services can include (but is not limited to):

- Funding, planning and delivering services, programs and events for young people. These are very diverse, ranging from holiday activities to mentoring programs, volunteering opportunities, L2P programs for novice drivers, and social supports for young people at risk of disengagement or marginalisation.
- Leading community planning for young people. Local government youth services play a vital partnership-building role, bringing together the different stakeholders working with young people to coordinate service delivery, advocate for young people's needs, and leverage resources to meet local priorities.

- Engaging and consulting with young people, and building young people's capacity as advocates and community leaders. Local government youth services are recognised as experts in youth engagement.
- Enabling local governments to prepare for and comply with their statutory obligations in relation to children up to the age of 18.

The role of consent and sharing information beyond the 'trusted circle'

14. Two potential models of consent are set out at Section 4.1 of the Consultation Paper. Which model is preferable?

It is difficult to express a definite preference for an approach towards client consent without a clearer sense of what information might be being collected, used and shared. Again, a strong, agreed definition of 'child safety and wellbeing' is needed. A stronger definition of 'consent' is needed too.

It is also necessary to articulate whose consent would be sought in the case of clients aged under 18. For the purposes of this submission, we will address the issue of seeking consent from a young person aged 12-18.

The consultation paper puts forward two models:

- A 'no consent' model, which states 'Legislation does not require consent to be obtained for the exchange of information, but this expectation is set out as part of good practice in accompanying guidelines.'
- A 'consideration of consent' model, which states 'Legislation requires consideration be given to whether consent should be sought or not in the relevant circumstances, which is to be guided by the best interests of the child principles. In practice, depending on what is in the best interests of the child, this might mean consent is sought (where relevant) from the individual whose information is being shared (e.g. child, parent or third party).'

We would see greater merit in the latter model ('consideration of consent') in relation to the collection and sharing of sensitive and personally identified data.

(In the case of de-identified data gathered and shared at a regional or state-wide level to indicate broad population trends, consent tends to be less critical. However, it can still potentially be built into data-gathering approaches. For example, DET's annual *On Track* survey of school leavers gathers students' consent to participate in the survey via a question on their Victorian Curriculum and Assessment Authority enrolment form. The most recent *On Track* survey captured almost two-thirds of young people who'd left school in 2014 - 35,227 participants.)

We suggest that the 'consideration of consent' model aligns better with Article 12 of the UN Convention on the Rights of the Child, which states:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The 'consideration of consent' model also appears to align better with the Victorian Government's Youth Engagement Charter, which undertakes to respect young people's right to take part in decision-making that affects their own lives; value young people as experts on their own experiences; place young people at the centre of decision-making about issues that are important to them; and ensure youth engagement is undertaken in an atmosphere of transparency, integrity and respect..

From a youth sector point of view, the 'consideration of consent' model would also seem to align more closely with the principles of the *Code of Ethical Practice* for the Victorian youth sector (discussed in the next section). The *Code* states that it is best practice – although not always obligatory – to obtain a young person's informed consent before collecting their personal or health information or sharing it with others.

Whichever model of consent is adopted (even if it is a ‘no consent’ model), we urge that there be a commitment to explaining in a clear, accessible, honest and age-appropriate manner to a young person why information about them is being collected and shared, what will be done with that information, and why this collection and sharing is beneficial and necessary to them and other young people.

15. Are there other models of consent that should be considered?

We argue that providers working with vulnerable young people aged 12 and over would be better placed to navigate issues of consent and use and share information appropriately if their workers were trained and supported to become competent in using the *Code of Ethical Practice* for the Victorian youth sector.

We recommend that the Victorian Government develop a workforce strategy that ensures all workers with young people aged 12 and over are familiar with the *Code*.

The *Code of Ethical Practice* is a voluntary document, and while it is relevant to all qualified youth workers, it is also designed to be meaningful to other workers supporting young people. Its principles – which would seem very pertinent to information-sharing about vulnerable young people – are:

1. The empowerment of all young people
2. Young people’s participation
3. Social justice for young people
4. The safety of young people
5. Respect for young people’s human dignity and worth
6. Young people’s connectedness to important people in their lives, such as family and community
7. Positive health and wellbeing outcomes for young people
8. The positive transitions and healthy development of young people.

The practice responsibilities outlined in the *Code* also appear highly relevant to any approach that involves sharing sensitive information about young people. They include:

- Young people as the worker's primary consideration and key responsibility - while achieving positive outcomes for young people usually involves working with a range of people including family, teachers and other services, the worker's key concern will be achieving positive outcomes for the young person and upholding their interests.
- Duty of care - workers will act in the best interests of young people, avoid exposing them to physical, psychological or emotional harm or injury, and always uphold the principle of 'do no harm'.
- Privacy and confidentiality - young people's rights to privacy and confidentiality must be respected. Workers should avoid any undue invasion of privacy when collecting information about a young person. Young people must be informed from the outset of any restrictions to privacy and confidentiality, and what will be done with information they provide. It is best practice to obtain their informed consent before collecting personal or health information or sharing it with others. Workers are encouraged to go beyond simply considering their legal obligations, and take into account the full extent of privacy implications of other activities or actions that a young person may engage in.
- Transparency, honesty and integrity - workers will be open and honest with young people, enabling them to access information to make choices and decisions in their lives. Workers must not deceive young people; they must make clear from the start what they can and cannot offer the young person, being mindful of issues like confidentiality, disclosure, health and safety. Young people should be supported to understand the nature of other stakeholders' relationships to them, and the expectations this may place on them.
- Cooperation and collaboration - workers will cooperate and collaborate with others, including families, in order to secure the best possible outcomes for young people. Youth workers will seek opportunities to collaborate with professionals from other sectors and agencies, and will mobilise young people and others to work together on issues of common concern. Inter-agency and cross-sector collaborative approaches enable a young person to have a greater range of choices in terms of support networks and access to a range of information, skills and resources to meet all their needs.

16. Should a prescribed organisation be able to share information with a child, parent or carer to manage a threat to the child's safety?

In accordance with the *Code of Ethical Practice* for the youth sector, we would argue that in most instances a young person aged 12 and over should be kept informed – in a well-supported and age-appropriate fashion – of any significant risk to their safety and the steps that are being taken to manage this risk and help keep them safe. They should be facilitated to express their own ideas about their safety and what makes them feel safe; their ideas should be listened to and should help to inform the service system response. Workers should be clear and honest with young people about any related issues of confidentiality, disclosure, what services can and cannot do for the young person, and how their information is being used. It is also important to be proactive in providing young people with appropriate, accessible information about their rights with regard to safety and how they can report any safety concerns they may have.

In order to share essential information appropriately with young people, some service providers will need additional training and support in areas including trauma-informed practice and Child Safe standards.

However, any reforms to increase young people's access to sensitive information affecting their safety will have to contend with an existing culture of patchy and inadequate communication with young people in some areas of Child Protection and other service provision.

Some practitioners are already struggling to communicate with young people – not just about sensitive issues affecting their physical safety, but also about topics which should be far less difficult or controversial. These include some topics which young people are formally entitled to know about. Many vulnerable young people do not have adequate access to basic information about their own lives, in areas including education, family and culture.

While we support new initiatives to improve young people's understanding of their own safety, any such work will have to contend with existing communication barriers.

Example: Knowledge about community and culture for Aboriginal children in care

Under the *Children, Youth and Families Act 2005*, Section 176, a cultural support plan must be provided for any Aboriginal child in out-of-home care. (Up until March 2016, it was only compulsory for children under guardianship orders.) The Act specifies that a cultural plan must set out how the child will remain connected to their Aboriginal community and culture, and requires that the Secretary monitor compliance with the cultural support plan. The Commission for Children and Young People considers that:

'Cultural support plans must, at a minimum, include the child's family genogram and a plan for the child's return to Country and identify a suitable mentor who will enable the child's access to culture, leading to real experiences and cultural connections. Cultural programs for Aboriginal children in out-of-home care should be available on a local and regional basis, be recurrently funded and may include healing camps, access to the arts, connection to Country activities, recreation and educational opportunities.'

However, in a detailed study conducted between 2014-16, the Commission for Children and Young People found that of the 279 Aboriginal children on guardianship orders (who at the time were the only ones legally required to have cultural plans), almost a quarter had no cultural support plan. The Commission found that DHHS did not routinely check whether a cultural support plan had been developed, implemented or reviewed. Furthermore, the Commission found the quality of existing plans was 'overwhelmingly poor':

'Many plans were rudimentary and could be considered tokenistic. They had not been updated or reviewed and had minimal input from the child's parents, extended family or Aboriginal community, nor did they consider the child's views ... Often the attempts to consider suitable cultural activities were cursory.'

Identified barriers to adequate cultural planning included lack of skill amongst child protection staff, limited capacity of ACCOs to assist, difficulties with the template for the planning documents, disconnection of children from their culture, and a failure of DHHS to prioritise cultural connectedness. (The Commission made detailed recommendations for addressing these problems.)¹⁶

Example: Young people's knowledge of their school enrolment and options

The minimum age of compulsory school attendance in Victoria is 17, and students are required to complete at least a Year 10 or equivalent qualification. However, in our research into the exclusion of students from Victorian schools, YACVic observed that some disengaged young people and their families are not even aware of their enrolment status. This can lead to great uncertainty about their rights and future options, and can further exacerbate their disadvantage.

This problem is particularly apparent in instances where students have been excluded from school. Many school exclusions occur in a 'grey area' whereby students are encouraged to leave – and may believe that they have been 'kicked out' – without a formal expulsion necessarily occurring. For instance, in series of interviews conducted in 2015 in the Central Highlands with 16 young people who had experienced severe school disengagement, the researchers (working for the Children and Youth Area Partnership) found 'I was kicked out of school' was a common belief, although none of the young people recalled any formal investigation process or behaviour review conference as required by DET in cases of expulsion.¹⁷

Similar findings were reported by the Education Justice Initiative (EJI), which worked with 103 young people between 2014-15 who'd appeared in the criminal division of the Melbourne Children's Court. These young people showed very high rates of school disengagement. A number of them incorrectly believed they had been expelled when there was no expulsion on record; some felt unsure about whether they were allowed to return to their school; and many parents reported significant barriers in communication and information sharing with schools and DET, which hindered them from supporting their children to return to school.¹⁸ The EJI responded with active outreach and referral, liaising closely between young people, their families, schools and training providers, DET and services. Schools and families praised the EJI for its workers' expertise in navigating the education, human services and justice systems, and for their provision of clear, relevant, individualised and respectful information. A 2015 evaluation of the program found that the young people's educational enrolment increased over the period of EJI support from 51% to 75%, and that school attendance increased from 9% to 54%.¹⁹

Example: Young people's knowledge about leaving care

Under the 2011 National Standards for Out-of-Home Care (Standard 13) children and young people must have a transition from care plan commencing at the age of 15, which details the support that will be provided to them upon leaving care. The intent is to ensure that young people have practical help to develop independent living skills and access housing, health services, education, employment and income support. The National Standards state that young people's awareness of receiving adequate assistance must be one measure of the success of this standard. It is considered optimal to ensure young people have as much information and positive encouragement as possible to plan for their transition, and it is generally recognised that young people should play an active part in helping develop their own plans.

However, in a 2011 national survey by the CREATE Foundation of 605 young people in care aged 15-18, it was found that only 32% were even aware they had some form of leaving care plan. (Amongst the 98 young Victorians surveyed, only 40% knew about having a leaving care plan.)²⁰

Parallel reforms will influence the scope of the information sharing scheme for children and young people

- 20. Would a systematic and proactive approach to sharing key information (e.g. service participation) - as set out at Section 5.2 - assist prescribed organisations in forming an overall assessment of the cumulative risk factors associated with a child?**
- 21. Would this approach also assist prescribed organisations to identify when vulnerable children are participating in key services?**
- 22. Should data and information be linked to more effectively evaluate programs, design and plan services for children?**

The consultation paper proposes establishing a 'child information link' to automatically provide key information to certain authorised professionals about children they are working with, to inform a more accurate aggregate picture of risk. Data and information sharing would also be used to understand the nature and impact

of children's interactions with government agencies and program participation, with de-identified longitudinal data used to inform the design and evaluation of policies and programs.

At present, there appears to be a proposal to develop and resource a specific shared 'Child Link' system to provide a limited number of authorised entities with a subset of information about the enrolment of all Victorian children in certain services like kindergarten and maternal child health services, with the intent of 'flagging' individual disengagement and gathering population-wide data to inform policy and program development.

In principle, we would see considerable merit in a new effort to enable services to work more closely together to achieve optimal outcomes for young people, including (where appropriate) through shared data systems. The 'Child Link' system has the potential to be very valuable.

However, shared systematic data collection and use between services takes strong collective planning and resourcing. While there appears to be a provisional commitment of resources for a new 'Child Link' system, it seems this proposed system will be quite limited in terms of the information it will gather and share, and the professionals who will have access to it. If there is a genuine commitment to implementing the broader changes to information gathering and sharing outlined in the consultation paper, there will need to be further resourcing for platforms and professional support so that services and departments can appropriately share other necessary information about children's safety and wellbeing, beyond basic data about service engagement. Historically, this kind of close collaboration and data-sharing has not happened organically; it needs 'backbone' support.

Here, we refer the reader to the findings about data collection and use that have emerged from the literature on collective impact approaches to social change.

Collective impact is based on the belief that no single department, organisation or program can solve complex social problems. Rather, multiple players, including

government, not-for-profits and corporates, must work together towards a common agenda, using shared indicators, coordinating their actions and sharing their findings.

Shared measurement and use of data is a common characteristic of successful collective impact initiatives. Here, data is collected and results measured consistently across all participants, in order to better align their work and support strong collaboration and advocacy from a credible evidence base. However, the process is demanding and challenging.

A 2009 study of twenty collaborative efforts to develop shared measurements identified eight common elements of success:

- strong leadership and substantial funding over several years
- voluntary participation
- engagement of stakeholders in the design of measures and indicators, with clear understandings of confidentiality and transparency
- effective web-based technologies
- independence of stakeholders from funders when managing indicators
- staff who can review the data and support stakeholders to use it
- frequent improving of the system, and –
- participants facilitated to gather regularly, share results and learn.

We suggest that such work also depends upon another critical element of successful collective impact approaches: adequate ‘backbone support’ in terms of staffing and infrastructure to bring participants together, facilitate communication, drive data collection and analysis, coordinate community outreach, mobilise funding, and provide technical and professional support. Scholars of collective impact have cautioned that the most common reason collaborations fail is because of the expectation that they can function without support. The White House Council for Community Solutions noted that in every successful collective impact initiative they identified, there had been at least a modest investment in backbone support. Backbone organisations (which can run within government, not-for-profits or philanthropic bodies) must have the trust of their communities. In a 2012 evaluation funded by the Greater Cincinnati Foundation, 6 key qualities of a strong backbone were identified:

- Competence in management, relationship building, content knowledge and building strategic visions
- Demonstrated commitment to the issues, vision and aims
- Objectivity – honest brokers without a personal stake or competitive approach, welcoming of diverse stakeholders and viewpoints
- Backed by quality data and information
- Forging strong connections to diverse stakeholders
- Making the work visible in the community.²¹

Any new initiatives to drive improved data collection and use between different stakeholders working with vulnerable children should be informed by these findings.

Thank you for the opportunity to make a submission on this topic. We would be glad to take part in further consultations. For more information, please contact Dr Jessie Mitchell on 9267 3722 or policy@yacvic.org.au

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