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**ANMF (Vic Branch)  
Submission to the  
Child Information  
Sharing Scheme  
Public Consultation:  
Ministerial  
Guidelines**

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**Ms Lisa Fitzpatrick  
Secretary  
Australian Nursing and  
Midwifery Federation  
(Victorian Branch)**

## **Introduction**

The Australian Nursing and Midwifery Federation (Victorian Branch) (ANMF) was established in 1924. The ANMF (Vic Branch) is the largest industrial and professional organisation in Australia for nurses and midwives, with Branches in each state and territory of Australia.

The ANMF (Vic Branch) represents in excess of 83,000 nurses, midwives and personal care workers (the latter predominantly in the private residential aged care sector). Our members are employed in a wide range of enterprises in urban, rural and community care locations and the public and private health and aged care sectors. Relevantly, ANMF (Vic Branch) represents maternal and child health nurses throughout Victoria.

The core business for the ANMF (Vic Branch) is the representation of the professional and industrial interests of our members and the professions of nursing and midwifery.

The ANMF (Vic Branch) participates in the development of policy relating to nursing and midwifery practice, professionalism, regulation, education, training, workforce, and socio-economic welfare, health and aged care, community services, veterans' affairs, occupational health and safety, industrial relations, social justice, human rights, immigration, foreign affairs and law reform.

The ANMF (Vic Branch) is delighted to make submission to the Child Information Sharing Scheme Public Consultation: Ministerial Guidelines. In addition to submitting via the online format we are pleased to provide a PDF version of our submission. We have structured our submission on questions four to twelve of the online consultation platform provided by Department of Education and Training Consultation. This submission can be read in conjunction with the ANMF (Vic Branch) Submission to the Child Information Sharing Scheme Public Consultation: Regulations and Regulatory Impact Statement.

## SECTION FOUR: Questions about the Ministerial Guidelines

### The following two questions refer to Chapter 1: Sharing Information Under the Scheme

#### 1. Do you think this Chapter is clear about how information can be shared under the Scheme? Do you have any general suggestions for improvement?

Over the course of Chapter 1 guidance is provided regarding the Legislative Principles (Figure 2) which apply to sharing confidential information and what should be considered in assessing whether the Threshold for Sharing Information (Parts 1 to 3) has been met.

However, ANMF (Vic Branch) is concerned that information within this Chapter is at times hard to navigate. Specifically, we found that content is unhelpfully broad and that some concepts are repeated throughout without necessarily adding further clarity. This may lead to reader confusion with key messages being lost in the volume of content. For example, Figure 3 provides a broad yet succinct description of what information can be shared. This is not necessarily improved by the additional content on page 19 titled 'information that can be shared'. For example, can diagnosis be shared or pathology results? Therefore, the list provided on page 19 may not add value as it is narrower than the definition provided in Figure 3.

Similarly, the content of page 10 and 11 is critically important however the relevance of this information isn't aligned with either the Legislative Principles or the Threshold for Sharing Information (Parts 1 to 3). Greater emphasis is required in this Chapter regarding the considerations that apply to sharing information with a child or family member versus ISEs sharing information with each other.

Nonetheless, points 1 to 3 on page 10 are important considerations and could also form part of assessing whether 'Threshold Part 1: Promoting child wellbeing and safety' has been met in the context of ISE's sharing information.

Chapter 1 would be improved by restructuring and /or reorganising content to reduce repetition and to ensure it provides simple, clear advice. Consideration should be given to:

1. Locating information relevant to sharing of information between ISEs in one place within the document. Currently this content is interrupted by the sections relating to 'sharing information with the child and family' and 'sharing information outside of the scheme'. This creates confusion and consequently it is not clear whether the Threshold for Sharing Information applies only to ISEs or outside of ISEs: for example, to sharing with the child or family member
2. Leading content relating to 'Threshold Part 1: Promoting child wellbeing and safety' with a definition of 'promoting child wellbeing and safety'. For example, the existing content relating to 'understanding wellbeing and safety' could be brought forward
3. Providing more specific guidance regarding applying the Legislative Principles in the context of assessing whether the Threshold for Sharing Information has been met. The Ministerial Guidelines rely heavily on the ISE's exercising their professional judgment. Whilst the document largely describes the existing practice of registered nurses and midwives, the Ministerial Guidelines may not be sufficiently specific to shift the identified broader reluctance to share information between health services and professionals

4. Considering restructuring the content of 'Threshold Part 1: Promoting child wellbeing and safety' to include clear and simple dot points regarding what should be considered in assessing whether the sharing of information will promote the wellbeing and safety of the child. As outlined above, points 1 to 3 of page 10 should also be included in this
5. Considering amending the content within section (a) 'Threshold Part 3 Excluded Information' to include an 'increased risk to the wellbeing and safety of the child'. Whilst naturally, endangering a person's life must remain as an exclusion, this is a high threshold and consideration should also be given to ensuring information is not shared where it is thought that sharing of that information may increase risk to the wellbeing and safety of the child

On this point, reference within the document to 'managing risk to the child' could be amended to 'managing and reducing risk to the child'.

Further, throughout the Ministerial Guidelines additional focus is required regarding 'keeping the child safe from harm' in addition to promoting their wellbeing and safety.

**2. What additional key principles and/or existing frameworks, if any, should be referenced in the Guidelines in relation to promoting children's wellbeing and safety?**

ANMF (Vic Branch) is supportive of the key principle for information sharing but suggest that:

1. More specific guidance be provided regarding applying each of these principles to an assessment of whether the Threshold for Sharing Information is met
2. Strengthening 'Principle 4' ('seek and take into account the views of the child and the child's relevant family members, if it is appropriate, safe and reasonable to do so') to better align with Section 5 (3) (a) of *the Child Wellbeing and Safety Act 2005* which requires that:

'(3) The providers of services to children and families should – protect the rights of children and families and, to the greatest extent possible encourage their participation in any decision making that affects their lives;'

Therefore Principle 4 could be amended to state

'To the greatest extent possible, seek and take into account the views of the child and the child's relevant family members, if it is safe to do so'.

3. Whilst the critical insights that children and families have regarding the implications of sharing information is adequately reflected in Chapter 2 of the Ministerial Guidelines (with regards to 'particular communities and other vulnerable children and young people'), this is not adequately reflected or respected in Chapter 1.

**The following question refers to Chapter 2: Sharing Information about particular communities**

**3. What additional key principles or information should the Guidelines include, if any, in relation to sharing information about particular communities and other vulnerable children and young people?**

ANMF (Vic Branch) is supportive of the key points within this Chapter.

**The following two questions refer to Chapter 3: Maintaining engagement with children and families when sharing information**

**4. Do you think this Chapter is clear about the key considerations for maintaining client engagement? Do you have any general suggestions for improvement?**

Whilst of a broad nature, the considerations outlined on page 29 of the Ministerial Guidelines are critical to maintaining client engagement and in building trusting relationships with children and families.

The importance of these considerations should be given greater emphasis within Chapter 1 of the document, together with other measures to facilitate engagement.

Alternatively, this section could focus on measures to mitigate against unintended consequences of the CIS Scheme, including clients disengaging from services due to fear that confidential information will be shared inappropriately or in a manner that increases risk to the wellbeing and safety of the child and does not adequately respect and incorporate their views and insights.

Critically, the factors listed on page 28 need to be more age and developmentally appropriate and specifically, recognise that children of a very young age (for example infants and young toddlers engaged in the Maternal and Child Health Service) are not likely to be able to participate in a discussion regarding the significance and implications of sharing confidential information. In recognition of this and the vulnerability of children of such a young age (who are essentially without a voice yet at their most developmentally sensitive period), the Ministerial Guidelines must include greater measures to protect children from harm during these most formative years.

**5. What additional key principles, if any, should be included in the Guidelines for seeking and taking into account the views of the child and relevant family members in relation to information sharing?**

1. As already outlined, 'Principle 4' should be strengthened to better align with Section 5 (3) (a) of the Child Wellbeing and Safety Act 2005 which requires that:

'(3) The providers of services to children and families should – protect the rights of children and families and, to the greatest extent possible encourage their participation in any decision making that affects their lives;'

Therefore Principle 4 could be amended to state

'To the greatest extent possible, seek and take into account the views of the child and the child's relevant family members, if it is safe to do so.'

2. To prevent unintended consequences and to ensure children are not placed at greater risk as a consequence of sharing confidential information, Key Point 1 on page 27 should be amended to state that 'ISE's must (instead of should) seek and take into account the views of the child or their family member about sharing their confidential information if it is safe and reasonable to do so...'

**The following question refers to Chapter 4: Sharing information if family violence is believed to present**

**6. What additional information or clarification, if any, could be included in the Guidelines about how the two Schemes operate together?**

ANMF (Vic Branch) supports the content within this Chapter however note that detailed Practice Guidelines will be required to support implementation.

Additionally, the written guidance for both Schemes should have a consistent structure and use consistent language.

**The following question refers to Chapter 5: Relationship of the Scheme with other laws**

**7. What additional information or clarification, if any, could be included in the Guidelines about the relationship of the Scheme with other laws?**

The material in this section might be more clearly communicated in Table form which in turn would succinctly detail the interface between existing legislation and the new CIS Scheme.

For practitioners to understand their obligations and be able to navigate their way through the complex legislative framework, detailed Practice Guidelines will need to be developed and supported by comprehensive workforce education and training.

**The following question refers to Chapter 6: Record keeping and information management**

**8 Do you think this Chapter is clear about record keeping and information management requirements? Do you have any suggestions for improvement?**

Robust record keeping mechanism are critical to effective implementation of the CIS Scheme.

Effective documentation is a critical element of the professional, legal and ethical practice of registered nurses and midwives and promotes continuity of care and effective communication and collaboration between health practitioners and health services.

Whilst providing some guidance with regards to the responsibilities of the information sharing entity (ISE) when sharing information, Chapter 6 is silent with regards to the responsibility of an ISE in requesting information and any related record keeping requirements. Specifically, Chapter 6 does not indicate whether this information can be requested verbally or whether it must be requested in writing and if so, what record keeping is required.

In addition to the matters listed on page 39 of the Ministerial Guidelines, ISE's must have a clear means to document information which has underpinned their assessment of whether or not the Threshold for Sharing Information (Parts 1 to 3) have been met.

Unambiguously, documentation should extend beyond whether the views of the child were sought to what those views were, whether they have been incorporated into any decision around sharing information and if so how.

As indicated in the ANMF (Vic Branch) Submission to the Child Information Sharing Scheme Public Consultation: Regulations and Regulatory Impact Statement 14 June 2018, a template should be developed which is closely aligned to the Ministerial Guidelines and related Practice Guidelines and which aligns closely to the Child Information Sharing Principles and the related Thresholds for Sharing Information (Parts 1 to 3).

**The following question refers to Chapter 7: Safeguards**

**9. Do you think this Chapter is clear about the safeguards for this scheme? Do you have any suggestions for improvement?**

The clarity of this section could be improved through:

1. Including a rationale for the Safeguards described. For example, increased risk to the child due to sharing of information in a manner which is inconsistent with the 'Legislative Principles' and the 'Threshold for Sharing Information (Parts 1 to 3)
2. Differentiating between offences which relate to a 'body corporate' versus those that may apply to a 'person'
3. Defining and or using consistent language in regard to a 'person' and an 'individual worker'
4. More clearly defining what constitutes 'acting in good faith and with reasonable care'
5. Simplifying the content under the heading of Complaints. This section is overly complex and should:
  - a) Outline what internal complaint mechanisms are available to a complainant
  - b) Outline what external complaint mechanisms are available to the complainant
  - c) In consultation with ISEs and key stakeholders, develop and provide a set of principles to guide the development of local policy and procedure in managing such complaints

**The following question refers to Chapter 8: Resources and further support**

**10. What materials, tools or resources in addition to the Ministerial Guidelines would assist practitioners to share appropriately under the scheme**

The Ministerial Guidelines have a broad /high level focus and should therefore be supported by:

- 1) Detailed Practice Guidelines to implement the CIS Scheme
- 2) Practice Scenarios which demonstrate Best Practice application of the CIS Scheme
- 3) Template Forms and/ or Protocols for:
  - a) Requesting and sharing confidential information. These should be directly aligned to the Practice Guidelines and specifically, the Legislative Principles and the Threshold for Sharing Information (Parts 1 to 3)
  - b) Managing disputes regarding whether or not the Threshold for Sharing Information has been met
  - c) Managing complaints (including internal processes and external processes)

## **General questions about the Ministerial Guidelines**

### **11. Do you have any general suggestions about the content or structure of the Guidelines to improve readability or clarity?**

Consideration needs to be given to restructuring the Ministerial Guidelines so that repetition is reduced and that content links directly back to the Legislative Principles and the Threshold for Sharing Information (Parts 1 to 3).

Figure 3 Overview of the Child Information Sharing Scheme is succinct and clear and could be used to anchor all content within Ministerial Guidelines. This would provide once reference point for readers to navigate through an otherwise complex document.

### **12. Do you have any general suggestions to improve the Guidelines to guide and encourage safe, appropriate sharing to promote children's wellbeing or safety?**

In addition to those already detailed, ANMF (Vic Branch) highlights that implementation of the CIS Scheme will need to be supported by comprehensive ongoing workforce education and training.