



Overview

- Important legislative changes for the sector
 - Best interests principles
 - Cumulative harm, stability planning, neonatal notifications
 - Risk assessment frameworks & drug use
 - Mandatory reporting obligations – who & when?
- Tensions for workers

‘Best interests of the child are always paramount’

- Protection from harm, protection of rights, & promotion of development
- ‘widest possible protection & assistance to parent & child as fundamental unit of society and to ensure intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child’
- Preserve/ promote existing positive relationships
- Cultural/ spiritual/ religious/ Aboriginal identity
- Child’s views/ wishes
- Effect of cumulative harm
- Desirability of continuity/stability of care
- Removal only where unacceptable risk of harm
- Consideration first to placement with family or significant person to child
- Desirability to plan for reunification
- Capacity of potential care givers (including parents) to make changes required by DHS
- Desirability of supporting child to access educational & health services, accommodation, and social opportunities
- Possible harmful effect of delay in decision making/ taking of actions



Changes of special relevance to D&A sector

- Cumulative harm principle

Early intervention approaches adopted to protect against cumulative harm with following implications:

Series of non-serious incidents, or pattern of behaviour that leads to notification, rather than crisis or serious incident that is substantiated

For users, this could mean that history of use is documented and taken into account, even if it does not translate into risk or harm

Prior notifications can be taken into account even if not substantiated because looking at history of contact with DHS

- Community based family services

As part of early intervention integrated family services can become involved with families without substantiated notifications - required to report back to DHS on circumstances & progress

- Stability planning requirements

Planning for long term stability of child commences once child in out of home care. Once child in out of home care for 6 out of last 12 months Court can make Permanent Care Order

- Notifications prior to birth of a child

Risk Assessment & Drug Use

- Decision making of DHS workers guided by Victorian Risk Assessment Frameworks - Specialist Guides re drug use, mental health
- Generally decision makers will be concerned about severity of harm, vulnerability of child, source of harm, capacity to protect against harm, strength of networks and relationships, capacity to identify problematic issues and plan/ implement change, likelihood of harm continuing
- As a practical matter illicit drug use is treated very seriously within this framework, particularly where children are in the presence of drug affected parents, left alone whilst parents are scoring, or experiencing material deprivation as result of parent's drug dependence
- Other practical considerations – regular school attendance, stable & safe housing, nutrition, community connectedness

Mandatory reporting

- Mandatory reporting obligations attach to doctors, nurses, teachers, principals & police

- Must make a report when:

Form belief that child in need of protection as result of **physical injury** or **sexual abuse**

Many AOD workers will not be mandatory reporters – however...

- Anyone can make a notification regarding a child they believe to be at risk of significant harm
- Where report made in good faith, does not constitute unprofessional conduct, breach of professional ethics, reporter cannot be held legally liable, & does not constitute breach of obligations under health services or mental health legislation
- Confidentiality is provided for reporters under Act

Tensions for AOD Workers

Laws complex and involve subjective elements/ balancing exercises

Fear can lead to non-disclosure and harmful practices for service users

Providing legal education in a harm minimisation context on child protection law can be challenging

Potentially useful strategies:

- Developing and sharing knowledge of laws and policies affecting drug using parents
- Ensuring relationships between service users and providers are transparent
- Rejecting adversarial paradigm (‘with us or against us’) in supporting clients to engage with the law in practical ways
- Ensuring timely referrals to legal advocates are made