



This is a joint submission made by the Queensland Network of Alcohol and Other Drug Agencies (QNADA), on behalf of the Alcohol and Other Drugs Peaks Network, responding to points 3 and 4 of the terms of reference:

3. The opportunities for enhancing collaboration and information sharing within the family law system, such as between the family courts and family relationship services.
4. The opportunities for enhancing collaboration and information sharing between the family law system and other relevant support services such as child protection, mental health, family violence, drug and alcohol, Aboriginal and Torres Strait Islander and migration settlement services.

Our response will be limited to the consideration of information sharing between the family law system and external services, with a focus on the alcohol and other drug (AOD) sector, and enhanced collaboration and coordination between services to support vulnerable families, particularly those with complex needs.

About the State and Territory AOD Peaks network

The network is comprised of the 8 State and Territory alcohol and other drug peak organisations. The vision of the network is an Australian community with the lowest possible levels of alcohol, tobacco and other drug related harm, as a result of the alcohol, tobacco and other drug sector's evidence-informed prevention, treatment and harm reduction policies and services. Collectively, the network represents 435 non-government organisations, which provide harm reduction, prevention and early intervention, counselling, detoxification, residential and non-residential rehabilitation services to approximately 80,000 Australians each year. The peaks network provides frontline, real-time jurisdictional intelligence to State, Territory and Commonwealth governments on AOD policies, programs and problems; enabling effective and consistent implementation of reform across all jurisdictions; assists government in program planning and decision making; supports collaboration across the sector, with other sectors and across jurisdictions and supports the exchange of information between jurisdictions to minimise duplication.



1) Information sharing between the Family Law system and external organisations

a) Reporting practices:

While more than half of all children referred to child protection services across Australia live in families where alcohol and drug use has been identified as an issue.¹, it is important to note that the use of alcohol and/or drugs by a parent often does not result in any risk to the child.² In 2006 it was estimated that 13% of Australian children were at risk as a result of exposure to at least one adult within their place of residence who engaged in binge drinking alcohol, and only 2% of children resided with a person using cannabis on a daily basis.³ It was estimated in 2004 that 60,000 Australian children lived with a parent who was seeking help for an issue with alcohol and/or drugs.⁴

A range of professions working in the AOD sector are subject to codes of ethics and practice which include responding appropriately to situations where a client's behaviour puts others at risk. It is standard practice in the AOD sector for a worker who becomes aware of a risk to the safety and welfare of a child or family of a person engaged in treatment or support to report this to the appropriate authorities. It is also reasonably common that during family law proceedings where AOD use has been raised by either party, for a client of an AOD service to seek a report or reference to inform the Court's deliberations. However, the sector is cognisant that alcohol and drug use can also be raised inappropriately during family law proceedings, which can result in stigma or discrimination and impact an otherwise healthy relationship between a parent and child.

The AOD sector recognises these issues and believes there are a number of solutions the Council could consider. In the instance where child protection services are already involved, the first point of contact for the family law sector should be within that framework. Where child protection services are not involved, there should first be an assessment to establish a direct link between a person's parenting practices and drug use, rather than an assumption that the drug use is relevant per se. Where it is determined the information is required, the individual could approach the AOD provider to submit a report, or the Court could require an assessment of a person's alcohol and drug use where a person by an alcohol and drug service, where the person is not currently engaged with treatment or support. It is important that where a person is engaged in treatment and support that this is recognised as a positive indication of their intention to address any perceived or actual parenting issues.

As a practical example, legislation in NSW has recently been amended to enable service providers to be more effective in responding to victims of domestic violence, while ensuring the safety of victims and upholding individuals' rights to privacy through the *It Stops Here: Safer Pathways response to family and domestic violence coordination points*.⁵ The process of this reform and its outcomes could provide a guide to how information sharing can be improved in relation to family courts and external services where there is or has been a risk of harm to an individual.

¹ Morag McArthur and Gail Winkworth, 'Step by Step: Working Together to Increase the Safety and Life Chances of Children Whose Parents Misuse Substances' (May 2010) 5(1) *Communities, Children and Families Australia* 46.

² F Ainsworth, 'Drug use by parents: the challenges for child protection and drug and alcohol services' (2004) 29(3) *Children Australia* 4.

³ Sharon Dawe, Sally Frye, David Best, Derran Moss, Judy Atkinson, Chris Evans, Mark Lynch and Paul Harnett, *Drug use in the family: Impacts and implications for children* (2007) Australian National Council on Drugs <http://www.doryanthes.info/Portable%20documents/rp13_drug_use_in_family.pdf>.

⁴ Odyssey Institute of Studies, *Nobody's Client Project: Identifying and addressing the needs of children with substance dependent parents* (2004) < <http://www.odyssey.org.au/images/files/kif/Nobody's%20Clients%20-%20Full%20report.pdf>>.

⁵ State of New South Wales Department of Justice, September 2014, *It Stops Here: Safer Pathway Overview*, NSW Department of Justice, Parramatta. http://www.domesticviolence.nsw.gov.au/_data/assets/file/0013/301180/Overview_Safer-Pathway.pdf

The AOD sector welcomes a review of these issues and encourages Council to discuss these potential solutions with the sector.

b) The importance of privacy:

Privacy is paramount for people seeking treatment for alcohol and other drug issues. Illicit drug dependence is recognised as the most stigmatised health condition in the world and this stigma is often cited as a barrier by people who wish to access assistance,⁶ so much so that the National Drug Strategy 2010-2015 identified the need for a stigma reduction strategy to improve community and service understanding of drug dependence.⁷ The development of an effective therapeutic relationship between AOD service providers and people in need of support is based on honesty, confidentiality and trust.⁸ Any efforts to enhance information sharing between family law sector and the AOD sector must be mindful of the potential impact on treatment engagement, including the potential for a real or perceived bias on custody issues or allegations of poor financial management. The best approach to dealing with issues of privacy is to gain consent from the individual concerned to release the information.

The AOD sector does not believe there should be open sharing, or increased sharing without the consent of individuals accessing treatment and support. As such, it is important that the purpose of information sharing and the types of information that could be shared are clearly stated to external services (including AOD services) so that this in turn can be communicated to clients of the service. Additionally, training should be provided to services who may be required to provide information about their clients to ensure they are aware of what they are legally bound to share and what they are not, for example, while a court may request information on a client's drug use history, what are the circumstances where some or all of that history may not be relevant to the matter being considered.

c) Purpose of receiving the information:

Any information currently provided to a family law counsellor or disclosed during the family dispute resolution process is confidential⁹. The discussion paper notes that confidentiality leads to individuals being able to discuss and engage fully with their treatment without being fearful of what that information may be subsequently used for. Therapeutic services can then be provided without the individual being exposed to strategic or vexatious litigation.¹⁰ A similar concern is noted regarding information an individual may disclose to an AOD service provider. If there is a fear that information could be used in future court cases (whether it be in the Family Court or elsewhere), it may potentially impact their treatment process. There are circumstances where a person may be engaged with harm reduction services to improve their capacity as a parent, or to moderate their alcohol and drug use to reduce risk – if an individual was concerned these considerations may affect their Family Court outcome, they may be less likely to engage with treatment and support services.

⁶ John F. Kelly, Sarah J. Dow and Cara Westerhoff, 'Does Out Choice of Substance-Related Terms Influence Perceptions of Treatment Need? An Empirical Investigation with Two Commonly Used Terms' (2010) 40 *Journal of Drug Issues* 805, 806.

⁷ Ministerial Council on Drug Strategy, *National Drug Strategy 2010 -2015: A framework for action on alcohol, tobacco and other drugs* (2011) <[http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/DB4076D49F13309FC_A257854007BAF30/\\$File/nds2015.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/DB4076D49F13309FC_A257854007BAF30/$File/nds2015.pdf)>.

⁸ Dovetail, *Practice Strategies and Interventions; Youth alcohol and drug good practice guide* (2013) <http://www.dovetail.org.au/media/61276/digitalguide03_output_20130501.pdf>; Ali Marsh, Ali Dale and Laura Willis, *A Counsellor-s Guide to Working with Alcohol and Drug Users* (September 2007) Government of Western Australia – Drug and Alcohol Office <<http://www.dao.health.wa.gov.au/vsu/resources/www.dao.health.wa.gov.au/Counsellors%20guide%20to%20working%20with%20alcohol%20and%20drug%20users.pdf>>.

⁹ *Family Law Act 1975* (Cth) s 10D.

¹⁰ Page 2 of the discussion paper.

d) Existing relationships between the AOD sector and the Courts:

The need for a holistic approach to complex needs, which involves the legal system and other external bodies, is well recognised.¹¹ The AOD sector currently works closely with the legal system in a number of areas including probation and parole, as well as courts exercising criminal jurisdiction. There are many examples where the legal system and the AOD sector provide integrated services to achieve better outcomes, such as the Victorian Family Drug Court, a 3 year pilot program operating out of the Victorian Children's Court. The court aims to help parents to address problematic alcohol and drug use with the aim of reunifying the family. The team is multi-disciplinary, including a magistrate, AOD clinicians and a social worker. They work with residential treatment centres, alcohol and drug counsellors, mental health counsellors and parenting and housing programs. Professionals are also available to work with the children, to prepare them for the reunification process. Parents enter a 12 month program, and to be eligible must have at least one child in out of home care.¹²

Western Australia offers a two overarching justice diversion programs – the Police Diversion Program and the Court Diversion Program. The Police Diversion Programs consist of a Cannabis Intervention Requirement and an Other Drug Intervention Requirement. The Cannabis Intervention Requirement allows police to issue a Cannabis Intervention Notice to an eligible person. An eligible person is someone over the age of 14 who is found in possession of less than 10 grams of cannabis and/or a smoking implement with cannabis residue. The person has 28 days to book a Cannabis Intervention Session or elect to take the matter to Court. An adult can be issued with a notice once; a person between 14-17 may be issued with a notice twice. The Court Diversion Program includes (but is not limited to) a pre-sentence opportunity program, supervised treatment intervention regime and drug court. These programs are available to most people who are appearing before a court and who have drug-related problems. These are voluntary programs, and usually require the person to plead guilty to their offence.¹³

Queensland has recently established a dedicated family violence magistrate's court at Southport, with the intent to provide continuity and consistency for people facing complex and difficult situations.¹⁴

These examples indicate there are attempts being made to address complex issues more holistically, with the purposeful sharing of resources and information and could inform any efforts to develop a national response.

2) Increased collaboration opportunities

The AOD sector recognises the benefits of integrated and coordinated services for people with multiple and complex needs. The National Drug Strategy 2010-2015 recognised the need for greater integration between the AOD sector and child protection services.¹⁵ Issues such as a cultural clash between sectors and services,

¹¹ Uniting Care – Moreland Hall, *Whole of Government AOD Strategy – Response to AOD Sector Consultation* (21 September 2011)

<http://www.regen.org.au/Position_Statements/MH_Vic_AOD_Sector_Consultation_Response_21September2011.pdf>.

¹² Children's Court of Victoria, *Family Drug Treatment Court*

<<http://www.childrenscourt.vic.gov.au/jurisdictions/child-protection/family-drug-treatment-court>>.

¹³ Government of Western Australia Drug and Alcohol Office, *WA Diversion Program*

<<http://www.dao.health.wa.gov.au/Informationandresources/WADiversionProgram.aspx>>.

¹⁴ Queensland Government Media Statements, *State Budget to Deliver \$31.3 million to fight domestic violence* (7 July 2015) <<http://statements.qld.gov.au/Statement/2015/7/7/state-budget-to-deliver-313-million-to-fight-domestic-violence>>.

¹⁵ Ministerial Council on Drug Strategy, *National Drug Strategy 2010 -2015: A framework for action on alcohol, tobacco and other drugs* (2011)

<[http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/DB4076D49F13309FC_A257854007BAF30/\\$File/nds2015.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/Publishing.nsf/content/DB4076D49F13309FC_A257854007BAF30/$File/nds2015.pdf)>.

as well as the lack of knowledge and training about what other sectors and organisations do, have contributed to barriers to collaboration between AOD and family services provision.¹⁶

Any collaboration between family court, child protection and external services such as AOD services should include building awareness of the types of services that are available. AOD services are offered in a diverse range of structures, philosophies and modes of delivery. Although a service may be geographically the closest to an individual it may not be the most appropriate place for that individual, as there is no one size fits all approach to AOD treatment.

In addition, collaboration between sectors should acknowledge the different types of expertise available to support informed decision making. AOD clinicians are highly skilled and have in-depth knowledge of working with individuals who have AOD issues as well as a myriad of coexisting complex social and health issues. They can be a great source of knowledge and experience in reviewing individual cases and recommending pathways or next steps. AOD workers are often asked to provide court support letters on behalf of their clients and make all efforts to do so when appropriate, however funding is not currently available to support AOD workers to provide adequate levels of support to clients during their journey through the court system. Providing funding to AOD services to support their clients through the court processes would be an effective way of achieving the best outcomes for families. Alcohol and Drug Family Court Liaison workers could potentially be placed or shared across AOD family based or women's specialist services.

In order to achieve increased cross-sector collaboration, it is essential to enhance knowledge and awareness about the services offered by agencies and organisations through training and networking opportunities. A holistic approach to information sharing and collaboration between agencies would be best achieved by on-the-ground training, workshops and stakeholder meetings to open communication channels and encourage discussion, shared reflection and learning. Peak bodies such as the State and Territory AOD peaks are well-placed to work with the Government and key stakeholders to offer these collaboration and capacity-building opportunities. An independent evaluation of our capacity building activities has shown an increase in the sustainability of the AOD sector, which has contributed to better outcomes for clients. This has been achieved through an increased awareness of best practices in AOD service delivery, strengthened networks and collaborations, enhanced dissemination of information and other resources and improved awareness of responses to complex needs clients.¹⁷

Thank you for the opportunity to respond to the discussion paper. QNADA would be happy to provide further information, or discuss any aspect of this submission. Please don't hesitate to contact me at Rebecca.MacBean@qnada.org.au or by phone on 07 3023 5050.

Yours sincerely

Rebecca MacBean

CEO

QNADA

On behalf of the AOD Peaks network

¹⁶ Roger Nicolas, Michael White, Ann Roche, Stefan Gruenert and Nicole Lee, *Breaking the Silence: Addressing family and domestic violence problems in alcohol and other treatment practice in Australia* (2012) National Centre for Education and Training on Addiction
<http://nceta.flinders.edu.au/files/6513/5285/7437/EN469_Nicholas_2012.pdf>.

¹⁷ David McDonald, *Evaluation of AOD peak bodies' roles in building capacity in the Australian non-government alcohol and other drugs sector: final report* (2015) Social Research and Evaluation, Wamboin, NSW.