SANDAS Response to the

Review of Youth Treatment Orders

February 2025

Introduction

SANDAS provides the following as a response to the Attorney General's Department Review of the Youth Treatment Orders. Amendments to the Controlled Substances Act 1984 (the Act) from November 2021 allows the Youth Court to order Assessment and Treatment Orders for young people under the age of 18. The orders were intended to be an option of last resort for young people who need urgent treatment for drug dependency to prevent harm to themselves or others.

Response to review questions

1. What is your view of the YTO model (both Phase 1 and Phase 2) in supporting and preventing harm to young people with drug dependency?

    - The YTO Model has, in its design, commissioning and implementation showed a lack of capacity to deal with young people's issues with alcohol and other drug use. This is evidenced by the fact that only one young person has been assessed under the model. Young people do need alcohol and other drug treatment. Unfortunately, SA lacks sufficient voluntary treatment for young people both in metropolitan and rural areas.

2. To the extent that you are able to comment, to what extent has the program in its current form upheld the principles set out in Regulation 7 of the *Controlled Substances (Youth Treatment Orders Regulations) 2021* that:
    a) assessments will be conducted, and treatment provided, in accordance with evidence-informed methods and clinical tools to determine the best interests and needs of the child
        - Best practice evidence runs contrary to models of enforced or mandated care. This was clearly articulated in the nearly 50 submissions to the initial consultations on the development of the Youth Treatment Orders model of care. These submissions suggested the proposed models was flawed, would not successfully engage young people, and was contrary to Australia's obligations under a number of international conventions on the rights and welfare of children. It was noted at that time that there were insufficient early intervention, prevention, education and treatment and support services for young people in South Australia. Rather than extend the YTO model it would be more beneficial to extend metro voluntary services for young people, and implement regional country youth specific AOD services for the purpose of referral pathways for the Courts and Youth Justice system for assessment, support and treatment.
    b) assessments will be conducted, and treatment provided, in accordance with best practice evidence and frameworks
        - Best practice evidence runs contrary to models of enforced or mandated care. This was clearly articulated in the nearly 50 submissions to the initial consultations on the establishment of Youth Treatment Orders that suggested the proposed model was

flawed, would not successfully engage young people, and was contrary to Australia's obligations under a number of international conventions on the rights and welfare of children.

- That only one young person was engaged by the system makes it clear that the YTO system is not able to effectively manage the issues young people face.

c) assessments and treatment will be child-focused

- Assessment and treatment which are mandated cannot by their very nature be child focussed. Mandated and forced treatment breaches the United Nations Convention on the Rights of the Child and has the potential to breach the Convention against Torture and the Convention on the Rights of People with a Disability. This last is critical as research indicates that as many as 60% of young people engaged with the justice system have mental health issues, including ADHD, neurodiversity, hearing and learning deficits and issues with trauma and attachment.

d) the mental, physical and social development of the child must be given priority

- The mental and physical development of the child cannot be achieved through coercion, mandated treatment or the use of punitive motivational processes. Again, this was clearly articulated in evidence given to the initial consultation. The fact that only one child was ever engaged in the process and that child did not proceed beyond initial assessment indicates that the system is clearly unworkable.

e) assessments will have regard to whether there are any other appropriate or less restrictive means available to ensure the child receives treatment in relation to their use of a controlled drug or drugs

- A significant issue at the time of the establishment of the YTO system was the lack of sufficient dedicated specialist youth treatment services both for young people in the justice system and those outside it. This situation has not changed. It is noteworthy that the discussion paper makes no economic analysis of the YTO model. However, it is likely that even in establishing the system and despite the fact that it has never successfully engaged a young person, there must have been significant costs in establishing the Act – both direct costs to government and indirect in relation to the amount of work the sector(s) did in consultation and provision of evidence to the Department. Since the establishment 3 years ago funding to youth drug and alcohol services from both federal and state sources has been eroded by cost of service/wage cost indexation increasing at rates well beyond the average percentage increase allocated to services to cover these increases. Funding has been unstable through the federal funding system making recruitment and retention issues for staff challenging.
- During this period reports by the Visitor and the Guardian for Children have clearly articulated issues for young people in both the youth justice and out of home care systems accessing adequate medical, mental health, education and allied treatments (which would include alcohol and other drug assessment, information, education, treatment and support services). We commend the reports and submissions by the Children's Commissioner, the Aboriginal Children's Commissioner and the Visitor to you.
- There are significant gaps in data collection and information management in relation to young people's needs for alcohol and drug treatment. Data provided by the department on how many young people were able to access voluntary alcohol and other drug treatment (number of individual young people accessing an intervention, number of sessions per young person, total number of episodes of care overall and qualitative feedback from the young people and treatment providers) is essential to inform discussion about the YTO and its impact (if any). An estimation of the gap between provision and need is also essential.

f) assessments and treatment will be culturally safe and appropriate, and support the needs of Aboriginal and Torres Strait Islander children, children from other culturally and linguistically diverse backgrounds and children with disability
    - Given that one child was engaged in the process, there is no way of ascertaining if the model could uphold this principle. It is worth noting that neither an Aboriginal Community Controlled Organisation nor a culturally and linguistically diverse organisation were empanelled to provide services.

g) assessments and treatment will take into account the child's relevant history (including their biological, physiological, psychological, social history and any history of dependency on controlled drugs)
    - Given that one child was engaged in the process, there is no way of ascertaining if the model could uphold this principle.

h) assessments and treatment will take into account any trauma experienced by the child.
    - Given that one child was engaged in the process, there is no way of ascertaining if the model could uphold this principle. It is apparent though that the concepts inherent in the principle are contrary to the concept of mandated treatment which has a high probability of being traumatic.

3. What has been the impact of the program and to what extent has the goal of the program been achieved?
    - Given that we are reliant on the very brief information in the discussion document the impact is unmeasurable in terms of clinical outcomes. However, it is worth noting the significant impact the establishment of the program (from legislative drafting, consultations, submission writing, reviewing the project etc) has had in diverting money and resources that could have otherwise been used to address the needs of young people seeking voluntary treatment.

4. Do you think YTOs should progress to Phase 2, where they would also be applicable to young people in the community? Why/why not?
    - No. The imposition of this model on young people in the community could only occur through breaching the intent of the 7 Principles. Most concerningly is the significant gap between treatment need and availability in the community (voluntary or as an adjunct to other proceedings such as Family group Conferencing, bail conditions etc. etc.) is so significant, mandated treatment could not be characterised as an option of last resort.

5. If you think that YTO's should progress to Phase 2, do you have any feedback or advice on the ways in which the principles set out in Regulation 7 could be applied?
    - See above

6. If you do not support the expansion of YTOs to Phase 2, do you have any suggestions for an alternative response to young people who are drug dependant and a danger to themselves and others?
    - Establish the need in the community for youth specific alcohol and drug treatment and support and then fund services (there are a range of current providers with expertise and others could be identified through commissioning) to meet these needs.
    - Where young people are 'resisting' treatment recognise that this is a failure of the treatment model to meet their needs. South Australia and Australia more widely has some outstanding providers of assertive youth services whose expertise can be drawn on.
    - Working with young people can be complex, require significant time to engage, require long term stable support and post treatment care which needs adequate funding. Often

people with alcohol and drug dependence will lapse or relapse numerous times and require multiple treatment episode. This does not indicate treatment failure but rather reflects the recurring nature of drug dependence.

- Government to address AOD workforce by supporting tertiary qualifications in Youth AOD & Mental Health in metro and country tertiary education facilities.
- Government has a key role in addressing and unpacking the stigma that young people face especially in relation to the 'criminalising' of youth which occurs in the media.
- Broad Government investment in programs that address underlying social and socio-economic determinants that increase risk of illicit drug use by young people.
- Promotion of peer created and peer driven programs.
- Decriminalisation of illicit drug use.

7. Do you have any other comments about YTOs?

    - Given the significant lack of traction that the YTO has achieved in addressing the needs of young people, the Act and all of its component's parts should be revoked. Consideration should be given to providing voluntary and sufficient services to meet the needs of young people. Where young people are not prepared to engage with services, this should be addressed not by compelling them but by modifying the service to meet their needs. Significant work has been undertaken on developing assertive engagement models which have proved more successful than forced, imposed or mandatory models in evaluations undertaken of such programs.

Recommendations

1. That the Attorney General's Department commence a process of revoking the amendments to the Controlled Substances Act 1984 implementing the Youth Treatment Orders model.
2. That the Attorney General's Department commence discussions with young people engaged with the youth justice system who have experience of drug and alcohol issues, the alcohol and other drug treatment sector, relevant researchers and academics, the youth sector, child and family welfare sector to develop comprehensive responses to the early intervention, prevention, treatment and support services that young people need to address their engagement with alcohol and other drugs. This should include a state budget funding bid sufficient to progress this preparatory work and the costs of implementing extended services.
3. During the period in which consultation and model of care design are occurring, existing services should be expanded to ensure that they can provide adequate services using current models.

About SANDAS

The South Australian Network of Drug and Alcohol Services (SANDAS) was established in 2004, to enhance community wellbeing and reduce the harms associated with alcohol and drug use. As the peak body we provide independent, state-wide representation, advocacy and support for the 40 non-government organisations body providing early intervention, prevention, education, treatment and support services to South Australians affected by their or a loved one's use of alcohol or other drugs. SANDAS facilitates networking, collaboration, research, information sharing, advocacy, workforce development and policy review to reduce the harmful impacts of alcohol and other drugs. We are the voice of our members and stakeholders at national and state levels. SANDAS is a not-for-profit association funded by membership contributions, the Commonwealth Department of Health, the SA Department for Health and Wellbeing and a range of other organisations on a project basis.

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