

11:41:44 DAN STUBBS:

11:41:46 Hi, everyone.

11:41:49 We have people start arriving now.

11:41:51 Thank you for coming and nice and early.

11:41:56 We wanted to get people in and logged on well before the start time to make sure technology is working.

11:42:04 I will come back to you in a few minutes when we have a few more people logging in.

11:42:14 Welcome, thanks again for arriving early.

11:42:20 I look forward to talking to you soon.

11:48:16 Hello webinar participants.

11:48:20 In a forum where you are on stage waiting for people to get in, not sure whether to talk to people or not.

11:48:29 I just wanted to remind you if you want to have captions you will need to enable them on your Zoom screen.

11:48:45 Captioning will be part of the whole webinar, but you will have to enable that, and I am sure people know about that function, but I want to remind people in case that helps.

11:49:50 I will say a few words now so that we know captions are working so that people who want or need that can enjoy that feature.

11:50:02 So, if people can keep a look on that and see my words coming through now.

11:50:10 I think Michelle will be able to tell me if captions are coming through.

11:50:16 Thank you, everyone, for logging in early.

11:50:21 Just so we can make sure technology is working and you can log in OK.

11:52:21 Welcome to the Victorian Disability Worker Commission's webinar on Mandatory Notifications.

11:52:26 We have a few of you logging in now as we speak.

11:52:31 Thank you again for looking in early while we have a chance to make sure technology is working and everything. And is a reminder that if you would like to have captions you will need to allow that and there is a captioning function on Zoom you will need to click on.

11:52:57 I will come back to you shortly with other features.

11:53:01 Give us a few minutes.

11:53:03 Thank you.

11:54:05 Welcome.

11:54:07 Thank you again for locking in early.

11:54:11 Waiting for more people and we'll get started right on 12 o'clock.

11:54:17 Thank you and remember to activate the captioning function on the Zoom if you want to see captions as they are done.

11:54:28 We have live captions for the whole webinar.

11:54:44 Christine, I am told you have your hand raised. And if you want to ask questions or say anything, use the Q and a function.

11:54:57 Not a chat function like a regular Zoom meeting. There is a Q & A function for typing questions.

11:57:06 Just before we kick off right on 12 O'clock, welcome again.

11:57:14 We have a significant number of people watching this webinar and it is the first of these webinars for mandatory notifications

11:57:27 We felt notifications was a key issue to inform the sector about.

11:57:31 Service providers, and people with disabilities. And people that work around the sector.

11:57:42 This is the first one but I expect we will run other webinars like this one, to inform the sector, but also in engaging the sector to hear questions and improve the way we explain these things and the way we work with the sector at this time.

11:58:04 If you want to use captions please turn on the captions feature on Zoom so you can see the live captioning as it is done.

11:58:15 We have captions for the whole session.

11:58:18 The first half of today's session will be a presentation by me, as Commissioner, and Maggie Whitmore, as Manager of Complaints and Investigations.

11:58:30 Then we will have a panel to answer your questions.

11:58:40 Please post your questions using the Zoom Q and A function.

11:58:45 Difference to the chat function. It is called Q and A on your Zoom screen.

11:58:52 You can post a question to u during the session and we will then be responding to those in the second half of the webinar.

11:59:06 If there are questions, we cannot get to, we will provide follow-up information we will post that with further material after the session.

11:59:15 Don't worry if we didn't get to your question or the detail of your question.

11:59:20 We will also be providing other follow up information after the session in terms of more detailed guidance about notifications and fact sheets etc etc era

11:59:42 We are now ready to go.

11:59:44 The presentation, just so you know, we did a pre-recorded video to make sure we covered everything and allow ourselves to have the captioning spot on for the information we want to provide.

12:00:08 Without further ado, I welcome you today.

12:00:12 Please post your questions using the Q and A function.

12:00:20 I look forward to answering your questions after this presentation.

12:00:23 Let's kick off the presentation now.

12:00:46 Victorian Disability Worker Commission webinar on Mandatory Notifications.

12:00:51 My name is Dan Stubbs.

12:00:53 I am the Victorian Disability Worker Commissioner and I will be leading the presentation.

12:01:03 I commenced in this role in November last year.

12:01:07 Since that time I and the rest of the team have been setting up the Victorian Disability Worker Commission.

12:01:15 The Commission commenced its role on first of July.

12:01:18 We are relatively new.

12:01:21 We will walk you through the key changes that resulted around mandatory notifications.

12:01:27 First, I am pleased to acknowledge we are meeting on the land of the traditional owners.

12:01:36 I also acknowledge the Elders of those traditional owner's past and present.

12:01:44 And if there are any Aboriginal people listening or logging to the session today, I also acknowledge your presence.

12:01:56 The changes that the Disability Service Safeguards Act 2018 introduces are significant for the sector.

12:02:02 It provides new forms of oversight for workers and has implications on disability services providers as well.

12:02:12 It is also important, and most important, in my view, for people with disabilities and their families, and their allies.

12:02:23 If there was doubt about how important it was, we only need to look at what is happening with the Royal Commission and the issues raised on that front by people with disabilities and their advocates. And, as recently as last Thursday, in the Melbourne age talking about challenges for another oversight body, the NDIS Quality and Safeguards Commission.

12:02:54 We think more than ever there is greater safeguarding needed to protect, respect and empower people's disabilities in Victoria.

12:03:08 And that's work we believe will promote and ensure the health and the safety and the rights of people with disability in Victoria.

12:03:21 I am just going to introduce the people that will be speaking today.

12:03:25 Obviously me, and I will give an overview about what the Commission does, and a bit about what how we work and why we exist.

12:03:34 Maggie Whitmore, is the Manager of Complaints, Investigations and Compliance.

12:03:39 Maggie will speak in more detail about notifications, how you make notification, why we do so and a practical understanding of the regulations and your compliance obligations under the Act.

12:03:56 At the end, we will have a Question and Answer session where you will put questions we will answer and answer questions you have already put through the Zoom Q and A function during the presentation for that session on the panel we will also be joined by Suzie Fry who is the Commission's Principal Policy Advisor.

12:04:30 Today we will cover the background to the Commission and why it exists.

12:04:34 The key changes it brings in, who is covered by the Act, the Disability Service Safeguards Act 2018, the Code of Conduct, complaints, and the mandatory notification scheme, the main reason for the session today. The powers of thing, like prohibition orders that we can make.

12:04:58 And other regulators, what we call the co-regulatory environment.

12:05:03 Finally, we will provide you a range of ways to stay in contact with information and advice for the Commission.

12:05:13 As you know, we are recording the session.

12:05:18 The recording of the session will be posted online after it is finished.

12:05:24 Please do share it with colleagues if there is anyone you think should see this session or was unable to see it live. There is also an extensive fact sheet on Mandatory Notifications that we will post, and I urge you to share that with colleagues.

12:05:48 We are going to be answering questions you may have already posted through Slido.

12:05:56 During the session today I am hoping you will also be putting questions to us through the Q and A function in Zoom.

12:06:04 Feel free to post those questions at any time.

12:06:07 There will be time constraints.

12:06:11 There may be questions and issues we don't get to.

12:06:15 After the session we will provide further information in response to issues raised in general terms to the greatest degree possible.

12:06:29 We will also make available a slide pack with the information you will hear us talk through today.

12:06:36 Please don't feel like you need to be taking notes.

12:06:40 All the information will be written down, as there will be a transcript of the session provided.

12:06:46 With the key questions that you have asked.

12:06:50 If you don't feel comfortable asking questions, then contact us directly, either through the website.

12:06:56 There is are we may address there, or our phone number, 1800 497 132.

12:07:16 We take acceptance of the fact we are recording and information about your name when you post questions may be read out.

12:07:24 So you may want to change your name, that is up to you. We will be publishing this and of course it is live streaming right now.

12:07:36 There was a Parliamentary Enquiry in 2016 that reported on abuse and neglect of people with disability in Victoria.

12:07:46 The enquiry recognised the vast majority of workers were doing the right thing and are doing incredible work for the sector at that time.

12:07:59 But there was a significant minority that were not.

12:08:06 Many of you will remember the Anne-Marie case, in Adelaide. If you think that is isolated to South Australia, you are mistaken.

12:08:19 And you can see evidence of that in the reports.

12:08:24 Out of that enquiry came recommendations for this Commission to be established for greater oversight, particularly of workers in Victoria.

12:08:33 Victoria is the only jurisdiction in Australia that has this level of oversight.

12:08:38 It demands and promotes the safety and quality for people with disability for the services they receive.

12:08:44 On first of July, as I said before, we established the new Commission.

12:08:51 The Disability Service Safeguards Act is the Act under which we operate.

12:08:55 It covers all disability workers in Victoria no matter how they are funded.

12:09:00 You are covered by our legislation.

12:09:04 It is about the work you do rather than the funding source or the level of government.

12:09:10 It does not matter if the funding is provided from government or from charity.

12:09:15 It is about the fact that you work for people with disabilities.

12:09:19 There is a Code of Conduct, the same as the NDIS Code of Conduct.

12:09:25 It is a notification scheme regarding conduct, and we will talk about later.

12:09:34 There are obligations for workers in regard to those notifications.

12:09:40 There is a complaint system.

12:09:45 There will also be a registration scheme for disability workers.

12:09:49 A voluntary scheme, which, due to COVID-19, has been deferred by 12 months.

12:09:55 We will tell you more about that next year.

12:09:59 The voluntary disability worker registration scheme comes in on the 1st of July next year.

12:10:08 There are also public registers. The public register is a register of banned or excluded disability workers and is based on complaints and notifications we receive, and investigations we undertake.

12:10:29 This scheme really reflects government and community expectations to create stronger safeguards in Victoria.

12:10:40 It is about protecting people with disabilities and ensuring providers and workers promote quality services for people with disabilities.

12:10:53 There are four key elements of the scheme that we're going to talk about today.

12:10:58 There is the Code of Conduct, the mandatory notification scheme, the complaints process and the public register.

12:11:06 The Code of Conduct covers all disability workers in Victoria and the coverage includes disability workers and those that supervise them.

12:11:20 We don't necessarily oversight organisations, but the supervision of those workers are the people we also cover in that process.

12:11:33 The Code relates to the notification scheme as well.

12:11:39 That is why I want to go through it in a bit more detail.

12:11:49 There are seven elements to the Code of Conduct.

12:11:53 The first is that disability workers must respect the rights of people with disabilities to freedom of expression and self-determination, and in decision-making.

12:12:06 The second one is the need to respect the privacy of people with disabilities.

12:12:10 The third is to work for people with disabilities in a safe and competent manner. With care and skill.

12:12:20 The fourth one is the need for disability workers to operate with integrity, honesty and transparency.

12:12:26 The fifth is about working in a way that promotes quality and safety of supports and services to people with disabilities.

12:12:43 Number six is to avoid and stop violence, exploitation and the neglect and abuse of people with disabilities.

12:12:51 The seventh and last is to prevent any form of sexual misconduct in relation to people with disability.

12:13:01 The next element is mandatory notifications.

12:13:05 Workers and employers are obliged to make notifications.

12:13:16 You must report to the VDWC (the Commission) if you have a reasonable belief that they (a disability worker) has conducted themselves in a certain way.

12:13:23 It is about conduct and incidents, which is different to the way some other schemes require you to make notifications.

12:13:36 We seek reports to us, and in many cases, that will be in advance of a terrible incident.

12:13:45 The sorts of things you need to notify us about in relation to working as a disability worker whilst intoxicated, sexual misconduct, and operating in a way that will endanger people due to a worker's impairment.

12:14:13 And not working in accordance with recognised standards.

12:14:21 We also have an independent complaints process.

12:14:24 Anyone can complain.

12:14:25 Members of the public, people with disabilities, family members or friends of people with disability, can all complain about the conduct of a worker.

12:14:37 Particularly in reference to the Code of Conduct that went through before.

12:14:43 It is an accessible complaint scheme and if a person with a disability needs to complain we will assist them to lodge a complaint and we will be sharing ways of contacting us at the end of the session. There is a public register.

12:15:04 As I said before, where we have to publish the names and details of any disability worker who we have banned on the basis of what I would call serious misconduct. And that is after a proper process where there has been an investigation and a fair hearing by everyone involved and I have had to make a decision about that person being banned for a period of time or permanently.

12:15:41 As I said, all disability workers are covered.

12:15:50 All people can complain in our system.

12:15:57 The aim is really for people with disabilities to have certainty over the kinds of services they receive regardless of who funds it and also provides it, and the intention is to improve quality and ensure the safety for people with disabilities in Victoria.

12:16:24 Again I want to encourage you to keep in contact with what the Commission is doing.

12:16:30 You can email us at info@vdwc.vic.gov.au and we would love you to subscribe you to our e-news to keep up to date.

12:16:52 I will hand you over to Maggie now and she brings a lot of experience of serious investigation work.

12:17:00 She has previously worked at the Disability Services Commission and prior to that she was at the Commission for Children and Young People of Victoria.

12:17:17 MAGGIE WHITMORE: I would like to acknowledge the traditional custodians of the lands on which we meet, and I pay my respects the Elders past, present and emerging, and the Elders in the other communities here today.

12:17:31 As Dan has talked about, I will talk about mandatory notification requirements and there will be an opportunity to ask questions at the end and I would encourage you to do so.

12:17:42 As part of the regulation changes, all providers must report conduct that puts workers at risk.

12:17:50 If you are a disability worker or employ them, you are required under the law to report certain conduct from disability workers

that may put the people they support at risk.

12:18:01 All the service providers and workers must make mandatory notifications, if they form a reasonable belief that the worker has engaged in notifiable conduct and that is now a requirement under the Disability Service Safeguards Act 2018.

12:18:22 They must notify us if they believe it constitutes notifiable conduct.

12:18:30 It defines that when a disability worker has practiced as a worker and is intoxicated with alcohol and drugs, has placed or is placing a person at risk of harm because they are practising in a manner that would constitute a significant departure from acceptable, official standards.

12:19:05 A notification requires you to form a reasonable belief about the conduct.

12:19:10 You generally need to have direct knowledge of the incident or behaviour that has led to the concern.

12:19:20 It should be more than a suspicion but a reasonable belief, certainty or evidence you may have directly observing the incident or behaviour or you may have a report from a reliable source or sources about the conduct they have experienced or observed.

12:19:38 In that case, you could encourage the person with the most knowledge of the incident to consider if they should make the notification themselves and if you are unsure or you want some further advice, just contact us for assistance and we are happy to talk you through it.

12:19:56 We will assist you to fill out the webform on our portal or to make a notification to us over the phone.

12:20:04 We can record it.

12:20:06 As Dan said, we want to be accessible and we will work with you to do it in a way that best meets your needs.

12:20:15 The simplest way to make a notification is to contact us through the website or call 1800 497 132 and we can provide assistance.

12:20:25 If you're making a notification you want to keep your identity confidential, please let us know and we will take all steps.

12:20:35 In some circumstances we may not be able to do so and if that is the case, we will keep you informed of the reasons.

12:20:44 Once a notification is received, we will assess it and determine the most suitable course of action that may require us to contact you for information or clarification.

12:20:54 We will work with the disability worker and let them know of the notification and initially by phone and then in writing except in the circumstances where it may prejudice an investigation.

12:21:05 We will let them know the nature of that notification.

12:21:09 Disability workers subject to a notification will be kept informed about the process all the way through and will be given opportunities to respond to the details of the notification.

12:21:19 The Commissioner has several possible courses of action that he may decide on, to take for a notification.

12:21:26 These may include counselling the disability worker, referring it to an appropriate entity such as the National Disability Quality and Safeguards Commission, investigating the disability worker, taking other actions such as issuing an interim prohibition order or taking no further action.

12:21:47 Once a suitable course of action has been determined we must provide notice to the disability worker advising them of the decision except again in those circumstances where we believe that will prejudice an investigation or place another person at risk or at risk of intimidation.

12:22:04 Where we determine a disability worker should be investigated, that investigation will follow the usual investigative procedures.

12:22:16 Information we will share with the notifiable depend on a lot of variables, so where possible we will keep you informed but it might not be possible in all second stanzas.

12:22:27 For instance should a disability worker be the notifier for another organisation as opposed to an employer, we would have powers to give information

12:22:38 In the circumstances we decide to investigate, however, you are likely to be contacted because we may need you to attend an interview to collect further information.

12:22:51 Should we resolve the matter through counselling or referring it to another entity, we may not be able to provide you with that information. The act does allow us to share an investigation report to an employer or

someone who engages a disability worker if it is relevant to the engagement or employment of a disability worker.

12:23:11 As mentioned also, the Commissioner has the complete ability to ban workers and the prohibition is a legally enforceable order that bans a worker from providing disability services or specified disability services either for a limited time or permanently, so the Commissioner can make prohibition orders if he is satisfied there is a necessity to avoid serious risk to life, health, safety or welfare of the person or public and an unregistered worker has breached the Code of Conduct or has been convicted or found guilty of an offence, has been issued an exclusion, or clearance, or is suspended or revoked, or is subject to an interim bar subject to the screening check.

12:24:28 All orders including revocations will be published on the Commission website and will include the name of the worker, the type of order and any conditions associated with those. We work in a co-regulatory environment and that sometimes means there are a number of regulators in the space, both national and state based.

12:25:00 Our legislation provides for us to work with those other bodies and it is anticipated we will share information and our Act has been written in a way that allows us to do that quite easily.

12:25:13 We are currently working really closely with those other regulators to ensure that there is a no wrong door approach for notifier's and complainants. We are currently developing our protocols and memorandums of understanding with different regulators and this allows us to support the complainant because we want to minimise the amount of times people have to tell their story and re-tell the story and tell it to different people.

12:25:40 We have protocols for who will communicate with the complainant so they feel supported, they are not confused about who is doing what and we can all understand what the issue is and what we need to resolve.

12:25:53 But it also allows us to take action working cooperatively with the other entities or wait while another entity is undertaking an investigation such as the Victoria Police and then follow up because we need to ensure we are working together so we have the best outcome for people with disability, so for example, if a disability worker was a registered nurse, we would work with AHPRA and ensure they followed their processes so people cannot move from one sector to another if we consider they pose a risk.

12:26:25 Some examples of the entities we are sharing information with is the NDIS Quality and Safeguards Commission and who are actually required under our Act to refer any matters with a complaint or notification relating to a worker who is engaged by a registered NDIS provider.

12:26:53 We are working with Disability Services Commission, the Mental Health Commission in Victoria, AHPRA, the Secretary of the Department of Health and Human Services and the Department of Education and Training. Where a person's behaviour or professional misconduct or unsatisfactory professional performance, unprofessional conduct and those entities are prescribed in our regulations and again they allow us to share information quite easily and we have some reciprocal banning processes in place, so if the body such as the Health Complaints Commission or AHPRA have banned a worker, we can use that banning order then to underpin and develop our own banning order.

12:27:47 Now I will hand back to the Commissioner for questions.

12:27:50 DAN STUBBS: Thanks, Maggie.

12:27:53 Now over to you for your questions. Let's look at some of those questions.

12:28:01 SUSAN JONES: Thanks, everyone. Thanks for handing over to me to talk through the questions.

12:28: Before the forum we sent out a link to Slido and asked participants to provide questions.

12:28:39 We have had a lot of questions from forum participants so our focus will be to cover some of those questions.

12:28:47 Some of those questions may have been already covered in the presentation so we are taking care to focus on those things where we haven't necessarily provided answers to those questions and will focus on the Slido questions first and hand over to a live Q&A function. That way you can post any questions you haven't got information on or you would like to ask more questions on in the live Q&A too.

12:29:14 The first question today relates to the Code of Conduct.

12:29:21 Can clarification be provided on the term placing the public at risk of harm?

12:29:26 I will hand over to Suzie Fry, our Policy Manager of the team.

12:29:41 SUZIE FRY: I guess in framing the answer to this question in understanding that what the legislation is attempting to do is that by providing us with this broader definition as to allow us to investigate or to take action on a notification where a departure from professional standards or behaviour related to an impairment can be taken for anything, where that risk-based behaviour applies to anyone, rather than someone making a notification, having to see that behaviour in relation to a particular person. So rather than being held up for someone saying "I have seen risky behaviour but I am not sure who that risk might be borne by" and then having to make that judgement before making notification, if they have concerns that behaviour may place somebody at risk, they can go ahead and make that notification, so the legislation has been written to give us the broadest possible space to handle a notification in relation to a risky behaviour around those two areas, the departure from accepted professional standards and also from working where an impairment may impact their practice.

12:31:08 Thank you, Susan.

12:31:23 The next question deals with prohibited workers. How will an organisation know a disability worker has been prohibited from providing disability services to the sector? I will hand over the question today to Maggie Whitmore to answer, the Manager of Complaints, Investigations and Compliance.

12:31:36 MAGGIE WHITMORE: The register of banned workers will be on our website.

12:31:43 There will be a search function so you can put in people's names and that register will include the name of the person, the type of order and any conditions associated with the order, any revocations, and any dates associated with that. Thanks Susan.

12:32:11 SUSAN JONES: Thanks Maggie. The next question resides with yourself in relation to answering a question on the NDIS Commission and also co-regulation.

12:32:19 How does the NDIS Quality and Safeguards Commission differ from the Commission? And if a notification is reportable such as for sexual misconduct, are two separate notifications required with the NDIS and the VDWC?

12:32:36 MAGGIE WHITMORE: The VDWC looks at the conduct of individual workers. We are able to take notifications and complaints about workers and investigate and potentially prohibit workers. We don't look at service providers. We are separate to the NDIS who register the service providers and are able to investigate those service providers and workers. If there is a notification that is deemed a notifiable conduct, we require that it is reported to us.

There may be times service providers have other mandatory obligations regarding obligations to the Victoria Police or the NDIS Commission, Child Protection or other bodies. It would be up to that service provider to determine what other steps they need to take as well as reporting to us. Thanks Susan.

12:33:39 SUSAN JONES: Thanks Maggie. We have some more questions. I think the next one is a question also directed to you.

12:33:48 For an individual to make a mandatory notification to the Commission, what is meant by forming a reasonable belief?

12:33:56 MAGGIE WHITMORE: A reasonable belief is as I said in the presentation it is not requiring you have proof or evidence. But it is something you have observed, or a reliable source has told you about. If you are unclear, or have a reasonable belief, it is OK to call us and we can talk you through what you know or what you think you know and what you have been told, and work out a process. But it does not require that you know that misconduct is a certainty, but you believe something has happened and you let us know and it is our job to investigate and determine the most suitable course of action. Thanks Maggie.

12:34:46 SUSAN JONES: The next question today relates to workers screening.

12:34:49 I will direct this question Suzie Fry. What do we know about the Worker Screening process? And will unregistered workers be subject to the same safety screens as registered disability workers?

12:35:05 SUZIE FRY: The National Workers Screen is coming into effect next year in Victoria and will come into effect after the worker screening legislation is passed in Victoria. It has been introduced into Parliament last week, but it is not yet passed. Workers that work in the NDIS will partake of that Worker Screening process.

In terms of unregistered workers, they will be subject to the Worker Screening process that's mandated by their employers. Not the same as registered workers who have to undergo a Worker Screening process from the VDWC. That will look, in terms of contents, in terms of what we are screening for, that will be similar to the NDIS Workers Screen but not handled by the worker screening units, it will be handled by us in the Commission instead. We check the same kinds of elements of a criminal history, but it will not go through the worker screen area that handles NDIS Workers Screening Unit, so it's a different process but the same content if you like. Thanks Susan.

12:36:25 SUSAN JONES: Thanks Suzie. Our final Slido question relates to the wearing of masks.

12:36:34 Someone asked a question about this.

12:36:38 We see staff not adhering to health restrictions or mandated use of surgical masks and protective equipment, and physical distancing rules. Should these be reported?

12:36:52 Maggie Whitmore, can I throw that question to you?

12:36:57 MAGGIE WHITMORE: The short answer to that is yes. You should definitely report this to us. And as with any notifiable conduct we will make an assessment of that conduct and they will be investigated. It is also worth noting that at the moment there is legislation in Victoria that requires people to wear a mask when outside of the home. So, there are also other avenues for reporting this behaviour. And other avenues to address it. Through Victorian Police as well. Thank you.

12:37:33 SUSAN JONES: Excellent. Thank you for that, Maggie. This takes us to the next part of our forum session. Dan, we have several live questions that have been posted in the Q and A.

12:37:51 One of the first questions we have been asked today is in relation to the Commission investigating or conciliating a matter. Where the Victorian Disability Worker Commission decides to investigate or conciliate a matter, will the employer and service provider be informed? Can the provider.....sorry, I have lost my question.

12:38:19 DAN STUBBS: So, let's start to answer the question about informing the provider.

12:38:25 Maggie, can I get you to speak to the process of when there has been a notification? In this case we are talking about someone who may be a worker making a notification about another worker making a notification about another worker and the steps your team goes through to help people understand the procedure a little bit?

12:38:49 MAGGIE WHITMORE: Yes, sure Dan.

12:38:57 When we investigate obviously, we need to consider privacy. There are a lot of variables for what we can and cannot share. It will depend on circumstances. In the circumstance let's say a disability

worker from one organisation makes a notifiable report about another worker from another organisation, it's quite possible they won't be informed about the outcome of that notification unless it results in a banning order, which would then be public. However, if we were investigating it, it would be likely that the worker would be requested to attend an interview. In that circumstance the worker would certainly know we are investigating but possibly not the outcome. If we were to counsel a worker it is unlikely someone outside would know about that, unless the disability worker has chosen to share that.

12:39:52 DAN STUBBS: Yes, it's depends on the seriousness, doesn't it Maggie? There is a spectrum of levels of seriousness we need to respond to proportionately and sometimes that will include telling the provider. Of course, we all know that sometimes some workers are employed by more than one provider and sometimes directly by people with disabilities who are self-managing different packages as well and that kind of thing. We take that responsibility fairly seriously, about whether we need to let those providers or people with disability know about certain conduct. Our response at the highest level, when we exclude someone from the sector, that is something we publish on our publicly available register.

12:40:52 MAGGIE WHITMORE: Exactly. It is worth noting, and I did say it in the presentation, that the Act does allow us to provide a final investigation report to a service provider or someone that engages with disability worker. Again, that would be your decision as Commissioner for who we release that to, again and depending on the seriousness of the situation.

DAN STUBBS: Great. Susan, are there any more questions?

12:41:29 SUSAN JONES: Yes, we have a few questions coming through Dan.

12:41:32 The next question is about defining what is a disability worker. Is that limited to the role of carer or other medical staff? Are allied health workers also disability workers? And what medical staff are excluded from the disability worker definition? Either Dan or Suzie can respond to this one.

12:41:51 DAN STUBBS: This is a good question because it is important to understand. I spoke about this briefly in the presentation but is helpful to understand that a disability worker. It is about the work they do. They could at the same time be an allied health professional or working as a teacher, or other kinds of work, but their work is for someone with a disability and their work is about dealing with a barrier related to their disability. The one we often think about is with a teacher. If there are one or two children with disabilities in their class, you would not call them a disability worker because they teach a mainstream class but if they were teaching a class of children or young people with disabilities, then they are clearly being a disability worker at that time. Do you want to add to that a bit Suzie?

12:43:04 SUZIE FRY: To satisfy the definition of a disability worker it is about the nature of the work and the contact with a person. It has to be more than incidental contact with the person. Or manage or supervise someone that delivers those services directly to the person. And the nature of the service you are delivering. That service has to involve supporting, caring for, treating, or managing that person's limitations to undertake activities in relation to communication, social or economic participation, social interaction, learning, mobility, self-care or self-management. So, the definition in our Act is very broad. As Dan was talking about you can take an example of someone in many different kinds of jobs where in some

circumstances they are definitely a disability worker and in other circumstances they are not. For example, a nurse may be working in a mainstream hospital where they attend to someone with a broken arm that happens to have a disability. And they are not a disability worker because they would be doing that same service to someone whether they had a disability or not. Or they could be a nurse providing a service specifically to support someone with disability in managing their disability in order for them to participate in a job situation, for example. Their service would be specific to the management of the disability in which case they are being a disability worker. It is a combination of the type of work that they do, and the service recipient and the amount of contact they have with that person. The definition is quite broad. Not limited to specific roles we might have labelled as disability workers. It is related to the nature of service and support that they give.

12:45:31 SUSAN JONES: We have a few questions today about worker screening and also some questions in relation to DWES, Vic Pol and NDIS Workers Screening, and the VDWC. We'll try to integrate those questions where it is possible.

12:45:41 One question we have got is that most workers in Victoria will now be screened again Vic Pol, DWES, NDIS and the VDWC. Is there an explanation or information on how these systems will integrate or supersede one another as screening services?

12:46:00 DAN STUBBS: I'm going to start on this, but Suzie or Maggie might need to add to this. But essentially, if you as a provider or a disability service provider you will have obligations regarding your funding agreements and the like to either notify and take certain screening, that still stands and so notifying around the DWES (the Disability Worker Exclusion Scheme) until that scheme stops requiring notifications, you will still need to provide notifications to the Department about those kinds of incidents whilst also, if there is certain conduct, that we have outlined and can explain again, but we will provide documentation about that to you, then you would notify us about those types of conduct, so those requirements by different bodies do continue at the moment and not replaced by us. Suzie Fry or Maggie Whitmore, do you want to add to that?

12:47:24 SUZIE FRY: Overtime as the requirements change to DWES or the ASR (the Annual Complaints Reporting change) you will be notified of that by the Department, not by us, so we won't be taking over the management of those requirements. They will remain with the Department for as long as they remain, and if they change, as I expect they may, that will be a matter for the Department to notify you of, not us. Thanks, Susan.

12:48:00 SUSAN JONES: In relation to talking about the scheme, a question has come in which is linked, I think, to the previous questions and answer. Our experience as a provider with the DWES has been that we terminate employment for serious misconduct regarding substantiated abuse. The worker then goes elsewhere to work in the sector. The question to us to pose is how will the VDWC be any different?

12:48:40 MAGGIE WHITMORE: Once we have a notifiable conduct we have investigated and we determine that person cannot engage in employment anywhere in Victoria, and as I said in my presentation, we do have reciprocal information sharing agreements with other entities in other States, but that order, that banning order, is public, is publicly searchable and it determines that they must not engage in any employment as a disability worker was in the State of Victoria.

12:49:17 DAN STUBBS: I think that is really important to remember that the power of this Commission which is different to other oversight bodies in this sector is that ability to say you cannot work in any area of disability no matter how it is funded in Victoria and that is a key feature of the underlying approach to safety that this Commission takes. Thanks, Maggie.

12:49:50 Susan?

12:49:51 SUSAN JONES: Thank you. We have received a couple of questions in relation to the public register, the list of public register. I'm wondering if Dan can talk about the public register and when it will be available and how people can check it?

12:50:09 DAN STUBBS: Sure. There are two forms of public register. The public register which is the publication of our prohibition orders. So after we have conducted an investigation, one option available to me is to prohibit someone like was said from working in the sector ever again in Victoria or there can be a limited prohibition order, an interim prohibition order, which might be something we might do while we investigate a serious notification or complaint. We might prohibit them for say, 12 weeks whilst doing that, and that is a public register. We publish that on our website. We can put the link into where that will be, and we are also planning to put a link on there so people can at the same time check the NDIS Quality and Safeguard Commissions register of banned workers as well. So that's our register of banned workers. There will also be a register of registered workers. So, from one July next year there are three-months where people will have to undertake and complete registration, so from 1 October next year, there will be a publicly available register showing all registered workers. We are going to provide a lot more information about that in the first part of next year, so please stay tuned and subscribe to our e-news to find out more about our work scheme.

12:52:13 SUSAN JONES: Thank you. There are still a few more questions coming through. The next question relates to one I know we touched on in our presentation about the Disability Services Safeguard Act Code of Conduct. The question is how does the Code of Conduct apply to an organisation, as a whole, specifically with regard to, for example, medication management if an organisation does not have an appropriate, up-to-date, clear and concise management policy and procedures for staff to follow, and if an incident occurs, is the organisation as a whole accountable for the incident? As well, as the individual staff member involved?

12:52:58 DAN STUBBS: Yes. The powers of the Commission do not extend into organisations per se. We have powers to investigate workers, so people directly providing services, staff who supervise them. We are not able to investigate organisations per se. Do you want to add to that, Maggie, in terms of our investigation powers?

12:53:20 MAGGIE WHITMORE: We acknowledge it is a complex environment and there are policies that each service provider will have that will be slightly varied and some service providers have more full-some and comprehensive policies than others. We look at individual conduct and while we're not looking at the service providers conduct, we would look at it in the context of what information and what training a disability worker had when being asked to do something and we would take that into consideration in looking at that individual conduct. We are very much wanting to educate and raise the bar of the sector.

We are not here to...we want to reduce risk, but we are not here to be punitive and unnecessarily bureaucratic. We are here to support workers and lift the sector so it is very important to us to understand the conduct within the context of the information provided and we will work with disability workers to do that.

12:54:34 DAN STUBBS: That is a good reminder Maggie that although we don't have specific powers in terms of investigating organisations per se, there is a mandate for the organisation to raise quality in the sector and promote

good quality and if we see systemic issues arising in the sector, we will want to publish that in our reporting our publicly available reports and that kind of thing so there is an understanding of key issues that are coming up more regularly or systemically. Back to you. Thanks, Susan.

12:55:17 SUSAN JONES: We have a question in relation to disability workers and how they can be protected. A participant has asked about what are the provisions that will protect workers from malicious reports?

12:55:27 DAN STUBBS: Our Act and the procedures we have developed and very carefully done to ensure a lot of consideration, careful consideration of natural justice. We don't take lightly the powers we have. I certainly don't take these powers lightly. Maggie, do you want to talk about those protective factors in terms of how we deal with workers and consider the risk to workers and all this as well? We recognise this is a workforce that the vast majority of people are doing amazing and really good work and that is something that was also clear in the Parliamentary Enquiry that recommended the establishment of this Commission, too.

12:56:27 MAGGIE WHITMORE: Thanks. That's a good point. The vast majority of workers are great, they are working very hard in a very difficult job that is not very well recognised by the rest of society. Our job is to take those notifications and assess them and as part of that assessment we need to go to disability workers and discuss the contents with those notifications with them and make an assessment about that response so all disability workers will have an opportunity to respond to allegations. A banning order could never happen without that due process. We would always be putting those allegations to you; you would have opportunities to respond to all aspects of the allegations and to provide us with any evidence. Also, as I said, and the notifier only has to have a reasonable belief. It is our job to do that assessment and we take that role very seriously. The Commission will not be given information we have not tested and investigated to the full extent of our abilities. Thanks.

12:57:54 SUSAN JONES: Thank you for answering all of those questions. We are getting a lot more coming through. I know we answered questions about the DWES scheme. There is a question. Do we still need to report using the Annual Complaints Reporting (ACR) portal even if there has been no complaints or misconduct? We were required to do that last year.

12:58:16 DAN STUBBS: Sorry, I didn't fully understand the context of the question. Susan, can you repeat the question?

12:58:32 SUSAN JONES: The question came through. There were two questions. One was in relation to do we still need to use the Disability Worker Exclusion Scheme (DWES) and do we need to report using the Annual Complaints Portal?

12:58:46 DAN STUBBS: Quickly, as I indicated, your obligations around other processes like DWES continue for the moment until you are advised by, say, the Department, DHHS, that that finishes, you are so required to continue to comply with those processes and notify them of incidents and that will go on for a little while, overlapping with this Commission's notification requirements. Maggie or Suzie, do you want to add to that?

12:59:24 SUZIE FRY: Just to reiterate those requirements for reporting and notifications are managed by the Department, not by us. My understanding is they are all still in place as they have been. I expect they will change in future, but the Department will advise you of that, not us because we do not manage that scheme.

12:59:52 DAN STUBBS: Thanks, everyone. I will wrap up here. We of course received a number of questions that we could not get to. We have tried to group them and answer them as best we can. We will review the questions and provide some responses where we can to keep issues raised and everything, so please stay tuned and we are going to send out some information to those who have registered for this webinar.

13:00:22 Thanks again, everyone, so much for coming along and please stay tuned and register on our website for more news and future updates and information and guidance from the Commission.

13:00:39 I would also like to thank everyone from the Commission who has been able to support this webinar.

13:00:46 I really appreciate it and thank you, Suzie Fry and Maggie Whitmore.

13:00:51 Thanks, everyone.

13:00:52 Goodbye for now.