Education Act & Keep Them Safe
A double act?

Stephen Corbishley & Margaret Chittick
26 November 2010

Workshop Outline

– Two recent legislative changes impacting schools

- ***Education Act 1990***
  - – ***Part 5A*** added to deal with students who pose a risk of violence

- ***Keep Them Safe***
  - sharing responsibility in NSW for child wellbeing and child protection
  - ***Chapter 16A*** added to *Children & Young Persons (Care & Protection) Act 1998*

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Workshop explores –

1. Key features of the changes
   - Special education focus
2. Implications for schools
   - opens up a new horizon for a school
   - new dynamic in school ~ family ~ community relations
   - integrating the changes into school culture & organisation

Education Act 1990

Part 5A to deal with students who pose a risk of violence

- Origins:
  - DET failed to properly manage challenging students with particular learning needs ➔ OHS prosecutions ➔ DET had data to manage but had failed to share
- Purpose:
  - Ensure data is shared with those who need to know ➔ *Safety of all in schools*
- Powers:
  - To request and share information
  - (for DET only) to direct enrolments
- Key feature:
  - Deemed (wide) meaning of '*violence*' – catches some children in Special Education?
- Focus:
  - School to school (plus prescribed NSW Gov't agencies)
  - School with parent, student, & staff

Keep Them Safe

– shared responsibility in NSW for child wellbeing & child protection

- Origins:
  - DoCS failed to protect children at risk of harm ➔ Inquiries *(Wood Special Commission of Inquiry)* ➔ DoCS overwhelmed; risk of cumulative harm; DoCS and other agencies had data to help manage, but not shared and not coordinated service to child/family
- Purpose:
  - Share responsibility, CS focus on 'significant' harm, free up means for agencies to share information, coordination of services to child/family ➔ *child safety & wellbeing*
- Powers:
  - To request and share information
  - For co-ordination of decision making and services to support child/family
- Key feature:
  - Threshold for reporting to *CS Helpline* raised ➔ risk of 'significant' harm
  - School/agency take reasonable steps to support child/family
    - in accordance with the function & expertise of the school/agency
- Focus:
  - Whole of community: parents, schools & other prescribed organisations and NSW Gov't agencies, as well as Community Services

What are the key features of the changes?

Education Act - Part 5A

a) School as lead agency

b) Flow of data 'within' education (+ from prescribed Gov't agencies)

c) For school to use for managing safety of all in school

d) An in-school activity

e) Trigger:- Concern that a student poses a school risk because of their violent behaviour

f) Parental involvement (generally)

Keep Them Safe

a) Not lead agency

b) Flow of data with Community Services & wide range of prescribed agencies (both Gov't & Non-Gov't)

c) For coordinated decision making & services for child safety/wellbeing

d) In-school & inter-agency activity

e) Trigger:- Concern for the safety, welfare or wellbeing of child

f) Parental involvement (but child safety and wellbeing take precedence over confidentiality/privacy)

Some key features of the changes - Special Education focus

Education Act - Part 5A

- Earlier data flow
- Earlier risk assessment and management
- Driver:- student's '*violence*'
  - Concerning behaviour of some students in SpEd?
    - Vulnerabilities
    - …
- School staff involved

Keep Them Safe

- Keep focus on child wellbeing - a priority
- Earlier intervention, building voluntary family involvement
- Driver:- child/ren at risk
  - Concern for students in SpEd?
    - Complexity of factors
    - …
- Schools take reasonable steps
  - For better outcome for child

How is the school horizon expanded?

Education Act - Part 5A

- Trusting information and data from others
- Sharing information and data with others – need for reliability and accuracy
- Confidentiality within school - more sharing
- Need for pro-active management early
- Enrolment process - critical

Keep Them Safe

- Sharing information with others - both within & beyond school
- Developing referral networks and interagency involvement
- Integrating school into broader approach – for action by many
- Engaging families on hard issues
- Reaching out to families – build connection / trust / openness

Change in school – family – community relations

Education Act - Part 5A

- Perceived as threat to parents – need to win trust of parents
- Ensuring fairness in management
- Higher level of internal management
- Threat of litigation

Keep Them Safe

- With the most disconnected - Reach out to families – build connection / trust / openness
- Extending involvement into family and community - beyond the school boundary
- Pressure on skills/resources
- Maintaining school's focus - collaborating respecting each agency's function & expertise

What are some implications for schools?

Education Act - Part 5A

- Professionalism
  - Proactive planning
  - Cooperation
  - Consultation
    - 'need to know'
    - more extensive within school
  - Communication
  - Confidentiality – within & without
- Process
  - Enrolment
  - Risk assessment management
  - Record keeping

Keep Them Safe

- Child, family, community
  - Sensitivity, collaboration - appropriate confidentiality
  - Coordination of decision-making and service delivery
  - Optimise outcome for child
- Processes
  - Record keeping
  - Reporting, information exchange
  - Interagency work
  - Integrate community wide strategy into school daily routines

Integrating these changes into the school culture and school organisation

Education Act - Part 5A

- Student 'violent' behaviour
  - Focus on health and safety of all in school …

Keep Them Safe

- KTS requires cultural change
  - Focus on the child safety and wellbeing …

Some LINKS… for schools

Education Act - Part 5A

- Guidelines issued under *Part 5A* of the *Education Act 1990* for the Management of Health and Safety Risks Posed to Schools by a Student's Violent Behaviour
  - https://www.det.nsw.edu.au/media/downloads/legislation/mhsguidelines.pdf
- *See* NSW DET student enrolment form
  - http://www.schools.nsw.edu.au/media/downloads/gotoschool/enrolment/detsef.pdf

Keep Them Safe

- Child Wellbeing and Child Protection – NSW Interagency Guidelines
  - http://www.community.nsw.gov.au/kts/guidelines/info_exchange/introduction.htm
- Information Exchange - Fact sheet and related documents
  - Information exchange fact sheet
  - Information receipt checklist
  - Information request checklist
  - Information response/provision checklist
  - Ch16A Initiate provision of information
  - Ch16A Request
  - Ch16A Response agree
  - Ch16A Response decline
  - Section 248 request to CS
  - Printable version of whole section - Exchanging information

NSW CEC - Privacy law compliance advice and policy for all NSW Catholic schools

- Privacy Manual for Schools
- Guide to Reporting or Exchanging Personal Information