



Response to the Victorian State Disability Plan 2017-2020 Discussion Paper

Submission by: Australian Community Support Organisation

Date: 6 July 2016

Karenza Louis-Smith
CEO
P.O Box 14278,
Melbourne 8001, VIC
Phone: 03 9413 7000
Fax: 03 9413 7188
karenza@acso.org.au
www.acso.org.au

Australian Community Support Organisation (ACSO)

For over 30 years, we have grown from a small organisation providing a halfway house for ex-prisoners to becoming a leading provider in forensic services in Australia. Our vision is to *create a safe and inclusive community freed of crime and prison*. Our growth is testament to our ethos, 'create another chance' and how we go about doing it portrays our values.

ACSO helps people transition from prison, assists them in the community to stop re-offending and divert others from committing crime in the first instance. We offer innovative services responding to unemployment, mental illness, disability, homelessness, substance use and offending behaviour. These services are delivered through our 'wrap around' service delivery model that integrates our forensic residential, clinical care, disability and mental health case coordination and employment services to achieve better outcomes for our clients and the communities we serve. ACSO delivers more than 20 programs to over 20,000 clients per annum. ACSO operates these services via three Divisions:

- ACSO Connect (intake, assessment & referral)
- High Risk and Complex Needs
- Community Reintegration

We have been working with people who live with disability for more than 23 years. We operate 14 distinct services such as residential, therapeutic, outreach and employment services to offenders with disabilities. While the majority of our clients have an intellectual disability (ID), most experience additional challenges or barriers, including cognitive impairment, psychiatric disability, substance misuse, social isolation, homelessness, poverty and lack of access to vocational and educational opportunities. Currently, ACSO operates eight residential facilities across Victoria, including the State's only dual disability house for people with both an ID and a psychiatric disability who present with significant behaviours of concern.

The ACSO Problematic Sexual Behaviour Service (PSBS) was established in May 1997 to work with persons over 12 years of age who have an ID and are at risk of committing or have committed sex offences. The primary aim of the PSBS is to provide services to young individuals who may not meet the criteria to attend the Disability Forensic Assessment and Treatment Service, but display dangerous or potentially dangerous sexual behaviours.

ACSO is Australia's only provider of a specialist Disability Employment Service program for people who are offenders and who present with an ID, psychiatric disability or substance misuse problem. We connect with hundreds of people with disabilities, either on release from prison or in the community, to enable them to develop pathways into employment.

Response to the Themes in the Discussion Paper

This submission focuses on issues within the Paper's proposed themes, specific to ACSO's service delivery to clients living with disabilities. The issues and recommendations are drawn from the experiences of our staff who work directly and indirectly with our clients, and who the author wishes to acknowledge and thank for their input.

In this submission cognitive impairment (CI) includes: psychiatric disability, acquired or traumatic brain injury, and disorders such as Autism Spectrum Disorder and some other neurological disorders.

Active Citizenship

To enable the full expression of their citizenship ideals, those living with intellectual disability (ID) or cognitive impairment (CI) should be empowered and supported to vote. Depending on the individual level of cognitive functioning, resources directed at promoting the worth of voting, and rendering the process, consequences and benefits understandable could make a positive difference. Given those with an ID or cognitive difficulties, especially within the justice system, can have transient living and support arrangements, outreach to effect registration and updating of address records would assist.

From our experience, we suggest that links with and from the community are vital for this cohort to feel confident to participate in civic, sporting and cultural activities. For a community to fulfil its role and responsibilities to its residents, inclusion of marginalised individuals is important. Being invited to participate by a community based organisation, along with funded support, would be more conducive and less daunting for those living with disabilities than facing the challenge of soliciting membership and acceptance. This requires the provision of dedicated resources, guidance and support to clubs, community, civic or cultural groups to outreach to and understand the needs and potential of this cohort. Local government would be well positioned to facilitate this effort.

Perhaps the greatest challenge in mitigating the social marginalisation of those with intellectual or cognitive disabilities is fostering an understanding and acceptance of the sometimes unorthodox behaviours exhibited. Our experience with clients exhibiting unusual or challenging behaviour is that it is often an expression of discomfort with their environment. Mainstream society and services do not necessarily appreciate or allow for the varying levels of functioning of this cohort. While social or other activities might exist in the community for those with disabilities, our experience is that they are usually a one-size-fits-all approach which ignores the level of cognitive functioning, individual needs or abilities of participants. This can result in the depression of sensory stimulation for some or over stimulation for others, with the subsequent expression of sometimes challenging behaviour. Therefore effort and expertise are required to better tailor activities and programs within the community to individual needs and potential. The result would be improved participation by those with disabilities, leading to increased contribution to community life.

RECENT CASE STUDY

Patrick is in his early twenties and has an intellectual disability. He was attending a day program which is provided to a large group of individuals with varying types and levels of disability, support needs and personal abilities. An effect of Patrick's disability is that he is sensitive to both over and under stimulation, resulting in specific engagement needs. Patrick was overwhelmed being in such a large and diverse group and this resulted in him exhibiting some behaviours of concern. Without specific skills to properly manage such behaviour, it escalated and Patrick was unfortunately asked to leave the program. The day program is a general disability provider, rather than intellectual or psychiatric, but services available to Patrick are limited by his support package funding. With restricted resources for Patrick, ACSO continue to advocate for him to receive the specialist support and services he needs. However, episodes like this mean he is stuck in his residential service rather than progressing towards positive outcomes.

Overall, what we believe our clients living with disabilities most desire, is to be appreciated as individuals within society rather than be treated as an homogenous group, which denies their individuality and thereby their integration and potential contribution. There is thus a role for skilled educators to improve the awareness

and understanding of the above issues within schools, sporting clubs, civic groups and other community based organisations.

Rights and Equality

ACSO understands that people living with disabilities seek to be treated similarly to the general population in terms of access and due process. Within the criminal justice system, those with ID or CI are sometimes treated differently when charged with offences. Not conducting an interview, for instance, or following other standard procedures, based on a notion of the individual not being intellectually capable, might inadvertently deny procedural fairness. We believe that such judgements, where doubt surrounds the cognitive functioning of an alleged offender, should be conducted by professionals qualified to provide suitable assessments. Adherence to appropriate guidelines, detailed procedures for conducting police work with this cohort, and consideration of the use of professional advocates similar to the 'appropriate adult' system in the UK are recommended¹.

Simplification of the health care system would be high on the list of improvements to access and equity for many of our clients with ID or CI. Navigation of the health care system remains complex for those requiring access to numerous supports and services. This is especially important for those suffering multiple forms of disability or co-occurring disorders, such as ID or CI and substance addiction or mental health issues. Access to appropriate health care could also be improved for those experiencing co-occurring disorders or dual disability through the upskilling of practitioners. For example, in some cases practitioners of mental health services perceive a client's primary issue as one of disability, such as ID or acquired brain injury, while the ID practitioner perceives complications due to a co-occurring substance use disorder. This can prevent a timely and holistic approach that would benefit the client. One possible solution for the repeated occurrence of such difficulties for clients who have transitory living and support arrangements could be an optional health care record that travels with the client and/or is accessible, with the client's consent, across varying and multiple locations.

Economic Participation

Clients with disabilities rely on the security that the Disability Support Pension (DSP) provides. It is only natural then, that this cohort often feel reticent in obtaining what might be short term employment at the risk of losing all or part of their DSP. Clear incentives and assurances are required, as is a reframing of the notion of moving from the DSP into employment as being risky. While issues related to the DSP are a federal concern, more emphasis and effort to educate those reliant on the DSP to the benefits and possibilities of training and employment could be beneficial.

Given the stigma attached to both having an intellectual disability and having been an offender, extra effort is required from government and service providers to encourage employers to employ a job-ready individual who lives with an ID or CI and has been through the criminal justice system, particularly if the duration of employment is to be longer term.

Making the most of the NDIS (National Disability Insurance Scheme)

ACSO's main concern regarding the NDIS is the potential restriction on provision of important services for those with intellectual or cognitive disabilities within the criminal justice system, particularly under item 7.25

¹ <http://www.appropriateadult.org.uk/index.php/practice/legal-framework>

(b) in Schedule 1 of the *National Disability Insurance Scheme (Supports for Participants) Rules 2013*. If an appreciation of how disability can lead to or exacerbate offending - further compounding the effects of the disability - is not gained, then the NDIS risks marginalising a cohort within the very population it seeks to support. Studies have reported how cognitive deficits or intellectual disadvantage appear to increase the risk of being sentenced for offences for a variety of reasons (Holland et al 2002, Lindsay 2002, Jesuit Social Services 2016), so it would be disingenuous to treat offending and ID or CI as being completely discrete. NDIS service funding, for many of our clients, will need to take into account their criminogenic needs and requirements if it is to benefit them, by reducing the compound effect of disability and having been convicted of an offence or being within the criminal justice system.

ACSO is acutely aware of the special requirements of service users within the criminal justice system, which has resulted in our recent publication of the *Forensic Services Standards* to assist mainstream support services, including disability services, to enhance their service provision to forensic clients. (<http://www.acso.org.au/what-we-do/justice-innovation-lab/forensic-services-standards/>).

Another concern, given the NDIS transfers decisions of service requirements to the client, is the potential for unsuitable or inexperienced providers to see this vulnerable cohort as purely a commercial opportunity. Inappropriate or inadequate service provision could clearly have a negative effect on the lives of those with complex disabilities who rely on expert and continued support.

In Closing

The Australian Community Support Organisation thanks the Victorian government for the opportunity to submit a response to the State Disability Plan 2017 – 2020 Discussion Paper, and looks forward to any opportunity to further contribute.

Our recommendations are set out on page 6.

References

Holland. T, Clare. I C H, & Mukhopadhyay. T, 2002. Prevalence of 'criminal offending' by men and women with intellectual disability and the characteristics of 'offenders': implications for research and service development. *Journal of Intellectual Disability Research*, Vol 46 Supp. 1

Lindsay. W R, 2002. Research and literature on sex offenders with intellectual and developmental disabilities. *Journal of Intellectual Disability Research*, Vol 46 Supp. 1

Jesuit Social Services, 2016. *Senate inquiry into the indefinite detention of people with cognitive and psychiatric impairment in Australia*. <<http://jss.org.au/wp-content/uploads/2016/04/SUB-160329-Jesuit-Social-Service-submission-Senate-inquiry-into-indefinite-detention-of-people-with-cognitive-and-psychiatric-impairment-FINAL.pdf>>

RECOMMENDATIONS

1. Resources be provided to encourage, support and facilitate voting in elections by those with intellectual disability (ID) or other cognitive impairment (CI).
2. Support be provided to community based organisations and groups to outreach to and better appreciate the needs and potential of those living with ID and CI within their community.
3. In order to improve understanding and appreciation of the circumstances, needs and potential of those living with ID or CI, skilled educators be provided to increase awareness and education in schools, clubs and other community based organisations.
4. Increased emphasis on tailored social or other activities and programs for those with disabilities, to account for individual needs, interests and potential.
5. Ensure suitable procedures are followed when Police charge, arrest and process someone with ID or CI, to optimise procedural fairness.
6. Consider implementation of a system utilising professional advocates for those with ID or CI being processed by the Police or criminal justice system, similar to the 'Appropriate Adult' system under the *UK Police and Criminal Evidence Act 1984*.
7. Continue efforts aimed at streamlining the health care system for those with disabilities, in order to improve access to and navigation through the system, and in particular to enable 'joined up' disability, substance abuse and mental health services.
8. Provide resources to upskill healthcare and behavioural practitioners and administrative staff to successfully assist those experiencing multiple disabilities or co-occurring disorders.
9. Consider introduction of a non-mandatory electronic health care record, which can be accessed, with client consent, by multiple health care practitioners through time and across multiple locations for those with ID, CI, co-occurring disorders or dual disability.
10. Extra encouragement and support for employers to employ individuals with ID or CI and who have been in the criminal justice system, with an aim for long term employment.
11. Not too great or broad a distinction be drawn between services supporting clients' intellectual disability needs and those supporting their criminogenic needs regarding funding under the NDIS. In most, if not all cases, offending and criminogenic needs likely stem or are exacerbated by the effects of intellectual disability and/or cognitive impairment, and feed back to compound the client's compromised quality of life.
12. Protection be provided to ensure that unsuitable service providers, new under the NDIS, do not take advantage of those with disabilities through inadequate service provision or unscrupulous commercial practices.
13. That disability service providers employ the *Forensic Service Standards* to ensure their practices and services are inclusive of and responsive to forensic clients.