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Min/13/951

Mr Graeme Innes AM
Federal Discrimination Commissioner
Australian Human Rights Commission
Level 3, 175 Pitt Street
SYDNEY NSW 2001

22 OCT 2013

Dear Mr Innes

Access to Justice in the Criminal Justice System for People with Disability – Issues Paper April 2013

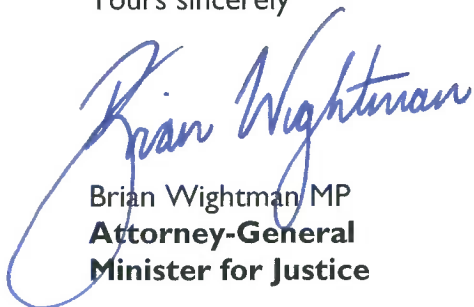
I refer to your letter of 25 July 2013 enclosing the *Access to Justice in the Criminal Justice System for People with Disability - Issues Paper 2013*.

Please find attached a response to the Issues Paper on behalf of the Tasmanian Government to assist the Australian Human Rights Commission in preparing a report on issues of access to justice in the criminal justice system for people with disability who need communication support or have complex and multiple support needs.

As Disability Champion Minister for Law and Justice I look forward to the Commission's report and once again thank you for the opportunity to provide a submission as to programs and services that support access to justice within the criminal justice system for people with a disability in Tasmania.

If you have any questions in relation to this submission please contact Brooke Craven, Acting Director, Legislative Development and Review by telephone on 6233 6754 or by email at legislation.development@justice.tas.gov.au

Yours sincerely



Brian Wightman MP
Attorney-General
Minister for Justice

AUSTRALIAN HUMAN RIGHTS COMMISSION
ACCESS TO JUSTICE IN THE CRIMINAL JUSTICE SYSTEM FOR PEOPLE WITH
DISABILITY – ISSUES PAPER APRIL 2013

TASMANIAN GOVERNMENT RESPONSE SEPTEMBER 2013

Department of Education

Currently within the Department of Education programs and services that support access to justice within the criminal justice system for students with a disability are provided through social work and school psychology services as needed throughout the state.

Referrals for support services can be made through the school or relevant Learning Service, with the opportunity for parents and students to self-refer if they wish. Social work and school psychology services are also available to students enrolled at Ashley School (located within the Ashley Youth Detention Centre).

Department of Health and Human Services

Programs funded through the Department of Health and Human Services (DHHS) to facilitate access to the criminal justice system for people living with disability:

State-wide and Mental Health Services – Forensic Mental Health Services

Wilfred Lopes Centre:

- Secure Mental Health Facility
- Detention of individuals found unfit to plea on basis of disability
- Assessment of fitness to plea
- Treatment of psychiatric disorder

Community Forensic Mental Health Services:

- Outpatient therapeutic service for individuals with mental illness engaged with criminal justice system who are on a forensic order; on Magistrate's bail with specific directions to present to CFMHS; on probation or parole or; at high risk of becoming involved with the criminal justice system.
- Court Liaison provides clinical support and advice to the courts for individuals with disability. They link individuals in court with appropriate DHHS services.
- Forensic Disability provide case management service for individuals found unfit to plea on basis of cognitive or intellectual disability.
- Safe at Home Special Needs Liaison provides therapeutic support and case management for individuals with a disability involved in the Safe @ Home domestic violence program.

Disability and Community Services

Disability and Community Services do not specifically fund programs to address access to justice in the criminal justice system. Persons with disability who are engaged with, or on the threshold of engagement with the criminal justice system are able to access disability specialist services on the basis of need.

The funded services that may be applicable to any one person engaged with the criminal justice service are:

- Advocacy
- Individual Support Packages and Accommodation services – the funded NGO can use support hours to facilitate access to justice as required
- Therapeutic interventions targeting antisocial behaviours prior to engagement to minimise the probability of criminal activity in the future.

In circumstances where an individual has been found unfit to plea due to cognitive or intellectual incapacity, Disability and Community Services has the capacity to implement tailored support packages to mitigate the assessed risks of criminogenic behaviour. These packages can include supervised supported accommodation, community access programs, individual support packages or in combination as required.

In addition, people with disability in Tasmania who are aged between 15 – 24 years old will be transitioned or referred to DisabilityCare Australia from 1 July 2013.

Department of Justice

- Corrective Services Tasmania

In line with the strong national focus on assessing and addressing the needs of offenders with intellectual disabilities, corrective services in Tasmania has identified intellectual disability as a high priority area. A 10-year strategic plan for corrective services, *Breaking the Cycle* (http://www.justice.tas.gov.au/correctiveservices/breaking_the_cycle), was launched in April 2011, and includes a number of strategies and actions relevant to offenders and detainees with disabilities, including intellectual disability and acquired brain injury.

Assessment

There is currently substantial interest at a national level in the prevalence in corrective services of a range of special needs, including intellectual disability and acquired brain injury, as well as developmental disorders such as autism spectrum disorder. In the prison context, the diagnosis of these conditions rests with the Correctional Primary Health Service (CPHS).

Comprehensive assessment processes are conducted by Corrective Services staff upon an individual's entry into Community Corrections or the Tasmania Prison Service (TPS) that enable them to identify individuals with cognitive impairments and facilitate their referral for further specialist assessment and/or support services in order to address the client's needs.

The TPS recently undertook a trial of a broad screening tool that highlighted that there were potentially people requiring additional support who are not being adequately identified on entry into the prison system. Based on the results to date, the TPS is working in partnership with CPHS to strengthen the early identification of people with an intellectual disability or cognitive impairment through an intake interview.

Within Community Corrections all people entering the system are either on a probation order, parole order, community service order or drug treatment order. An assessment is conducted on each person as they enter the system which determines how each offender will be managed for the duration of their sentence. This assessment may identify some mental or physical health issues which are subsequently referred to relevant support organisations.

From time to time the Intensive Support Service is used to support people subject to supervision orders. Where additional supervision and support is required on an ongoing basis, accommodation and support arrangements are developed to meet individual needs.

Prisoners with a significant mental illness may be transferred from the prison to the Wilfred Lopes Secure Mental Health Unit for treatment. The Wilfred Lopes Centre Secure Mental Health Unit can provide a full range of therapeutic interventions including psychology, occupational therapy, social work, general medical care, psychiatry and nursing services. It is also utilised for those found Not Guilty by Reason of Insanity or Unfit to Plead and placed on a Forensic Order.

Forensic Mental Health Services staff provide ongoing case management and supervision by the Chief Forensic Psychiatrist. These services may be provided in the community or within the Wilfred Lopes Centre Secure Mental Health Unit.

Training

The TPS recognises the importance of ensuring all staff members have an awareness of the impact of a range of mental health conditions and disabilities including acquired brain injury and intellectual disability. All new recruits are provided with training in relation to acquired brain injury in the prison environment. Staff working within the Sentence Management and Industries Unit have also undertaken training in acquired brain injury.

All aspects of the TPS initial correctional training are linked to violence reduction through non-physical procedures. The specific topics for induction include:

- Anti-manipulation training –
 - a) motivational interview;
 - b) dealing with acquired brain injury;
 - c) psychopathy (understanding individual characteristics of brain acquired injury and other mental illness issues) (delivered by a Senior Psychologist).
- Sessions on mental illness (delivered by psychiatric nurse).
- The effects of drug and alcohol on health and demeanour (delivered by a doctor).
- The effects of drug and alcohol on individuals (delivered by drug and alcohol expert psychologist).

In addition, the TPS has a team of professionals who provide therapeutic services to those inmates with identified special needs.

Programs

The TPS and Community Corrections provide a range of criminogenic programs and therapeutic support services. Individuals charged with serious offences whose offending can be linked to substance abuse may be eligible to access drug treatment and support services through the Court Mandated Diversion of Drug Offenders Program managed by Community Corrections.

Community Corrections and the TPS do not provide specific programs for inmates with special needs. The TPS Sentence Management and Industries Unit, particularly Therapeutic Services, works with offenders with special needs on a case-by-case basis. Prisoners with special needs may participate in programs while receiving additional support from Therapeutic Services and support may also be provided by external agencies such as Disability Services.

Discussions have also been held between CPHS and the TPS aiming to increase engagement with Disability Services and other agencies to provide service pathways for prisoners and detainees with a disability and to seek better contact with relevant peak bodies.

In the context of employment opportunities for prisoners, WISE Employment works with the TPS to assist inmates with disabilities to find employment.

Infrastructure

While the TPS does not have dedicated accommodation facilities for individuals with cognitive impairments, such individuals are typically housed in the high needs unit until suitable accommodation can be identified for them in another section of the prison.

Over the last few years the TPS has made a number of improvements to facilities to assist prisoners with a disability including the development of disability cells with ramp access at the Ron Barwick Minimum Security Prison.

As part of a number of infrastructure changes being progressed through the Prison Infrastructure Redevelopment Program, new and upgraded facilities are being provided at the Risdon Prison Complex. For those buildings that are completely new such as inmate accommodation, multi-trade centre and activities building, all these facilities have been designed to incorporate disability access, disability toilets and disability cells etc. as appropriate to comply with the Disability Discrimination Act and Building Code of Australia requirements.

Community Corrections has also recently moved to new accommodation in Hobart and the installation of disability toilets, ramps and automatic doors has seen a significant improvement in accessibility. Community Corrections is also undertaking a review of its Launceston accommodation.

Department of Police and Emergency Management

The Department of Police and Emergency Management (DPEM) provides training and utilises a number of services to support people with disabilities who come into contact with the criminal justice system.

Tasmania Police recruit training includes general awareness sessions when dealing with all members of the public, and includes additional considerations that should be taken when a person has, or is suspected of having, a disability. Police recruits also undertake the University of Tasmania's *Contemporary Social Issues and At Risk Populations* units, as part of their training.

The Tasmania Police Manual directs all police officers to the 'Guidelines for Interacting with People with Disabilities', which is accessible via the Department's intranet. The Guidelines provide police officers with prompts that may assist to identify whether a person has a disability, and ways to access supports to facilitate the communication and comprehension of information. This is a document designed to meet internal requirements.

Tasmania Police supports training across the workforce through the District Training Program, and an e-learning platform. Training sessions include *Interviewing Vulnerable Witnesses*, *Mental Health Awareness* and *Dementia Training for Police*.

DPEM also provides relevant information through internal notices, this includes advising of identifiers, such as the Acquired Brain Injury Card, which is carried by many persons who have suffered brain injury, or suffer from epilepsy.

DPEM facilitates access to support services to directly assist people with disabilities, these include:

- The Mental Health helpline
- The Crisis Assessment Triage and Treatment Service
- A teletypewriter (TTY) system (a system to assisted persons with hearing disabilities to access the Radio Dispatch Services)
- A register of brain injury support workers
- AUSLAN interpreting services.

Unfortunately, Tasmania Police cannot provide examples that are able to support Tasmanian case studies, to highlight the potential cost-savings to the criminal justice system when people with disabilities are provided access to appropriate supports and interventions.