



Jesuit Social Services' submission to the Australian
Human Rights Commission National Consultation
Paper – *Shaping our future: discussions on
disability rights*

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Jesuit
Social Services
Building a Just Society

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Our recommendations

Disadvantage, disability and complex needs

What needs to change:

- Policy and funding should prioritise addressing the underlying drivers of disadvantage to reduce the interconnected impacts of disability and disadvantage
- Ensure service systems do not exclude people with disability and complex needs

What is currently being improved but could be strengthened:

- Targeted, specialist care and intensive support for people with disability and complex needs, that works with the whole-of-the-person to meet their full range of needs
- Specialist pathways to recovery that include enhanced care approaches for extended periods

What the Disability Discrimination Commissioner can do:

- Ensure the work of the Disability Discrimination Commissioner highlights the voice of people with disability and complex needs as well as those with disability who experience disadvantage

Education

What needs to change:

- More funding and a greater policy focus on preventing the discrimination and disengagement of people with disability from school
- Greater access to alternative education settings for people with disability, and the integration of alternative education approaches into mainstream settings

What is currently being improved but could be strengthened:

- Support and training for schools to better cater for the impact of trauma and disability on children's behaviour to prevent early school leaving
- Supported transition pathways for people with disability and complex needs to further education, training and employment
- Vocational education to support the development of literacy, numeracy, employability and other soft skills required to enter the workplace

What the Disability Discrimination Commissioner can do:

- Advocate to ensure schools have the resources, funding, training and skills to cater for the diverse needs of people with disability

Employment

What needs to change:

- Introduce employment programs with incentives for employers to create more inclusive workplaces for people with cognitive impairment and complex needs
- Support for employers to adapt their organisation or business to meet the needs of people with cognitive impairment and complex needs

We recommend the National Disability Commissioner:

- Emphasise the needs of people with cognitive impairment and complex needs in the implementation of the *Willing to Work* recommendations.

Housing

What needs to change:

- Increase the supply of appropriate housing for people with disability and complex needs must be addressed
- Long public housing wait lists and limited access for people with disability on the lowest incomes must be addressed to enable greater access

An example of what is currently being done well that can be further extended to enable greater access for people with cognitive impairment and complex needs:

- Supported, transitional housing for people with cognitive impairment and complex needs to support their independent living skills and transition to stable housing.

What the Disability Discrimination Commissioner can do:

- Advocate for the housing needs of people with cognitive impairment and complex needs
- Identify the housing needs of people with cognitive impairment and complex needs
- Advocate for appropriate housing options including innovative housing options in the private rental market (eg. head-leasing) to meet the accommodation needs of people with disability and complex needs

Adult Justice

What needs to change:

- Indefinite detention of people with psychiatric and/ or cognitive impairment must be an absolute last resort
- Introduce mandatory screening for psychiatric or cognitive impairment for all people who enter the prison system
- Ensure community-based therapeutic supports are accessible in regional and remote areas as well as metropolitan areas to support people with cognitive and psychiatric impairment who offend
- Increase diversionary options for people with disability who offend

What is currently being improved but could be strengthened:

- Koori courts in Victoria and other state/ territory equivalents which incorporate Aboriginal approaches into the court system

What the Disability Discrimination Commissioner can do:

- Ensure the recommendations of the Senate Inquiry and the Australian Human Rights Commission report are fully implemented across the country
- Work to develop a coherent framework for holistic disability, education and human services support for people with cognitive impairment and complex needs
- Stronger advocacy for people with cognitive impairment in the justice system, particularly for Aboriginal and Torres Strait islander people, and regarding the lack of support available both pre, during and post contact with the justice system to prevent entrenchment where possible

Youth Justice

What needs to change:

- Early intervention must be a top priority to prevent children and young people with disability coming into contact with the justice system
- Engagement in education and training must be a core component of a youth justice response to child offending
- Expand diversion in youth justice systems nationally

What is currently being improved but could be strengthened:

- Expand and strengthen restorative practices in youth justice, out-of-home care and school settings

What the Disability Discrimination Commissioner can do:

- Advocate for early intervention programs that have a focus on restorative justice and re-engagement in education, training or employment for children and young people who are at-risk of disengaging from school and coming into contact with the justice system

The National Disability Insurance Scheme

What needs to change:

- Create support packages for people with disability who are homeless to access housing and support with living as part of the NDIS
- Ensure people with disability in the justice system have access to disability support before, during and after imprisonment to ensure continuity of care
- NDIS service delivery must be culturally adapted, accessible in rural and regional locations, and able to meet the diverse needs of both people from CALD backgrounds and Aboriginal and Torres Strait Islander people
- The NDIS must develop effective working relationships and processes with other service systems to ensure a holistic approach towards meeting the needs of people with disability and complex needs

What the Disability Discrimination Commissioner can do:

- Advocate for the NDIS to ensure all people with disability, including those with cognitive impairment and complex needs, are able to access safe, secure and affordable housing as part of the NDIS
- Advocate for people in the justice system to receive ongoing support from the NDIS for their disability both in prison and post-release in the community
- Assist with the development of a culturally specific framework in the NDIS for Aboriginal and Torres Strait Islander people with disability in partnership with the Aboriginal and Torres Strait Islander Social Justice Commissioner
- Assist with the development of a culturally specific framework in the NDIS for people from CALD backgrounds

Jesuit Social Services: Who we are and what we do

Jesuit Social Services works to build a just society by advocating for social change and promoting the health and wellbeing of disadvantaged people, families, and communities.

Jesuit Social Services works where the need is greatest and where it has the capacity, experience and skills to make the most difference. Jesuit Social Services values all persons and seeks to engage with them in a respectful way, that acknowledges their experiences and skills and gives them the opportunity to harness their full potential.

We do this by working directly to address disadvantage and by influencing hearts and minds for social change. We strengthen and build respectful, constructive relationships for:

- **Effective services** – by partnering with people most in need and those who support them to address disadvantage
- **Education** – by providing access to life-long learning and development
- **Capacity building** – by refining and evaluating our practice and sharing and partnering for greater impact
- **Advocacy** – by building awareness of injustice and advocating for social change based on grounded experience and research
- **Leadership development** – by partnering across sectors to build expertise and commitment for justice.

The promotion of **education, lifelong learning and capacity building** is fundamental to all our activity. We believe this is the most effective means of helping people to reach their potential and exercise their full citizenship. This, in turn, strengthens the broader community.

Our service delivery and advocacy focuses on the following key areas:

- **Justice and crime prevention** – people involved with the justice system
- **Mental health and wellbeing** – people with multiple and complex needs and those affected by suicide, trauma and complex bereavement
- **Settlement and community building** – recently arrived immigrants and refugees and disadvantaged communities
- **Education, training and employment** – people with barriers to sustainable employment.

Currently our direct services and volunteer programs are located in Victoria, New South Wales and Northern Territory, and include:

- **Brosnan Services:** supporting young people and adults in the justice system, and assisting them to make a successful transition from custody back into the community. Within the suite of services are Perry House, Dillon House and Youth Justice Community Support Services.
- **Jesuit Community College:** increasing opportunities for people constrained by social and economic disadvantage to participate in education, work and community life and reach their full potential.
- **Settlement Programs:** working with newly arrived migrants and refugees across metropolitan Melbourne, including the African-Australian and Vietnamese communities.

- **Connexions:** delivering intensive support and counselling for young people with co-occurring mental health, substance and alcohol misuse problems.
- **Artful Dodgers Studios:** providing pathways to education, training and employment for young people with multiple and complex needs associated with mental health, substance abuse and homelessness.
- **The Outdoor Experience:** offering an alternative treatment service through a range of outdoor intervention programs for young people aged 15 – 25 years, who have or have had issues with alcohol and/or other drugs.
- **Support After Suicide:** supporting people bereaved by suicide, including children and young people.
- **Just Leadership:** Working in partnership with community and corporate enterprises to foster leadership for a just society. This includes the African Australian Inclusion Program, a professional bridging program developed in partnership with the National Australia Bank providing paid work experience and a pathway to ongoing employment.
- **Capacity building** activities in NSW (Just Reinvest project in Bourke) and the Northern Territory with Aboriginal communities to improve their situation and to have more control over their lives.

Research, advocacy and policy are coordinated across all program and major interest areas of Jesuit Social Services. Our advocacy is grounded in the knowledge, expertise and experiences of program staff and participants, as well as academic research and evidence. We seek to influence policies, practices, legislation and budget investment to positively influence participants' lives and improve approaches to address long term social challenges. We do this by working collaboratively with the community sector to build coalitions and alliances around key issues, and building strong relationships with key decision-makers and the community.

Our Learning and Practice Development Unit builds the capacity of our services through staff development, training and evaluation, as well as articulating and disseminating information on best practice approaches to intervening with participants across our programs.

Introduction

Jesuit Social Services welcomes the opportunity to respond to the Australian Human Rights Commission National Consultation Paper – *Shaping our future: discussions on disability rights*.

Every Australian should have access to the opportunities in life that will enable them to flourish – to complete their education, to get a job, to access safe and affordable housing, to raise their children in safe communities and to see the next generation thrive.

Our submission draws on our experience engaging with vulnerable people and communities throughout Australia. It focuses on the intersections of disability with complex needs, disadvantage and involvement in the justice system. We note that Aboriginal and Torres Strait Islanders, people with multiple and complex needs, women, children and young people are particularly vulnerable cohorts.

This submission also uses the definition of ‘disability’ as outlined in the *Disability Discrimination Act*, which broadly includes physical, intellectual, psychiatric, sensory, neurological and learning disabilities, as well as physical disfigurement and the presence in the body of disease-causing organisms. While Jesuit Social Services works with people who have a range of disabilities, we predominantly work with people with intellectual disability and cognitive impairment.

Who we work with

Jesuit Social Services works with and advocates for people with multiple and complex needs. These people are often some of the most disadvantaged Australians. They can face a range of co-occurring and interrelated issues, such as homelessness, disability, substance misuse, health problems, and involvement in the child protection and criminal justice systems. These overlapping issues often mean that recovery is harder to achieve and sustain.

For this small number of people, the complexity of their needs means that they struggle to remain engaged in formal treatment and support services. While our social and welfare systems are able to meet the needs of the majority of Australians, they are often not adapted to cater for Australia’s most vulnerable people. For this reason, soft-entry points and outreach services play a crucial role in engaging at-risk people, who may not have the capacity to actively seek out services.

For people with multiple and complex needs, a whole-of-person approach is critical in addressing the unique mix of intersecting and overlapping issues that each individual faces. For many of our program participants, developing independent living and interpersonal skills, and building confidence, are the building blocks to recovery.

With this understanding, we recognise that a whole-of-government approach, where the service systems work together and target locations of entrenched disadvantage, is the most effective way to meet the needs of society’s most vulnerable, including those with disability.

Social disadvantage and disability

People with disability can often come from communities of entrenched disadvantage. A series of research studies commissioned by Jesuit Social Services and Catholic Social Services Australia (undertaken by Professor Tony Vinson) shows high rates of disability and mental health issues coincide with high rates of crime and prison admissions as well as a range of other overlapping indicators.¹ The most recent report in this series, *Dropping Off the Edge 2015*, highlights that a small number of localities across a number of Australian jurisdictions experience a striking degree of disadvantage. The web of disadvantage in these communities is characterised by a prevalence of disability alongside high rates of domestic violence, child maltreatment, low levels of educational attainment and long term unemployment (see Appendix 1 for more information).

The impact of disability can also generate or compound disadvantage. For example, the consequences of developing an Acquired Brain Injury (ABI) can include the loss of employment and changes in identity, meaningful participation in society, relationships and financial security. People with ABIs can often experience trauma and loss, contributing to elevated levels of mental illness.² This is often exacerbated by insufficient services and support, social isolation and community prejudice.³

The experience of disability and disadvantage is further compounded by intergenerational trauma for Aboriginal communities. As highlighted in the *Overcoming Indigenous Disadvantage 2014* report:

“Disadvantage may have both immediate social, economic and cultural determinants, and deeper underlying causes. For example, the relatively high rates of violence in Aboriginal and Torres Strait Island communities are influenced by immediate factors such as alcohol and illicit drug use, mental health issues and childhood experience of violence. However, a number of researchers also suggest that deeper underlying causes include ‘intergenerational trauma’ resulting from the ongoing and cumulative effects of colonisation, loss of land, language and culture, the erosion of cultural and spiritual identity, forced removal of children, and racism and discrimination.”⁴

While not all people with disability experience disadvantage, its effects can make an individual more vulnerable to the risk factors associated with social disadvantage.

Disability in the context of multiple and complex needs

Research shows that people with disability can have multiple and complex needs. This small group of highly vulnerable people experience overlapping aspects of disadvantage such as trauma, substance abuse, homelessness or mental health issues alongside their disability. For the most vulnerable people, disability can perpetuate disadvantage and poverty.

People with disability can often experience more than one disability. Of Australians under 65 years with an ABI, 42 per cent had a psychiatric disability, 39 per cent had a sensory or speech disability and 29 per cent had an intellectual disability.⁵

Amongst those in the justice system, the prevalence of disability with other health conditions has been noted by a number of other studies in Australia.⁶ NSW researchers found that 69 per cent of a sample of prisoners with cognitive impairment had multiple and complex needs.⁷ Aboriginal people in this study were more likely to have multiple and complex needs as well as increased interaction with the criminal justice system.⁸

For the people with disability and complex needs that Jesuit Social Services works with, the most significant challenges and underlying causes of exclusion are often related to behaviour and the impacts of trauma.

Targeted, specialist care is required to meet the needs of people with disability and multiple and complex needs based on a trauma-informed perspective. Intensive support that works with the whole-of-the-person along with their family and community, rather than focusing on one specific aspect of disadvantage, is critical for working effectively with this cohort.

What needs to change:

- Policy and funding should prioritise addressing the underlying drivers of disadvantage to reduce the interconnected impacts of disability and disadvantage
- Ensure service systems do not exclude people with disability and complex needs

What is currently being improved but could be strengthened:

- Targeted, specialist care and intensive support for people with disability and complex needs, that works with the whole-of-the-person to meet their full range of needs
- Specialist pathways to recovery that include enhanced care approaches for extended periods

What the Disability Discrimination Commissioner can do:

- Ensure the work of the Disability Discrimination Commissioner highlights the voice of people with disability and complex needs as well as those with disability who experience disadvantage

Disability, education and employment

Education

People with a disability generally have lower levels of employment and educational achievement, and lower school completion rates.⁹ In 2015, 59 per cent of people with a disability in Australia had not completed Year 12 or equivalent.¹⁰ As highlighted in the consultation paper, people with disability, particularly for those whose disability impacts their behaviour, can face expulsion or suspension due to a lack of awareness of the disability, its impact on behaviour and a lack of knowledge of how to accommodate the disability.

Research shows that disengaged and high needs learners, particularly those with a disability, face a range of challenges and barriers to engaging and completing education and training. This includes low levels of prior achievement, limited access to education, social barriers, and negative experiences and/or attitudes to learning.¹¹ For people with disabilities, a lack of resources and positive experiences to meet their integration and learning needs can see people isolated and unable to access education. In order to overcome these barriers, potential learners need support to manage any issues affecting their ability to access and engage in education, and also instructional support to help them learn.¹²

Building the confidence levels of learners is fundamental to address the barriers to education, as is countering negative beliefs and building a learner's capacity to be resilient. Research¹³ highlights four key program characteristics that have been proven to effectively engage and support disadvantaged learners:

- **Intensive and sustained engagement:** strong relationship building; outreach in strategically located areas; quick responses to early school leaving.
- **Support for wider needs of the learners:** tailored support services through multidisciplinary teams; engaging students' support networks; strong partnerships between education providers, support organisations and the local community.
- **Flexible learning environments:** flexible learning options; soft entry points; welcoming and supportive learning environments; relevant and interesting curriculum; embedding literacy and numeracy; mentoring and strong peer relationships.
- **Pathways into further learning and work:** volunteering, on-the-job training, career guidance; partnerships between businesses, education providers and local community organisations; continued support for broader individual needs in employment settings.

In response to these issues, Jesuit Social Services is focusing on embedding pathways into employment and participation in our training and learning programs through the Jesuit Community College. Elements of a pathways approach can include embedding pathways in the learning program, integration with work experience and employment opportunities, and utilisation of intermediate labour market programs (such as social enterprises). Critically, education and training must focus on building an individual's literacy and numeracy skills, employability skills and digital literacy skills to prepare them for further training or the workplace. Currently, 23 per cent of Jesuit Community College participants have disability.

What needs to change:

- More funding and a greater policy focus on preventing the discrimination and disengagement of people with disability from school
- Greater access to alternative education settings for people with disability, and the integration of alternative education approaches into mainstream settings

What is currently being improved but could be strengthened:

- Support and training for schools to better cater for the impact of trauma and disability on children's behaviour to prevent early school leaving
- Supported transition pathways for people with disability and complex needs to further education, training and employment
- Vocational education to support the development of literacy, numeracy, employability and other soft skills required to enter the workplace

What the Disability Discrimination Commissioner can do:

- Advocate to ensure schools have the resources, funding, training and skills to cater for the diverse needs of people with disability

Employment

The low educational attainment levels of people with disability impacts their capacity to find meaningful employment. As highlighted in the AHRC's recent report, *Willing to Work*:

People with disability have low levels of educational attainment outcomes compared to people without disability. For people with disability, and particularly intellectual disability and mental illness, education systems often do not provide the flexibility and support needed to gain secondary and tertiary qualifications and as a result they are unlikely to have the education and skills they need to obtain and retain meaningful employment.¹⁴

Jesuit Social Services endorses the recommendations in *Willing to Work* and emphasises the need to implement these actions. In particular, we highlight the particular needs and experiences of people with psychosocial and intellectual disabilities, as well as, brain injuries who also have complex needs.

The report highlighted the lack of disability awareness as a contributing factor to misunderstandings and negative assumptions that lead to discrimination. The following example from the report, while specific to Autism Spectrum Disorder, reflects the experiences of the people we work with:

For individuals with Autism Spectrum Disorder, like myself, we have a disability that seems very hard for those in the workplace to accept or see. Assumptions are put into play and our behaviour is interpreted as being a bully, rude or inattentive. When the [opposite] is most often true.¹⁵

Stigma is often a barrier in the workplace, particularly when cognitive impairment is not recognised or is poorly understood by colleagues. People with cognitive impairment are more likely to have avoided situations as a result of their disability and more likely to experience discrimination as a result of their disability, compared with people with physical, sensory or speech impairments.¹⁶ This leads to social exclusion and a higher risk of redundancy in the workplace. People with mental health and psychosocial disabilities represented the group with the highest number of complaints put to the AHRC between 2012 and 2015.¹⁷

A different approach to addressing barriers to employment is required for people with cognitive impairment and complex needs, as their barriers to employment can differ significantly from people with physical disabilities. People with cognitive impairment and complex needs require intensive induction when commencing employment to build familiarity and predictability in the work environment. Intensive induction helps to build competency and understanding in the role to ensure cognitive processing barriers are addressed. Additionally, flexible hours, particularly on commencement, assist the person to integrate slowly into the workforce, decreasing the likelihood of quitting the job prematurely. For people who have never had stable full-time employment, a flexible arrangement in which work time is incrementally increased enables the person to adapt to change and develop a sense of stability. This also grants the person time to address other needs alongside employment, leading to long-term improvements and preventing cycles of disadvantage from re-occurring.

Additionally, mentoring within the workplace offers crucial support to help people adapt to the workplace and provides a crucial point of assistance when required. In a new work environment, people with cognitive impairment and complex needs may not have the confidence to navigate the workplace or ask for help because of the risk of being discriminated against for their query. Having a mentor who builds a welcoming and encouraging relationship in the workplaces helps to address these barriers and provide stability in the work environment.

Addressing the barriers to employment brings wider benefits to the workplace. Having someone with cognitive impairment in the workplace increases knowledge in the workforce of cognitive impairment and breaks down stereotypes. This in turn breaks down barriers for other people with cognitive impairment by shifting culture through building understanding and capacity in the workforce to accommodate people with a wide range of disabilities.

What needs to change:

- Introduce employment programs with incentives for employers to create more inclusive workplaces for people with cognitive impairment and complex needs
- Support for employers to adapt their organisation or business to meet the needs of people with cognitive impairment and complex needs

We recommend the National Disability Commissioner:

- Emphasise the needs of people with cognitive impairment and complex needs in the implementation of the *Willing to Work* recommendations.

Disability and housing

The availability of safe, secure and stable housing is a major issue for many in our community, but particularly for people with disability and complex needs. Research shows that people with disability are at a greater risk of homelessness and that certain disabilities are associated with different homelessness risk.¹⁸ In 2012, 15 per cent of people with disability had experienced homelessness and one in five had been without a permanent place to live at some point in their life.¹⁹ People with disability are also over five times more likely to be in social housing than those without disability.²⁰

Homelessness services provide varying levels of housing advice, accommodation and support. While these services provide critical interventions for people with temporary housing crisis or less complex underlying issues, they also must operate in an environment where resources are limited and there are significant barriers to building a highly skilled workforce. These pressures mean that they often struggle to support the small but significant number of people in the community with a combination of complex needs and challenging behaviours that put them at heightened risk of prolonged homelessness, social exclusion and of contact with the justice system, such as people with more than one disability or with a mental illness and disability.²¹

People with disability and involvement in the justice system are particularly at-risk, with 30 per cent of people exiting prison in Australia doing so into homelessness²² and those with complex needs experiencing greater homelessness and housing disadvantage.²³ Through our work with young people in the justice system, we know that a small number of young people remain in custody given the lack of access to a home. In particular, there are major problems with the suitability of accommodation for young people on remand. While the legislation specifically prohibits the remand of children due to a lack of suitable accommodation, there is an onus on the justice system to provide alternative arrangements for children at risk of remand. Australian and international research has identified a range of alternative accommodation options to remand including remand fostering, brokerage and bail hostels that could be introduced to address this issue.²⁴

A barrier for people finding stable housing, can be entry into the private rental market. Barriers include the cost of rent, houses not being physically suitable and the insecurity of tenure, with the landlord being able to terminate tenancy at any time.²⁵ While social housing is increasingly being built with universal design principles, there is no current mandate for universal accessibility for private rentals, discriminating against people with disability.²⁶ People with disability may also experience discrimination from the landlord, who may be more likely to choose a tenant who does not require modification to the house (even when cost is not an issue).²⁷ Exacerbating this issue is the acute shortage of low cost, appropriate housing for people with disability.²⁸

For people with cognitive impairment and complex needs, financial barriers often prevent people from accessing stable, secure and safe housing. Many people survive on Centrelink benefits which makes access to rental accommodation difficult, particularly for singles. This is equally felt in the social housing market where housing models do not often cater for people on very low incomes. Public housing also has significant wait times. For example, in Victoria there are currently 39,528 applications under the register, of which 13,085 are priority access.ⁱ There is also the barrier of no rental history

ⁱ In Victoria, eligibility for priority access includes people who experience violence in the home, need to move for health reasons, live in over-populated dwellings, live in emergency, crisis or transitional housing, or are temporarily staying with someone while looking for a home. Source: Department of Human Services.

when the person has only lived with family, in out-of-home care or in custody. There are those who have poor rental history due to experiencing eviction as a result of poor behaviour resulting from disability or accruing rental arrears. Additionally, people with cognitive impairment often lack the confidence to present themselves for private rental or the capacity to navigate the system. This combination of factors makes entry into the private rental market very challenging for people with disability and complex needs.

Lacking independent living skills can also be a barrier to maintaining stable accommodation. Many people with disability have not developed the independent living skills necessary for stable accommodation. Transitional, supported housing, with after-hours workers, is central to a pathway to stable, independent living. Without intensive support to access and sustain appropriate forms of housing, many of these people will continue to experience homelessness, and will have contact with other acute services in the community.

Investment is needed in housing and support packages that aim to stabilise housing and build social inclusion. Through our research and experience delivering programs, we have shown that secure and stable accommodation, coupled with assistance to sustain housing and build capabilities, can enable people with disability and complex needs to maintain their housing and more productively participate in the community.²⁹

Jesuit Social Services' Next Steps and Perry House models are two such examples of supported living arrangements. Perry House is a living skills residential program for young people with intellectual disabilities who are involved with the criminal or youth justice systems. Perry House workers facilitate the development of independent living skills from a strengths-based approach which promotes resilience and a 'can do' attitude in life. Each resident is supported to develop a 12 month program plan which aims to optimise their capacity to live independently in the community. Activities may include reconnection to family, engagement in employment, training or education, financial management, good communication and use of technologies. See Appendix 2 for case studies.

To meet the varying housing needs of people with disability, a diversity of options is critical. Options include transitional, supported living arrangements such as residential programs, lead tenant housing, step down models, and approaches that support an individual's entry into the private housing market through housing first models and head-leasing.ⁱⁱ Ensuring universal design principles are applied throughout the private housing market is critical for breaking down barriers to secure housing. It is also important to consider housing options through a gendered lens to ensure women have access to safe, secure, long-term accommodation.

ⁱⁱ **Lead tenant** is an out-of-home care placement option providing medium-term accommodation and support to young people aged 16-18 years, who have been placed away from the care of their families by Child Protection (Source: DHHS, Victorian Government). **Head-leasing** occurs when a social housing provider leases a property from a landlord in the private rental market and then subleases it to a person requiring housing assistance. Based on the understanding that housing is a right, the **Housing First model** secures housing as a first step to addressing social issues. It is similar to a head-leasing arrangement, however the individual has no requirement to engage in support services and the housing is permanent.

What needs to change:

- Increase the supply of appropriate housing for people with disability and complex needs must be addressed
- Long public housing wait lists and limited access for people with disability on the lowest incomes must be addressed to enable greater access

An example of what is currently being done well that can be further extended to enable greater access for people with cognitive impairment and complex needs:

- Supported, transitional housing for people with cognitive impairment and complex needs to support their independent living skills and transition to stable housing.

What the Disability Discrimination Commissioner can do:

- Advocate for the housing needs of people with cognitive impairment and complex needs
- Identify the housing needs of people with cognitive impairment and complex needs
- Advocate for appropriate housing options including innovative housing options in the private rental market (eg. head-leasing) to meet the accommodation needs of people with disability and complex needs

Disability and the criminal justice system

People with cognitive impairment are over-represented in the justice system. Victorian statistics show that 42 per cent of male prisoners and 33 per cent of female prisoners have a confirmed Acquired Brain Injury (ABI) compared with 2 per cent of the general Australian population.³⁰ Across Australia, just over one third of prisoners have reported having received a brain injury resulting in a loss of consciousness during their lifetime.³¹ People with intellectual disabilities are also over-represented in the justice system, although not to the same extent as those with an ABI. An Australian study found that 12 per cent of the prison population had an intellectual disability and up to 30 per cent had a borderline intellectual disability.³² In Victoria, only three per cent of the total prisoner population has an intellectual disability, however of this group, 25 per cent were under 25 years and 23 per cent were Aboriginal or Torres Strait Islander.³³

People with mental health disorder and/or cognitive impairment are **3 to 9 times** more likely to be in prison than their non-disabled counterparts

Aboriginal and Torres Strait Islanders are particularly at-risk given their over-representation in the criminal justice system and amongst people with disabilities. Aboriginal and Torres Strait Islanders constitute 27 per cent of the prisoner population,³⁴ compared to 3 per cent of the general population, and are 1.7 times more likely to have a disability.³⁵ Aboriginal and Torres Strait Islanders are more likely to have come into contact with the justice system at an earlier age, more frequently than the non-Indigenous population and are more likely to have experienced greater disadvantage.³⁶

Having a cognitive disability can contribute to increased risk of involvement in the criminal justice system both as a victim and as a perpetrator. For example, the effects of a brain injury can make a person vulnerable to being manipulated and exploited as an accomplice in a criminal offence, more likely to have their behaviour misunderstood and less able to negotiate and understand the requirements of the justice system (e.g. not meeting order and parole requirements or understanding court proceedings).

For people with disability and multiple and complex needs, a study found that people in this group were more likely to have had earlier contact with police, be victims as well as offenders, have been clients of juvenile justice, and have had more police and prison custody episodes over the course of their lives.³⁷ A greater portion of Aboriginal people in this study had multiple and complex needs as well as greater numbers of interactions with the criminal justice system.³⁸

According to a major 2012 NSW study of a large sample of adult prisoners in NSW with cognitive disability and mental health disorders, the most significant driver of offending in people with intellectual disabilities is a lack of support services, including specialist disability services, housing support and drug and alcohol services³⁹. The study concluded:

Having a cognitive impairment predisposes persons who also experience other disadvantageous social circumstances to a greater enmeshment with the criminal justice system early in life, and persons with cognitive impairment and other disability such as mental health and AOD disorders (complex needs) are significantly more likely to have earlier, ongoing and more intense police, juvenile justice, court and corrections episodes and events. The cognitive and complex needs groups in the study have experienced low rates of disability support as children, young people and adults, with Indigenous members of the

cohort having the lowest levels of service and support. It is evident that those who are afforded [disability services] support do better, with less involvement in the criminal justice system after they become clients compared with those with cognitive disability who do not receive [disability] services.

The Enabling Justice Project

Jesuit Social Services and the Centre for Innovative Justice at RMIT established the Enabling Justice project in 2015 to explore the experiences people with an ABI in the criminal justice system and to offer alternative responses, including advocacy in order to address their over representation in the criminal justice system.

A justice user group was created and one-on-one interviews were held. Justice users themselves identified areas in need of reform and participated in discussions about issues and ideas for improving the criminal justice system. A Consultation Paper was produced to give voice to the experiences and views of the justice users involved in the project. The full consultation paper can be found at <http://jss.org.au/enabling-justice-project-consultation-paper/>.

Sometimes brain injury is not easily recognisable as it can affect specific and isolated areas of functioning. Because a brain injury can happen at any time in a person's life, in either childhood or adulthood, it is possible for the injury to go undetected, particularly if it is the result of a cumulative process (as with alcohol related brain injury), or the person was experiencing homelessness, mental illness, family violence, or drug and alcohol misuse, where comprehensive medical treatment and rehabilitation services may never have been accessed. For this reason ABI is often referred to as a 'hidden' disability, and the actions of people with ABI may be put down to behavioural and personality issues.

Some of the issues in the consultation paper include:

- People with ABI feel vulnerable in police interactions and would benefit from clearer language and respectful communication.
- Improving police communication with all people will assist people whose ABI is unknown
- The Independent Third Person Program is not always offered to those who need it, yet demand already outstrips supply. The Program provides important support to people with ABI and complex needs and should be enhanced
- Plain, clear language and respectful communication at Court is important for people to understand and engage with what is happening to them, but it is rarely experienced
- Current sentencing options for people with an ABI are too limited, meaning that prison is often the only available option
- Prison should be an opportunity for assessment and connection to social support, particularly for those found to have cognitive impairment and/or multiple and complex needs
- A term of imprisonment should be a punishment of last resort for low-level offending
- A breach of a Community Corrections Order may be an indication of a cognitive impairment and/or multiple and complex needs and should prompt referral to a solution-focused Court or list rather than an immediate return to mainstream Court and prison
- Transitional centres seem to be a necessary bridge between prison and the community, and reduce recidivism; but there are not enough to meet demand
- Investment in post-release housing is necessary to reduce recidivism, ensure community safety and allow ex-prisoners to live dignified lives.

A final report of the project will be released in early 2017.

Indefinite detention of people with cognitive and psychiatric impairment

The recently released Senate Inquiry report on the *Indefinite detention of people with cognitive and psychiatric impairment in Australia* found that more than 100 people are detained around Australia without conviction due to a cognitive or psychiatric impairment.⁴⁰

Jesuit Social Services is deeply concerned by the arbitrary detention of people with cognitive impairment who are found unfit to plead. The failure to provide adequate accommodation and support services and the arbitrary nature of detention constitutes an abuse of human rights. We support the Australia Human Rights Commission's recommendations in *KA, KB, KC and KD v Commonwealth of Australia* and *Equal before the law: Towards Disability Justice Strategies* as well as the recommendations highlighted in the recently released report by the Senate.⁴¹

People with cognitive impairment can experience longer terms of imprisonment, despite being found unfit to plead, due to the justice system not catering for their disability.⁴² People with cognitive impairment should have equality before the law and not be discriminated against by a system that fails to identify their support needs.

Responses to offending by people with cognitive impairment should identify the underlying causes driving the behaviour and provide a therapeutic response that meets their needs and effectively prevents reoffending. People found unfit to plead due to cognitive impairment should be placed in therapeutic, community-based environments with intensive support to prevent further contact with the justice system, including appropriate supervision if required.

Effective responses to people with psychiatric or cognitive impairment in the justice system include:

- better intervention and support services
- expanded community visitor's schemes
- improved witness support services to people with disabilities
- creation of an assessment protocol that assists police, courts and correctional institutions in identifying people with disabilities
- transparent, effective and culturally appropriate complaints handling procedures
- training for police, lawyers and others in justice regarding the needs of people with disability
- state and territory governments to fund a range of appropriate supported accommodation options across metropolitan and regional locations for people with cognitive and/or psychiatric impairments.

Further detail regarding Jesuit Social Services' stance on this issue can be found in our submission to the Senate Inquiry.⁴³

The over-representation in the justice system of Aboriginal and Torres Strait Islander people with disability

Aboriginal and Torres Strait Islander people with disability are significantly over-represented in the justice system. The recently released UNSW study on Aboriginal people with mental and cognitive disabilities in the criminal justice system highlights a number of underlying factors that contribute to the over-incarceration including:⁴⁴

- Institutional racism, stigma and discrimination which impacts access to education, employment, housing and just legal outcomes

- Little recognition of the ongoing impact of colonisation, intergenerational trauma, loss and grief amongst ATSI people
- Systemic normalisation of disadvantage, disability and offending, particularly for people with multiple and complex needs
- Little acknowledgement of the different meanings of the term disability in Aboriginal communities.
- Aboriginal people with a disability often also experience chronic health issues as well as social and economic disadvantage.
- The lack of adequate support for complex needs in the community means that problems go untreated and worsen.
- The lack of diversionary programs means that incarceration becomes the default response
- The absence of a coherent framework for holistic disability, education and human services support means that people with complex needs are unlikely to be adequately supported by siloed systems
- The lack of diagnosis of disability, particularly in the case of Foetal Alcohol Spectrum Disorder (FASD), limits access to needed support and understandings of the behaviour in light of the disability
- Policy and legislative changes in the last 20 years that have had a negative and disproportionate impact on Aboriginal and Torres Strait islander people with disability

The following graph represents a stereotypical trajectory of Aboriginal and Torres Strait Islander people with disability into the justice system. It highlights how the lack of support and intervention early in life places people at an increased risk of life a crime.

Aboriginal and Torres Strait Islander people with disability and complex needs need a holistic, integrated and culturally responsive model of care that brings together multiple service systems in the community to meet their needs. Prevention comes from addressing the underlying factors of disadvantage and strengthening Aboriginal and Torres Strait islander self-determination to heal from the detrimental effect of colonisation on Aboriginal communities and culture. There is a significant need for early diagnosis and culturally appropriate support for children and in the justice system, a recognition of and an appropriate response to the behaviour resulting from disability and complex needs. There needs to be appropriate treatment and accommodation options in the community to create diversionary options for people who come into contact with the justice system to create opportunities for rehabilitation and integration into the community.

A common pathway for Aboriginal and Torres Strait Islander people with disability into the justice system

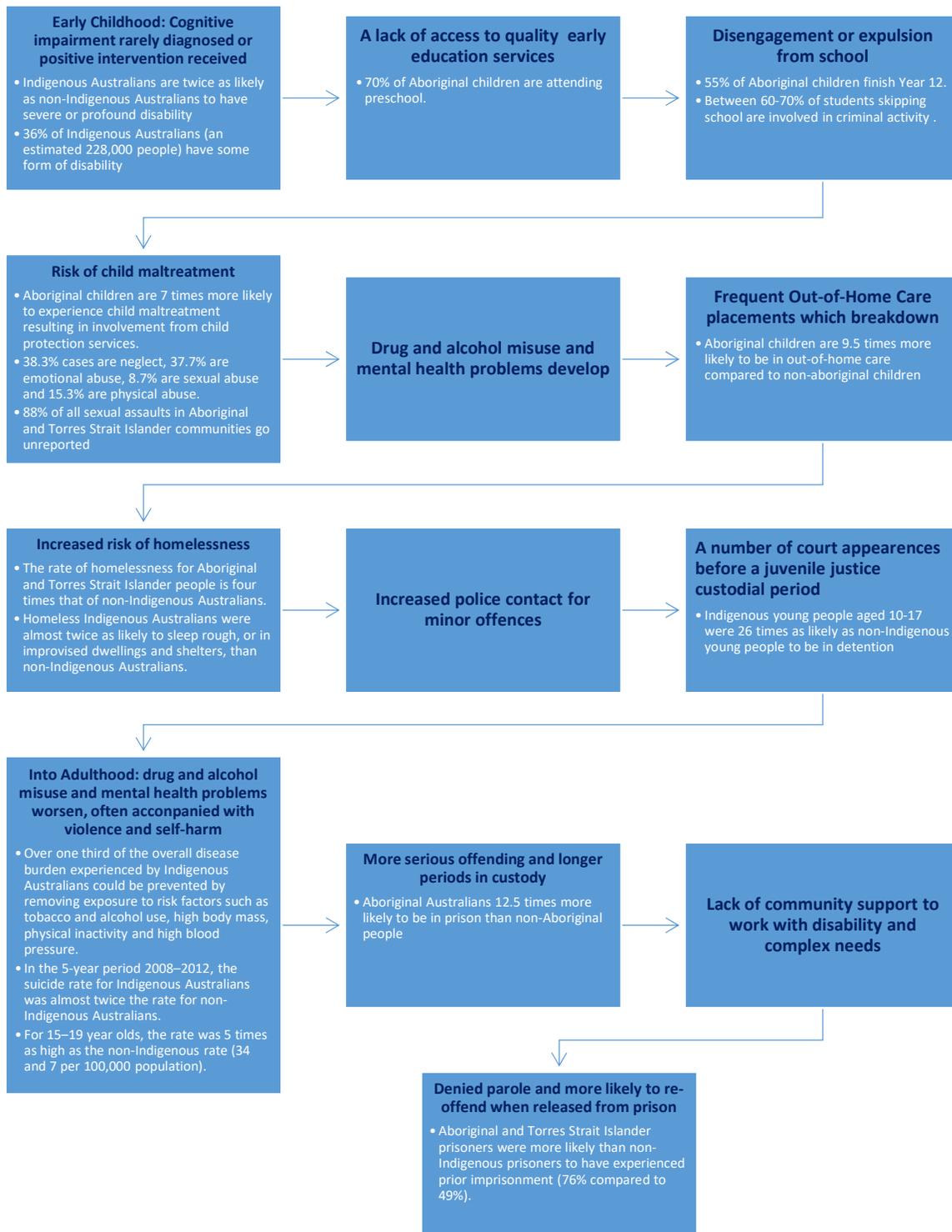


Figure 1: For sources, please see References

Case Study: Bella*

*not her real name

Bella's story highlights the lack of appropriate services in the justice system and the challenges that arise upon release when there is a lack of information sharing from the prison.

Bella was found to have a hearing impairment at 38 years old. Throughout her involvement with the justice system it was challenging for her because she often couldn't hear judges at court, couldn't hear what police asked her when she was being questioned, didn't hear announcements in prison. It meant she often had lack of understanding of what was being asked of her and a lack of opportunity to respond appropriately.

Bella was approved for the Disability Support Pension (DSP) due to low cognitive functioning at 38 years old. Despite having ongoing involvement with justice system since she was 17, the only information Jesuit Social Services were provided with was that she had a suspected intellectual disability. The process took months to complete DSP application due to a lack of information sharing, which meant her new GP in the community had to gather information to provide Centrelink.

Case Study: Tilly and Nigel*

*not their real names

Both Tilly and Nigel were referred to Jesuit Social Services ReConnect program upon exiting prison. Both were Aboriginal people who had spent years in custody with a suspected ABI. Despite their years in the justice system, neither had received a formal diagnosis, preventing them from accessing support. In Nigel's case, he reported that he was diagnosed at 15 years, however no medical evidence could be tracked.

Consequently, with a formal diagnosis, neither Nigel nor Tilly are able to access support for their impairment, or have their behaviour responded to in light of their impairment, leading to further entrenchment in the justice system.

What needs to change:

- Indefinite detention of people with psychiatric and/ or cognitive impairment must be an absolute last resort
- Introduce mandatory screening for psychiatric or cognitive impairment for all people who enter the prison system
- Ensure community-based therapeutic supports are accessible in regional and remote areas as well as metropolitan areas to support people with cognitive and psychiatric impairment who offend
- Increase diversionary options for people with disability who offend

What is currently being improved but could be strengthened:

- Koori courts in Victoria and other state/ territory equivalents which incorporate Aboriginal approaches into the court system

What the Disability Discrimination Commissioner can do:

- Ensure the recommendations of the Senate Inquiry and the Australian Human Rights Commission report are fully implemented across the country
- Work to develop a coherent framework for holistic disability, education and human services support for people with cognitive impairment and complex needs
- Stronger advocacy for people with cognitive impairment in the justice system, particularly for Aboriginal and Torres Strait islander people, and regarding the lack of support available both pre, during and post contact with the justice system to prevent entrenchment where possible

The prevalence of children with disability in the youth justice system and the role of the education system

Evidence tells us that children in custody are likely to be among the most vulnerable and disadvantaged in our community.⁴⁵ Young people with disabilities continue to represent a significant number of those involved in the justice system. A snapshot of young people in custody in Victoria highlights the prevalence of disability (11 per cent) and the prevalence of young people presenting with issues with their intellectual functioning (24 per cent). Alongside this are high rates of other vulnerabilities including involvement with child protection, being victims of abuse, trauma or neglect, being suspended or expelled from school, histories of alcohol and drug misuse, intergenerational contact with the justice system and mental health problems. See Appendix 3 for the full snapshot of the characteristics of young offenders.

It is critical that children and young people coming through the justice system with cognitive impairment and other disabilities are identified early to prevent the trajectory into the adult system. When the needs of people with cognitive impairment and complex needs are not supported, people are more likely to experience more frequent and longer contact with the justice system. It is critical that people with cognitive impairment have their needs met as young people and children to give each person the opportunity to reach their potential. Contact with the justice system should act as a warning signal that the child or young person is not receiving the support they need and intervention is required.

Re-engagement in education and training to prevent contact with the justice system

Engagement in education and training is both a protective factor, reducing the risk of a young person coming into contact with the justice system, as well as an intervention strategy when young people do become involved in the justice system, to prevent further offending.

There is a strong connection between school performance, truancy and criminal involvement. A number of studies, including Jesuit Social Services' research, have found that between 60-70% of students skipping school were involved in criminal activity.⁴⁶ Attendance and engagement at school is important for children's development as well as for value transmission and social awareness. Most children who have contact with the justice system are developmentally, socially and economically vulnerable, as well as likely to be disengaged from the support and education that can support positive development.

Navigator Initiative

Recognising the importance of school engagement as a protective factor against involvement in the criminal justice system, Jesuit Social Services is delivering casework and support to disadvantaged young learners as part of the Victorian Government's Navigator initiative. Navigator works with disengaged learners aged between 12 and 17 to connect with them and their support networks to return them to education or training.

Re-engaging vulnerable young people in educational, learning and employment pathways gives them the foundational skills and opportunities they need to flourish. The Navigator pilot program will operate in a number of areas in Victoria that experience significant disadvantage including higher rates of long-term unemployment and family violence. The program's work will include the development of individualised learning and cultural plans and restorative practice including therapeutic and practical support.

Re-engagement in education and training to prevent young people from further offending

Given the strong link between disengagement in education and criminal activity, strengthening connections to school or other education providers works to prevent young people from reoffending.

Research has identified the importance of education and training for young people with disabilities in the justice system. One study of 531 incarcerated youth (58 per cent had a disability) found that engagement in work or school immediately after leaving a custodial facility had protective effects and that this benefit was pronounced for youths with disabilities. Participants who were engaged in work or school at six months after release tended to stay involved in those positive activities after 12 months and not return to the juvenile correctional system.⁴⁷

However, education in detention facilities does have particular challenges.⁴⁸ Young people under 18 in custody have a range of neuro-developmental needs, mental health issues, experiences of care and disrupted education which will impact on their ability to engage in educational activities, as highlighted by the following UK data:⁴⁹

- Rates of ADHD are estimated at 30% which is five times higher than in the general population
- 20% have identified learning disabilities compared to 2-3% of the general population
- 43-57% are estimated to have dyslexia compared to 10% of the population
- 60% are estimated to have speech, language and communication needs compared with 5-14% from a typical adolescent sample of the general population. This can lead to difficulties in listening, processing instructions and to understanding age-appropriate vocabulary with children appearing rude or uninterested as they find educational contexts difficult to follow

- 50-80% are estimated to have had a traumatic brain injury compared to 10% of the general population, with effects including fatigue and cognitive problems which may result in children being seen as lacking initiative (which could be mistaken for laziness), lacking inhibition (especially around inappropriate behaviours), or having difficulty following rules
- The educational background of children in custody is poor—almost nine out of 10 boys (88%) said they had been excluded from school
- Almost two-fifths (38%) said that they were aged 14 or younger when they were last at school

There are also specific issues for young adults aged 18-24, indicating the importance of young adult specific interventions in order to meet their needs:

- Neuro-scientific research has found that the parts of the brain associated with planning, verbal memory and impulse control and the process of cognitive and emotional integration continues to develop well into adulthood and therefore is not mature in this conceptual sense until the early to mid-twenties.
- Levels of psychosocial maturity relating to development and behaviour that involves personality traits, interpersonal relations and affective experience have also been found to vary between individuals with some young adults being more like under-18s in their maturity of judgement than they are like older adults, particularly those at the lower end of the age range.

Despite these challenges, Jesuit Social Services has had success working with young people with disability who have had contact with the justice system to re-engage them in education and training to prevent further offending.

The Gateway Program

The Gateway Program engaged early school leavers with multiple and complex needs in education and training programs with a wide range of integrated services. Follow-up interviews with participants engaged in the Gateway Program between 2003 to mid-2007 showed improvements in involvement in the justice system: 39% reported they had a history of offending at entry to the Gateway program and only 10% reported further offending at follow up interviews.⁵⁰ Given the serious nature of the offending prior to entry to the program, the recidivism rates are lower than would be anticipated for this target group. Alongside a reduction in criminal activity, the program also saw improvements in further engagement with education and training, further engagement with employment, housing stability mental health and drug use.

Youth Justice Community Support Service

The Youth Justice Community Support Service (YJCSS) provides intensive support for young people aged 10-21 engaged with the youth justice system in Victoria. A recent review of Jesuit Social Services' YJCSS Closure Reports has shown that 80% of relevant cases resulted in improved participation in education and 66% of relevant cases resulted in improved engagement in training.

Youth Diversion Pilot Program

The Youth Diversion Pilot Program (YDPP), run by Jesuit Social Services from June 2015 to December 2016, adopted a restorative justice approach and addresses the underlying causes of offending in young people to prevent further contact with the justice system. Of the young people assisted in the program,

- 213 (59%) were supported with training or employment

- 176 had outcomes in the area of education, training and employment
- 134 people had either engaged/re-engaged with education or training or had improved their engagement with education and/or training

YDPP Case study

Male aged 17 (Theft, Trespass and Obtain Property by Deception charges) – Intellectual disability and severe language delay. His plan was to work more on reading and writing, and have further restorative justice discussions around the offences. He participated well in everything and was assisted in writing a letter of apology. The young man is also now receiving one on one support two days a week with his education and the school is researching and trying different programs with him to improve his literacy. He reported that things have been ‘heaps better’ with his school.

Children and young people with disabilities in out-of-home care

Our research in 2014 *Thinking Outside* highlighted that many children in out-of-home care have disabilities. They are a group highly vulnerable to being placed on remand, often because police are called by staff in residential care facilities to respond to behaviour that in other circumstances would not merit police involvement (such as taking food from the fridge), or because they come under additional scrutiny in residential care and staff call police to report breaches of bail, such as being late for a curfew.

The effectiveness of a group conferencing approach to deal with offending and challenging behaviour has been already demonstrated within the youth justice system. A 2010 evaluation of Victoria’s Youth Justice Group Conferencing program conducted by KPMG showed that it was effective in diverting young people from more intrusive interventions and in reducing reoffending.⁵¹ Additional investment for group conferencing in the out-of-home care setting would provide an effective therapeutic and restorative intervention to address issues that contribute to young people’s challenging behaviour within residential units, and therefore divert them from possible further involvement in the criminal justice system.

What needs to change:

- Early intervention must be a top priority to prevent children and young people with disability coming into contact with the justice system
- Engagement in education and training must be a core component of a youth justice response to child offending
- Expand diversion in youth justice systems nationally

What is currently being improved but could be strengthened:

- Expand and strengthen restorative practices in youth justice, out-of-home care and school settings

What the Disability Discrimination Commissioner can do:

- Advocate for early intervention programs that have a focus on restorative justice and re-engagement in education, training or employment for children and young people who are at-risk of disengaging from school and coming into contact with the justice system

Implementation of the NDIS

The NDIS should provide support for people with disability and multiple and complex needs. While we recognise that the NDIS is still being rolled out and its implementation is being further refined, we also acknowledge that this cohort has been facing barriers transferring to this system and accessing services.

It is critical that the NDIS support people with disability and complex needs who are not currently receiving disability support nor linked in with other services. These are often society's most vulnerable people who struggle to engage with mainstream services. The NDIS must be set up to cater for their needs also.

The NDIS and housing

People with disability and complex needs need to have access to secure, affordable, safe housing alongside ongoing or transitional support with independent living skills as required.

While the NDIS has the potential to support people with disability and complex needs, the lack of capital growth in housing stock is an issue for the NDIS. Without alternative living options, people who had previously lived in government-funded facilities will have nowhere to go. The NDIS is structured on market forces which often do not cater for society's most vulnerable, particularly people with cognitive impairment with complex needs. With no capital growth in housing stock, the current ways of finding alternate housing are inadequate for people with cognitive impairment and complex needs. Without stable housing, there is increased risk of people appearing in tertiary and emergency services.

There is work to be done in developing appropriate housing and identifying the housing needs of people with cognitive impairment and complex needs. While there are some good examples of best practice (see section on housing), the NDIS must support people with cognitive impairment and complex needs to have access to and remain in supported housing that is secure, affordable and safe.

The NDIS and people with a disability in prison

People with a disability in prison are at risk of receiving fragmented and inequitable access to support compared to people with disabilities who are not in the prison system. This is in part due to the fact that the Council of Australian Governments has agreed that the NDIS will not fund individuals during their time in prison, but will fund disability-specific needs only once they return to the community. This disjointed program response represents a significant barrier that prevents people with disabilities being able to access continuity of support. It remains unclear how former prisoners with disabilities are expected to access funding, support or even the most basic information about the NDIS once in the community. Jesuit Social Services has further concerns about the access to disability support for people with cognitive impairment and complex needs in the criminal justice system including:

- The requirement of people with disability and complex needs to have the computer literacy, interpersonal and self-advocacy skills to gain assistance from the NDIS;⁵²
- The impact of accessibility to the scheme when it is reliant on access to appropriate diagnostic services; and⁵³
- The uncertainty as to whether the presence of a mild cognitive impairment (particularly when co-occurring with mental illness, substance abuse, and entrenched disadvantage) will meet the eligibility of the NDIS scheme of a 'substantial and ongoing disability need'.⁵⁴

The NDIS and Aboriginal and Torres Strait Islanders in the justice system

Jesuit Social Services has particular concerns about the way the NDIS will cater to the needs of Aboriginal and Torres Strait Islanders in the justice system and their capacity to access the scheme including:

- The differing understandings of disability in Aboriginal communities and the potential unwillingness for people to identify with a disability label for cognitive, social or cultural reasons;⁵⁵
- The lack of a culturally specific framework in the NDIS for working with Aboriginal and Torres Strait Islanders and how the individualised approach of the NDIS will acknowledge the importance of community and family for Aboriginal people;⁵⁶
- The capacity for a marketised system to operate effectively in remote and rural Aboriginal and Torres Strait Islander communities; and
- The capacity of the NDIS to work effectively with other service systems to meet the needs of Aboriginal and Torres Strait Islanders with disability and complex needs when it is focussed on 'disability services'.

The NDIS and people from CALD backgrounds in the justice system

Jesuit Social Services has particular concerns about the way the NDIS will cater to the needs of people from CALD backgrounds in the justice system and their capacity to access the scheme including:

- The differing understandings of disability in culturally diverse communities and the potential unwillingness for people to identify with a disability label for social or cultural reasons;
- The lack of a culturally specific framework in the NDIS for working with ethnically diverse communities and how the individualised approach of the NDIS will acknowledge the importance of community and family for some culturally diverse communities; and
- The capacity of the NDIS to work effectively with other service systems, such as settlement services, to meet the needs of people from CALD backgrounds with disability and complex needs when it is focussed on 'disability services'.

What needs to change:

- Create support packages for people with disability who are homeless to access housing and support with living as part of the NDIS
- Ensure people with disability in the justice system have access to disability support before, during and after imprisonment to ensure continuity of care
- NDIS service delivery must be culturally adapted, accessible in rural and regional locations, and able to meet the diverse needs of both people from CALD backgrounds and Aboriginal and Torres Strait Islander people
- The NDIS must develop effective working relationships and processes with other service systems to ensure a holistic approach towards meeting the needs of people with disability and complex needs

What the Disability Discrimination Commissioner can do:

- Advocate for the NDIS to ensure all people with disability, including those with cognitive impairment and complex needs, are able to access safe, secure and affordable housing as part of the NDIS
- Advocate for people in the justice system to receive ongoing support from the NDIS for their disability both in prison and post-release in the community
- Assist with the development of a culturally specific framework in the NDIS for Aboriginal and Torres Strait Islander people with disability in partnership with the Aboriginal and Torres Strait Islander Social Justice Commissioner
- Assist with the development of a culturally specific framework in the NDIS for people from CALD backgrounds

Appendix 1

Jurisdiction ⁱⁱⁱ	Top 3% Most Disadvantaged Characteristics
Victoria	<ul style="list-style-type: none"> • 2.4 times more likely to be on disability support • twice as likely to have criminal convictions • 3 times more likely to be experiencing long term unemployment • 2.6 times more likely to have experienced domestic violence
New South Wales	<ul style="list-style-type: none"> • twice as likely to have a disability or significant mental health problem. • 3.6 times as likely to have spent time in prison • more than 3 times as likely to be experiencing long term unemployment • nearly 3 times more likely to have a low level of education and/or have suffered domestic violence
Queensland	<ul style="list-style-type: none"> • more than twice as likely to have a disability or have been unemployed for a lengthy period • more than 8 times as likely to have criminal convictions and more than 6 times more likely to have juvenile convictions • nearly 5 times more likely to be disengaged from education or employment as young adults • over 4 times as likely to have suffered domestic violence or child maltreatment, and to have a low level of education
South Australia	<ul style="list-style-type: none"> • more than twice as likely to have a disability • 10 times as likely to have spent time in prison • more than 5 times as likely to be unemployed or have a low level of education • 3.5 times as likely to be dealing with mental health problems
Western Australia	<ul style="list-style-type: none"> • more than three times as likely to have a disability • roughly eight times as likely to have spent time in prison • six times as likely to have been unemployed for a lengthy period • around five times more likely to have a low overall level of education, or to be disengaged from education or employment as young adults • two-and-a-half times as likely to have suffered child maltreatment

ⁱⁱⁱ Due to limitations in data collection and smaller populations, equivalent statistics in the Northern Territory and the ACT were not possible. Tasmania did not have disability as one of the prominent characteristics in its top three percent most disadvantaged localities. See www.dote.org.au for more information.

Appendix 2

PERRY HOUSE - CASE STUDY 1

Background Information

Participant is a male of Cambodian descent who came to Australia as a refugee with a history of trauma and violence. He entered Perry House as a 20 year old directly from custody at Malmsbury Youth Justice Precinct as the result of an extensive criminal history related to substance abuse, homelessness and negative peers. He had been assessed as having an IQ of 65^{iv} and suffering Post Traumatic Stress Disorder.

Presenting Issues

Participant had been using methamphetamines and opiates intravenously since he was 14 years old (self-reported) and informs he attended a residential rehabilitation centre at the age of 17. He identified that offending and homelessness were significant factors associated with his drug and alcohol use.

Participant reported that 'ice', heroin and cannabis were his drugs of choice and that prior to being incarcerated he was using 'ice', heroin and cannabis daily. Participant identified that he needed support with substance use and wanted to continue engaging with community services (Youth Support and Advocacy Service) to address his substance misuse. As part of his treatment plan, the participant was prescribed Suboxone to address heroin use.

Mental Health/Disability

At Perry House, the participant presented as positive and engaging however often expressed feeling withdrawn and 'down', frustrated, and depressed. Participant advised that whilst incarcerated he did not engage with Malmsbury health teams regarding his emotional state and staff confirmed that due to a restructure within Malmsbury, there has been a lack of services to support the participant with his needs.

When first at Perry House he often self-harmed by cutting his arms, which was consistent with the participant being unable to express his emotions. When participant harmed he always alerted staff and advised staff that he had no suicidal ideation past or present.

At times he could become aggressive when unable to express emotions and indicated he would like support to manage his aggression. Participant was reported to have stated 'I black out when I get angry'.

Whilst at Perry House, the participant was referred to the Connexions Program (Jesuit Social Services Program) for ongoing counselling and outreach support, specifically around his dual diagnosis presentation.

Family

Participant had minimal contact with his mother due to a relationship breakdown with his step-father. Participant spoke of his relationship with his mother as being something he wanted to be positive.

Whilst at Perry House he began to regularly speak with his mother on the phone. Participant has two half siblings however has minimal contact. Participant expressed during assessment that he would like to build a regular relationship with his family. Perry House staff worked alongside the participant to support his reconnection with family.

Independent living

^{iv} A mild intellectual disability is an IQ between 50 and 70.

Participant advised when coming to Perry House that he did not need support or prompting with self-care, expressed being able to cook basic meals however indicated that he would like to improve his cooking skills and enjoys learning to cook. Participant had basic cleaning skills but would need encouragement to complete tasks at times.

Participant receives a Disability Support Pension from Centrelink and indicated he needs support regarding budgeting and managing his money. After initially handling his own money participant is now supported by State Trustees to budget and manage his payments.

Interventions / Supports Offered

- Individual Support Plan (ISP): Perry House staff worked with participant to develop and successfully implement an ISP that was individually tailored using a strengths based approach.
- Participant engaged and maintained consistent and quality engagement with his Perry House Case Management support regarding personal and practical issues surrounding budgeting (Registered with State Trustees). He was supported to take personal responsibility for and attend appointments.
- Successfully completed Youth Justice Order.
- Referred to Drug and Alcohol Counselling and no further concerns or episodes of substance abuse were identified whilst at Perry House
- Was supported to engage with a psychologist for assistance dealing with his mental health concerns.
- Has regularly attended Jesuit Community College.
- Supported to obtain complex dental care and address a number of medical concerns including eye care.
- Perry House coordinated and hosted Care Plan meetings to ensure consistency and quality of care.

Outcomes

- Participant's episode of self-harm persistently decreased in frequency whilst at Perry House.
- Participant successfully engaged in education programs
- Successful exit placement from Perry House was secured in form of long-term supported Shared Accommodation (single bedroom self-contained unit in supervised complex). This is what was identified in the ISP as being the most suitable option.
- Participant continued to engage in Outreach Support after exiting Perry House. Transition included regular Care Team meetings attend by the participant and support to attend Jesuit Community College and engagement with Connexions.
- Participant rebuilt relationship with mother.
- Participant exited due to no longer requiring support

Participant feedback at Program Exit

What do you think the positive aspects of Perry House are? "It's good, it helped me. When I was homeless I was trying to find a place like this. This is my first home. It's (Perry House) has given me confidence. I was scared to walk out of the front yard before".

Can you think of any areas where we could improve / change / adapt our program to improve your experience / opportunities? "I can't think of any. It is good the way it is. I like how you give help and support"

How have you found Living at Perry House? “It is a good place, I feel comfortable”

What Changes has your involvement in the Perry House program helped you make? “Better choices for myself, gone on the right track. Not re-offending”

How was your experience of the support given? “Good, keep doing what you’re doing”

Any other comments you would like to make about the program?: “There should be a second chance for coming back for people who leave and need somewhere, to come back and be able to improve on last time”

PERRY HOUSE – CASE STUDY 2: Harry*

Introduction

The purpose of this Case Study is to demonstrate collaborative practice on both a client and agency level. The Case Study is a detailed profile of a “typical” Perry House participant and the support that Perry House provides within a real home environment. The Case Study highlights the benefits of intensive, therapeutic support in the community to a young man that when referred had significant offending history. The Case Study is an example of how community based programs such as Perry House act as an interface between the young person, the Justice System, Disability Services and a multitude of support systems and networks.

Presentation

At the time of referral to Perry House, Harry was aged 22 and in custody. Harry presents with a Mild Intellectual Disability, Pervasive Developmental Disorder, and Post Traumatic Stress Disorder. Prior to being in custody Harry reported that he was in a cycle of severe drug dependency and abuse that created the circumstances of habitual offending to support his habit. Harry is on the Disability Support Pension and reports as having below average numeracy and literacy skills.

Justice Involvement

Harry has an extensive history of offending. He was charged related to theft, theft of motor vehicle, unlicensed driving and burglary. Harry is currently on a 24 month Community Corrections Order with requirements to comply with a Justice Plan. This involves engaging with a Drug and Alcohol program and Mental Health services on a weekly basis.

Mental Health

Harry has a history of self-harm but reports that this is not currently a concern. Recently commenced engagement with Centre Against Sexual Assault (CASA) for trauma specific counselling. Harry is also commencing engagement with psychologist regarding post-traumatic stress disorder. Reports as being nervous and anxious at all times and this escalates during times of stress.

Family

Harry has a history of Child Protection involvement and resided in out of home care until the age of 18. Harry’s mother left when he was young, and now resides in Tasmania with sporadic and often problematic contact. Due to a history of abuse and safety concerns Harry does not wish to have contact with his father. Harry has eight siblings and only has limited contact with one sister. Harry struggled to

name them all and did not know ages of many. Harry was close to his paternal grandfather who died when he was 17 and this was described as a traumatic experience. Harry has limited contact with his grandmother. Harry has indicated that he would appreciate assistance to re-connect with his mother and siblings.

Housing

From the age of 18 Harry moved into a caravan at his father's, this led to circumstances that contributed to offending behaviour. Harry reports that his father has a long history of criminal offending and drug dealing who encouraged him to use substances and commit offences.

Since leaving formal care Harry has lived in unsafe and unstable housing, and has been transient between crisis accommodation arrangements. Perry House has been the only program that has been able to offer safe, supported accommodation that specifically targets young people with an intellectual disability and justice involvement. Perry House has provided Harry with a safe place to live and receive support. Harry is now engaging well with a number of professional supports, is no longer using substances, and feels that stable housing is his most urgent requirement to continue the good progress he has made over the past 3 months. Perry House will continue to support Harry in securing a long term placement and have lodged Segmented Housing Applications.

Protective factors

- Is interested in sports and willing to engage in activities as opportunities arise
- Has broken contact with negative and peers and is wanting to find new friends who will be a positive influence
- Has a number of supports in place and actively participates in his Care Plan. He is attending all appointments regularly.
- Respectful towards workers, developed boundaries regarding substance use.

Risk factors

- Extensive history of polysubstance use.
- Is easily led if with negative peers, ID and developmental disorder.
- Poor time management and planning skills.

Independent Living Skills

- Has not lived independently
- Reports as having a high standard regarding hygiene and cleanliness at the premises he lives and would expect the same from other residents.
- Has limited cooking skills, reporting he generally only prepares two minute noodles, toast, cereal etc.

Interventions / Supports Provided by Perry House

- Supported to engage with Corrections, Australian Community Support Organisation, and Jesuit Community College.
- Regular reflective practice to support staff to implement strategies that address trauma responses and complex mental health concerns.
- Empowered to manage personal time timetables and set goals, engage in group participation and be active in daily structure. Provided advice regarding self-regulation support structures and how to raise concerns in appropriate manner.

- Encouraged to express self and feelings more clearly, use complaints procedure, to disengage before becoming heightened.
- Supported to access health services.
- Used a narrative approach to assist to make a degree of reconciliation with family and take responsibility for own choices and actions.
- Engaged with sports and structured recreation activities.
- Provided information about healthy eating and nutrition through the independent living program, actively drafts and implements shopping list and prepares nutritious meals.
- Gardening program.

Outcomes

- Improved participation, completed programs.
- Demonstrable independent living skills
- Identified exit to independent living (in process of sourcing private rental)
- Personal routine, improved sleeping patterns, managing finances, positively engaging with workers
- Participates in Care Plan meetings, house meetings and group activities.
- Demonstrating increased self-awareness and understanding of others that was not evident at commencement of program.

[Appendix 3](#)

Victorian Youth Parole Board Annual Report 2016: Characteristics of young offenders

The results of a snapshot survey of 167 males and nine females detained on sentence and remand on 7 October 2015 carried out by the Victorian Department of Health and Human Services shows:

- 45 per cent had been subject to a previous child protection order
- 19 per cent were subject to a current child protection order
- 63 per cent were victims of abuse, trauma or neglect
- 62 per cent had previously been suspended or expelled from school
- 30 per cent presented with mental health issues
- 18 per cent had a history of self harm or suicidal ideation
- 24 per cent presented with issues concerning their intellectual functioning
- 11 per cent were registered with Disability Services
- 10 per cent had a history of alcohol misuse
- 16 per cent had a history of drug misuse
- 66 per cent had a history of both alcohol and drug misuse
- 12 per cent had offended while under the influence of alcohol but not drugs
- 20 per cent had offended while under the influence of drugs but not alcohol
- 58 per cent had offended while under the influence of alcohol, and also while under the influence of drugs
- 12 per cent were parents
- 38 per cent had a family history of parental or sibling imprisonment
- 12 per cent spoke English as a second language
- 10 per cent were homeless with no fixed address or residing in insecure housing prior to custody

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Figure 1: A common pathway for Aboriginal and Torres Strait Islander people with disability into the justice system

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