

Enabling Justice

EASY READ VERSION

The Intellectual Disability Rights Service (IDRS), the NSW Council for Intellectual Disability (CID) and the Coalition on Intellectual Disability and Criminal Justice are concerned about the large number of people with intellectual disability who get into trouble with the law and have to go to the Local Court.

IDRS, CID and the Coalition decided to write a report about this. This report is called *Enabling Justice*. It talks about problems for people with intellectual disability who get into trouble with the law and have to go to Court. It talks about possible ways to fix the problems.

The report talks a lot about a law called section 32. Section 32 is a bit of the law that says that a magistrate (who is like a judge) can dismiss someone's criminal charges if they have an intellectual disability and if the magistrate thinks it is the best thing for them is to get help in the community through disability and other support services.

WHAT PROBLEMS DOES THE REPORT TALK ABOUT?

- Sometimes police, lawyers and magistrates do not realise that the person who is in trouble with the law has an intellectual disability

- Also, they might not understand much about how having an intellectual disability affects someone
- This means that some people with intellectual disability don't get the extra help they need when they get into trouble with the law
- Often police don't get a support person for a person with an intellectual disability when the person is arrested even though they are supposed to
- There are not enough of the services people with intellectual disability need to help stay out of trouble with the law.
- Some people who get into trouble with the law end up in gaol. Sometimes this is because there are not enough supports to help them live in the community
- There are problems getting the services that people with intellectual disability need in time for the magistrate to believe that the magistrate should give the person a chance to get support to stay out of trouble
- Lawyers don't always have the time and skills needed to help people with intellectual disability
- Sometimes people get different lawyers when they go to court and get confused or have to start over again

- Section 32 is not always used by Magistrates to dismiss charges of people with intellectual disability
- The Local Court can be a confusing and frightening place for people with intellectual disability
- The Local Court is not always worried about making sure people with intellectual disability have their say in court and get the help they need
- People with intellectual disability need help and support to understand police interviews and court
- Support people are not always available to help people with intellectual disability understand what is happening in court

WHAT IDEAS DOES THE REPORT TALK ABOUT?

THE REPORT SAYS:

- We need to work out a way that people with intellectual disability are not disadvantaged at the Local Court
- We need to work out a way to ensure that Magistrates, lawyers, court staff and police understand about intellectual disability.
- We need to give more training to lawyers, police, judges and court staff about intellectual disability

- The law, called Section 32, that can be used when people with intellectual disability get into trouble with the law, needs to be changed so it is less confusing and easier to use
- We need to make sure that people with intellectual disability understand what is happening at the police station and at court
- We need to make sure that all people with an intellectual disability have a support person at the police station and at court
- We need to make sure that enough support services are available for people with intellectual disability so they do not reoffend and so they do not have to go to gaol
- We need to make sure that police and judges understand the impact of a person's intellectual disability on their behaviour and why they get in trouble with the law
- Lawyers need to have enough time to spend with clients who have intellectual disability. They also need enough time to organise psychological reports and support services for their clients
- Lawyers also need to tell the Magistrate that their client has a disability and make section 32 applications where it is appropriate

- We need to make sure Magistrates have enough time and knowledge to be able to talk about all of this at Court
- We need to make sure that going to Court is a chance for a person with intellectual disability to get the help they need to stay out of trouble
- Court needs to be run in a way that people with intellectual disability understand and feel comfortable with.
- Special meetings, called conferences, might be a good way for a person with a disability who is in trouble with the law to understand what they have done wrong and work out what would help to stay out of trouble
- Disability services should have experience working with people with intellectual disability who get in trouble with the law and have to go to Court
- It might help to have a DADHC or other disability worker at the Court who people with intellectual disability, lawyers and Magistrates can talk to about possible support services.