

THE FRAMEWORK REPORT

**Appropriate community services in NSW for offenders
with intellectual disabilities and those at risk of offending**

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**Report commissioned by the Intellectual Disability Rights Service
and the NSW Council for Intellectual Disability**

**With funding from the Department of Ageing, Disability and Home Care,
and the Law and Justice Foundation of NSW**

Law & Justice Foundation
OF NEW SOUTH WALES 
Independence and Innovation

July 2001

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ISBN 1 –875154-03-5

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Publisher: NSW Council for Intellectual Disability
Printer: Finline Printing, Sydney

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CASE STUDIES

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Format of the Report

This report is in three parts:

- Part 1 is the *Introduction*. This is first an introduction to the project – its origins and process, its nexus with government and its financial implications. Then there is an introduction to the project target group, including a profile of characteristics of group members and their prevalence in the justice system.
- Part 2 is *The Proposed Framework*. First, there are key themes and principles. Then, the framework is set out in detail. There is discussion of the needs of the target group, the extent to which those needs are currently being met, and development of recommendations. At the end of the part, recommended *Priorities for Action* are identified.
- Part 3 is the *Principal Inputs* to the project. These are the main underpinnings of the conclusions in Part 2. There is a summary of the existing service system. Then, a report on a consultation with stakeholders and on discussion of case studies with a clinical issues group. Finally, there is an international literature review on service models and clinical programs.

Case studies are spread through the report. These were based on intensively looking at eleven members of the target group.

Abbreviations

ADD	Ageing and Disability Department
DADHC	Department of Ageing, Disability and Home Care
DoCS	Department of Community Services
DSA	Disability Services Act 1993 (NSW)
Report 80	<i>People with an Intellectual Disability and the Criminal Justice System</i> , Report 80 of the NSW Law Reform Commission
SAS	Service Access System

Executive Summary

The target group of this project is people with intellectual disabilities who are in contact with the criminal or juvenile justice system, or at risk of contact. The project was funded to develop a framework for provision of appropriate community services for this group. The project was focused on accommodation, case management, behaviour intervention and related services.

Where did the project come from?

Since *The Missing Services* report of the Wran government in 1985, it has been well documented that people with intellectual disabilities do not get the services that they need to help them keep out of trouble with the law. The Law Reform Commission reaffirmed this in its 1996 Report 80, *People with an Intellectual Disability and the Criminal Justice System*.

Various studies have also indicated that people with intellectual disabilities are highly represented in the criminal and juvenile justice systems.

Process of the project

The key steps in the project were:

- Consultation with a wide range of stakeholders about the characteristics and needs of the target group and barriers to appropriate service provision.
- An international literature review including successful service provision models.
- Intensively looking at a sample group of offenders with the assistance of a clinical issues group with diverse experience.
- Consultation on an options paper.

Nexus with government

As well as being Government funded, the project was overseen by a reference group including representatives of eleven government agencies and four community representatives.

The project sought to dovetail with various current initiatives of the Government including:

- The Disability Policy Framework with its aim of ensuring that the services of all government agencies are appropriate for people with disabilities.
- The Disability Reform Directions of 2000.
- The Families First Program and the Children and Young People (Care and Protection) Act 1998.
- Initiatives of DoCS disability services and the Department of Corrective Services to better meet the needs of offenders with intellectual disabilities.

Issues of cost

The Law Reform Commission concluded that the cost to government of properly meeting the needs of the target group would be recovered in the long term. There would be a reduction in recidivism and in duplicative and inefficient services to the target group. For example, imprisonment costs of up to \$73,000 per annum and court costs of over \$10,000 per day could be avoided. There are also the human costs to victims and the target group.

The project's literature review noted international studies where appropriate services had led to low rates of recidivism.

At the same time, properly meeting the needs of the target group is a very large task and related to the broader issue of unmet need for community services. It is obviously very important that these issues be resolved. However, in view of the current budgetary context in NSW, implementation of this report may need to occur over time. The project has sought to provide recommendations for priority action that is most needed in the first instance.

Problems and solutions

Members of the target group are usually male and tend to come from deprived socio-economic backgrounds, leave school early, have unstable accommodation and have additional problems such as with alcohol and other drugs.

Members of the target group predominantly have mild to borderline intellectual disabilities. However, those with borderline intellectual functioning on IQ scores are only part of the target group if they have the same degree of limitations in their adaptive skills as are required for people with mild disabilities.

The needs of the target group vary greatly with factors including the extent of a person's disability. There is a widespread need for improved access to generic human services. Many of the target group also need specialist disability services.

The report found fundamental gaps in meeting the needs of the target group, including:

Identification - There is no systematic or reliable process for identifying members of the target group so as to provide a basis for meeting their needs.

The report recommends adoption of screening tools and enhancement of skills in identifying members of the target group.

Police interviews and court - Members of the target group are severely disadvantaged in police interviews and in courts.

A network of support people is recommended for these processes, as well as training of lawyers.

Meeting individual needs - Adequate assessment of people's support needs seldom occur. Those needs are seldom properly met. Few people have a case manager or support coordinator to coordinate planning to meet their needs. Where a person's needs range across a number of agencies, cooperation between those agencies is difficult to achieve.

Enhanced processes are proposed including access to support coordinators and case managers. The Department of Ageing, Disability and Home Care (DADHC) Service Access System has potential as a source of flexible funding for people whose needs cannot be met elsewhere. However, strategies are needed to ensure the system is accessible to the target group. The SAS should be complemented by funding of some services to meet common needs.

Social networks, mentors and advocacy – Members of the target group commonly lack positive relationships, role models and advocates in their family and friends. Families lack support in dealing with the pressures arising from offending behaviour.

The roles of advocacy and mentoring need to be developed with the target group. Families need better support.

Programming interventions to address the offending behaviour - Many members of the target group need professional intervention and support to address their offending behaviour. This usually does not occur. There is a lack of expertise in this field in NSW.

Recommendations aim at development of skills in behavioural and other clinical interventions.

Education and training - The problems of target group members are often apparent early in their schooling, but they are often not recognised and seldom properly addressed. Adult education also is not well attuned to the needs of the target group.

The school system needs to enhance its capacity for early identification of target group members and for action to avoid the development of offending behaviour. TAFE colleges need to make themselves more accessible to the target group.

Health services - Many members of the target group need assistance from mental health, drug and alcohol, and other health services. Those services cater poorly for the target group.

Recommendations aim at much better cooperation between disability services and health services. Professionals in health services need training to better serve the target group and disability professionals need a better understanding of health issues.

Somewhere to live – Members of the target group often lack appropriate accommodation and associated support and supervision. Many are homeless.

Existing services need to enhance their capacity to provide accommodation for the target group. However, DADHC also needs to plan a focused development of accommodation and related support for the target group. This needs to cover a range of needs including people in urgent crises, limited term accommodation for intensive program support, an ongoing home and transfer of some individuals from prison or a detention centre during the term of a sentence.

Aboriginality and NESB - Right across the above issues, there are additional problems for people from a non English speaking background and Aboriginal people. There is a lack of sensitivity to language and cultural issues.

Recommendations though the report aim to address the particular needs of Aboriginal people and those from a NESB.

Key themes

Seven key themes run through the recommended framework:

A cross agency problem - It is neither feasible nor appropriate for specialist disability services alone to seek to address the needs of the target group. A wide range of government and community agencies needs to be accessible to the target group and provide them with an equitable share of services. These include health services, schools and TAFE colleges and child and family services. For example, child and family services have an important role since state wards with intellectual disabilities are vulnerable to developing offending behaviours. Child and family services also have potential to prevent the development of offending behaviour through support for families and children and young people who are in risky situations.

Equity of access to disability services – At present, specialist disability services usually do not provide services to the target group. This needs to change - The risk to an individual flowing from his or her offending behaviour should be recognised as an important component in assessing relative need for disability services under the Disability Services Act standards. This applies both to actual offending behaviour and clear indications that such behaviour may occur.

A specialist capacity - A specialist capacity is needed with expertise in assessment, interventions to address offending behaviour, support coordination and related tasks. The specialist capacity would do some direct work with the target group and foster a better response from existing generic and

Executive Summary

disability services. The need for this specialist capacity flows from:

- the complexity of the task of assessing and meeting the needs of members of the target group,
- the major difference between that task and meeting the needs of other people with disabilities, and
- the current lack of appropriate skills amongst intellectual disability and other professionals.

It would be very difficult to achieve a great deal through existing generic and disability services unless there was some specialist support available to them. Those services are both highly stretched in their existing responsibilities and lacking in confidence to work with the target group.

There is a variety of options for how such a specialist capacity could be integrated with existing services. The recommended option includes a specialist capacity in disability services comprising:

- A forensic clinical team - This team would do assessments and design and implement behaviour intervention and support programs for some individuals. It would be a training and consultancy resource to other professionals. It would be multidisciplinary in line with the wideranging needs of the target group.
- A statewide network of forensic support coordinators and forensic support workers – The support coordinators would foster the roles of local services and communities including by being a consultancy and training resource. They would also develop support plans for some target group members, and be a link into the DADHC Service Access and service development systems. The support workers would provide a hands on support and case management role with some members of the target group.
- Some accommodation focused on the target group.

These systems would be linked to existing or proposed specialist capacities in other agencies.

Links with the justice system - Service provision needs to occur in close liaison with the justice system. This would allow the justice system to make well-informed decisions about issues like bail and parole. Where appropriate, non-acceptance of services would lead to sanctions.

This report proposes links including:

- Justice plans developed in cooperation between justice system and disability service personnel. These plans would link services that will reduce the likelihood of offending to bonds and parole conditions.
- A specialist capacity in probation and parole and Juvenile Justice community based services.

Cross agency cooperation - Given the range of agencies that have roles if the needs of the target group are to be met, cross agency cooperation is essential. This needs to cover both systemic issues and coordinated responses where an individual has complex cross agency needs.

Prevention and early action – Wherever possible, preventative and early action should occur before offending behaviour becomes entrenched. The roles of schools and child and family services are particularly important here.

Additional budget allocations – There is some scope to improve the situation of the target group through existing services and budget allocations. However, there need to be additional budget allocations if major improvements are to occur.

Principles for service provision

The following principles should apply to service provision for the target group:

- The prevention or reduction of offending behaviour is very important both for the protection of the community and to meet the needs of members of the target group.
- The objects, principles and applications of principles in the Disability Services Act should apply to services for the target group.
- Restrictions on the freedom of members of the target group should only occur through due process of the criminal or juvenile justice system, or under the authority of an order of the Guardianship Tribunal. The guardianship system needs rigorous safeguards on the appropriateness of restrictive practices used with the target group. The report also includes a proposed legislative structure to allow some prisoners to be transferred into secure accommodation that might be administered by DADHC.

Complaints, monitoring and review

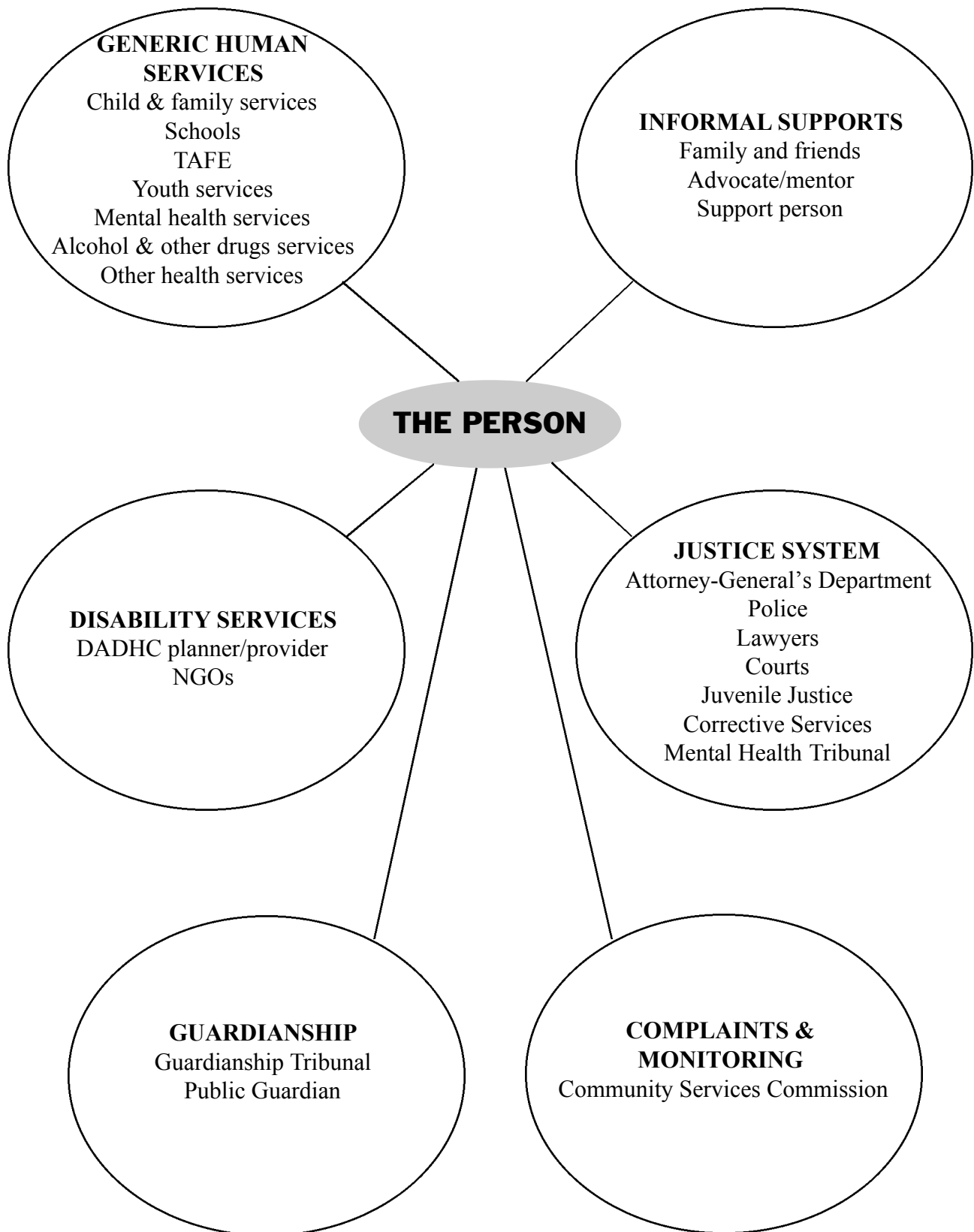
A wide range of tribunals and other agencies have complaints, monitoring and review roles in relation to the target group. However, no independent body has an overall complaints and monitoring role. The report proposes that the Community Services Commission should have such a role.

Priorities for action

The report proposes the following priorities that most need to occur in the first instance:

1. Action within existing resources to make the existing services of all relevant agencies more accessible and appropriate for members of the target group.
2. Establishment of the proposed specialist capacity in assessing and meeting the needs of the target group.
3. Establishment of a system for coordination between agencies.
4. Establishment of the system of justice plans to coordinate action between justice system and disability services personnel.
5. Ensuring that there is a significant pool of funding available to flexibly meet the needs of members of the target group and establish some services to meet common needs.
6. Funding some accommodation and related support for target group members.
7. Implementation of a screening process to enhance the identification of members of the target group.

Developing a Framework – Major Parties



List of Recommendations

1. The NSW Government should adopt the following as key themes for addressing the needs of the target group:
 - a) Providing appropriate services for the target group is a cross agency problem requiring cross agency solutions. All agencies need to be accessible to the target group and provide them with an equitable share of services.
 - b) Existing disability services have a role – The risk to an individual flowing from his or her offending behaviour and lifestyle should be recognised as an important component in assessing relative need for disability services under the NSW Disability Services Standards. This applies to both actual offending behaviour and clear indications that such behaviour may occur.
 - c) A specialist capacity is needed to do some direct work with the target group and foster an enhanced response from existing generic and disability services.
 - d) There need to be clear links between services and the justice system.
 - e) A system for cross agency cooperation is needed to address both systemic and individual issues.
 - f) All relevant agencies should seek to prevent people with intellectual disabilities from developing behaviours that may bring them into contact with the justice system. Where such behaviours first arise, agencies should assist the person to avoid the behaviours recurring.
 - g) Additional budget allocations are needed to fund the provision of appropriate services for the target group
2. The following principles should apply to service provision for the target group:
 - a) The prevention or reduction of offending behaviour is very important both for the protection of the community and to meet the needs of members of the target group.
 - b) The objects, principles and applications of principles in the Disability Services Act 1993 should apply to services for the target group.
 - c) Restrictions on the freedom of members of the target group should only occur through due process of the criminal or juvenile justice system, or under the authority of an order of the Guardianship Tribunal.
3. The Departments of Corrective Services and Juvenile Justice, the Legal Aid Commission and the Police Service should each adopt and/or develop a screening process:
 - a) For use by lawyers, and community based and custodial officers of Corrective Services and Juvenile Justice as a basis for identifying people who might have an intellectual disability or need support in court processes. Further investigation or psychological assessment should then be considered.
 - b) For use by police to identify people who may need support in police interviews.
4. Relevant agencies should increase the skills of professional staff in identifying an intellectual disability and risk factors for contact with the justice system. This should occur through enhancing skills and access to expert consultancy, redirecting priorities or increasing resources in schools, TAFE, health services, child and family services, youth services, disability services, the Legal Aid Commission and the Departments of Juvenile Justice and Corrective Services.
5. The Government should fund a statewide network of trained support people to assist people with intellectual disabilities in police interviews and in court. The network might be based on volunteers but with paid workers to recruit, train, advise and monitor them. Also, support people should be paid in some situations where a major time commitment is required.

List of Recommendations

6. The auspice or auspices of any support person program should be required to have a clear rights basis in its carrying out of its functions.
7. The role of support people in police interviews should be defined (in the Crimes (Detention after Arrest) Regulation or otherwise) as follows:
 - a) The role of support people is to:
 - Provide emotional support to the suspect.
 - Explain their role to the suspect and, in particular, stress that they are not able to provide legal advice.
 - Assist the suspect to understand: the right to remain silent; that any information the suspect provides to police can be used in evidence against the suspect; and the significance of giving up the right to silence.
 - Assist the suspect to understand the right to and importance of legal advice and, where possible, to assist the suspect to obtain it.
 - Assist the suspect to work with his or her solicitor (if there is one).
 - Advise police or the suspect's solicitor if they think the suspect does not understand the right to silence or the right to legal advice.
 - Immediately advise the solicitor or the police if the suspect appears not to understand something or if information provided by the suspect appears to be misinterpreted.
 - Advise the solicitor and police if the suspect needs a break from the interview.
 - Assist the suspect to understand each stage of the charge process, including questions by the independent officer, bail and bail conditions.
 - Maintain and be seen to maintain their independence from the police.
 - b) Support people must not:
 - Ask the suspect questions about the alleged offence before, during or after the interview process.
 - Pending implementation of recommendation 9 below, allow the suspect to talk to them about the alleged offence before, during or after the interview process.
 - Put questions relating to the alleged offence to the suspect on behalf of police.
 - Encourage the suspect to answer police questions regarding the alleged offence.
 - c) The responsibilities of the support person do not in any way reduce the responsibilities of the police to ensure the fairness of the investigative process.
 - d) When the support person arrives at the police station, police should advise him or her the reason the suspect is at the police station and any charge that has been laid.
 - e) When the support person arrives at the police station, the police should provide written guidance as to her or his role.
 - f) The police custody manager should ensure that the support person is not connected with the victim or the alleged offence.
8. The role of a support person in court should be defined as follows:
 - a) To inform the court if the witness does not understand a question.
 - b) To inform the court if the witness needs assistance because she or he has become tired, confused or needs a break from proceedings.
 - c) To inform the court of any other difficulty the witness is experiencing in understanding the proceedings.
 - d) And not to make physical contact with the witness without leave of the court.
9. The Evidence Act 1995 (NSW) should be amended to make support people competent but not compellable witnesses in respect of the content or conduct of the interview.
10. The Evidence Act 1995 (NSW) should be amended to give a right to the use of support people for all witnesses (including defendants) with intellectual disability.

11. The Attorney-General's Department and the Law Society should promote better training of lawyers and judicial officers about intellectual disability and issues relevant to their dealings with people with intellectual disabilities.
12. The functions of the proposed specialist clinical capacity should include:
 - a) Assessment of an individual's needs in some priority cases, and being a training and consultancy resource to other services.
 - b) Developing skills in assessment of risk of offending behaviour.
 - c) And developing skills in taking account of cultural and linguistic factors in assessment processes.
13. Generic agencies should enhance the skills and priority or resources of their staff to assess the needs of members of the target group. These agencies include:
 - a) Schools and TAFE
 - b) Child and family services.
 - c) Health services, including alcohol and other drug, and mental health services.
 - d) Corrective Services, both in custodial services and probation and parole
 - e) Juvenile Justice, in both custodial and non custodial services
 - f) Ethnic community agencies.
14. Existing disability agencies should enhance the skills and priority or resources of their staff to assess the needs of members of the target group. These agencies include disability services provided or funded by DADHC.
15. DADHC should ensure that assessors employed under the Service Access System include individuals skilled in assessing the needs of the target group.
16. A specialist capacity in meeting the needs of target group members should be established. This capacity should directly assist some members of the target group and be a local expert resource and referral point to others who are seeking to assist members of the target group. See Recommendations 100-108.
17. Generic agencies should enhance their skills and priority or resources to develop and implement individual plans for members of the target group. These agencies include:
 - a) Schools and TAFE
 - b) Child and family services
 - c) Youth services
 - d) Corrective Services, in both custodial services and Probation and Parole
 - e) Juvenile Justice, in both custodial and non custodial services
 - f) Mental health services
 - g) Drug and alcohol services
 - h) General health services
 - i) Ethnic specific and multicultural services
18. Existing disability services should enhance their skills and priority or resources to develop and implement individual plans for members of the target group. This includes disability services provided or funded by DADHC.
19. DADHC disability services (formerly operated by DoCS) should be enabled to provide a case manager for each member of the target group who needs one and does not have appropriate case management from another source.
20. Where existing services cannot meet a person's needs, planning to meet those needs should occur through the DADHC Service Access System (SAS). There should be an enhancement of the funding to the System, earmarked for the target group. This funding should be available for both immediate crises and planned ongoing support of target group members.

List of Recommendations

21. DADHC should devise a strategy to make the SAS accessible for the target group. This strategy needs to address the following issues:
 - a) Promotion of the SAS amongst agencies that have regular contact with target group members.
 - b) Otherwise seeking to ensure that target group members are encouraged to seek appropriate assistance in a way that addresses difficulty individuals and their family may have in seeing the need for assistance.
 - c) Ensuring that SAS support planners and assessors working with the target group:
 - Are skilled in this task.
 - Have the time to build a relationship of trust with the individual and/or persons who have the individual's trust, for example an advocate.
 - Involve in the planning process persons able to assist in identifying needs of the individual.
22. DADHC should fund services to meet common needs of a substantial number of members of the target group (as part or all of the focus of the service).
23. DADHC should review the processes used in its Regional Planning Framework to improve its capacity to be well informed about the needs of members of the target group.
24. Individual planning for members of the target group should include consideration of what assistance is needed to maintain and enhance a person's existing support and social networks and/or to link the person to alternative networks. This might include approaches such as:
 - a) Facilitating a family conference.
 - b) Training for an individual in social and friendship skills.
 - c) Supporting family members so that they can better support their member of the target group.
 - d) Fostering the links of an Aboriginal person with his or her community.
25. The Department of Community Services and Cabinet Office should consider how they could enhance the capacity of family support and other child and family services to support important relationships of members of the target group. This should include taking into account the isolation often experienced by families from a non English speaking background.
26. DADHC should give specific attention to the needs of the target group and their families in the development of the Flexible Family Support program.
27. DADHC or the proposed forensic support coordinators should explore local options for promoting support of families of a member of the target group, for example through encouraging the establishment of a group attended by parents of offenders.
28. The NSW Government should fund pilot advocacy and/or mentoring projects specifically focused on the target group, including projects closely linked to Aboriginal and NESB communities.
29. DADHC and/or the proposed forensic support coordinators should work with existing disability advocacy groups to develop their roles in providing advocates to members of the target group.
30. The funding bodies of existing mentoring schemes and/or the proposed forensic support coordinators should work with existing mentoring schemes for young people to develop their roles with members of the target group.

31. In developing generic and disability specific housing options for members of the target group, consideration should be given to options involving co-tenancy with a person able to act as a mentor and positive role model.
32. The proposed specialist clinical capacity in disability services should have a function of design and implementation of behaviour intervention and support programs for some members of the target group and be a training and consultancy resource on these issues to other agencies.
33. The proposed specialist clinical capacity in disability services should have clearly established links with the Departments of Corrective Services and Juvenile Justice and funded agencies that have expertise in offence specific work. These links should be aimed at cross fertilisation of knowledge and determining who is best placed to carry out offence specific work in different circumstances. A professional network for clinicians and agencies working in this area should be established.
34. The proposed specialist clinical capacity should develop some specialised offence specific and offence related training courses and conduct some such training and encourage other generic and disability services to do so also. Where appropriate, the specialist clinical capacity should do these things jointly with agencies that have expertise in offence specific work and agencies that have expertise in culturally appropriate behaviour intervention strategies.
35. Generic agencies should enhance their skills and priority or resources to develop and implement programs to address the challenging behaviour of members of the target group. These agencies include schools, child and family services, Corrective Services, Juvenile Justice, general health services and mental health services.
36. Existing disability services should enhance their skills and priority or resources to develop and implement intervention and support programs for members of the target group. These includes services provided or funded by DADHC.
37. The Department of Education and Training should expand its Challenging Behaviour Positive Intervention Team so as to allow it to focus specifically on members of the target group and to link the team with the proposed specialist clinical capacity in disability services.
38. The Guardianship Tribunal and Public Guardian should review their roles, policies and procedures in relation to restrictive practices used with the target group, including considering whether further safeguards need to be built into this system. This would include addressing issues of:
 - a) Whether there are adequate safeguards to ensure that a restrictive practice is appropriate in the interests of the individual.
 - b) Ensuring an adequate focus on outcomes for the individual.
 - c) Appropriate restrictions on the breadth of discretions given to guardians and service providers.
 - d) Regular reviews of orders and consents.
 - e) Ensuring that Tribunals hearing cases involving a member of the target group have specific skills in relation to the target group.
 - f) Providing an accessible, multi member and expert appeal mechanism against decisions of the Tribunal and Public Guardian.
 - g) Training of Tribunal and Public Guardian personnel.
39. Primary, secondary, special education and TAFE teacher training courses should include training about the target group. This could be included in the mandatory training on students with special needs that is required for NSW teacher registration.

List of Recommendations

40. The Department of Education and Training should include as an essential requirement in teacher promotion, a working knowledge of issues relating to the target group and otherwise managing diversity in a mixed ability environment.
41. The Department of Education and Training should enhance the capacity of schools to identify members of the target group and take early action to avoid the development of offending behaviours. This should include promoting an understanding of the ethnic and racial factors that may impact on these processes. This recommendation could be implemented by providing staff development and support material in relation to the target group. An initial pilot could establish effective training procedures and identification and support mechanisms.
42. The Challenging Behaviour Positive Intervention Team of the Department of Education and Training's should provide support to schools to assist in developing supports for the target group. This could include staff development and staff support.
43. Schools should enhance their transition procedures to ensure that knowledge gained about the needs of a member of the target group accompany the student when he or she moves through transition points such as changing schools or leaving school. The pilot mentoring program for children at risk of difficult transition from primary to secondary school could be a useful model to explore and use.
44. The Department of Education and Training should develop strategies to raise the capacity of TAFE Institutes to provide courses suited to the needs of the target group and support to enable target group members to access courses.
45. As one initial strategy, the Department of Education and Training should dedicate resources for a pilot support program to operate in a TAFE Institute and be administered by the disability teacher/consultant. The teacher/consultant would be part of post release planning processes and support target group members in selected education and training options. The teacher/consultant would provide staff training about the target group, including cultural competence, and provide support to the teachers working with target group members.
46. Individual planning should address the support needs of individuals so that they can attend education and training courses, for example through travel training, budgeting for fares or provision of a support person.
47. The Department of Education and Training should identify district contact officers to provide support for interagency cooperation around members of the target group.
48. The Department of Education and Training should include the strategies developed from the above recommendations in its Disability Strategic Plan so that there is regular monitoring and reporting at a senior departmental level.
49. Cooperation between mental health services and disability services should be promoted through implementation of Recommendation 112 below.
50. Professional training and development should be used to enhance the knowledge and skills of psychiatrists, other mental health professionals and general practitioners about treating members of the target group and about the disability service system.
51. Professional training and development should be used to enhance the knowledge and skills of intellectual disability professionals about mental illness and about the mental health service system.

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52. Through the Psychiatrists in Developmental Disability group, the specialist knowledge of psychiatrists who have a particular interest in the target group should be enhanced.
53. Through the Psychiatrists in the Transcultural Mental Health Services, the specialist knowledge of psychiatrists who have a particular interest in the target group should be enhanced with information and strategies for working with people from a non English speaking background.
54. The proposed specialist clinical capacity in disability services should have consultant psychiatrists available for advice to it and other psychiatrists, and to participate in assessments and program design.
55. Research should occur to provide better understanding about when it is appropriate to diagnose a person with an intellectual disability as having a personality disorder and about the ongoing management options for a person with this diagnosis.
56. The proposed specialist clinical capacity in disability services should have neuropsychologists available to it to participate in assessments of members of the target group and provide advice on intervention options.
57. The Department of Health should ensure that neuropsychologists in public hospitals are available to provide assessments and consultancy where needed for a person with an intellectual disability.
58. The proposed specialist clinical capacity should develop and promote a screening tool to assist disability professionals to be alert to the possibility of an acquired brain injury.
59. Cooperation between alcohol and other drug services and disability services should be promoted through implementation of the recommendations in Coordination between Agencies below.
60. The Department of Health should organise training to increase the skills of alcohol and other drug services to identify members of the target group and meet their needs.
61. The accessibility for the target group to diversion programs through the Drug Court should be enhanced through training for personnel linked to the Court.
62. Professional development should be used to provide disability workers with skills in identifying problems with alcohol and other drugs, and in working with alcohol and other drug services in addressing those problems.
63. The proposed specialist clinical capacity in disability services should have alcohol and other drug professionals available for advice to it and to participate in assessments and program design.
64. The functions of the proposed specialist clinical capacity in disability services should include being a source of expert consultancy to alcohol and other drug services in design of programs suited to members of the target group.
65. The Commonwealth Department of Family and Community Services should develop strategies to enhance the capacity of generic and disability employment agencies to meet the needs of the target group.
66. Individual planning should consider what support a person needs to find and maintain employment.

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67. Individual planning needs to consider the accommodation and related support needs of the person.
68. DoCS Child and Family Services should develop a strategy to increase the capacity of its own and funded child and family services to provide appropriate out of home placements to children and young people in the target group. This includes working with youth refuges to increase their skills for working with the target group.
69. DADHC should ensure development of the capacity of disability services generally to provide supported accommodation and accommodation support for the target group, through increasing staff skills and access to specialist support.
70. DADHC should fund appropriate agencies to provide supported accommodation or accommodation support for members of the target group who need this assistance. This should include:
 - a) Urgent short-term accommodation and support, including a small number of group homes for crisis accommodation for people with milder levels of intellectual disability, including members of the target group.
 - b) Ongoing homes, generally in individualised accommodation but including some group homes.
 - c) A small number of group homes providing accommodation for a strictly limited period in conjunction with intensive and expert program support and in the context of a plan for each resident to move to an ongoing home suited to his or her needs. Such homes should be overseen by a steering committee including independent community representatives.
71. The funding and housing stock for the accommodation and support in recommendation above should be provided from:
 - a) Funds currently available to DADHC for accommodation and related support.
 - b) The Service Access System.
 - c) A funding enhancement from Treasury.
 - d) And development of the role of community housing schemes through the Department of Housing.
72. Through increased skills, priority or resources, there should be an enhancement of the capacity of generic agencies that provide post release accommodation to offenders to meet the needs of the target group.
73. As part of the transitional accommodation funded by the Department of Corrective Services for people at the end of their sentences, the Department should provide short term options for members of the target group.
74. If the Department of Juvenile Justice continues to fund community-based accommodation, then the Department should ensure that funded services are able to meet the needs of young offenders with intellectual disabilities.
75. The starting point should be that members of the target group should not be housed together. However, exceptions to this may be appropriate taking account of the following factors:
 - a) The wishes and compatibility of the residents.
 - b) The number of members of the household and the mix between members of the target group and other residents.
 - c) If the accommodation is for urgent short term purposes and it is the best available option for the person.
 - d) If the members of the household have highly specialised needs in common in terms of intense supervision, programming and location of accommodation (eg people with established patterns of sexual offences).

- e) If the grouping is for a strictly limited period of intense programs and supervision, with a process in place to ensure that the person then moves on to other accommodation.
 - f) If the accommodation is for people who have been allowed to move to community based accommodation during a prison sentence.
76. Guardianship should continue to be used as a way of providing for restrictions on the freedom of movement of members of the target group where this is required in an individual's interests. The interests of the individual should remain the paramount consideration for the Guardianship Tribunal and appointed guardians.
77. The safeguards in the guardianship system in relation to such cases should be enhanced, through the following measures:
- a) Legal or advocacy representation should be arranged by the Guardianship Tribunal for a member of the target group if it is proposed to give a guardian the power to restrict his or her freedom of movement.
 - b) The Tribunal should adopt a policy that guardianship orders that permit a guardian to restrict the freedom of movement of a member of the target group should be made for a maximum of one year at a time.
 - c) The Guardianship Tribunal and Public Guardian should cover restrictions on freedom of movement in the review of their roles and procedures in relation to the use of restrictive behaviour intervention strategies proposed in recommendation .
78. A secure option to prison should be created for some offenders with intellectual disabilities:
- a) Who are on remand awaiting trial.
 - b) Who have been sent to prison after being found "unfit to be tried".
 - c) Who have been found not guilty on the grounds of "mental illness" (which in this context can include intellectual disability).
 - d) Or who have been given normal prison sentences.
- The secure option should apply similarly for young people in juvenile detention centres.
79. An appropriate tribunal should have a central role in decision making about transfer of a person to the secure option, setting of security arrangements and regularly reviewing the person's circumstances. With appropriate adjustments, this might be the Mental Health Review Tribunal or the Guardianship Tribunal.
80. Decision-makers should take account of community safety in decisions about security levels, leave and release for people accommodated in the secure option.
81. Subject to community protection considerations, the secure option should conform to the principles and applications in the Disability Services Act 1993.
82. The location, appearance and number of residents in accommodation for the secure option should fully conform with the DSA.
83. The accommodation in the secure option should be operated by DADHC.
84. People working with the target group should receive cultural competency training.
85. Services should ensure a budget for the use of interpreters where needed to ensure adequate communication.
86. Services should promote themselves and provide information in ways that are culturally accessible and in different formats and languages.
87. Disability services should establish a network of culturally specific support workers.

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88. Where possible, Aboriginal workers and support people should be included in planning and support for Aboriginal members of the target group.
89. Training on the needs of the target group should be provided to Aboriginal workers and community and family members involved in supporting members of the target group
90. People working with the target group should receive training in issues relevant to working with Aboriginal people.
91. Services for the target group should be developed with and in Aboriginal communities.
92. Liaison should be established with the Aboriginal Education Consultative Group NSW to explore strategies for identifying and supporting Aboriginal members of the target group at school.
93. At a local level, each Aboriginal Education Consultative Group should be involved in individual planning for Aboriginal school students who are members of the target group.
94. At a school level, the Aboriginal Education Assistant should be included in planning and support for Aboriginal school students who are members of the target group.
95. Development of options to custodial sentences should be promoted within Aboriginal communities, and Aboriginal customary law and “Circle Sentencing” should guide this process.
96. Evaluation of the proposed pilot of “Circle Sentencing” in NSW should consider the use of the pilot with members of the target group.
97. Post release planning and support should be developed for each Aboriginal member of the target group. It should include liaison with the person’s family and community. If the person is not returning to his or her community then, pre release, there should be networks established elsewhere for him or her. Post release planning and support should involve Aboriginal workers. A useful link could be with the local Aboriginal legal service field officers and/or the Aboriginal justice workers in the Attorney General’s Department.
98. Services should train staff in strategies for promoting or requiring the acceptance of assistance by members of the target group. This should include consideration of the circumstances where such strategies are appropriate.
99. Services should record each person in the target group who is in contact with that service, the steps taken to seek to provide access to the service, and the success or otherwise of these steps. The system for coordination between agencies (proposed in Recommendation 112) should include a system to gather data on these issues and use the data to improve the capacity of services to appropriately respond to the target group.
100. A body of expertise should be developed in assessing and meeting the needs of members of the target group, including addressing offending behaviour. That expertise should:
 - a) Include expertise in assessment, program design and implementation, support coordination, case management, direct support and supervision of offenders.
 - b) Be aimed at directly meeting the needs of some members of the target group and building up the capacity of generic and disability services generally to meet those needs.
 - c) Be multi disciplinary across relevant professions, especially psychology and special education but also including psychiatry, alcohol and other drugs, speech pathology, neuropsychology, neurology, nutrition and general health care.
 - d) Include a strong base in disability services but also include expertise across other service

- systems.
- e) Be placed so as to create respect and influence for it in decisions about individuals, policy and planning.
 - f) Include competence in cultural diversity, experience with Aboriginal people and people from non English speaking backgrounds, and a clear capacity to be accessible to these groups, for example through having a budget for translating and interpreting costs.
 - g) Have a statewide focus.
 - h) Have specific work time of its personnel dedicated to issues relating to the target group.
 - i) Have priorities focused on:
 - Prevention of people becoming offenders, for example fostering preventative strategies in schools and child and family services.
 - Early action when a person first comes into contact with the justice system.
 - Situations involving people with complex needs and whose behaviour is having the greatest impact on the person or others.
 - j) Have roles in:
 - Advice and consultation, including a 24 hour capacity.
 - Training of personnel in generic and disability agencies.
 - Direct assistance to some members of the target group.
 - Participating in multi-disciplinary assessments and program design, implementation and review.
 - Developing cooperation between local communities and agencies in meeting the needs of the target group.
 - Developing specialised courses focused on offending behaviours.
 - Conducting research in relation to meeting the needs of the target group.
 - Service development and regional planning.

The specialist capacity in disability services should be implemented in accordance with recommendations 101-108 below.

101. There should be a forensic clinical team focused on the target group and with the following functions:
- a) Being a source of expert advice, information, referral and training to other agencies.
 - b) Assessing individuals' needs in some priority cases. Assessments by the team would be comprehensive, holistic, coordinated and, where appropriate, multi-disciplinary.
 - c) Developing some specialised courses focused on particular offending behaviours, conducting some such training and encouraging other generic and disability agencies to do so also.
 - d) Design and implementation of behaviour intervention and support programs for some members of the target group.
 - e) Developing expertise in, and disseminating information on, culturally competent behaviour intervention strategies and support programs.
 - f) Supporting a statewide network of forensic support coordinators and forensic support workers.
 - g) Providing evidence to courts and tribunals on matters relating to its other functions.
 - h) Monitoring, evaluation and research in relation to the work of the unit and of the forensic support coordinators and workers.
 - i) Having clear access to some specialist supported accommodation for members of the target group, including where necessary for assessment or program implementation purposes.
102. The forensic clinical team should be centrally based but with a strong regional outreach capacity through the following methods:
- a) Links to area based forensic support coordinators and forensic support workers.
 - b) Travel to regional areas.
 - c) Local consultants.

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- d) A toll free phone number.
 - e) Possibly ultimately having staff in some major regional centres.
103. The forensic clinical team should have employees or consultants experienced with the target group and with expertise in psychology, special education, speech pathology, psychiatry, neurology, neuropsychology, alcohol and other drugs, nutrition, general health care, culturally competent service delivery to Aboriginal people and people from a Non English Speaking Background, research, and training of other professionals and workers.
104. The forensic clinical team should also have the capacity to coopt local clinicians to provide expert input to assessment and other work in relation to an individual.
105. Within its staffing, the forensic clinical team should have substantial experience with Aboriginal people and people from non English speaking backgrounds, such experience preferably arising from being a member of these communities.
106. There should be a statewide network of specialist forensic support coordinators and forensic support workers.
107. The forensic support coordinators should have the following functions:
- a) Fostering the roles of local agencies and communities in assisting the target group including through being a local source of advice, consultancy and training.
 - b) A support coordination role for some members of the target group.
 - c) Being a link into the Service Access System.
 - d) Service development and participating in DADHC regional planning.
 - e) Being the key contact for justice system personnel in relation to the proposed system of justice plans.
108. The forensic support workers should have the following functions:
- a) A hands on support role with some members of the target group to assist implementation of individual plans and to deal with crises.
 - b) A case management role for some members of the target group.
109. Cooperation between justice system agencies and disability services should be promoted through implementation of the recommendations in *Coordination between Agencies* below.
110. In particular, the Departments of Corrective Services and Juvenile Justice should ensure that there is at least one officer in each Probation and Parole and Juvenile Justice Community Services office with specific training or expertise in working with the target group.
111. A system of justice plans should be developed whereby justice system and disability service personnel could work together to link services that will reduce the likelihood of reoffending to bonds and parole conditions. The proposed forensic support coordinators or other local officers designated by DADHC should be an initial point of contact in disability services for the development of justice plans.
112. The NSW Government should establish a system for ensuring coordination between agencies in meeting the needs of the target group and implementing the framework proposed in this report. The system should include the following elements:
- a) High level commitment to the system, preferably through the system being established by the Government at a Cabinet level.
 - b) Involvement of all relevant agencies and interests including DADHC, the Attorney General's Department, the Police Department, the Departments of Community Services, Juvenile Justice, Corrective Services, Education and Training, Health and Housing, and community interests.

- c) Ensuring ongoing leadership by a relevant agency or agencies in the design and implementation of the system.
 - d) Protocols between agencies with clear accountability measures to ensure the protocols are implemented.
 - e) A system of central and local contact officers skilled in issues relating to the target group. These officers would be responsible for ensuring implementation of interagency protocols and act as a resource for other staff.
 - f) Addressing the impact on coordination of the varying structures of agencies, for example the high level of operational autonomy of area health services.
 - g) Addressing the issue of the capacity of relevant agencies to share information about an individual so as to meet his or her needs.
 - h) Addressing any issues of legislative change that are related to interagency coordination.
 - i) Establishing an information system so that enhanced data could be kept in relation to the prevalence and needs of the target group and assistance provided to them.
 - j) Establishing a strategy for in service and vocational training in relation to the target group.
 - k) Each relevant government agency incorporating in its Disability Action Plan actions to enhance the appropriateness of its services for members of the target group, pursuant to the above protocols and otherwise.
113. So as to strengthen the system of Disability Action Plans, the Government should implement Recommendations 14 and 15 of the Law Reform Commission in Report 91, *Review of the Disability Services Act 1993*.
114. DoCS should pay particular attention to the target group in its development of a protocol between child and family services, and its former disability services.
115. The complaints, monitoring and related jurisdictions of the Community Services Commission should be expanded to cover any services provided or funded by a NSW government agency to members of the project target group.
116. The Government should continue the process of transition for congregate residences and other services that do not conform with the Disability Services Act 1993.
117. The Government, DADHC and funded disability services should pursue the following objectives:
- a) Ensuring that consumers of disability services have lifestyles that meet their needs and wishes, including constructive day activities.
 - b) Enhanced information and support for families in preventing and responding to challenging behaviour.
 - c) Enhanced training for disability services staff in preventing and responding to challenging behaviour.
 - d) Ensuring that all disability services and families have access to clinicians skilled in positive approaches to behaviour intervention and support.
 - e) Ensuring monitoring of responses to challenging behaviour across disability services, noting monitoring mechanisms recently established in the former DoCS disability services.

Relating Recommendations to Agencies

This section lists the recommendations in this report that relate to each government agency. In some cases, responsibilities were not entirely clear. Each agency should look at the recommendations as a whole. This will ensure that the agency is taking account of all relevant recommendations and understands the context of recommendations that relate to it.

Various recommendations have been listed under more than one agency. In some cases, the Government or the agencies concerned would need to resolve their respective responsibilities for action on the recommendation.

In some cases, an agency's responsibility is one of promoting action on a recommendation by other agencies with which it has a nexus, for example a funding nexus.

The NSW Government and all relevant agencies (ie most or all of the agencies below)

1, 2, 4, 13, 17, 84-86, 88-91, 98-100, 112

Attorney-General's Department

7-11, 61, 78-83, 95-97, 109, 111

Cabinet Office (Families First Program)

4, 13, 17, 24, 25, 84-86, 88

Community Relations Commission Multicultural NSW

13, 17, 25, 28, 41, 45, 53, 84-87, 100, 103, 105

Community Services Commission

115

Department of Ageing, Disability and Home Care

1b), 4, 5-8, 12, 14-16, 18-24, 26-34, 36, 46, 49, 51, 54-56, 58, 59, 62-64, 66-67, 69-71, 75, 78-83, 87, 97, 100-109, 111, 113, 114, 116-117

Department of Community Services

4, 13, 17, 24, 25, 28, 30, 35, 46, 66-68, 75, 97, 114

Department of Corrective Services

3, 4, 13, 17, 24, 33, 35, 46, 66-67, 72, 73, 75, 78-83, 97, 109-111

Department of Education and Training

4, 13, 17, 24, 30, 35, 37, 39-48, 66, 92-94

Department of Family and Community Services (Commonwealth)

65 -66

Department of Health

4, 13, 17, 24, 33, 35, 49, 50, 52-61, 63-64, 103

Department of Housing

31, 70-71,

Department of Juvenile Justice

3, 4, 13, 17, 24, 28, 30, 33, 35, 46, 66-67, 72, 74, 75, 78-83, 97, 109-111

Guardianship Tribunal

38, 76,

Law Society of NSW

11

Legal Aid Commission

3, 4,

Office of the Public Guardian

38, 77,

Police Service

3, 7, 109