



Our ref: JC: MLM

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Dear Sirs

## **COVID-19 PANDEMIC EXPERIENCES OF IDRS ABILITY RIGHTS CENTRE LEGAL SERVICE CLIENTS WITH COGNITIVE DISABILITY**

We write to inform the Commission about some of the issues experienced by people living with cognitive disability during the ongoing COVID-19 pandemic.

### **About the Ability Rights Centre**

The Intellectual Disability Rights Service Inc (IDRS) auspices the Ability Rights Centre (ARC), a community legal centre for people in NSW living with intellectual or other cognitive disability. ARC provides legal and disability advocacy services for people throughout NSW living with cognitive impairment. ARC services include legal advice and representation, support for parents with intellectual disability involved in care and protection matters, education and group programs for people with cognitive disability, support for people appealing to the Administrative Appeals Tribunal for review of decisions by the National Disability Insurance Agency, and support for people engaging with the Disability Royal Commission.

### **Experiences of Ability Rights Centre Legal Service Clients during the COVID-19 Pandemic**

This submission focuses on issues that have arisen for clients of the ARC legal service during the pandemic.

#### **1. Access to Information about the COVID-19 Pandemic and about Responses to it**

Particular efforts need to be made by governments and public agencies to communicate effectively with people living with cognitive disability about public health issues and responses to them. Communication must be swift, well-targeted, and in a form likely to be understood by people with cognitive disability. As not all people with cognitive disability have access, or easy access, to digital technology, multiple and varied modes of communication must be used. Easy Read materials should be widely available. Communication of messages intended for people with cognitive disability must also be directed in a timely manner to those who support and are trusted by them: families, carers, disability advocates, registered NDIS support providers, and other community support organisations, in particular.

People with cognitive disability are likely to look to trusted service providers with whom they have well-established relationships for information. IDRS created accessible videos about COVID-19 and the restrictions on gathering and movement featuring and targeting people living with cognitive disability. The videos were posted online. However, there was necessarily a delay between each announcement of

a new or amended public health order and the publication of updated accessible information online, and communication relied on people with cognitive disability accessing the online information.

Indirect messaging for people with cognitive disability via supporters is important but should not be relied on by government and public agencies as the sole means of communicating essential information about the pandemic and responses to it.

Some people with cognitive disability did not get enough accessible information about the pandemic, the restrictions and other measures aimed at preventing the spread of COVID-19, or the potential consequences of failure to comply with the restrictions. This led to concern, confusion and difficulties.

#### *Homelessness*

A young person with cognitive disability was kicked out of a shared housing arrangement as a result of not understanding, and having trouble complying with, physical distancing requirements. He became homeless after he was deemed too high risk for provision of public housing or alternate accommodation such as living by himself in a motel. With the help of ARC and his disability advocate, the young person made a complaint that resulted in him being provided with accommodation. It is not clear this will be permanent.

#### *Misunderstanding of the COVID-19 App*

ARC was approached for advice by a person with intellectual disability who was concerned that if his phone made contact with other phones nearby he could be accused of breaching physical distancing requirements.

#### *Withholding of information by Service Providers*

ARC was also approached by a former employee of a registered NDIS service provider who told us his employer told him not to speak to any of their clients about the COVID-19 restrictions that applied to them. He said weeks went on and his clients remained uninformed, so he told his clients about relevant restrictions. He said he also made a complaint to the NDIS Quality and Safeguards Commission. The next day he was fired from his job. He told us he lost his home and was staying in temporary accommodation. (He made an unfair dismissal claim that was satisfactorily resolved.)

Other people with cognitive disability did not receive enough clear information about altered social security arrangements in light of the pandemic, or about the effects of those altered arrangements.

#### *Interplay between JobKeeper payment and the disability support pension*

ARC was approached by people who wanted advice about whether JobKeeper payments would affect their Disability Support Pension (DSP) and if so, how. New arrangements caused a lot of confusion. For example, one client was working part time for a few hours a week. He was stood down from his job during COVID-19 restrictions and was subsequently given the JobKeeper payment. This amount was substantially more than his usual income. When he was paid he was also back paid a number of weeks. These were weeks that he had already received DSP which meant that he had to pay some money back as he had been overpaid. Whilst receiving the

JobKeeper payment his DSP was reduced which meant that he could not pay his bills through Centrepay. This caused a lot of upheaval and distress to the client.

There was no clear, well-publicised guidance for providers of group home disability accommodation and relatives of residents about regulation of visitors to, or of resident outings from, group homes during the pandemic. ARC received a number of enquiries from concerned relatives of group home residents.

## **2. Reduced Access to Supports and Services**

Reduced access to regular supports and services has been a particular issue for people with cognitive disability living in group homes.

### *Denial of direct family support and external support programs*

ARC was contacted by a family member of a person with significant intellectual disability living in a group home. The relative was worried that due to concerns about COVID-19 all visitors had been banned from entering the group home. This included family members providing essential care to residents. In addition, residents were banned from attending any outside programs including for exercise. The family member believed that her relative with disability was at more risk from not being able to receive essential care and support from family members than from COVID-19. Experience had led to a belief that family members were usually the only ones who could see changes in the behaviours of the person with disability and recognise illness in the person.

### *Isolation and increased risk of anti-social behaviour*

Another client's NDIS service providers were prevented from entering his villa complex due to concerns of the complex management about potential spread of the COVID-19 virus. The client's services included housework and personal hygiene. His relatives were worried about his isolation, especially after an incident where another resident threw things at him and he reacted physically. Relatives were worried about restrictive practices being put in place and about the potential for the client to act out, which might in turn lead to assault and the police being called.

## **3. Impacts of Restrictions on Gathering and Movement**

Impaired understanding, communication, and ability to regulate behaviour has led to some people with cognitive disability experiencing negative impacts from the restrictions on gathering and movement that people without such disabilities are more likely to avoid.

### *Fines*

ARC received a report of a middle-aged man with cognitive disability who left his group home to take his daily walk and was given a \$1,000 fine by police for allegedly contravening a direction in the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order 2020 (NSW)*. A relative said it was possible that, at the time the police approached the man, he was picking up litter and not walking. The man was apparently not able to adequately explain why he was out in public and not at home.

### *Heightened Emotions Leading to Violence in the Community*

Heightened anxiety and impaired ability to regulate behaviour led to a number of people with cognitive disability being banned from shopping malls. [REDACTED]

### *Domestic Violence*

ARC also received a report from a person with autism spectrum disorder that she had been a victim of domestic violence at the hands of her roommates during the COVID-19 lockdown.

These cases indicate that the pandemic has indirectly exacerbated problems with general community lack of recognition and understanding of cognitive disability and of the need for reasonable adjustments to promote inclusion of people with such disability.

### *4. Issues for Parents and Children*

ARC had contact from a number of parents with cognitive disability who had concerns about their children in out-of-home care during the pandemic. [REDACTED]

Other parents were worried about their children with disability being required to return to school full-time during the pandemic. One mother whose son relies on public transport to travel to and from school was concerned that because of his limited understanding resulting from his disability he would not adhere to physical distancing requirements. She felt the government and the school were not making necessary adjustments for children with disability. Another mother was concerned about the health of her son with cerebral palsy and Down Syndrome who uses a wheel chair and cannot wash his hands or wear a mask. She was also concerned about potential risks to the health of other children, as her son is reliant on public transport to travel to and from school, and has no awareness of physical distancing requirements or how to maintain personal hygiene.

These cases indicate that governments and government departments need to provide more detailed guidelines for people and agencies working with children, particularly for those working with children with disability, to promote the safety and wellbeing of children during the pandemic.

Yours faithfully

[REDACTED]  
 Janene Cootes – Executive Officer

[REDACTED]  
 Margot Morris – Principal Solicitor, Ability Rights Centre