



What is the Disability Justice Project?

The Disability Justice Project (DJP) is a two-year capacity building project funded by Ageing Disability and Home Care (ADHC) at the Department of Family and Community Services (FACS), as part of preparation for the transition of disability services to the National Disability Insurance Scheme.

The DJP is being led by the Association of Children's Welfare Agencies (ACWA), through its training arm the Centre for Community Welfare Training (CCWT), in partnership with Life Without Barriers (LWB) and the Intellectual Disability Rights Service (IDRS).

The DJP team acknowledges the ground breaking and continuing work of many service providers, researchers and advocates as well as the people with lived experience who have provided the ethical underpinnings and evidence base for the Project.

Aims of the Project

The DJP aims to build the capacity of the disability sector throughout NSW to effectively support people with cognitive disabilities who are in, or at risk of, contact with the justice system, recognising that Aboriginal and Torres Strait Islander peoples¹ are charged and incarcerated at a greater rate than any other Australian cultural group.

The DJP encourages a person-centred, rights-based approach that builds the skills of the disability sector to ensure that people with cognitive disabilities can exercise their rights under law, whether they are a victim, witness or alleged offender or when they wish to exercise their rights as a consumer or tenant.

People with cognitive disabilities in contact with the justice system may be:

- Cautioned by the Police as a child/young person
- Charged with an offence
- A child/young person or adult who is exiting juvenile detention, police custody or corrective services
- A victim of a crime
- A witness to an incident/crime
- A person seeking to exercise their rights as a consumer or tenant
- A person under the jurisdiction of the Mental Health Review Tribunal who has been charged/convicted of an offence.

¹ For the purposes of this document, further references to Aboriginal peoples will be inclusive of Torres Strait Islander peoples.

Sector Consultations

Consultations were conducted at the commencement of the Disability Justice Project, and these identified a strong vision for people with cognitive disabilities - with these goals:

1. Build the capacity of the disability sector to provide skilled disability support where a person's involvement in the justice system is related to actions and/or behaviours associated with their cognitive disability.

Culturally responsive and trauma informed, which includes establishing safe relationships, environments and community connections to build pro-social networks - resulting in appropriate responses to people's actions/behaviour and better management of risks.

2. Encourage the provision of holistic, coordinated and integrated support to people with cognitive disabilities that will reduce re-offending.

Holistic, coordinated and integrated support is provided for all people with cognitive disabilities, including people at high risk of contact with the justice system. It enables prevention, early intervention and support to exercise service user's legal rights. This includes a particular focus on Aboriginal people and other vulnerable groups, addressing co-factors such as mental health disorders, alcohol or substance abuse.

3. Seek to utilise relevant diversionary and disability support options for people with cognitive disabilities who are charged with an offence.

People with cognitive disabilities are diverted from the criminal justice system into appropriate support services and activities through skilled advocacy and legal representation that is underpinned by holistic, culturally appropriate and coordinated disability support.

4. Ensure that people with cognitive disabilities receive well-informed and effective rights-based support in their involvement with the justice system

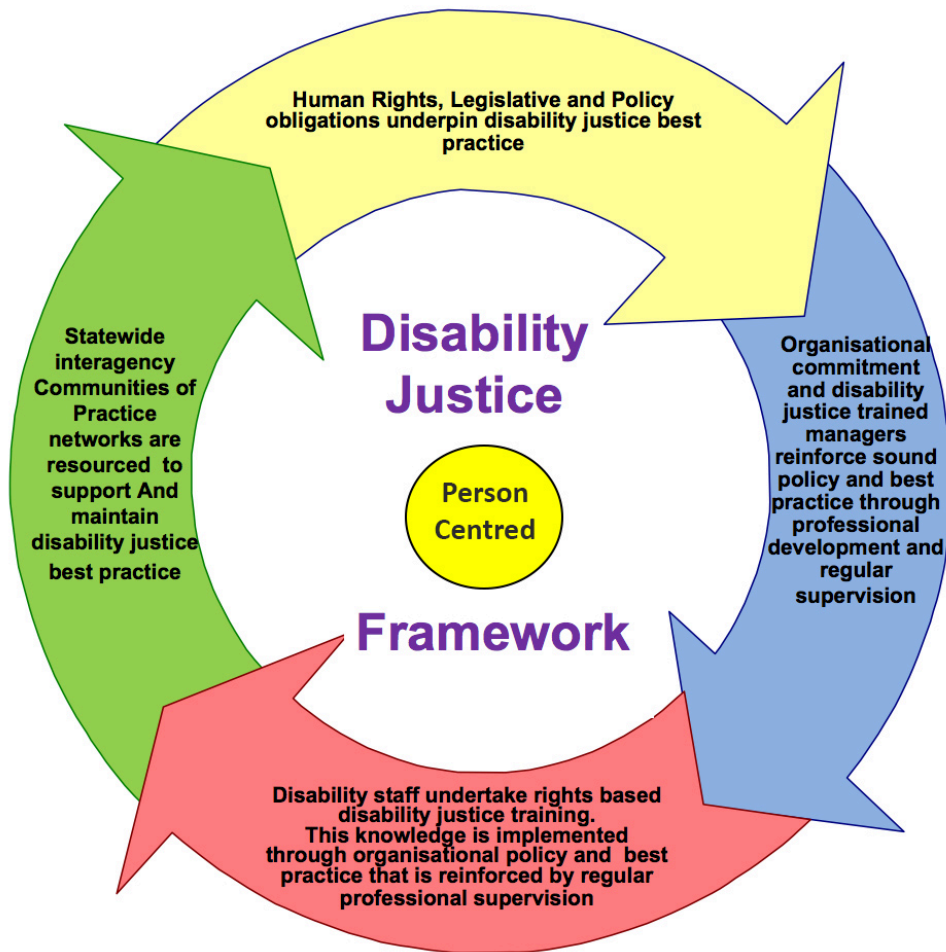
Disability staff will be trained to support people with cognitive disabilities to:

- Access legal advice skilled advocacy and information.
- Plan and manage their interaction with the various parts of the justice system.

5. Support for people with cognitive disabilities is responsive to local needs

- Collaboration between disability and other service providers is strengthened, and people with cognitive disabilities are encouraged to take the lead, and are supported to make their own decisions.
- Working relationships and the provision of support is tailored to local needs using local resources and strengths
- Efforts are made to be as culturally safe and accessible as possible and effort is made to engage with Aboriginal people with cognitive disabilities and their communities.

The Disability Justice Project Framework



The Disability Justice Framework is underpinned by human rights, Commonwealth and State legislation, sound organisational policies and best practice. Disability organisations that ensure compliance with these foundations can further improve disability justice best practice through staff skill and professional development opportunities that are reinforced through regular documented professional supervision practices.

Key components of the Disability Justice Project

- Free training for managers and staff in disability services across NSW, with face to face training provided in a number of locations as well as online and webinar courses.
- The establishment of Communities of Practice across NSW and online for ongoing learning and professional development.
- A dedicated website with a range of information and resources.
- An 'App' for people with cognitive disabilities that provides information about legal rights and which will also help disability service providers to support people with cognitive disabilities in contact with the justice system.

Scope of the Disability Justice Project

Numerous co-factors such as mental health disorders and alcohol and substance abuse are related issues that often contribute to the increased prevalence of people with cognitive disabilities in the justice system. While these issues will be considered within the design, development and delivery of resources and materials for the DJP, they will not be offered as stand alone topics within the training program.

In addition, topics considered to be standard disability training will not be included as part of the training program for the DJP.

The Disability Justice Project training program will centre on the skills required to support people with cognitive disabilities to navigate the justice system, whether they are at a Court or Tribunal, involved with the Police under caution or arrest, as a victim, witness or alleged offender or if they are exiting a custodial setting.

Disability Justice Best Practice Principles

The Disability Best Practice Principles provide an overarching set of principles to guide sector, organisational, management and staff practice. It is intended that all of these principles will be applied with a focus on cultural relevance and competency in working with Aboriginal people and their communities.

The Principles are:

1. Rights based
2. Person centred
3. Accessible and inclusive
4. Collaborative
5. Proactive and innovative
6. Organisational integration and integrity

How can Services and Networks use the Framework?

Disability service providers and their networks can use the Framework to guide their practice at various levels, specifically with service users with cognitive disabilities in their interaction with the Justice system:

- Working with people with cognitive disabilities
- As well as with service user support networks and advocates.
- Within Disability Services
- Within service networks
- At the system and policy level
- Within the broader community

Appendix - Legislative Frameworks

The rights of people with cognitive disabilities are enshrined in United Nations instruments, and in Australian Commonwealth and NSW State Government legislation and disability strategies. The lists below indicate the international, commonwealth and state legislation that underpins the DJP and may impact on people with cognitive disability who are involved in the justice system.

The United Nations:

- Universal Declaration of Human Rights
- Convention on the Rights of Persons with Disabilities
- Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care
- Declaration on the Rights of Indigenous Peoples
- International Convention on the Elimination of All Forms of Racial Discrimination

Australian Government Policy:

- The National Disability Strategy 2010-2020 - Australia's strategy for the implementation of the Convention on the Rights of Persons with Disabilities

Australian Commonwealth Legislation:

- National Disability Insurance Scheme Act 2013
- Disability Discrimination Act 1992
- Disability Services Act 1986
- Privacy Act 1988
- National Consumer Credit Protection Act 2009
- Work Health and Safety Act 2011

NSW Government Policy:

- Administered by Ageing Disability and Home Care, *Ready Together* continues the NSW Government's *Stronger Together 2* reforms, which committed \$2 billion in new funding for disability services from 2011-12 to 2015-16.
- *Ready Together* focuses this investment on what people say they most want - more flexibility, more choice and more control - implemented through the *Living Life My Way* framework.
- Ready Together also prepares NSW for the transition to the National Disability Insurance Scheme (NDIS) by July 2018.
- As part of this, there will be two new laws in NSW. *The Disability Inclusion Act 2014* protects the rights of people with disability and promotes community inclusion now and into the future. The National Disability Insurance Scheme Enabling Act (NSW) 2013 enables Government services to transfer to the non-government sector.

NSW State Legislation:

- Aboriginal Housing Act
- Boarding Houses Act 2012
- Child Protection (Working with Children) Act 2012
- Child Protection (Offenders Registration) Act 2000
- Children (Community Service Orders) Act 1987
- Children (Criminal Proceedings) Act 1987
- Children and Young Persons (Care and Protection) Act 1998
- Children's Court Act 1987
- Crimes (Domestic and Personal Violence) Act 2007
- Crimes (Forensic Procedures) Act 2000
- Crimes (High Risk Offenders) Act 2006
- Crimes (Interstate Transfer of Community Based Sentences) Act 2004
- Crimes (Sentencing Procedure) Act 1999
- Crimes Act 1900
- Disability Inclusion Act 2014
- Drug and Alcohol Treatment Act 2007
- Drug Misuse and Trafficking Act 1985
- Guardianship Act 1987
- Landlord and Tenant Act 1899
- Law Enforcement (Powers and Responsibilities) Act 2002
- Law Enforcement (Powers and Responsibilities) Amendment Act 2014
- Mental Health (Forensic Provisions) Act 1990
- Mental Health Act 2007
- National Disability Insurance Scheme (NSW Enabling) Act 2013
- Parole Orders (Transfer) Act 1983
- Privacy And Personal Information Protection Act 1998
- Residential Tenancies Act 2010
- Victims Rights And Support Act 2013
- Young Offenders Act 1997