



DISABILITY

Official **Adviser** to the NSW Government

Ms Julianna Demetrius
Assistant Ombudsman
Level 24, 580 George St, Sydney, NSW, 2000

By Email: jdemetrius@ombo.nsw.gov.au

CC: CCiano@ombo.nsw.gov.au

Dear Ms Demetrius

NSW Ombudsman review of the NSW Joint Investigation Response Team (JIRT)

Thank you for the opportunity to provide feedback on behalf of the Disability Council about issues for children and young people with disability in regards to the Ombudsman's review of the NSW JIRT.

Summary

The Disability Council strongly supports the Ombudsman's focus on children and young people with disability and on ensuring multidisciplinary cooperation in the service of the best interests of the child.

The Council wishes to draw the Ombudsman's attention to the fact that people with disability may be:

- victims of abuse
- perpetrators of child abuse, including children and young people who are perpetrators, and parents who are perpetrators.

Noting this, the JIRT must be able to access specialist clinical and community resources when dealing with complex cases.

Response to focus questions

Building the capacity of the NSW Police Force to deliver better responses to children with disability

- **Victims and alleged perpetrators**

Any recommendations must reflect the fact that people with disability may be victims or perpetrators of child abuse – so, for example, both victims and alleged perpetrators will require access to a support person.

- **Reasonable adjustments**

As well as access to a support person, some people with disability will also require other reasonable adjustments. For example, Deaf people are likely to require an Auslan/English interpreter (and, particularly in the case of children, may also require a Deaf interpreter¹); people with complex communication needs and/or cognitive disability may require a trained communication intermediary and/or a communication device, rest breaks and more time to provide a statement, for example².

There may be some instances where group home staff, or family members may perform this role, but care needs to be taken that the communication intermediary is not involved directly in the alleged abuse.

- **Training for police officers**

All front-line police officers should undergo disability awareness training, which should include:

- identification of disability and respectful ways in which to confirm if a disability is present
- when, how and to whom to refer to internal or external specialists.

Children with disability, and/or who have conduct disorder, and who are victims of abuse, may exhibit behaviours such as:

- Blaming themselves for the abuse
- Aggressive or destructive behaviour
- Withdrawal from people and events
- Bullying at school
- Cruelty to animals
- Drug or alcohol abuse
- School and learning problems
- Emotional problems such as anxiety
- Loss of trust in adults
- Fire lighting
- Running away.

Understanding these behaviours as a symptom of trauma experiences requires specialist clinical intervention and supports. Judicial investigations need to be able to provide supports in line with clinical approaches that provide the best results in building capacity for the victims to enable them to be able, in some way, to provide evidence around the experiences.

All police officers need specific training in order to understand:

¹ Deaf people who are recognised by the National Accreditation Authority for Translators and Interpreters (NAATI) as being able to provide a unique language or communication bridge for Deaf individuals whose communication mode cannot be adequately accessed by a standard Auslan/English interpreter, particularly where a Deaf individual's mental health issues affect their language use (https://www.naati.com.au/media/1106/deaf_interpreting_information_booklet.pdf).

² A useful guide to complex communication needs can be found at <https://www.qld.gov.au/disability/documents/.../complex-communication-needs.rtf>

- The difference between usual behaviours for a particular child or young person, and behaviours that may stem from abuse
- The impact of abuse on the mental health of a child or young person with disability
- That children and young people with disability may lack social, self-soothing or communication skills that other children have (see Appendix 1)
- That a child or young person with disability may display aggressive and violent behaviours as “evidence indicating disclosure” of having been abused: police need to be particularly alert to this if they are requested to attend at a home, group home or disability service
- The statistics indicating the over-representation of children and young people with disability as victims of abuse.

The benefits of extending the use of witness intermediaries to assist children with disability, particularly those with cognitive impairment, to provide evidence to police and in court across the state

Communication intermediaries may be required for children with complex communications needs due to:

- Physical disability (e.g. cerebral palsy)
- Cognitive disability
- A combination of physical, cognitive (and/or sensory) factors.

Children with complex communication needs need an appropriate communication intermediary, akin to an interpreter for people who use languages other than English. Such persons should not only be trained in communicating with persons with disability, but should also understand the impact of trauma of abuse and how this may affect neurological and/or language development.

Such a person is, ideally, a neutral and objective party. However, this may not always be possible. In these cases, police or court officers should ensure that the person is aware of their responsibility to conduct themselves objectively and impartially.

The Council recommends that the Ombudsman considers section 13A of South Australia’s *Evidence Act 1929*³ and how NSW could implement similar communication requirements.

The Council also recommends that the Ombudsman contacts the National Accreditation Authority for Translators and Interpreters to consider formal recognition of these communication intermediaries, to ensure appropriate qualifications and neutrality.

³ http://www.austlii.edu.au/au/legis/sa/consol_act/ea192980/s13a.html

Extending the JIRT criteria to allow greater access to the JIRT program for children with cognitive impairment

The Council supports this approach, noting that it is particularly important that children with intellectual disability appearing in formal legal hearings receive expert support in expressing their version of events, and their own wishes.

The Court should be made aware of this, and the importance of putting appropriate arrangements can be put into place.

Establishing a child and family advocate role within the JIRT

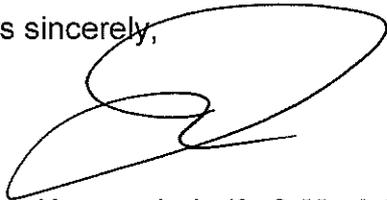
The Council strongly supports this approach. Such a role would build the capacity of the family around the victim, reinforcing safety nets for the family and providing greater stability during a time of upheaval and anxiety.

The benefits of improved and consistent data collection about children and young people with disability who are the subject of referrals to the JIRT referral unit and the JIRT program

The Council strongly supports such an approach.

Thank you again for the opportunity to comment. I would be happy to discuss this further with the Ombudsman if required.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Mark Tonga', written over a large, light-colored oval shape.

(Jason Kara on behalf of) **Mark Tonga**
Chair, Disability Council NSW

14December 2016

Appendix 1

Children with cognitive disability may lack skills in areas such as:

- Communication, such as:
 - starting conversations
 - entering groups
 - connecting with people
 - seeking attention in appropriate ways
 - expressing concerns, needs, or thoughts in words
 - understanding what is being said
 - attending to or accurately interpreting social cues
- Empathy, such as appreciating how his/her behaviour is affecting other people, other person's perspectives
- Handling transitions or changes to routines
- Doing things in a logical order
- Persisting with challenging or tedious tasks
- Time management
- Reflecting multiple thoughts or ideas simultaneously
- Maintaining focus on goal directed problem-solving
- Considering the likely outcomes or consequences of actions (impulsive)
- Considering a range of solutions to a problem
- Managing emotional responses to frustration so as to think rationally (separation of affect)
- Problem-solving, due to anxiety
- Understanding nuances
- Avoiding interpretations/cognitive distortions or biases (e.g. "everyone is out to get me," "nobody likes me," "you always blame me," "it's not fair," "I'm stupid").

(From Walker, S. (2014) *Managing Challenging Behaviours Collaboratively*. Sydney. www.brieftherapysolutions.com.au)

