

Action on diversion of people with intellectual disability from the justice system

In a nutshell – where things stand

Gaps in necessary support services mean, people with intellectual disability are overrepresented in the criminal justice system, jails and youth detention.

The Justice Advocacy Service (JAS) Diversion Program has proved very successful in diverting alleged offenders with intellectual disability and other cognitive impairments from Local Courts into the NDIS and other human services. However, to date, the Diversion Program only operates in six Local Courts.

What needs to happen in the next term of parliament

We seek two commitments:

- 1. Top priority: move towards statewide availability of the JAS Diversion Program by extending its operation to 21 additional Local Courts.**
2. In responding to NDIS reforms, safeguard the disability support needs of people in contact with the justice system including in the design of general and targeted foundational supports.

Why it needs to happen

All too often, people with intellectual disability get into trouble with the law because they are not receiving the support they need to live positive lives. This can have serious consequences:

- Judges convict and punish people because they cannot see an alternative.
- A lot of people unnecessarily end up in jail, where they are at risk of abuse.
- Too often people are more likely to reoffend upon release, rather than less likely.

The JAS Diversion Program has proved successful in reducing reoffending and getting people the support they need to live good lives.

JAS provides statewide support for people with cognitive impairments to help them understand their rights and explain about police interviews and criminal court processes.

However, the JAS Diversion Program is only funded for six Local Courts.

The Diversion Program needs to be extended to many more Local Courts and eventually to all courts. There needs to be a balance between focusing on the busiest Local Courts and ensuring coverage of rural and remote courts where there are high First Nations populations.

The Disability Royal Commission was impressed by the JAS Diversion Program and recommended that it be expanded statewide. The NSW Government responded that it was committed to addressing the over-representation of people with disability in the criminal justice system and was evaluating the Diversion Program.

Very positive evaluations of the JAS Diversion Program have now been completed:

- A quantitative economic [evaluation by the Bureau of Crime Statistics and Research](#)
- A qualitative outcome [evaluation by Professor Leanne Dowse](#)

At the same time, the NDIS is being reformed and there is a risk that people with intellectual disability will find it harder to get the support they need through the NDIS. The advocacy and case coordination of JAS diversion workers can be a great safeguard here.

In designing foundational supports that are intended to replace NDIS funding for some people, the NSW Government must take account of the needs of people with intellectual disability who get into trouble with the law.