



The Hon Brad Hazzard MP
Attorney General
Minister for Justice

Mr Paul McKnight
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NSW Law Reform Commission
Level 13, 10 Spring St
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Dear Mr McKnight

Report 135: People with cognitive and mental health impairments in the criminal justice system: Diversion

I write in response to the Commission's recent report on Diversion. The report is an important step in moving towards the NSW 2021 goals relating to people with cognitive and mental health impairments. I thank you and the staff of the Commission for the extensive work that has been done in developing thoughtful recommendations for reform.

I am pleased to advise that the Government supports many of the recommendations made in the report. You may be aware that the Government convened a cross-agency working group to consider the recommendations made in the report. That group has identified a number of recommendations which require further detailed consideration, and the Government will now undertake this further work.

Identification of cognitive and mental health impairments

The report makes a number of recommendations about gathering data, identifying impairments and making appropriate referrals at various points of the criminal justice system.

The Government recognises the need to increase the capacity of criminal justice system agencies to deal appropriately with people with cognitive and mental health impairments.

We have already taken steps to improve outcomes in this area. For example, Legal Aid NSW currently provides a variety of training and supports to Legal Aid lawyers to assist them to identify clients with signs of cognitive and mental health impairments, and make appropriate referrals for assessment. Legal Aid will consider options for further training, in line with recommendation 7.3.

The Government will also consider options for improving data collection in relation to this group, and distributing information to assist in early identification.

Police diversion

The Government has already acted to improve training of front-line police officers. In August 2013, the Government announced one off funding for a one-day training package that would be provided for frontline police in dealing with mental health issues in the community. This is in addition to the four day Mental Health Intervention Team training police already undertake.

The Government supports the policy intent of using diversionary options at the earliest stage possible, in appropriate cases. It considers that existing police powers provide adequate pre-court diversionary options. The use of these options in appropriate cases should be promoted by the development of clear, publicly available guidelines on exercising police discretions to charge and prosecute. Further work will be undertaken on developing guidelines which specifically address the needs of young people, and which outline the order and hierarchy of existing diversionary options.

Legislative framework

The Government has committed to the increased use of diversion in appropriate circumstances, as part of the NSW 2021 plan.

An important part of progressing towards that goal is developing a legislative framework that is flexible, simple to apply, gives appropriate guidance to courts, and incorporates accountability where a person does not engage with recommended supports and services.

The Government is working to finalise a diversionary framework which addresses the perceived deficiencies of the existing system. Consideration of possible legislative changes in relation to young people is included in this work.

In developing a legislative response, the Government is aware of the important role that coordinated service delivery plays in successful diversion programs, and of the need to consider the relationship between support services and legislative provisions.

Coordinated service delivery

As the Commission has highlighted, effective service delivery is an essential aspect of any successful diversion scheme.

The Commission has made a number of recommendations for expansion of existing identification, assessment, case management and court support services in NSW.

These recommendations are being considered in the context of considerable work which is already under way in this area.

The Department of Police and Justice has recently developed the Life on Track service, which builds upon other programs, including CREDIT. In addition, the Youth on Track service has been established, which creates a holistic approach to juvenile offending. The service currently operates in three Local Area Commands. It involves government departments working together to identify at risk youth, and make referrals to non-government service providers for intensive case management and one-on-one interventions.

Steps have also been taken to improve the relationship between the CREDIT service and the Statewide Community and Court Liaison Service and work is ongoing to ensure that those services operate seamlessly with each other.

The Commission has made a number of recommendations for evaluation of services and programs. The NSW Government is committed to evidence-based policy, and services and programs such as those referred to in the Commission's report must be evaluated in line with the Evaluation Framework which has been developed for agency use.

Plans are already underway for evaluation of new case management services and the results of these evaluations will be important in determining the most effective way to improve coordinated service delivery across the criminal justice system.

The transition to the National Disability Insurance Scheme is also an important factor in considering the expansion and delivery of services for people with cognitive impairments.

The Government is conducting further work in response to the recommendations that relate to expansion of services, taking into consideration other significant developments in this area, as outlined above.

Recommendations that will not be progressed

The Government does not support the development of a CRISP list (or equivalent list for young people) at this time. The Government notes that the implementation of other measures to support diversion would limit the need for such a list, and considers that limited resources would be better addressed to those measures.

Again, I thank you for your work in preparing this important report. We will continue to work on developing the recommendations put forward, and will keep you advised of further reforms that arise from this work.

Yours sincerely



HON BRAD HAZZARD MP
Attorney General

7.5.14