

26 April 2024



Dear Minister Shorten,

I am writing to you as president of the Australasian Society for Intellectual Disability (ASID) about access to the NDIS for people with intellectual disabilities who have a criminal record.

ASID is a peak body for intellectual disability research in Australasia. ASID promotes research to inform good practice and policy.

People with intellectual and other cognitive disabilities who come into contact with police, courts and corrective services facilities for alleged offending behaviour are a significantly disadvantaged group. They require supports for their own safety in the community as well as for the safety of others. ASID expresses concern in relation to recent media reports which imply that people with disabilities who have an offending history should not be accessing NDIS supports and services. These media reports focus on the case of a person with an intellectual disability and mental health disorders who was convicted for serious offences and is due to be released from prison into the community in several weeks.

The right to NDIS supports is based on a person's eligibility due to their disability and should not be impacted by whether they have a criminal record. As with other participants within the NDIS, people with disabilities who have had contact with the criminal legal system require support in areas such as

- learning,
- mobility,
- communication,
- self-management,
- social interaction and self-care

This will give them the opportunity to be fully included in our society. Many ex-prisoners with intellectual and other cognitive disabilities have a history of involvement with the child protection system. They

- have had a poor experience with the education system
- have poor employment opportunities
- are at greater risk of homelessness
- generally can struggle to access appropriate medical care.

Relative to the general population, this group experiences higher rates of victimization and violence; and many in this group are Aboriginal and/or Torres Strait Islander people who deal with the daily consequences of racial discrimination.

To deny NDIS supports to this group is discriminatory and would only serve to perpetuate the social conditions that first led a person to engage in criminal behaviour.

Supports such as those provided by the NDIS can greatly assist the rehabilitation of people with disabilities with a criminal history. Former prisoners have already received punishment for their offences and to deprive them of access to Government support services is not only double punishment but is counterproductive to their opportunities for rehabilitation. The ways in which these supports are offered need to take into consideration

- the wellbeing of the person with disabilities,
- the staff which support the person,
- and the general community.

In complex situations, where there may be risks to safety, it is paramount that State correctional authorities work collaboratively with the NDIA and organisations that delivery NDIS funded services. There is expertise in both correctional services and community services that can be utilized in supporting the prison release of a person with disabilities. Strengthening the coordination between these two service systems has been identified as a key recommendation from the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability in their final report.

ASID affirms the Australian Lawyers Alliance commentary ([Criminal record should not mean access to NDIS denied - Australian Lawyers Alliance Limited](#)) that support through the NDIS is positive for people with past convictions. It is positive for the individual person and for the community because it can help address many of the factors which have led to offending. In short, it is in our communities' interests for people with

intellectual and other disabilities who have a history of criminal legal system involvement to access the NDIS.

Sincerely,

Professor Christine Bigby,
President ASID

For further information please contact Dr Kathy Ellem or Professor Christine Bigby through info@asid.asn.au