

Justice Advocacy Service Custody Legal Advice service

The Custody Legal Advice service is a separate service provided by the Intellectual Disability Rights Service (IDRS) community legal centre where suspects with cognitive impairment who have been arrested can receive free legal advice from a trained solicitor.

From 1 July 2019, the Custody Legal Advice service will be available 7 days a week, between 9am and 10pm across NSW including in rural, regional and remote areas.

From 1 October 2019, the service will be available 24 hours a day, 7 days a week. **A full list of rollout dates and locations is available in the *Justice Advocacy Service Rollout Information for Police Stations and Court and Legal Locations Fact Sheets.***

Eligibility:

The Custody Legal Advice service will be available to suspects in police custody who have been arrested and may have a cognitive impairment. A potential client will not need to provide evidence of cognitive impairment to access the service. If police believe the person may have a cognitive impairment, a referral can be made by calling JAS on **1300 665 908**. **More information about making a referral is available in the *Justice Advocacy Service Making a Referral Fact Sheet.***

As per the *Mental Health (Forensic Provisions) Act 1990 (NSW)* cognitive impairment includes (without limitation) any of the following:

- a) intellectual disability,

- b) borderline intellectual functioning,
- c) dementia,
- d) acquired brain injury,
- e) drug or alcohol related brain damage, including fetal alcohol spectrum disorder,
- f) autism spectrum disorder.

Once a referral has been made, a JAS support person will be provided to support the suspect in police custody to call a solicitor from the IDRS community legal centre to receive legal advice.

With the suspect's consent, the solicitor may repeat and explain this advice to the JAS support person so that they can remind the suspect of this advice if needed. If further advice is required, the JAS support person can call the solicitor from the IDRS community legal centre again. The solicitor may also need to speak to the police or custody manager.

The Law Enforcement (Powers and Responsibilities) Regulation 2016 (NSW) (LEPRA):

People with cognitive impairment are classified as 'vulnerable persons' under LEPRA. This means they have the right to have a support person and the right to communicate with a legal practitioner before any investigative procedure takes place including a police interview.

Interaction with other services including the Aboriginal Legal Service's (ALS) Custody Notification Service (CNS) and the Youth Hotline run by the Children's Legal Service of Legal Aid NSW (the Youth Hotline):

For Aboriginal and Torres Strait Islander people and children under the age of 18 years old, police should continue to use the ALS CNS and the Youth Hotline. The JAS Custody Legal Advice service will not replace these services. A person with cognitive impairment can access a JAS support person as well as legal advice from the ALS CNS or the Youth Hotline.

The Custody Legal Advice service aims to fill a gap including instances where services are unavailable or when a person with cognitive impairment is not eligible for

existing services such as the ALS CNS or the Youth Hotline.

For more information

Visit the website

www.justiceadvocacy.org.au

Email JAS

justiceadvocacy@idrs.org.au

Call JAS

1300 665 908