

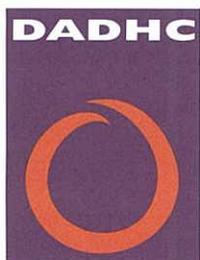
Submission

No 11

## INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

**Organisation:** Department of Ageing, Disability & Home Care  
**Name:** Mr Brendan O'Reilly  
**Position:** Director-General  
**Telephone:** 8270 2000  
**Date Received:** 28/11/2008

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**Department  
of Ageing,  
Disability &  
Home Care**

**Office of  
the Director-  
General**

The Hon. Helen Westwood AM MLC  
C/o The Committee Manager  
Committee on the Health Care Complaints Commission  
Parliament House  
Macquarie Street  
SYDNEY NSW 2001

D08/30927

Dear Ms Westwood

**Re: Inquiry into the operation of the *Health Care Complaints Act 1993***

I refer to your correspondence requesting submissions for the parliamentary Joint Standing Committee inquiry into the *Health Care Complaints Act 1993*.

The NSW Department of Ageing, Disability and Home Care (DADHC) promotes equal access to mental health services for people with an intellectual disability through current approaches to the development of effective partnerships between mental health and disability services.

The NSW health care complaints system should be accessible to people with an intellectual disability in accordance with the principles of the *NSW Disability Services Act 1993*.

Section 28(A) of the *Health Care Complaints Act 1993* states that:

*"The Commission is to use its best endeavours to give notification of the outcomes of the assessment of a complaint to a client whose treatment is the subject of the complaint...unless the client ...(b) is incapable of understanding the notification."*

However, in the *Health Care Complaints Act 1993*:

- the term 'best endeavours' is not defined;
- no criteria or guidelines are proposed against which 'best endeavours' may be measured; and
- no criteria or guidelines are proposed against which the capacity of the client to understand may be assessed.

It is estimated that mental health disorders affect people with an intellectual disability at a rate three to four times greater than the general population.

The prevalence of psychiatric disorder in people with an intellectual disability has been estimated at approximately 40% and it is estimated that people with a developmental disability have a 40-50% greater risk of developing a mental illness than the general population.

General Practitioners are often the preferred source of psychiatric care in the general population and manage up to 90% of patients with mental illness in the community.

People with an intellectual disability often have significant communication difficulties and this presents a barrier to the provision of health care generally. The presence of mental health problems is often minimised and attributed to the intellectual disability itself.

Information relevant to assessing mental health is often provided by carers based on their own observation and interpretation of external behaviours, which will vary in its usefulness depending on a range of factors.

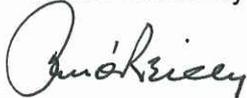
In addition, the presence of co-morbidities such as epilepsy, physical illness, medication effects, autism, chronic pain, sensory deficits and others further complicate the process of effective diagnosis.

However, there are various techniques and approaches that are used to deliver effective support for people with an intellectual disability and their families and to enhance their quality of life. These approaches are set out clearly in DADHC policy, work practice and procedural guidelines.

If you require further information in relation to your inquiry, please contact Mr Don Ferguson, Director, Office of the Senior Practitioner, DADHC on 9841 9274.

I trust this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan O'Reilly', written in a cursive style.

**Brendan O'Reilly**  
**Director-General**