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Carers' Strategy launched

Another plank of an integrated, well-supported disability sector was launched by Minister Ruth Dyson on 28 April. Developed by government in partnership with the Carers Alliance, of which IHC is a member, the Carers' Strategy recognises the one in ten New Zealanders who provide informal, voluntary support for people close to them who need help with their everyday living. Together with the first five-year action plan, the strategy provides a framework of principles to guide policy development and the delivery of services by government agencies and NGOs that work with carers.

The Carers' Strategy principles are:

- recognise diversity
- be proactive
- enable carers
- be inclusive.

The Carers' Strategy objectives are:

- provide information
- protect the health and wellbeing of carers
- enable carers to take a break
- provide financial support for carers
- provide training and pathways to employment for carers.

IHC welcomes the strategy including its whole-of-government collaborative approach and commitment to action, monitoring and research. The Carers' Strategy Governance Group, which will oversee the strategy, will include NGO representatives.

However, the strategy does not make a commitment to providing a basic payment to use as direct funding for support services or to recognising the inequity between ACC and non-ACC funded support, as IHC and other submissions called for. Instead the action plan merely says that over the next two to three years the Ministry of Social Development will examine options for both allowing a wider group with significant caring responsibilities the choice of accessing income support and for improving the assessment process for determining eligibility to income support for carers, and to develop a proposal for a carers allowance to be made available to some informal carers of adults.

The strategy also does not address IHC's repeated call for families to be able to access independent, rights-based advocacy services to assist them to get the inclusion and support they need to live an ordinary life.

The Carers' Strategy is here

www.msd.govt.nz/work-areas/cross-sectoral-work/carers-strategy/index.html.

What is the worth of a carer?

This month an independent job evaluation commissioned by the Public Service Association (PSA) shows that the work done by paid community support workers (CSWs) supporting people with intellectual disabilities, who live in community houses, is similar in size and value to the work done by corrections officers and health/therapy assistants in public hospitals. Yet, the national average top pay rate for a CSW is \$17,500 a year less than a corrections officer, a 52% pay gap, and almost \$7,500 a year less than a health assistant, a 22% pay gap.

The PSA says this evaluation proves that CSWs, who support thousands of intellectually disabled New Zealanders to lead fulfilling lives, are hugely underpaid. It says that the problem is that low pay is determined by the level of funding available, not the skills, knowledge, demands and level of responsibility that the job requires. The PSA says that the low pay and poor working conditions make it extremely hard for the disability sector to retain and attract staff, citing staff turnover in community houses as 30% overall and 50% in the first year of employment.

No news on disability reviews

No news is forthcoming on the detail of what Cabinet approved in February as a result of the review of long-term disability supports, which focuses on creating long-term support systems centred on the individual.

There is also no news on the first five-year review of the New Zealand Disability Strategy.

The subcommittee of the Social Services Select Committee is meeting all day on 7 May to progress its report on the inquiry into the quality of disability services and how they might be improved. The meeting is open to the public from 11am to 12 noon.

As all these reviews are interrelated, can we expect one big announcement?

UN Disability Convention ratification progress

It is pleasing to see the New Zealand Government's commitment to doing all it can to ratify the UN Convention on the Rights of Persons with Disabilities. As one of the organisations in the disability sector consulted about ratification in the last month, IHC agrees it is important that ratification occurs before the end of this year. This will allow New Zealand to participate at the Conference of States Parties due to be held in November 2008. New Zealand played a lead role in the UN Convention's development and adoption, both at government and NGO levels, and is in a strong position to provide invaluable input into the international monitoring process that will be developed at the conference.

The responsible way in which New Zealand has identified a framework for action shows the clear intention to view the Convention as an important measure for change, and that compliance with it is an evolving concept. New Zealand has already made the ongoing commitment to improving the quality of life for all people with disabilities through the New Zealand Disability Strategy. Ratification of the Convention will strengthen and solidify that ongoing commitment.

The UN Convention comes into force on 3 May. As at 29 April, 24 countries have ratified the Convention. Check progress at www.un.org/disabilities/.

Left behind

The Child Poverty Action Group's (CPAG) report *Left Behind: How social and income inequalities damage New Zealand children* identifies that in the last decade of the twentieth century New Zealand had the fastest growth in income and wealth inequality in the OECD. It says that little has been done to improve the situation since then. Despite the better economy and significant increases in paid employment, between 2000 and 2004 the report says the proportion of all children in severe and significant hardship increased by one third, to 26%.

The report makes recommendations for actions in the areas of income, tax and benefits, health, housing, education and social hazards. CPAG wants a pledge to ending child poverty by 2020, designating an official poverty line, and monitoring and reporting on all major indicators of child poverty.

The Government has responded by welcoming the report and ensuing debate, saying that since the 1990s it has achieved a great deal. Minister Ruth Dyson says the Government agrees entirely that there is still much to be done and is dedicated to investing in ways to eliminate poverty and improve life for people socially and economically, pointing to initiatives such as Working for Families, paid parental leave, cheaper doctors' fees and 20 hours free early childhood education.

CPAG is challenging the discrimination against the children of beneficiaries that began with the child tax credit and continues with the in-work tax credit, which it says has further widened the gap between low-income families on benefits and those in work. Its case against the Government will be heard by the Human Rights Review Tribunal in June, based on the in-work tax credit breaching New Zealand's human rights legislation by discriminating against children on the basis of the employment status of their parents.

The report, including the executive summary, is available at www.cpag.org.nz/. For information about CPAG's case against the Government, including its response and

progress since the complaint was laid with the Human Rights Commission in 2002 is here www.cpag.org.nz/campaigns/Child_Tax_Credit_IWP.html.

High Court says OK to discriminate on cause of disability

The High Court has agreed with the Human Rights Review Tribunal that the Human Rights Act does not prohibit discrimination by reason of the cause of a person's disability, rather than the disability itself. The implications of this decision go well beyond the particular claim or even the disparity between ACC and Ministry of Health funding and criteria for people with similar disabilities.

For example, the Human Rights Act would not protect a person discriminated against because their intellectual disability has a genetic cause compared with birth trauma. It would also be permitted to discriminate against someone whose intellectual disability is caused by Down syndrome compared with autism or vice versa. Beyond affecting their entitlements to disability supports, it would therefore be OK to differentiate to their disadvantage in areas such as education, vocational training, work arrangements and health care.

New Zealand's Disability Strategy and the UN Convention – which look to addressing people's needs and to achieving outcomes of full participation and inclusion in society, not at narrow causes – simply don't count. As government policy, they also explicitly reflect and embody the prevailing social model of disability which sees disability as caused as much by society's responses as by the individual's impairment. Society's responses include legislation and government policy and practices. The judgment gives the clear message that it's up to the Government and Parliament, not the courts, to decide whether the cause of disability is covered in the prohibited ground of discrimination of disability in the Human Rights Act.

The decision is being appealed.

Update on education complaint to the Human Rights Commission

IHC has had a strong response from families wishing to provide evidence for the complaint. We have also had responses from individuals working in the education field. The evidence collected has confirmed that for many parents trying to secure an adequate education for their child with a disability at their local school is not possible. Limited attendance is one of the most common practices identified. There are also many instances where parents have had no choice but to leave their local school and enrol their child elsewhere.

The number of responses has been far greater than envisaged and has meant more time is needed to prepare the evidence. The types of issues identified have also caused us to consider whether we should widen the basis of the complaint. We are therefore deferring filing the complaint until those decisions have been made. We also wish to continue to collect and include a greater level of evidence than originally thought necessary. What we have received is compelling. We need to take advantage of the numbers of families coming forward.

We also intend to add evidence from teachers, principals, RTLBs (Resource Teachers Learning and Behaviour) and other professionals who work directly with schools. The evidence we have received from education professionals is very strong and we believe it critical to include evidence from as many quarters as possible.

IHC is therefore interested to hear from any teachers, principals, RTLBs or other education professionals who wish to participate in the complaint by way of providing expert evidence of discrimination in schools on the basis of disability. Please contact Tony McGurk on either (04) 439 4782 or 0800 442 442 or email tony.mcgurk@ihc.org.nz.

Communication assistance in court

The Evidence Act 2006 provides that people with a communication disability are entitled to communication assistance in any court or tribunal hearing they are involved in. This role is undertaken by interpreters. However, there is a question mark over how this entitlement is provided for people with an intellectual disability, rather than, say, for a hearing impairment where sign language is provided or a visual impairment is provided for.

In a recent trial an IHC advocate provided such communication assistance over the course of a week by way of what we call social interpretation, including between the person and their lawyer, as well as effectively being their support person.

In IHC's submission on the Family Courts Matters Bill we asked for support needed for people with disabilities, including communication assistance, to be expressly recognised. However, the Bill, as reported back, does not address this, the Social Services Select Committee saying that a support person is present only to provide emotional and personal support. The Intellectual Disability (Compulsory Care and Rehabilitation) Act already contains a good model where a support person's role includes providing for communication needs. At odds with the Evidence Act, the Mental Health (Compulsory Assessment and Treatment) Act and the Children, Young Persons, and Their Families Act restrict the provision of interpreters to those with physical disabilities only.

The justice system has made strides in catering for physical and sensory disabilities – now is the time for the needs of those with intellectual and other disabilities who require communication assistance to be addressed in practice. The UN Convention's emphasis on supported rather than substitute decisionmaking will help provide the spur. The Convention requires that appropriate measures are taken to provide access by persons with disabilities to the support they may require in exercising their legal capacity. It also states that effective access to justice for persons with disabilities must be ensured on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role in all legal proceedings.

Employment – the 15-hour rule and eligibility for the invalid's benefit

It has become apparent that Work and Income may not have been assessing entitlement to the invalid's benefit correctly in instances where the person is given an opportunity to take up paid employment. Part of the eligibility criteria to receive the invalid's benefit requires the person to be unable to regularly work for 15 or more hours a week in open employment. The problem is that Work and Income do not appear to be making the proper inquiry into whether the employment is 'open' or 'sheltered'. As a result people are losing their invalid's benefit when in fact they are still entitled to receive it.

The term sheltered employment is not to be confused with sheltered workshops or business enterprises, and means any employment where the employer accommodates the employee's impairment to the extent that enables the employee to do their job.

IHC has been concerned for some time that Work and Income's policy guidelines should clearly point out that defining the type of employment must be one of the first inquiries made when continued entitlement to the invalid's benefit is being examined.

We are interested in hearing from anyone who has experienced situations where invalid's benefits have been stopped solely because the person's employment is for more than 15 hours a week. If you know of situations where this has happened or would like further information, please contact Tony McGurk on either (04) 439 4782 or 0800 442 442 or email tony.mcgurk@ihc.org.nz.

See also www.ihc.org.nz/Portals/0/Advocacy/toolkit/info-sheet7-working-income-invalids-benefit.pdf.

Media blues

IHC has laid a complaint with TVNZ about comments made in *Stars in Their Eyes* in April that we consider to be discriminatory and offensive. These comments belittled the thousands of people with intellectual disabilities who take part in Special Olympics and caused enormous offence to many people who are not able to write and complain themselves.

Standard 6g of the Free-to-air Television Code says:

Broadcasters should avoid portraying persons in programmes in a manner that encourages denigration of, or discrimination against, sections of the community on account of sex, sexual orientation, race, age, disability, or occupational status, or as a consequence of legitimate expression of religious, cultural or political beliefs.

Last year the Disabled Persons Assembly (DPA) complained about a programme on Radio NZ about the repeal of the Disabled Persons Employment Promotion Act and sheltered workshops closing. DPA said it breached the code of radio broadcasting practice on the grounds of balance, fairness and accuracy. The Broadcasting Standards Authority (BSA) has agreed that the programme was unbalanced, and they have ordered Radio NZ to broadcast a statement about this on the Nine to Noon programme. DPA is pleased that the BSA has made this decision because it has often been disappointed or annoyed at the way disabled people or disability issues are misportrayed in the media as a whole.

To find out about the broadcasting standards and making complaints about radio or TV go to www.bsa.govt.nz/index.php.

Update

- On 6 May in New York the World Committee on Disability will formally present the 2007 Franklin Delano Roosevelt International Disability Award to New Zealand.
- The next disability awareness event co-hosted by IHC and CCS Disability Action bringing the voices of disabled people from your own community – “Our Stories” – will take place in Pukekohe from 9–28 May www.ourstories.co.nz/.
- From 18 May, Radio New Zealand National's One in Five disability programme (Sundays at 7pm) starts a series on relationships and sexuality, featuring people with diverse disabilities, cultures, ages, genders and sexualities, including a person with an intellectual disability.

Last words

As the new Carers' Strategy acknowledges, there will be more people needing disability support and for a long time, both from younger ages with medical advances and earlier diagnosis and with an ageing population. The Government's vision is for a society that values carers. Clearly it is time to develop policy which, at long last, addresses what are the reasonable costs that individuals and families might bear and what is the size and scope of government responsibility.

The Child Poverty Action Group's report identifies many ways to address social and income inequalities that damage New Zealand's children. This includes recognising parents who cannot work because they are caring for children, including disabled children, or because they are disabled, are doubly disadvantaged by being excluded from payments as beneficiaries who are already struggling at the bottom of the pile.

Remember the days when the Family Benefit directly paid to all mothers was originally based on the full cost of raising a child and which could be capitalised for the deposit to buy the family's first home.

Both carers and children and adults who are supported and cared for are our taonga, now and for the future.

Contact

Wendy Proffitt
IHC Advocate
(04) 439 4787
0800 442 442
wendy.proffitt@ihc.org.nz
www.ihc.org.nz

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