

"GIVEN RIGHTS THEIR INTELLECTUAL CAPACITY DOES NOT ALLOW THEM TO REALISE"

When people reach the age of 18 years, they are entitled to a range of adult rights. Those with regular intellectual ability have the capacity to realise and enjoy the full extent of these rights.

Those in our society with limited intellectual capacity, due to having an intellectual disability, are given rights which they frequently have no capacity to realise without support.

Quality of life for those unable to realise their rights without support, is ensuring that support is meaningful and credible. We see the residents of supported accommodation group homes supposedly given "Clients' Choice", when they have no capacity to make such choices.

Rather than have professional psychological help to determine the resident's capacity to make the choices, direct care staff with conflicting interests are permitted to decide. This is compounded by the phenomena that most people with limited capacity are anxious to please everyone. Residents of group homes know it's good to keep on the side of those who support their daily living - the direct care staff.

If it is the residents' right to do this or that, and the staff would rather not have to support them, the staff say, "You guys don't want to go out this evening, do you?" In most cases, the residents' will agree with the staff.

The Department of Human Services, Disability Services, say the residents of their group homes have the right to choose if their clothing and rooms are identified for the integrity of their personal possessions.

Yet the department refuses say who makes the decision on behalf of those residents who have no meaningful communications, and who are unable by reason of their disability to make reasonable judgements in respect of all or any matters concerning their personal circumstances and/or estate.

One of the main concerns of families with a member living in a supported accommodation group home is what happens in that covert environment. behind those closed doors. Caring families use various avenues to discover the type of care their family member is receiving - basic minder or quality of life care.

There are a very limited number of investigative avenues. The most obvious is the "Community Visitors Program". The CVP in Victoria is under the Disability Act 2006. The Act says a CV is entitled to inspect any part of the group home, may see any resident and enquire into services. This infers CVs should ask the residents how they find the residential service. This is possible to a limited extent where residents have meaningful communications and reasonable intellectual capacity.

Where the residents have no meaningful communications, and are unable by reason of their disability to make reasonable judgements in respect of all or any matters concerning their personal circumstances and/or estate, CVs speak only with the service provider staff, as CVs are not obligated to contact the families of these residents following their visit to the group home.

Despite section 131 of the Disability Act 2006 says any resident, or any person on their behalf may request the resident be seen by a CV, this contact applies only to the resident, not their family or guardian.

Neither the Disability Act nor the Guardianship Act permits a resident who has no meaningful communications, and is unable by reason of their disability to make reasonable judgements in respect of all or any matters concerning their personal circumstances and/or estate, to be represented to achieve the reasonable human right of being asked by CVs how they find the residential service.

Sadly, those in this intellectual capacity range are given rights they cannot realise, yet are often not permitted the rights they need..... "A soft toy is frequently considered by staff lore as not age appropriate for a adult with no capacity to realise or appreciate anything else!"

Quality of life care is engaging people in whatever they have the capacity to realise and appreciate, whilst gently encouraging them to expand their horizons.

The research report entitled, "Experiences of Restrictive Practices"

http://www.dhs.vic.gov.au/data/assets/pdf_file/0003/354720/osp_experiencesofrestrictivepractices_pdf_0509.pdf

Some of the key themes highlighted by Dr Paul Ramcharan are:-

- Hearing the voice of people with disabilities and family carers
- Recognising the rights of access and scrutiny of family carers and advocates.
- Working with families and people with disabilities collaboratively and co-operatively.
- Open door policy for families and advocates.
- Choice of support and services
- Review of Incident Report mechanisms at DHS level.

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