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DEEDC and the Right to Communicate

The Anne McDonald Centre opened in 1986 as Deal Communication Centre, the first centre in Australia solely devoted to serving hearing people with little or no speech. In the years since we have provided hands-on therapy services to more than 3,000 individuals, and consultancy and information services to tens of thousands throughout Australia and the world.

In 2008 Australia ratified the UN Convention on the Rights of People with Disabilities. Articles 2 and 21 of the Convention (below) specifically refer to the rights of people with expressive and receptive disabilities.

We are concerned that the behaviour of the Victorian Department of Education & Early Childhood Development (DEECD) towards students with expressive disabilities who have so little functional speech that they need to use augmentative and alternative communication strategies breaches the Convention. We are also concerned that this behaviour places DEECD in breach of state and federal discrimination laws.

UN Convention on the Rights of Persons with Disabilities 2008

Article 2 Definitions

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non spoken languages;

Article 21

Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions

Augmentative and Alternative Communication (AAC) Strategies

Impaired or delayed speech may be augmented or replaced by gesture and body language, hand signs, spelling, and specially developed communication aids. These are all called augmentative communication strategies. A very large range of specially developed communication aids is now available.

Electronic or high tech aids provide written and/or spoken output, and cater both for people who can read and spell, and people who cannot. Most people use these aids by pointing with their fingers but there are versions that cater for people who cannot use their hands. Some people can use high tech aids to create messages without the involvement of another person, and some need another person to set up or hold the device or to provide physical support while they use an aid. Eye-gaze computers and iPad and tablet-based systems are among the most recently-developed aids.

Non-electronic or low tech aids include communication boards and folders displaying pictorial symbols and/or words and letters

that the user can select in order to create a message. Again, most people select items using their hands, but there are low tech strategies such as eye-pointing boards which cater for people who cannot use their hands. Because low tech aids do not speak or print, **all** persons using low tech aids require the involvement of another person to read out or transcribe their messages. Some also need another person to set up or hold the communication display or to provide physical support while they select items from the display.

Whether people use high or low tech communication aids depends on various factors – the availability of funding for high tech aids, the nature of person’s disability, the situation of use (electronic aids are generally not practical on the beach), portability, speed of use, need for print output and so on. Apart from the funding issue, the most important determinant of type of aid used is the personal preference of the users and/or their therapists and communication partners.

Victoria has the most generous funding for communication aids of any Australian state. Electronic communication aids up to the value of \$7,000 are readily available for everyone who needs them, regardless of age or diagnosis, through the Aids and Equipment Program administered by the Department of Human Services.

The freedom of people with expressive impairments to use their preferred means of communication on an equal basis with others is covered by Article 21 – *“States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice.”*

Major On-going Breaches of the Convention by the DEECD.

Despite the ready availability of government-funded communication aids the Victorian Department of Education & Early Childhood Development (DEECD) has a long history of failure to provide adequate speech therapy and communication support for students with severe expressive impairments. During the past decade the situation of these students has become steadily worse, to the point where there now appears to be continuing systematic discrimination against students without functional speech, above and beyond issues of resourcing.

1. Banning the use of communication aids by students who cannot speak.

Example – Student A cannot speak. He used a range of communication aids in his mainstream elementary school, including a keyboard which spoke what he typed. After completing Year 6 he enrolled in a mainstream secondary school which refused to allow him to use any of his communication aids other than a card with YES and NO on it.

Clearly Student A could not complete school work or interact with other students just by answering YES/NO questions. This is not a resourcing issue – Student A has his own communication aids, and has a full-time integration support worker. Appeals to the school principal and the DEECD regional administration have produced no change in this extraordinary ruling. Not surprisingly, after a year of enforced muteness Student A became depressed and developed undesirable behaviours.

Student A is not alone. We know of more than 20 current school students who have been banned from taking their state-funded communication aids to DEECD schools.

2. Failing to ensure that the communication needs of all students without functional speech are addressed appropriately.

Example – Specialist School M has 150 students, most of whom do not have functional speech. The remainder all have speech impairments requiring therapy. The school employs 1 speech therapist. Given the work load it is not surprising that fewer than 10 of the 100+ students who need communication aids actually have aids, and these were all prescribed by private therapists. The school staff have not been given any training in communication aid use, and the speech therapist cannot conceivably provide the support required. The school's answer to the resourcing issue is to refuse to allow those students with communication aids to use them at school.

Currently we believe that there are some 2,500 students enrolled in DEECD schools who need to use communication aids to augment their speech. The DEECD appears to make no attempt to ensure that these students obtain the communication aids to which they are entitled, or are allowed to use any aids they already have.

We know of smaller special schools that offered no speech therapy services at all. Specialist School N has 40 students all of whom would benefit from communication aids. The DEECD provided no therapy services because the students were older than eleven. For years the school had electronic communication aids on display in the foyer, but none had batteries, and they were never used.

3. Administering intelligence tests requiring speech to students without functional speech ,

The discriminatory practice of insisting that children who cannot speak be assessed using tests requiring speech underpins and reinforces the DEECD's refusal to provide non-speaking students with access to communication aids.

This really came to the fore in April this year, when I saw an 11-year-old, CR. While he's diagnosed as autistic, his main problem appears to be dyspraxia. He was reported as only saying single words very rarely. His parents say he only has speech therapy once or twice a year!

CR sat and worked for 90 minutes without moving and with no complaint. Consequently I was able to undertake more assessments than I would usually carry out on a first appointment. He demonstrated age-appropriate literacy skills, at least for short items eg scoring 10/10 on a Brain Pop quiz on Food Chains which involved learning, remembering and reading unfamiliar terms such as 'secondary producer' and 'photosynthesis'. He selected all 10 answers independently after silently reading each question and the 4 possible answers.

Before CR left I administered a Peabody Picture Vocabulary test (PPVT), a multiple choice vocabulary test catering for all ages. Again CR was able to select his answers by pointing clearly and independently. He scored at the 91st percentile for his age - that is better than 90 percent of other non-disabled 11 year olds! And he's at a school for kids with IQ less than 50!

CR's parents say they repeatedly told the school that he was showing literacy skills at home by typing search terms into Google but they didn't take any notice. By the end of Monday's session he was reading aloud, softly but quite accurately, allowing for mispronunciations associated with

his speech difficulty. He sometimes spoke the answers to reading comprehension questions too. In both cases it was clear that the written words cued his speech, something that can be used to increase his confidence in speaking and to extend his spoken language.

CR is just the tip of the iceberg. We are seeing scores more students with little or no speech who are receiving an inappropriate education based on the admission of IQ tests which require fluent speech and good hand skills, and adults whose lives have been ruined because their education was a complete waste of time. Most children without functional speech are given IQ tests before they start school, without any access to augmentative communication.

The end result is that these children all end up with IQ scores below 50, and are shunted into Special Developmental Schools, in which none of the students can talk fluently and where the teachers seem to believe that their students are too stupid to learn to use AAC. (To clarify this, 2-year-olds use AAC successfully.)

Occasionally a child breaks out of the vicious circle when the parents seek the help of an agency such as the Anne McDonald Centre. Like most AAC centres we have clients originally assessed as having IQs less than 50 who now have university degrees. Obviously those students were fortunate enough to both obtain communication aids and be allowed to use them.

We are conscious of literally hundreds of current students whose academic potential is unknown, but certainly won't ever be achieved if the practices of the Victorian Department of Education & Early Childhood Development remain unchanged, as appears likely.

A few weeks ago the DEECD was approached by the ABC radio programme *Background Briefing* with questions about the Department's assessment procedures. The DEECD replied in writing as follows:

Q: Is the Wechsler Intelligence Scale for Children the main IQ test used by, or endorsed by, the department, including for children with little or no speech?

A: Testing is undertaken in Victorian Government schools for a range of purposes including:

- ☒ educational planning for gifted students and students with additional learning needs
- ☒ addressing eligibility criteria for specialist school enrolments
- ☒ addressing eligibility criteria for targeted funding programs (e.g. Program for Students with Disabilities).

For consistency, the Department recommends that the Weschler cognitive tests are administered for the PSD [Program for Students with Disabilities] however this does not preclude psychologists using other comparably valid cognitive tests in some circumstances.

The Department provides guidance to assist psychologists with complex PSD assessment issues, such as the assessment of students with little or no speech. [This is the extent of the guidance.]

In keeping with best practice it is recognised that there are some students who cannot be assessed using the recommended tests due to the nature of their disability. If a test instrument other than the recommended measure is used, a statement as to why this measure was used must be provided. For students who are deemed to be unassessable, it is essential that any attempt made to conduct the assessment is fully documented, with a clear explanation of why the assessment could not be completed, and an estimate of the student's cognitive functioning.

The DEECD is admitting that they make no effort to ensure that children who cannot undertake the WISC - which requires normal speech and normal hand skills - receive appropriate assessment. Instead they ask their psychologists to make "*an estimate of the student's cognitive functioning.*" That is they ask them to make a guess, and proceed to base 12 years of education on that guess.

How would they'd assess Stephen Hawking if he was presented to them without his communication aids?

Thousands of DEECD's students with little or no speech are growing up to be disenfranchised adults, with no means of communicating their simplest wishes. Many will, like Student A, develop behavioural problems or suffer from severe depression. Due to the derelictions of the DEECD, these students and their families have been left in appalling circumstances, without hope and without futures.

There is no greater abuse of human rights than the denial of the right on which all other rights depend - the right to communicate.

The Charter of Human Rights and Responsibilities has obviously had no impact on the DEECD. Unless the DEECD and all government departments have an enforceable obligation to honour basic human rights the charter is a mockery.

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