

Disability Forensic Assessment and Treatment Service

Service framework

August 2009

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Part A Background

1. Introduction

The Disability Services Division (DSD) undertakes activities to pursue the goals of the *Victorian state disability plan 2002–12* (DHS 2002) and funds a range of services for people with a disability. This includes disability forensic services delivered by the Disability Forensic Assessment and Treatment Service (DFATS).

This framework presents a service description, background information and requirements for delivering DFATS services. It is intended to guide the planning, organisation and provision of services, drive optimal performance of the service and optimise outcomes for the service's target group.

This document integrates with other Department of Human Services policies including the *Disability Services Policy and funding plan 2009–12*, which is the primary mechanism for communicating policy, budget and funding information for funded activities. The service framework complements other supporting documentation, for example DFATS program documents.¹

There has been increasing demand for disability forensic services and an increasing number of people with a disability coming into contact with the criminal justice system. There is a range of legal, ethical and policy issues associated with delivering services to people with a disability who are involved in, or at risk of involvement with, the criminal justice system.

The framework is intended to provide flexibility for DFATS to respond to challenges, opportunities and emerging developments in disability policy and forensic disability practice into the future.

2. About DFATS

DFATS was established in 1993, is located in Fairfield and was known as the Statewide Forensic Service until January 2009. It is widely recognised that DFATS is a unique service within the disability service system and delivers highly specialised programs for people at the disability–criminal justice interface. DFATS provides clinical support services in a range of settings through a number of key programs, namely the Intensive Residential Treatment Program (IRTP), Community, Prison and Youth programs and the Consultancy Program.

The DFATS workforce comprises a broad skill mix (senior management, consultant psychiatrist, clinical staff, direct support officers, case management, administrative and facility staff) facilitating an interdisciplinary approach to service delivery.

DFATS has continued to evolve since its inception and has developed considerable expertise and capability in delivering disability forensic services. The service has recently undertaken a range of initiatives to enhance operations and respond to the changing disability–criminal justice landscape.

3. About this document

This framework has been developed by DSD in partnership with North and West Metropolitan Region (NWMR) and DFATS. The DFATS Service Framework Advisory Group provided expert advice for its development. A range of information has informed the document including stakeholder and staff consultation, previous DFATS reviews, relevant legislation and policy, and a review of the available literature.

The document is divided into two parts:

- Part A Background
- Part B Service description and requirements.

¹ The service framework can be accessed at <www.dhs.vic.gov.au/disability>.

4. Objectives of the framework

DSD is committed to ensuring optimal outcomes for the target group, supporting implementation of the *Disability Act 2006* and its guiding principles of human rights and citizenship, and supporting the goals of the *Victorian state disability plan*. The objectives of the framework are to ensure:

- effective management of the target group
- delivery of high-quality, timely and safe disability forensic services
- effective monitoring and accountability
- efficient allocation of available resources.

The service framework will inform:

- DSD in its service planning, ongoing policy development, monitoring and resource allocation
- NWMR in its implementation, management and service monitoring role
- DFATS in its service provider role
- Departmental regions in their role in the provision of services for people with a disability involved in, or risk of involvement in the criminal justice system.

The document is also intended as a mechanism to inform broader criminal justice and human services stakeholders about the role and operation of the service to support integration and continuum of care for clients who are receiving, or have received, services from DFATS.

5. The disability–criminal justice landscape

The following section presents commentary about the disability–criminal justice landscape relevant to DFATS policy development and service delivery.

5.1 Prevalence and profile of people with an intellectual disability involved in the criminal justice system

Although obvious challenges have hampered studies and reported numbers vary, there is now increasing availability of literature about the prevalence of people with an intellectual disability in the criminal justice system. Literature identifies that people with an intellectual disability are disproportionately represented in the criminal justice system both in Australia and internationally (Criminology Research Centre 2003, Cockram 2005, Intellectual Disability Rights Service 2008).

A recent study by the Department of Justice (2007) examined the characteristics of prisoners with an intellectual disability in the Victorian prison system. The report noted that prisoners with an intellectual disability were characterised by significant involvement with the criminal justice system, were younger and had significant literacy, homelessness, employment and psychiatric issues.

A recent report examining both the medical and interactional model of disability concludes that offending behaviour is best understood as a product of the interactions between a person's cognitive impairment and various aspects of psychological and socioeconomic disadvantage (Intellectual Disability Rights Service 2008).

Literature has also examined specific problems for people with a disability involved in the criminal justice system. People with a learning disability can be particularly vulnerable when in contact with the criminal justice system, often have additional health problems and higher prevalence of 'challenging behaviours' and mental health problems (Victorian Law Commission 2003, Chan et al 2003). This highlights the vulnerability of people with an intellectual disability and mental illness to risks such as offending behaviour.

5.2 Legislation and policy

DFATS is required to comply with a number of legal instruments and international obligations to which Australia is a signatory, and meet Victorian Government policy directions. A list of these documents is presented in Appendix 1.

There have been significant changes in disability legislation, policy directions and the way disability services are funded and provided since DFATS was established.

5.2.1 Legislation

The Disability Act provided substantial reform to the law for people with a disability in Victoria and a statutory framework for provision of high-quality services and supports for people with a disability.

The Disability Act is guided by principles of human rights and citizenship; these principles provide guidance for disability service providers in relation to its interpretation and application. The Disability Act states that people with a disability should have the same rights and responsibilities as other members of the community. More information about the principles is presented in Appendix 2.

The Disability Act outlines an approach to planning that reflects the reorientation of disability services. Under the Act, planning takes place within the individualised planning and support framework and is about self-determination, community membership and citizenship.

Of particular relevance to DFATS, the Disability Act also regulates treatment for people subject to compulsory treatment orders, including those who reside in a residential treatment facility (RTF) under a residential treatment order (RTO) and those subject to a supervised treatment order (STO). The IRTP at DFATS is proclaimed as a short-term RTF, and a person with an intellectual disability can only be admitted to the facility for a period not exceeding five years. Compulsory treatment reflects the influence of the concept of therapeutic jurisprudence—the school of legal enquiry that has been increasingly mainstreamed across jurisdictions—that aims, through law reform, to reduce the anti-therapeutic and enhance the therapeutic effects of law and legal processes.

The *Sentencing Act 1991* provides for an RTO as a sentencing option where a person has committed a serious offence, is suitable for admission to an RTF and services are available at an RTF. In these circumstances, the court may subject a person to an RTO for a maximum of five years. The IRTP delivered by DFATS is proclaimed as an RTF.

The Disability Act provides for an STO, which is a civil order made by the Victorian Civil Administrative Tribunal (VCAT). VCAT, established under the Victorian Civil Administrative Tribunal Act 1998, provides access to a civil justice system and was given jurisdiction under the Disability Act to make orders in relation to a person with a disability including for the compulsory treatment of people with an intellectual disability who pose a significant risk of serious harm to others.

Section 191 of the Disability Act provides for an Authorised Program Officer to apply to VCAT for a STO in respect of a person who has an intellectual disability, is receiving residential services from a registered disability services provider and poses a significant risk of serious harm to others. Section 191 (6) of the Disability Act presents requirements that must be satisfied before an STO can be made by VCAT. People with an intellectual disability on STOs may be referred to DFATS for services provided by the Community Program and/or Consultancy Program.

The Disability Act also established the Senior Practitioner role, which is generally responsible for ensuring that the rights of people who are subject to restrictive interventions and compulsory treatment are protected, and that appropriate standards in relation to restrictive interventions and compulsory treatment are complied with. Examples of these requirements include developing a treatment plan for a person subject to a compulsory treatment order, a VCAT review of the treatment plan and monitoring of compulsory treatment orders by the Senior Practitioner. These provisions reflect recommendations in the Victorian Law Commission's report *People with intellectual disabilities at risk: A legal framework for compulsory care* tabled in parliament in 2003.

A range of resources have been developed by DSD for disability providers to provide supplementary information and to support implementation of the Disability Act including:

- *Disability Act 2006: policy and information manual* (2007)
- *Disability Services planning policy* (2007)
- *Disability Services criminal justice practice manual* (2007)
- *Protocol between Corrections Victoria, Department of Justice and Disability Services, Department of Human Services* (2008)
- *Residential treatment facilities implementation guide* (2007)
- *Supervised treatment orders guide* (2007).²

5.2.2 Victorian Charter of Human Rights 2006

The *Victorian Charter of Human Rights 2006* is a key piece of legislation that introduced requirements to ensure that government considers human rights when making laws, developing policies and delivering services. It also provides a framework to help public authorities strike a balance between protecting individual human rights and competing public interests. Its implementation imposes obligations on DFATS to act in a way that is compatible with the legislation, and to take the Charter's requirements into account when making decisions.

5.2.3 Policy

DSD is responsible for implementing the Victorian Government's policy directions as set out in the Government's *A Fairer Victoria* and the *Victorian State Disability Plan 2002–2012* ('the plan'). The plan outlines a range of strategies to work in partnership with people with disabilities, their families, carers and support providers, to improve quality of life by increasing opportunities for independence, choice and community participation, and promoting the rights of people with a disability.

The priorities of the plan are to:

- reorient disability supports
- develop strong foundations for disability supports
- promote and protect people's rights
- strengthen local communities
- make public services accessible.

Since the 1990s, disability policy development and service planning in Victoria has moved from the historically dominant medical and welfare models towards inclusion of people with a disability. There has also been a trend towards more specialised targeted service responses from a community base following the de-institutionalisation reforms of the 1980s and 1990s.

Planning is a key policy focus for DSD. The *Disability services planning policy* (2007) presents a framework for planning and key planning elements. Self-directed planning and support is a current area for policy focus and aims to ensure that supports and resources are provided based on people's needs, goals and aspirations. *Support your way: A self-directed approach for Victorians with a disability* (2008) establishes the direction for delivery and management of self-directed planning in Victoria.³

² These documents are under review by the Officer of Senior Practitioner and can be accessed at <http://www.dhs.vic.gov.au/disability/about_the_division/office_of_the_senior_practitioner>.

³ Available at <www.dhs.vic.gov.au/disability>.

6. Disability forensic services

The following section presents a brief discussion about challenges, offender management programs and emerging disability forensic practice.

6.1 Some challenges

Literature identifies that the implementation of compulsory treatment programs can present challenges due to the competing interests of stakeholders, the different emphasis of disability and criminal justice systems and the differing paradigms in which staff work (Australian Council on Drugs 2007).

DFATS delivers treatment services in a range of different settings and staff are required to work within an environment of disability, human rights and legal considerations. Staff may, at times, be required to manage and negotiate situations in which there may appear to be conflicting aims, for example, where promoting a person's rights and independence or if therapeutic principles appear to be in conflict with security or community safety needs.

These complexities highlight the importance of ensuring that staff understand their roles and responsibilities in areas such as managing security and risk within the context of the therapeutic programs. DFATS is required to ensure documented procedures are in place in the DFATS operational manual to guide staff in decision making about managing therapeutic need and risk.

6.2 Forensic disability practice

The well-known Risk–Needs–Responsivity Model (Andrews and Bonta 1998) articulates four fundamental principles to guide the development of rehabilitation programs serving offender populations:

- *risk*: the intensity of the treatment offered is dictated by the assessed risk level of the client
- *need*: treatment targets will be determined according to the client's criminogenic needs, or dynamic risk factors
- *responsivity*: program content and delivery will be adapted to the individual need, client stage of readiness, learning and communication style of the client and takes into account factors such as gender, ethnicity, age and disability
- *integrity*: programs are implemented as intended.

International evidence for systematic reviews of effective practice on reducing reoffending tend to support the use of cognitive behavioural interventions with offenders in correctional settings (Home Office Research Development and Statistics Directorate 2005). Contemporary cognitive behavioural interventions generally include cognitive therapies that teach coping and decision-making skills, contingency management therapies that reinforce behavioural changes associated with abstinence, and motivational therapies that enhance the motivation to participate in treatment.

Offender rehabilitation programs have moved progressively towards addressing offence-specific as well as offence-related needs and 'holistic approaches' that place emphasis on supporting community integration needs through skills development, training, employment and personal development.

Contingency management has emerged as a concept in compulsory treatment programs. *Principles of drug abuse treatment for criminal justice populations* published by the National Institute on Drug Abuse identifies that a balance of rewards and sanctions encourages pro-social behaviour and treatment participation (Chandler et al 2009). Birgden (2008) explores utilisation of 'contingency contracting' in a compulsory treatment program and notes its value as a positive approach to behaviour change when underpinned by principles of client engagement, individualised and naturally occurring rewards and logical consequences for sanctions.

The 'therapeutic community' approach—a non-medical residential setting that encourages personal growth and individual change, and supports re-integration of individuals back into the community—has been increasingly adopted in residential programs and correctional settings. Literature identifies that, with modifications, therapeutic community approaches have shown considerable promise in treating offenders who have co-occurring mental and substance use disorders (Sullivan et al 2007).

Although therapeutic community practice continues to evolve and overlaps with other disciplines making it difficult to categorise, an all-embracing culture of enquiry provides a cohesive philosophy for most therapeutic communities (Campling 2001).

Principles underpinning a therapeutic community developed by the Royal College of Psychiatrists Research Unit and Association of Therapeutic Communities (Keenan and Paget 2006) address concepts such as structure, boundaries, shared responsibility for the community, peer-assisted interventions, culture of enquiry, consistency and continuous improvement.

Disability forensic practice is continuing to evolve across national and international jurisdictions. Literature notes that adaptation of treatment programs for people with intellectual disabilities requires careful consideration of their associated needs. This includes strategies such as identifying the best way to convey information to people with an intellectual disability, matching the curriculum to individual needs, ensuring programs are geared towards their experiences and adopting holistic and experiential approaches such as using visual material and creative arts (Prison Reform Trust 2007).

There is an identified need to continue to build research capability in disability forensic practice. In general, there is limited information about efficacy of programs for people with a disability involved in the criminal justice system because of issues involving the population, nature of treatment programs, integrity in program application, evaluation methodology and research capability.

Part B Service description and requirements

Part B presents a service description and service delivery requirements.

7. Role statement, vision, mission and principles

The following section presents a role statement, vision, mission statement and principles for service delivery as a declaration of the organisation's overall goals and purpose. These take into account legislation, government disability funding and policy directions, the unique characteristics of the target group and the context in which the organisation operates.

7.1 Role statement

DFATS is a statewide disability forensic service that delivers time-limited treatment, support and residential services to people with a disability who display high-risk antisocial behaviour and are involved, or at risk of being involved, in the criminal justice system.

7.2 DFATS vision is:

To facilitate positive long-term changes and increase the social, coping and living skills of people with an intellectual disability who are involved or are at risk of involvement in the criminal justice system to enable them to transition, live and participate safely in the community.

7.3 DFATS mission is to:

Deliver a range of quality therapeutic programs in a range of settings. This will be achieved through commitment to innovation, best practice, continuous improvement and collaboration with the broader disability and criminal justice system.

7.4 Service delivery principles

Service delivery is based on the following principles.

DFATS:

- supports quality and continuous improvement
- promotes human rights and citizenship
- ensures safety and security of residents
- focuses on individual client need, risk, participation and wellbeing
- ensures efficient and effective use of available resources.

A key philosophy of DFATS is that offenders with an intellectual disability should be given the opportunity to undertake treatment in a non-judgmental manner that takes into account 'whole-of-life' issues. This philosophy is reflected in conceptual frameworks for programs delivered by DFATS.

A key focus for DFATS is to provide leadership in disability forensic practice as it is uniquely positioned to undertake research and build the capability of the broader disability system to deliver optimal outcomes for people with an intellectual disability who have, or who are at risk of, involvement in the criminal justice system.

8. About DFATS

DFATS is funded to provide a statewide service and provides time-limited programs to the target group across a range of settings. This includes people with an intellectual disability living independently with family or in supported accommodation, community settings, adult correctional and youth justice systems or in the residential treatment program.

The intensity of treatment and intervention provided is based on the person's assessed risk, needs and legal mandate, and people can move between three levels of service according to changes in their risk status. This model enables DFATS to appropriately respond to a client's level of risk, best meet demand and ensure services are effectively targeted. For example, a client who does not meet admission criteria for the I RTP may receive treatment in the community; a client awaiting sentencing may receive consultancy services and clients who have exited from the I RTP may receive ongoing consultancy services.

9. Target group

The target group for DFATS programs is people with an intellectual disability who are involved, or at significant risk of involvement in the criminal justice system. Criminal charges that might arise from these behaviours include murder, attempted murder, aggravated physical assault, arson, sexual assault and serious indecent assault.

10. Access and coordination of services

To be eligible to access supports through disability services funded by the department, a person must be considered to require supports from the disability services system, be within the target group as defined in the Disability Act and be considered a priority for access. Referrals to DFATS programs are made through departmental regional case management teams.

DFATS is required to comply with legislation and policy in relation to access to services.⁴ Section 49, of the Disability Act requires that a person making a request for services must be advised by a disability service provider in writing within 14 days of deciding to refuse the request.

DFATS is required to ensure requests for services are dealt with in a timely manner and consider all relevant information and make a decision within four weeks of a

request for access to services to ensure that a person can be advised in writing by regions within 14 days of the decision being made. This represents a maximum of six weeks from when a person makes a request for access to disability services to notify them of the decision. The *Disability Services Division access policy July 2009* requires a disability service provider to refer, and support a person to access an appropriate generic service in the event a request for service is refused.

To assist regions in notifying people making a referral to DFATS programs, DFATS is required to provide detailed advice in relation to their decision to decline the request for service. DFATS is also required to provide support to regions if DFATS representation is requested at court appearances.

As there is often a greater demand for supports than resources are available, the capacity for DFATS to respond may be considered when determining priority for access to services. Factors to be taken into consideration by DFATS in determining access and priority for services include:

- legal mandates
- clinical assessment
- information provided by the region of origin
- the level of risk a client poses
- program suitability for the client who is referred
- client amenability to treatment
- the benefit the client will receive in participating in the program
- the level of support required to implement therapeutic and whole-of-life programs.

The service framework places an emphasis on ensuring timely access to programs, effective coordination and continuum of care for clients. DFATS is required to ensure:

- efficient allocation of resources
- optimal use of existing capacity
- planned entry, transition and exit of clients
- client monitoring and review.

DFATS is required to ensure the DFATS access, transition and exit guidelines are accessible to DFATS staff as well as broader disability and criminal justice service providers.⁵

4 Available for download at www.dhs.vic.gov.au/ds/disabilityact

5 Available for download from the NWMR website at <http://www.dhs.vic.gov.au/operations/regional/north-west/regional-programs/disability-services/statewide-forensic-service>.

11. Overview of programs: target group and description

11.1 Intensive Residential Treatment Program

The IRTP provides assessment, treatment and residential services in a secure facility. Funded by DSD, it is the most intensive level of service delivery offered to people with a disability.

Admission to the IRTP is mandated by s. 152 of the Disability Act. The Secretary of the Department of Human Services must be satisfied that all criteria are met, including that the person has an intellectual disability and presents a serious risk of violence to another person, that all less restrictive interventions have been tried or considered and are not suitable, that the residential treatment facility can provide services for the person with a disability, that treatment is suitable for that person and that the Senior Practitioner has been notified of the proposed admission. Section 152 specifies that one of the following orders must also apply:

- a residential treatment order under the Sentencing Act
- a parole order under the *Corrections Act 1986*
- a custodial supervision order under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*
- an security order transferring a person from a prison under s. 166
- an extended supervision order under the *Serious Sex Offenders Monitoring Act 2005*.

Appendix 3 provides an overview of these orders.

The DFATS target group for the ITRP is people with an intellectual disability.

The IRTP should be guided by a holistic and experiential approach including providing for the day-to-day care of residents while addressing residents' offence-specific and offence-related needs and developing residents' self-care, education, recreation, connectedness and other life skills to facilitate positive long-term outcomes and keep themselves and the community safe.

DFATS should also ensure the IRTP:

- provides comprehensive orientation for residents
- is underpinned by a therapeutic approach
- is informed by contemporary clinical theoretical frameworks and best practice
- aligns with disability policy and meets legislative requirements
- is underpinned by a rights framework enshrined in the Disability Act and Victorian Human Rights Charter
- accommodates the complex characteristics and environment in which the service operates
- ensures safety and security of residents
- facilitates optimal treatment outcomes for residents
- monitor and assess treatment outcomes for residents
- supports continuum of care through establishing linkages with broader disability, criminal justices and human services systems.

A project was undertaken in 2008–09 to review the IRTP. A new treatment model is being implemented that is guiding the IRTP towards a community therapeutic model adapted to the needs of disability forensic clients.

11.2 Community Program

The Community Program provides specialist treatment services for people in a range of settings including those residing in community-based settings, young people in youth justice custodial settings and adults incarcerated in correctional settings.

The DFATS target group for the Community Program is people with an intellectual disability eligible to receive services under the Disability Act who have a forensic history or are demonstrating behaviours that place them at significant risk of criminal involvement.

The Community Program delivers a less intensive level of services than the IRTP including community-based offence-specific and offence-related individual group therapy sessions. Examples of the client profile include people who have been assessed as not meeting the criteria for the IRTP, those requiring a moderate-level intensity service, IRTP clients with a change of status requiring an increase or decrease in service intensity or people who were recipients of consultancy advice and assessed as requiring a more intensive level of service.

The range of program outcomes include:

- ensuring a responsive and flexible service response that meets clinical support needs
- addressing offence-specific and offence-related needs
- supporting continuum of care through establishing linkages with broader disability, criminal justices and human services systems.

11.3 Prison Program

The Prison Program provides specialist support services for prisoners with a disability incarcerated in Victorian prisons in partnership with Corrections Victoria.

The range of program activities include:

- maintaining a prisoner's support networks including linkages with regional case management
- playing an active role in pre-release planning in close partnership with Disability Client Services
- providing clinical support sessions for prisoners
- co-facilitating clinical support sessions—offence-specific and offence-related—in partnership with Corrections Victoria through the Disability Prison Pathways Program⁶
- providing advice and consultancy services to Corrections Victoria staff at Victorian prisons
- providing advice in relation to risk assessments and prisoner transfer
- maintaining up-to-date information about the profile of Victorian prisoners with a disability.

11.4 Youth Program

The Youth Program provides specialist support services to young offenders with an intellectual disability, as defined by the Disability Act, who are involved in the youth justice custodial system.

The range of program activities include:

- providing advice and consultancy to youth justice custodial staff in relation to young people's offending behaviours
- providing advocacy and liaising with Youth Justice custodial units and Disability Services to ensure services best meet the needs of young offenders with a disability and address their offending behaviour
- liaising and providing an active role in the transition and integration of the target group into the community
- strengthening the capacity of the youth justice system to support young people with a disability within a custodial setting
- assisting to establish networks with broader disability services, youth justice programs and health services.

11.5 Community Forensic Dual Disability Clinic

The DFATS target group for the Community Forensic Dual Disability Clinic is people with an intellectual disability (as defined by the Disability Act) and co-morbid mental illness who are 18 years or older and display risky antisocial behaviours. Referrals are accepted for people likely to have a condition that requires specialist psychiatric input. Residents receiving services from the I RTP or Long Term Residential Program are prioritised for services from the Community Forensic Dual Disability Clinic.

This service responds to a recognised need for prevention, intervention and collaborative responses for people with dual diagnoses involved in the criminal justice system.

11.6 Consultancy Program

The Consultancy Program provides consultancy services in the form of advice and active support to disability service providers.

The DFATS target group for the Consultancy Program is people with an intellectual disability as defined by the Disability Act who have a forensic history or are demonstrating behaviours that place them at significant risk of criminal involvement.

⁶ Further information is available from the protocols: *Protocol between Corrections Victoria, Department of Justice and Disability Services (2007)* and *Protocol between the Disability Forensic Assessment and Treatment Service and Corrections Victoria (2008)*.

The range of program activities include:

- providing assessment, treatment planning advice and input to disability providers
- assisting regions with referral and/or supporting clients to access an appropriate alternative service where a request for service to DFATS is unsuitable
- providing follow-up consultancy for people who have exited from the IRTP and Community Program
- delivering training and skills development sessions for disability services staff⁷
- contributing to the DFATS research agenda in disability forensic practice
- contributing (through attendance) to relevant professional development delivered by the DSD Workforce Development and Learning branch, for example, criminal justice training delivered to regional case managers.

A key role for the Consultancy Program is to support the capability of disability service providers in meeting the needs of people with a disability who are involved or at risk of being involved in the criminal justice system as well as supporting DFATS's research capability.

11.7 Case management services for DFATS clients

Provision of quality and timely case management is integral to ensuring optimal outcomes for DFATS's target group as these clients present with complex issues that require a focused service response. Literature identifies that case management plays an important role in determining the outcome of treatment for offenders with intellectual disabilities, and that case management supports the reintegration of offenders with their personal environments (Bogart 1997).

Delivery of effective case management for DFATS clients requires a coordinated and collaborative approach by DFATS, departmental regions and disability service providers. Although departmental regions hold lead responsibility for providing case management services for individual clients residing in the IRTP, DFATS is required

to lead a collaborative process in particular for discharge planning. DFATS responsibilities include:

- supporting IRTP clients to participate in case planning and identifying their key issues and goals
- liaising and providing advice and support to regions in developing plans that address these goals and optimise outcomes of treatment services provided by DFATS
- coordinating and providing procedural advice about VCAT hearings.

Additional information about departmental region and DFATS roles and responsibilities are presented in section 15.

DSD is currently reviewing and developing an enhanced case management model for case management provided by the department via Disability Client Services and community service organisations, some of which are providers of flexible support packages that incorporate a case management component.

12. Service delivery requirements

The following section presents key elements for a quality service and DFATS service delivery requirements.

12.1 Continuous improvement

In addition to ensuring timely access to services, this framework places an emphasis on the implementation of clinical governance systems to ensure quality and safety is maintained. The department's resource guide *Understanding the quality framework for disability services in Victoria* notes the importance of promoting an organisational culture where quality is upheld and modelled as a shared value (Department of Human Services 2007).⁸

DFATS is required to convene a Clinical Advisory Group to support clinical governance, document the terms of reference and develop an annual workplan for the group. The group is required to meet in a timely manner to ensure the group's responsibilities are fulfilled. Representation should include—at a minimum—DFATS management, clinical support and residential staff; departmental regional representation; and external clinical expertise.

⁷ Training and development should focus on areas not addressed through other learning and development initiatives funded by DSD, for example, working with different offence groups, psychosocial models of treatment, risk management and relapse prevention.

⁸ This document is available at <www.dhs.vic.gov.au/disability>.

The DFATS Clinical Advisory Group will provide expert advice and support DFATS to meet the following service requirements.

- document programs/service models and anticipated outcomes
- document DFATS service pathways including access, referral, assessment, transition and exit protocols
- ensure timely review of programs and update program documents
- ensure legislative mandates and departmental policies are met
- provide leadership in disability clinical practice, encourage reflective practice and contribute to research agendas
- promote multidisciplinary program planning and evidence-based practice in forensic disability service delivery
- ensure all programs are sensitive to Indigenous Victorians and those from other cultural backgrounds
- develop linkages with the Office of the Senior Practitioner, academic institutions and professional associations
- undertake monitoring and evaluation of program processes and effectiveness including implementing instruments that identify client outcome measures
- participate and present at conferences
- convene a disability forensic practice workshop for the broader disability system annually to support capacity building for the regions and dissemination of best practice.

The DFATS Clinical Advisory Group will also provide expert advice in relation to intake and exit processes for clients referred to the IRTP, and intake and case closure for clients referred to the Community and Prison Program.⁹

12.2 Workforce

Workforce planning is recognised as a key issue for disability services; it is widely recognised that the service system needs to consider new ways to address emerging workforce issues.

12.2.1 Disability Services Division workforce strategy

Workforce strategy: Improving supports for people with a disability provides a plan to position the industry well into the future. By 2013, this workforce strategy aims for people with a disability to have:

- the support that enables them to participate in the community and to play an important role in influencing and strengthening the workforce
- a skilled workforce of managers and workers with the ‘right values’ and with structured and well-developed career paths
- evolving service providers that deliver and support quality services and value and support all staff in their changing roles and work environments
- a flexible and dynamic service-delivery system that provides tailored support to enable people with a disability to experience the outcomes valued by all Victorians.

Identified priority areas are:

- Priority 1: Strategic approach to workforce improvement
- Priority 2: Attracting workforce
- Priority 3: Enhancing job satisfaction
- Priority 4: Learning, development and support.

12.2.2 Workforce development and learning

The *Workforce development and learning (WDL) strategic plan* has been developed by DSD to support policy and service directions, and aims to assist the workforce to:

- move from the current group program approach to an individual community-based approach
- build leadership and management capacity
- continue strengthening the core competency of the workforce
- support, develop and value staff through professional development and awards initiatives
- assist people with more complex health and support needs.

⁹ Regional representation is not to include a representative from a region when expert advice is being provided about a client from that representative’s region.

A number of initiatives are funded at both statewide and regional levels targeted at disability services staff in the accommodation services and client services areas including the Business Skills for Leaders program, the Communicating about Behaviours for Better Outcomes program and the Positive Behaviour Support program. Specific criminal justice initiatives funded include:

- a three-day, tri-annual Intro to the Justice System workshop
- an annual five-day intensive University of Melbourne postgraduate unit: *Working with offenders with an intellectual disability* and the *Justice forum for advanced practitioners*
- Disability Services justice forums held four times a year
- an annual scholarship program for all disability services staff that funds formal study at both TAFE and university levels.

At a local level, regional learning and development coordinators (RLDC) hold responsibility for managing the rollout of core capability training such as induction training, first aid and CPR training, fire and emergency training plus locally identified and managed professional development activities.

Literature identifies that workforce development needs to focus not only on education and training, but also on systemic approaches that build the capacity of the workforce and support sustainability. It should also concentrate on building the ability of staff to effectively apply their knowledge and skills to work practice.

When recruiting and retaining staff DFATS must comply with all departmental policy and legal instruments. DFATS is required to:

- ensure that all staff are provided with training in the theories and techniques that underpin and guide the therapeutic intent of programs delivered by DFATS
- detail staff roles and competencies, disciplines and the attributes required for DFATS to meet its mission and service requirements

- undertake timely review of DFATS workforce development needs and develop an annual workforce development plan for the service including:
 - knowledge transfer and education and training in disability forensic practice
 - protocols in relation to lines of responsibility
 - orientation
 - recruitment and retention
 - leadership and supervision
 - professional and career development
 - workplace support and workforce wellbeing.

12.3 Governance

Governance is the system by which an organisation is managed, directed and held accountable. Sound governance may mean achieving such things as strategic directions, being accountable for actions, fulfilling legislative requirements, managing risks, monitoring, reporting and evaluating performance or meeting expectations. Organisations may utilise a range of mechanisms that direct and control the way an organisation operates.

12.3.1 Roles and responsibilities of DSD, NWMR and DFATS

It is the role of DSD to:

- develop policy directions, budget and program specifications
- provide advice to NWMR and DFATS about implementing legislation and applying policy
- implement mechanisms to monitor and review NWMR performance
- provide a single point of contact (through Statewide Initiatives, Community and Individual Support, DSD).

It is the role of NWMR to:

- implement and manage DFATS
- provide advice to regions about funding requirements in relation to IRTP residents
- monitor performance and respond in a timely manner to DFATS service delivery and performance issues.

It is the role of DFATS to:

- deliver a statewide forensic disability service in accordance with legislation, policy and program specification requirements.

The current administrative structure for DFATS is presented in Appendix 4.

The role of regions

It is recognised that departmental regions play a key role in providing support services to people who have been involved, or at risk of involvement, in the criminal justice system. The roles and responsibilities of regions are presented in *Section 15. Working with department regions*. For IRTP residents, regions are required to make a funding contribution to DFATS towards the achievement of goals identified in an individual's support plan.

DFATS service and operational issues should be managed at the regional level according to the organisational/regional management structure. Involvement of the Assistant Director, Statewide Initiatives should occur when an issue requires policy advice from DSD, is systemic in nature or deemed to present significant risk.

Issues identified by regions in relation to DFATS service provision should be managed at the regional level according to organisational/regional management and the manager of DFATS in the first instance, with escalation to the Manager, NWMR Disability Services if an issue is unable to be resolved. Again escalation to the Assistant Director, Statewide Initiatives should occur when an issue requires policy advice from DSD, is systemic in nature or deemed to present significant risk.

DSD will convene a service review meeting bi-annually with Manager, NWMR Disability Services; the Manager, DFATS and Regional Disability Services Managers to review implementation of the service framework, discuss DFATS performance, service issues and policy and program development.

12.3.3 Policy and Procedures Advisory Group

DFATS is required to ensure a DFATS operational manual is in place, and convene a Policy and Procedures Advisory Group. The role of the advisory group is to provide expert advice and ensure:

- an up-to-date DFATS operational manual is in place
- DFATS operational manual is accessible and easily understood by all staff
- timely review of the DFATS operational manual, for example, in response to disability legislation changes or policy developments.

The Manager, DFATS and the Manager, NWMR Disability Services hold responsibility for endorsing the DFATS operational manual.

DFATS is required to:

- document representation of the advisory group and its terms of reference
- ensure the DFATS operational manual policies align with relevant legislation, departmental policy directions and the DFATS mission
- provide a copy of the DFATS operational manual, and policy updates, to the Manager, NWMR Disability Services and the Director, Community and Individual Support, DSD.

DFATS is required to comply with departmental policies and guidelines, for example, the *Residential services practice manual* that outlines the role and responsibilities of disability services support staff working in residential services managed by the department.¹⁰ The operations manual includes additional service-specific procedures that are required due to the nature of the service. General security represents an example of a service specific procedure.

¹⁰ http://www.dhs.vic.gov.au/disability/publications-library/residential_services_practice_manual

13. Criminal justice service system

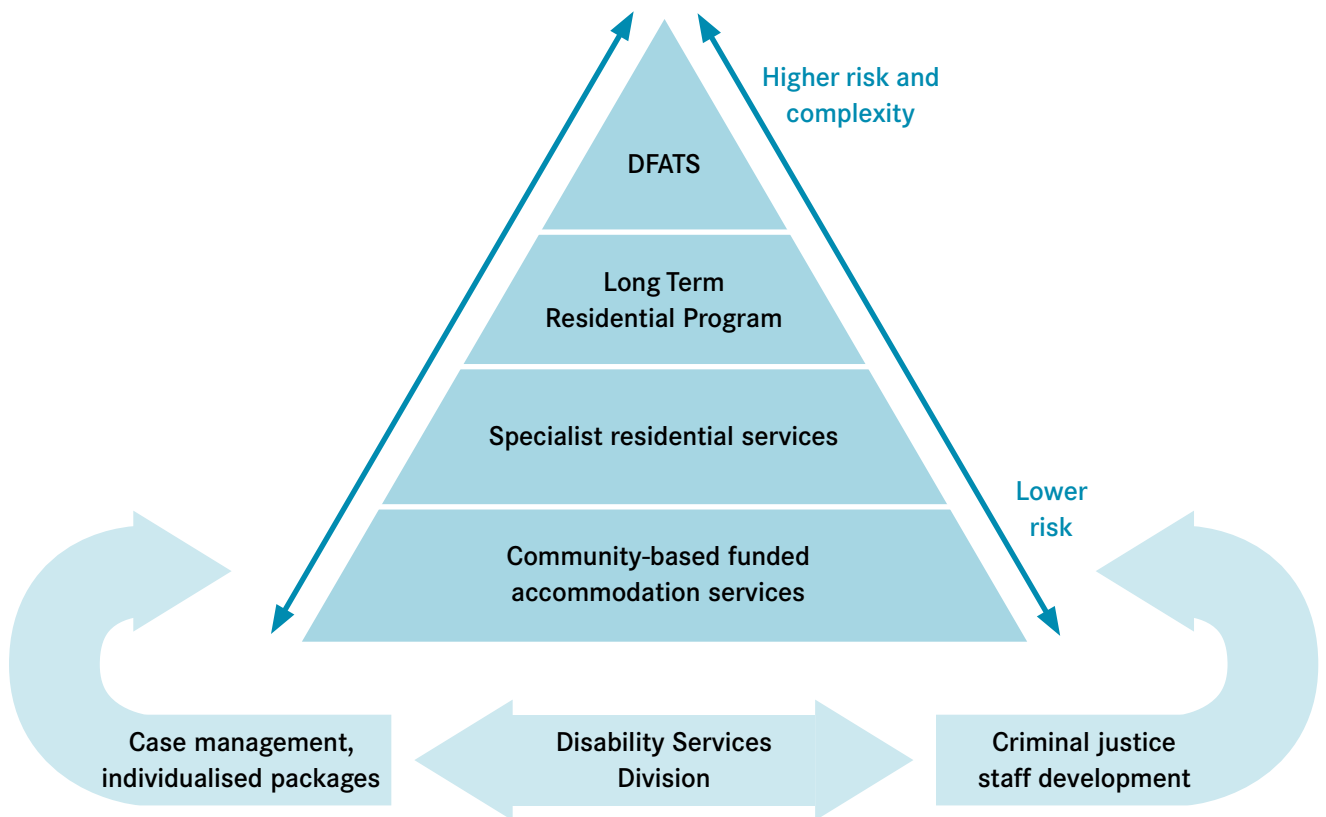
DFATS is part of a broader disability service system providing services to people involved, or at risk of involvement, with the criminal justice system. Other criminal justice service system models responding to people with an intellectual disability involved, or at risk of involvement, in the criminal justice system include:

- case management of clients provided by Disability Client Services and community providers
- the Statewide Disability Short Term Justice Accommodation Program, formerly known as the Short Term Accommodation and Support Program

- specialist residential services that provide intensive placement including Francis House and Perry House
- the Long Term Residential Treatment Program
- flexible funding through individualised packages available to assist the client group at a local level
- criminal justice staff development and learning initiatives funded by Workforce and Learning Development
- a dedicated complex support needs program in DSD.

Figure 1 presents a diagrammatic representation of disability service initiatives for people involved, or at risk of involvement, in the criminal justice system.

Figure 1: Disability Criminal Justice Service System



14. Collaboration between service systems

Literature identifies that the needs of people with a disability who are involved, or at risk of involvement, in the criminal justice system are complex, necessitating a collaborative approach between disability forensic services and broader disability, criminal justice, mental health and health service systems (Benton and Roy 2008).

DSD has developed a range of resources to support collaboration between government services in working with people with a disability involved, or at risk of involvement, in the criminal justice system. A key example of these resources is the document *Protocol between Corrections Victoria, Department of Justice and Disability Services, Department of Human Services* (2008) developed in partnership.¹¹

DFATS is required to ensure an up-to-date protocol between DFATS and Corrections Victoria endorsed by the Regional Director, NWMR and Director, Community and Individual Support is in place, and complements the above protocol.

15. Working with departmental regions

It is recognised that departmental regions play a key role in providing support services to people who have been involved, or at risk of involvement, in the criminal justice system. DFATS and departmental regions are required to work collaboratively in managing clients who have been accepted for DFATS services including at the referral, assessment, treatment, transition and exit stages of a client's care.

15.1 Region of origin responsibilities¹²

Regions of origin are required to:

- complete DFATS referral documentation in a timely and accurate manner
- actively participate¹³ in initial assessment and treatment planning to support DFATS to undertake assessments

- actively participate in periodic reviews and planning such as case planning for VCAT reviews
- provide/continue case management services for clients accepted into a DFATS program
- nominate (in writing) a regional contact for the client following acceptance into DFATS program
- nominate (in writing) a regional contact if clients transfer to another region
- actively participate in planning and advise DFATS (in writing) of the details of the intended support to be provided by the region and other providers following a client's exit.

15.1 DFATS responsibilities

DFATS is required to:

- deliver programs in accordance with relevant legislation, policy and program guidelines and the DFATS service framework
- prepare a report for the region of origin following acceptance of a client into a DFATS program that presents the scope, focus and intended outcomes of services to be provided; anticipated duration of the intervention; and responsibilities of DFATS and the region¹⁴
- continue engagement, and support regions in the management of clients for two years following exit from the IRTP, for example, through provision of the Consultancy Services Program
- meet with the region of origin in a timely manner to provide reports on a DFATS clients' progress (IRTP, Community, Youth and Prison Program)¹⁵

For those clients exiting the IRTP

Effective transition planning and ongoing support is critical for ensuring continuum of care for IRTP clients and appropriate follow-up and evaluation of program delivery. The transition should lead to appropriate access

¹¹ The protocol is available for download at <www.dhs.vic.gov.au>.

¹² Detailed information about timelines and procedures is available from the DFATS *Access guidelines*.

¹³ The term 'participation' means activities such as provision of advice, attendance at meetings as requested.

¹⁴ For IRTP and the Community Program, this report should be co-signed by the manager of Disability Services in the region of origin and the manager of Disability Services, NWMR.

¹⁵ For IRTP clients, progress updates should be provided in a timely manner taking into account the anticipated duration of intervention or residence in IRTP.

and use of support networks and be carefully monitored and evaluated.

DFATS is required to:

- initiate transition and exit planning for IRTP residents with regions
- consider and prepare planning for a resident's exit upon admission
- prepare a preliminary planning report six months prior to their proposed exit
- provide advice and varying levels of support to regions and disability service providers following discharge from the IRTP
- prepare a final exit plan one month prior to a resident's exit that outlines the level of support to be provided by DFATS following exit, including anticipated duration and scope of services
- monitor implementation of the exit plan to ensure that the resident has appropriate access and use of supports
- monitor a resident's progress following their exit from the IRTP or case closure from the Community Program for a minimum of five years including recidivism rates.

The receiving region is required to:

- provide timely verbal and written advice and attend meetings to facilitate development of preliminary planning reports and final exit reports including the level and scope of support to be provided by the region following exit of a client
- actively assist DFATS to monitor a resident's progress following exit from the IRTP.

The final exit report is to be endorsed by the Manager, NWMR Disability Services and the Manager, Disability Services of the receiving region prior to a resident's exit.

For those clients exiting the Community Program

DFATS is required to prepare a final exit report one month prior to exit that outlines the support that DFATS will provide following exit, including anticipated duration and scope of services and ongoing support to be provided by the region.

Plan of available services

Section 80 of the Sentencing Act provides for special conditions of justice plans. If a court finds a person guilty of an offence and is considering making a community based order, a residential treatment order, or releasing the offender on an adjournment, it may request a statement from the Secretary, Department of Human Services that a person has an intellectual disability within the meaning of the Disability Act, and a plan of available services.

If the Court is considering making a RTO, the Secretary, Department of Human Services must have specified that the person is suitable for admission to a RTF and the plan of available services states that services are available in a RTF. Accordingly, DFATS will undertake an assessment of a person for the purpose of providing advice to court regarding a person's suitability for admission to a RTF. On occasion, DFATS may undertake an assessment in the event a person is being considered for release on an adjournment or a community based order (CBO), in particular if a CBO is being considered where a person has been assessed as not suitable for a RTO. In such instances, DFATS and Disability Client Services are required to work collaboratively to ensure a timely response is provided to court requests.

16. Supervision of criminal and civil orders

16.1 What is supervision?

Supervision of orders is the process of managing offenders to effectively complete the conditions of their criminal orders imposed by the courts or the parole board. It includes tasks such as:

- monitoring compliance with the conditions of an order
- implementing warning processes when an offender is not complying with an order
- implementing breach processes if an offender has not complied with the conditions of an order
- completing reviews as required by legislation
- providing permission for interstate/overseas travel
- completing relevant reports such as progress reports, breach reports and further offences reports.

16.2 Responsibility for supervision of orders

DSD holds responsibility for supervising RTOs, custodial supervision orders and security orders and non-custodial supervision orders. Corrections Victoria is responsible for supervising parole orders and extended supervision orders.

16.3 Supervision of criminal and civil orders

A summary of responsibility for the supervision of orders mandated through disability and criminal justice legislation and supporting documentation is presented in Table 1.

Table 1: Responsibility for supervision of orders

Order	Responsibility	Guidelines
Residential treatment order	Disability Services	To be developed
Custodial supervision order	Disability Services	Department of Human Services, Disability Services, <i>Crimes (Mental Illness and Unfitness to be Tried) Act 1997 practice guidelines, 2007</i>
Security order (prison transfer)	Disability Services	To be developed
Parole order	Corrections Victoria	Department of Human Services, <i>Protocol between Corrections Victoria, Department of Justice and Disability Services, 2008</i>
Extended supervision order	Corrections Victoria	<i>Memorandum of understanding between the Sex Offender Management Unit, Corrections Victoria and Statewide Forensic Service, 2008</i>

17. Monitoring and performance

Ongoing review by government is critical to ensure resources are best directed to meet community need.

DSD produces a policy and funding plan every three years, with supplementary annual updates that provide comprehensive information about policies, budget, funds allocation and services. This incorporates specifications for the funded activity and ‘criminal justice services’, which includes a range of service providers including DFATS.

The plan also presents:

- reporting and data collection requirements for DFATS
- monitoring and review processes for ‘criminal justice services’, for example: compliance with all laws relating to privacy; collection and handling of personal information; fire protection; health and safety; and familiarisation and submission of data
- key documents for ‘criminal justice services’ (either for information or adherence), for example, the Disability Act and the *Criminal justice practice manual (2007)*
- the *Quality framework for disability services in Victoria (2007)* and associated requirements.

18. Reporting requirements

Reporting requirements relevant to DFATS and VCAT are mandated in the Disability Act 2006. Key requirements include:

18.1 Restrictive interventions

DFATS, as a disability service provider, must advise the Senior Practitioner of the name and qualifications of any person appointed as the Authorised Program Officer (APO). The treatment plan developed for an ITRP resident must specify any restrictive interventions that are to be used.

18.1.1 Compulsory treatment

DFATS must notify the Senior Practitioner of the proposed admission of a person for compulsory treatment.

18.1.2 Treatment plans

In relation to all persons subject to compulsory treatment (except for those under a custodial supervision order), the APO must prepare a treatment plan within 28 days of a person being admitted to the IRTTP.

- Within two days of the treatment plan's preparation, the APO must provide a copy of the treatment plan to the Senior Practitioner.
- Within six months of a person being admitted to the IRTTP, the APO must make an application to VCAT for review of the treatment plan. After reviewing the treatment plan, VCAT will confirm or vary the treatment plan or require the APO to prepare a new treatment plan
- Following the first review, VCAT will set a date not exceeding a period of 12 months for the next review.
- The APO must provide an implementation report of the treatment plan to the Senior Practitioner at least every six months.
- The APO is required to seek the Senior Practitioner's approval for any material change to the treatment plan that does not involve an increase in the level of supervision or restriction. The Senior Practitioner can, however, approve an increase in supervision or restriction if the Senior Practitioner considers it necessary because of an emergency. If an increase in restriction or supervision is approved by the Senior Practitioner in an emergency situation the Senior Practitioner is required to immediately apply to VCAT for a variation of the treatment plan.
- If there is a material change to the treatment plan that increases the level of restriction or supervision but the situation is not an emergency, the APO must make an application to VCAT for a variation to the treatment plan.

18.1.3 Leave of absence

The APO must provide a half-yearly report ending on 30 June and 31 December to the Senior Practitioner specifying the number of leaves of absence allowed and details of any VCAT hearing and decision considering a leave of absence.

18.1.4 Special leave

The APO must provide a half-yearly report ending on 30 June and 31 December to the Senior Practitioner specifying the number of special leaves of absence allowed and the special circumstances for which they were granted.

18.1.5 Supervised treatment orders -transition provision Disability Act s223(8)

Treatment plans

- Prior to applying for or seeking a review of an STO from VCAT, DFATS must submit a treatment plan to the Senior Practitioner for approval. The Senior Practitioner then issues a treatment plan certificate approving the treatment plan.
- The APO must provide a report on the implementation of the STO to the Senior Practitioner at intervals not exceeding six months.
- The APO is required to seek the Senior Practitioner's approval for any material change to the treatment plan that does not involve an increase in the level of supervision or restriction. The Senior Practitioner can, however, approve an increase in supervision or restriction if the Senior Practitioner considers it necessary because of an emergency. However in these circumstances the Senior Practitioner is required to immediately apply to VCAT for a variation of the treatment plan.

18.2 Quarterly Data Collection

Quarterly Data Collection (QDC) is a reporting system used by the department to collect data about service users and service providers to meet state and Commonwealth government reporting requirements, assist in planning and inform policy development.

Organisations funded to deliver disability services, including DFATS, are required, as part of their service agreement, to provide information about each activity type they are funded to deliver, including 'criminal justice services'.

Further information about QDC is available on the Disability Services internet site at <http://www.dhs.vic.gov.au/disability/improving_supports/performance_reporting/data_collection_and_reporting_qdc/useful_documents>.

19. Performance measures and information management

DFATS is required to:

- maintain expertise and capability to meet required reporting and data collection requirements
- meet departmental reporting requirements including the Disability Services *Policy and funding plan* and DFATS supplementary reporting data requirements advised by DSD.

DFATS is also required to maintain comprehensive information to support service planning, management and monitoring by DFATS, NWMR and DSD. Examples include:

- service profile such as demand, service level and mix of services, numbers of referrals, number of referrals accepted into all programs, referral source and reason for non-acceptance of referrals
- recidivism rates for residents following exit from the IRTP and clients following their case closure from the Community Program
- standardised aims, intended outcomes and performance indicators for DFATS programs
- evaluation of program processes and effectiveness for all programs.

Appendix 1: Relevant legislation and policies

Some key examples of the legislative and policy context include the following.

International legal instruments

Universal Declaration of Human Rights 1948

United Nations Convention on the Rights and Dignity of People with Disabilities 2008

National and state legislation

Disability Discrimination Act 1992 (Cwth)

Human Rights and Equal Opportunity Act 1986 (Cwth)

Disability Act 2006

Charter of Human Rights and Responsibilities Act 2006

Children's, Youth and Families Act 2005

Serious Sex Offenders Registration Act 2004

Human Services (Complex Needs) Act 2003

Health Records Act 2001

Information Privacy Act 2000

Crimes (Mental Impairment and Unfitness to be Tried) Act 1997

Sentencing Act 1991

Freedom of Information Act 1982

Victorian Government policy

Social policy: *Growing Victoria Together* (2005) and *A Fairer Victoria* (2005)

Victorian state disability plan 2002–2012 (2002)

Disability policy: *Victorian state disability action plan*

Disability Services Division: *Disability Services Access Policy 2009*

Appendix 2: Disability Act principles

Disability Act 2006

Part 2 Objectives and principles

5. Principles

- (1) Persons with a disability have the same rights and responsibilities as other members of the community and should be empowered to exercise those rights and responsibilities
- (2) Persons with a disability have the same right as other members of the community to—
 - respect for their human worth and dignity as individuals
 - live free from abuse, neglect or exploitation
 - realise their individual capacity for physical, social, emotional and intellectual development
 - exercise control over their own lives
 - actively participate in the decisions that affect their lives
 - access information and communicate in a manner appropriate to their communication and cultural needs
 - use services in the community that support their quality of life.

Appendix 3: Compulsory treatment: legal avenues for admission to a residential treatment facility (RTF)

Residential treatment orders (RTO) under the Sentencing Act

Under s. 80 of the Sentencing Act a person with an intellectual disability who has pleaded guilty or been found guilty of an offence and who meets the admission criteria for treatment at an RTF as per s. 152 of the Disability Act can be sentenced to a residential treatment order (RTO). The order cannot be undertaken in a facility other than an RTF.

Custodial supervision order under the Crimes (Mental Impairment and Unfitness to be Tried) Act

Under s. 26 of the Crimes (Mental Impairment and Unfitness to be Tried) Act, a person can be placed on a custodial supervision order to reside in an ‘appropriate place’. Within Disability Services, the IRTP is one of two residential options. The other applicable residential service is the Long Term Rehabilitation Program at Plenty Residential Services.

Security order (prison transfer) under the Disability Act

Section 166 of the Disability Act provides that a person with an intellectual disability can be transferred to the IRTP on a security order if they meet the conditions outlined therein.

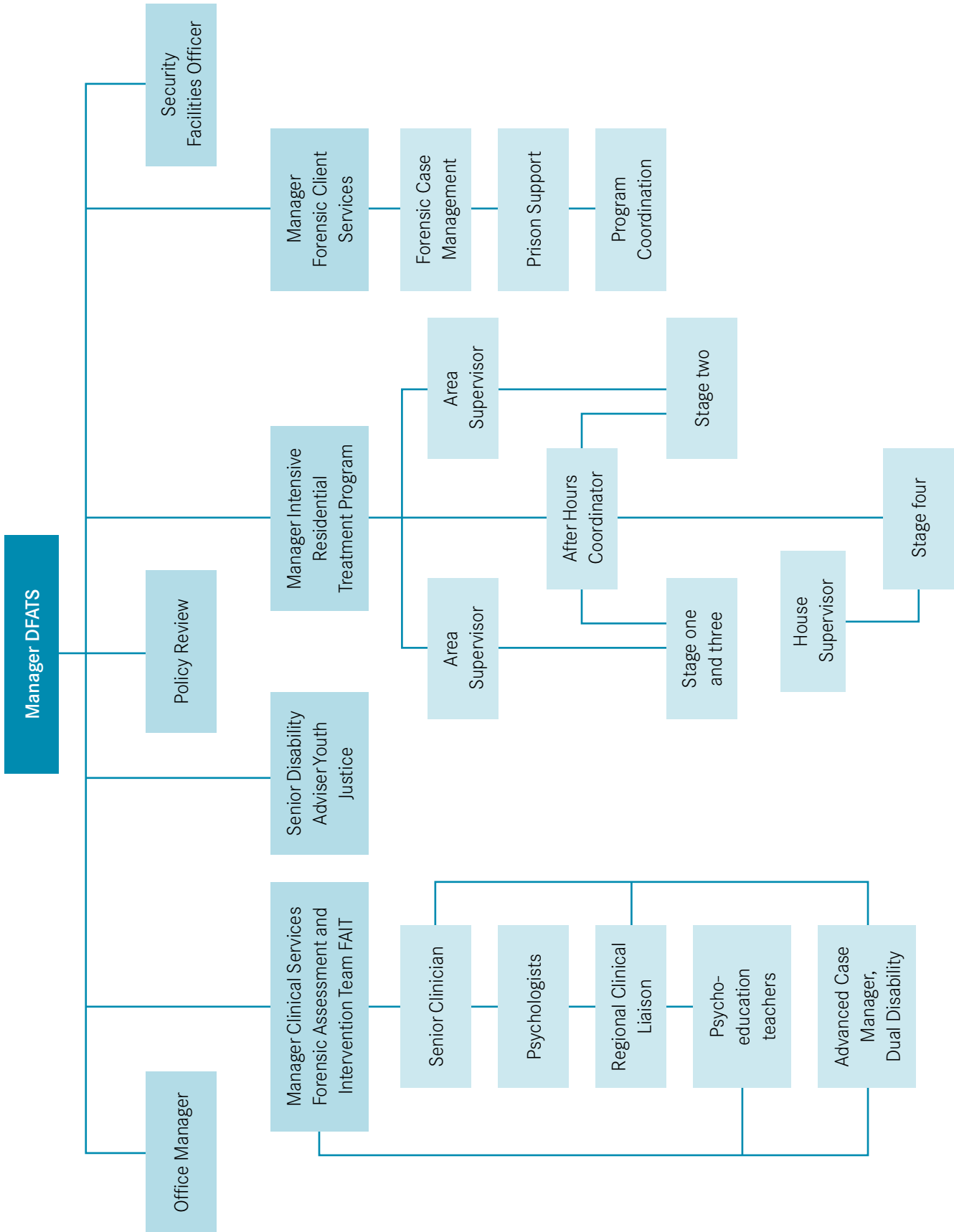
Extended supervision order under the Serious Sex Offenders Monitoring Act

Section 11 of the Serious Sex Offenders Monitoring Act provides for placement of a serious sex offender on an extended supervision order (ESO) upon release from prison if they are considered at a high risk of reoffending. For sex offenders with an intellectual disability, a condition of their ESO may be that they reside at the IRTP.

Parole order under the Corrections Act

Section 74 of the Corrections Act provides for a prisoner to be released on parole if they have served their non-parole period. For offenders with an intellectual disability, a condition of their parole may be that they reside at the IRTP.

Appendix 4: DFATS corporate structure



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