Talking Disability Royal Commission Podcast

Episode 4 Transcript

Talking About Legal Issues

**Troy:** Hello and welcome to Talking Disability Royal Commission, a podcast that helps you navigate the Royal Commission into violence, abuse, neglect, and exploitation of people with disability.

**Oliver:** Hi, I'm Oliver Moore. I'm a solicitor at Your Story Disability Legal Support. Absolute pleasure to be here. Thanks, Troy. Thanks.

**Troy:** Yeah. Great to have you here, Oliver. Now Your Story Disability Legal Support is a free legal service that's independent from the Royal Commission and they work with legal aid, Commissions and Aboriginal legal services across the country to provide a trauma informed and culturally safe service.

So I've got some questions for you today, Oliver. So tell us first off, why might someone want to talk to you a legal expert to help with making a submission?

**Oliver:** Uh, you don't need to, but it's a good idea to get advice so you can be sure you can share your story safely and confidently. You might need to speak to us if you have concerns about privacy or naming names. We can also talk to you if you've signed something saying you won't speak about. Or if you've been involved in a previous legal matter, you might also be concerned about people acting against you against you. If they find out you've made a submission and sometimes we can also assist you to draft a submission. We can also connect you with other legal services if we can't help you with the issues directly. So there are a few things we can do.

**Troy:** People don't need to talk to you before making…

**Oliver:** Not necessarily, but it is a good idea to do so, in a lot of circumstances to make sure that you can do so safely and confidently, just to be sure.

**Troy:** And do you only speak to people with disability or do you speak with anybody who's wanting to engage with a Disability Royal Commission?

**Oliver:** Yeah. Good question. We talk to people with disability. And their supporters of all kinds, whether that's friends, family, carers, or professionals. Um, though we only give advice on in individual matters. So don't advise organisations.

**Troy:** And how do you work with people? Is that largely over the phone? Do you work face-to-face with people?

**Oliver:** We give legal support in a way that works for the client. When someone contacts us, we'll ask them about their accessibility needs and the best way to work with them. In the COVID times we usually work with people over the phone or via video conferencing, like Zoom, but we can do face-to-face when needed for communication needs.

**Troy:** So it can depend on the person.

**Oliver:** That's right, So it's as individual as possible. Yeah.

**Troy:** Well, while I've got you here, I want to ask some of the really common questions that I get around legal stuff. Uh, the first one that comes up all the time, can someone use the name of a person or an organisation in their submission?

**Oliver:** Yeah, I get this question all the time as well. And it is your choice, the person making the submission. If you want to name an organisation or a person, when you share your story, uh, there might be some risks and you might need to talk to us about them. And there are also steps you can take to protect yourself. Some risks are naming names. Someone might try to take you to court or someone might mistreat you if you want to name an organisation or a person in your submission, but you're concerned about either of these issues, it's important to tell the facts as you remember them. And as clearly as you can. So also important to not repeat your story to other people, other people, including on social media. You can protect yourself by simply giving your information confidentially, and we can talk to you about how to do this. There are also special ways to protect your safety. When you engage with the Royal Commission, when you use the special ways it is a criminal offense to injure you, or cause you disadvantage. If you want to name an organisation or a person, but you concern someone might take to take you to court or mistreat you. We suggest you get legal advice before giving information to the Disability Royal Commission.

**Troy:** What about if a person, what about a nondisclosure agreement? If someone signed a nondisclosure agreement, does that mean that they can never share their story?

**Oliver:** Sure. So I will answer that first of all, with, by just, um, talking a little bit about of nondisclosure agreement, um, being something you've signed saying you won't share information about an issue. Um, this could come for example, as part of your contract of employment or as a result of legal proceedings or a legal matter, and I mean, if you've signed a nondisclosure agreement, there may be ways you can still share your story. It'll depend on what you've signed, what you want to share and how you'd like to share it. It's best to get legal advice from us if this is an issue for you. And usually we can work out a way, that you can confidently tell you.

**Troy:** Okay. So you work with people on case-by-case basis.

**Oliver:** Yeah, that's right. And, quite a few with non-disclosure agreements as well. Yeah.

**Troy:** I know some people are worried that if they share their story with the Commission, there's going to be a backlash. What can people do to protect themselves?

**Oliver:** Yeah. So our job at Your Story is to advise you on ways to avoid backlash. What this might look like really depends on your situation. Some common ones, a lot of people have concerns about people acting against them in their jobs at home school or other settings. And some people are concerned about their information being used against them in court or their privacy being compromised. If this is an issue for you, there are ways to get protections. Often I discussed with clients, the possibility of sharing their story confidentially as the first line of protection. People act, can't act against you for giving information. If they don't know you've given it.

**Troy:** Can someone share their story and still remain private?

**Oliver:** Yes, certainly can. So there are a number of ways that I can do that. So first of all, it's making a confidential submission where you mark it confidential or restricted. This way, the Royal Commission won't publish your story or refer to your story and its reports or recommended. Your submission will remain confidential for 99 years and you'll have other protections including it. Can't be used against you in court, and can't be disclosed without your permission. So other people can share it without your permission.

**Troy:** Well, they're the top legal questions that I get as an advocate. Are there any other questions that you get asked all the time that you'd like to give us an answer to?

**Oliver:** Sure. Yeah. Thanks, Troy. There are a number of questions that we get asked that I will go through today. In case it's helpful for any of your lovely listeners, there were changes to confidentiality protections last year, and we get asked what were they and how do they impact people making a submission. As I mentioned slightly earlier, when you make a submission to the Royal Commission, they ask you how they can use your submission. The options are public, anonymous or confidential. And last year the federal parliament changed the law to improve protections for people giving confidential information. So now submissions are confidential for 99 years after it's submitted it, can't be accessed by freedoms of information or by subpoena, and our hope is that people can feel a lot safer to share their story. Now, those protections are in place.

**Troy:** Yeah, that's a great change.

**Oliver:** And there are a few other protections available as well. So staying statements and documents, can't be used as evidence against you in court, and it's an offense for someone to share your story without your permission. So these protections are only legal protections and might not necessarily stop someone from committing an active rep, retribution acting against you. But if someone breaks one of these laws, you can tell the police and the matter may be investigated as another way that you're protected. So we do, I do speak to clients a lot about this, but a lot of the times, if there are concerns then the first line of defense, often confidentiality is the first one.

**Troy:** So you're talking about legal protections more than anything.

**Oliver:** That's right, legal protections as much as anything else in terms of practicality, keeping it between you and your disability advocate and your lawyer, might also be helpful as well. We have appointments the last approximately an hour, usually. So plenty of other questions that may come up for you if we, if you end up coming to see us.

**Troy:** Right. Yes. Thanks. And does Your Story Disability Legal Support offer other legal referrals as well?

**Oliver:** Yeah, um certainly do. So when we talk to people and you might immediately, I identify to us a legal issue, that's concerning you, something like about, uh, needing advice on housing, say, or wanting to appeal an NDIS decision.

You might come to us knowing that issue, we're part of legal aid. I'm part of legal aid, sorry. And there are also colleagues in Aboriginal legal service who are all with Your Story. And so we're able to connect people with our colleagues in legal aid, if it's an area for that they can help with, or with community legal centres, or even on occasion private lawyers. So if you have another legal problem, it may be that we can't help directly, but we will do our best to find someone who can.

**Troy:** Great. Well, that's good to know too.

**Oliver:** Yeah. And, certainly, is I think a very useful part of our service. I mean, even when people are telling their stories to us, sometimes we as lawyers, are able to identify the issues.

Maybe a discrimination matter and say, there's something that you can do about it practically as well as telling your story to the Royal Commission. So, a lot of the time we are on the lookout for practical ways to help as well as helping you go to tell your story to the Royal Commission.

**Troy:** Well, thanks for that Oliver. Um, and people can get in touch with you. If they've got any more questions on 1800 771 800

**Oliver:** that's right. see the number's stuck already: 1800 771 800. And I certainly invite you to see us, to talk about your individual situations, no matter where you are up to in your Royal Commission experience, whether you're still tossing out the options, whether you want to do it or not, whether you want to do it, but you don't know how, or you're in the process and you want to make sure you're doing it confidently, doing it safely.

Then it's a good idea to talk to us that your story We're all very friendly and happy to help as well. It's also great when clients come in with the disability advocates like Troy as well to create a comfortable environment. So this podcast is just one of the examples of how disability advocates in Your Story work together.

We do so in a number of ways. So thank you, Troy

**Troy:** Thank you Oliver.

So in our next episode, we're going to find out who the Commission wants to hear from. We know that anyone is welcome to make a submission, but are there people or stories the Commission, particularly interested in, and you'll get tips on how family members of people with disability can get their voices heard.