



Submission to the

Inquiry into Abuse in Disability

services

Prepared by:
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Chief Executive Officer

About the submission

The submission is prepared on behalf of Distinctive Options and has been written by the Chief Executive Officer, Mr. Murray Dawson-Smith.

Murray has been employed in the Community sector for over 35 years and employed in the Disability sector for the past 15 years. The roles include Executive Officer of VICRAID the peak body representing Disability Residential Service providers of Community Residential Units. During this period Murray was one of the authors of the Disability Services Standards which were the precursor to the Department of Human Services Standards.

Murray has held a number of other positions in the sector including Executive Officer of Active Property Services Management (APSM) now known as Active Community Housing which is a specialist provider of accommodation to individuals with a disability. The organisation achieved registration as a Housing Provider during the period of employment by Murray.

More recently Murray held the position of Chief Executive Officer of Amaze (formerly Autism Victoria) for 6 years from 2008 until February 2014. During this period Murray oversaw the organisation become a Registered Training Provider (RTO) specialising in training to the sector (both government and not for profit staff) in the areas of Autism Spectrum Disorder (ASD), Managing Individuals with Behaviours of Concern (ASD) and Developing Communication Strategies (ASD).

Whilst at Amaze Murray also oversaw the organisation develop and offer specialist certification for organisations wishing to demonstrate competency in supporting individuals with ASD including early childhood services, schools and adult services (the adult standards were authored by Murray). This certification model was further developed and Amaze achieved accreditation through JAS-ANZ as a registered certifying/auditing body for the current Department of Human Services Standards.

The author now holds the position of Chief Executive Officer of Distinctive Options and over the past 12 months the organisation has recognised the need to present information to service users in formats that supports their capacity to exercise their rights and develop their awareness of potential areas of abuse. In response to this need the organisation is launching a new interactive website and a rights video in the next 4 weeks.

Executive Summary

The question of abuse in the disability sector has long been the subject of discussion and concern by service users, parents, family members and to a large extent support staff and organisations that provide support particularly to individuals with an intellectual or cognitive disability.

The need to address the issue of abuse will become ever more critical as the service system moves from group supports in both residential and day service settings to a much more individualised model in which even the current rudimentary oversight by other service users, staff, organisations and community visitors is no longer in place.

It is certainly true that at present there is some oversight as service is still predominantly provided in group type settings and service users are not accessing individual support. This at least allows for the rudimentary checks provided by other service users, staff, and organisational management and to a lesser extent the community visitors within the residential sector.

The NDIA will potentially change the current dynamic and service system when service is much more discreet and one to one. The challenge of ensuring service users do not experience abuse will become an ever increasing area of focus. This should not suggest that the system at present does not see incidents of abuse but rather the potential for increasing incidents in abuse will be compounded by the more private nature of the service system.

Given this loss of potential oversight it is critical the future service system recognise the risks and put in place appropriate supports and safeguards to ensure the rights of service users are not abused.

To achieve this outcome will require the sector to become fundamentally more accountable than is currently the case. This will demand the audit of services be a more rigorous process with a strong shift from the current model based on quality assurance and the development of well written policy and procedure to an emphasis on the quality of practice and the importance of well trained and supervised staff.

The auditing/assessment of practice must be performed by auditors who have a strong and current appreciation for best practice and can ensure sufficient time and observation of practice, linked to individual goals is key to the certification process.

Likewise it is strongly argued that greater and better forms of education to service users should be provided to assist with their understanding of their rights and the process for making complaints. In the main, if service providers present information, it is in a written form often using words or picture symbols (or a combination of both) as a means of informing service users with regards abuse.

However when many of the recipients of the information are not literate and have an intellectual or cognitive disability both the written word and the picture symbol model are not necessarily effective. Given visual learning is more appropriate it is strongly suggested material should be presented in video format and regularly presented to ensure service users are reminded of their rights and how to raise a complaint if they believe their rights have been abused.

Workforce Recruitment and Other Practices.

6.1 How effective are employee recruitment and screening practices at preventing abuse in disability services

The current recruitment and screening practices are based on the assumption that organisations will seek to recruit staff that hold the Cert IV in Disability Services.

It therefore follows there is an assumption by organisations that the holder of the Cert. IV in Disability Studies has, in some way, demonstrated sufficient competency to be able to understand the importance of good practice in the role of support worker. Whether this role is in an accommodation setting, day service or one to one and respite it could be argued there is an assumption the worker is competent to prepare an individual support plan (ISP), structure activities to ensure the aims of the ISP are being achieved and are able to manage any behaviours that may arise and avoid issues of abuse.

The holding of a Cert IV also assumes the worker is able to relate well to the individual, can communicate effectively with the family or significant others and will relate well to other staff and management if part of an organisation.

In reality many of the support staff who achieve Cert IV are in effect not able to meet all of the above expectations and in some cases are actually poorly prepared for the quite complex and demanding role of a support worker. This is particularly true of workers who are placed in roles where there are little or no supports available to them.

There is also the question of the content of the Cert IV in ensuring staff are well prepared for the role of support worker.

It has become evident through the NDIA trial sites that in excess of 25% of all plans across every trial site are for individuals with a primary diagnosis of Autism Spectrum Disorder (ASD) with a further cohort of individuals with an Intellectual Disability who have a secondary diagnosis of ASD and yet in the majority of Cert IV courses ASD is an elective subject.

If support staff are to be able to perform their roles to the best of the ability there is clearly a need to ensure ASD training is compulsory and given this group of individuals can also demonstrate behaviours of concern a second compulsory subject must be in the management of behaviours of concern.

Recommendation:

All support workers must hold the Cert IV in disability Studies and the course must include a Unit of study "An introduction to ASD" and a second unit of study being "Managing individuals with behaviours of concern".

6.2 How effective are training and supervisory practices at preventing abuse in disability services

The roles of the support worker in the disability sector has expanded from the traditional institutional model to evolve to a range of support types including Day Service models in which staff work with small groups of service users either in a stand-alone role or with a co-worker to a more personalised model of one to one support. Likewise support staff may be employed in a residential setting (CRU) and again may be the sole worker or work with one or more colleague's depending on the resident mix and support needs in the home.

In all instances however supervision is problematic as team leaders or the equivalent cannot be on the spot at all times and if staff are committing abuse it is not going to occur in front of other staff or management.

This is compounded by the funding regime of service provision in so far as most services will commit the maximum funding to service support and thus the critical area of supervision and support to staff can at times be under resourced.

This is also true of ongoing training and professional development where organisations do not necessarily commit the resources to training that are, in the opinion of the author, critical to good practice.

The role of support worker is complex and demanding if performed correctly. Staff are required to develop and implement plans to support the independence of individuals who may possess quite a range of competencies and behaviours and the support staff are expected to achieve outcomes with little access to high levels of resources and or support via supervision.

In effect the training and supervision of support staff in many services lacks the necessary rigour that should exist with such a vulnerable and 'at risk' group of individuals.

Recommendation:

Unit pricing to recognise the importance of training and supervision in the prevention of abuse and ensure services are funded appropriately to supervise and support the professional development demands of staff.

6.3 Are the Department of Health and Human Services requirements for disability services adequate?

The Department of Health and Human Services operates on the basis that services will be required to meet certain standards via an independent process of auditing by approved auditors.

The process of auditing is primary one of an audit against a set of criteria that require the service to demonstrate competency against certain standards and in the main this is a process of quality assurance.

The current process of auditing services against the standards is, in the opinion of the author, fundamentally flawed and needs to be reviewed urgently. The current system has been based on the traditional certification/auditing model applied to systems found in the manufacturing sector that do not have appropriate currency in the human service sector.

The model focuses on the capacity of an organisation to have well prepared policies and procedures in place and the organisation can demonstrate how the policies and procedures inform and guide practice.

Although this is important it is the writers contention that more important is the ability of the auditors to observe the service in practice and to make comment on the quality of practice. The auditor should be not only observing practice but looking at practice within the context of individual plans and making comment on how practice links to individual plans. The auditor should be reviewing plans and monitoring the ongoing development and progress of plans and measuring outcomes.

If it is not the role of the auditor then it must be the role of the funding body whether this body is DHHS or the NDIA.

It would also be the writer's contention that the funding body should be more active within the context of abuse complaints and should undertake a more rigorous process whenever a complaint is made by a service user. This should include investigations of service user to service user as well as complaints against staff.

Recommendation:

The auditing process should have a significantly greater focus on practice and outcomes than is currently in place. If auditors are not appropriate then staff from the funding body should undertake this role as part of their duty statement.

6.4 Are there differences in workforce practices across services provided by government and community service organisations?

Government services are primarily in the area of residential services through the provision of Community Residential Units (CRU) and smaller service provision for ongoing institutional models of support.

Historically, it was always the contention of the relevant Department that Government staffed CRU's were to provide accommodation to more complex and challenging service users in comparison to the community sector. This may well have been the case when the sector initially moved from Institutions to de-institutionalisation however it could be strongly argued that over the intervening years the community sector now provides support to many residents with complex behaviours.

Accepting the sector more generally is now similar in mix it is possible to look at the role of staff in both Government and non-Government services and make a number of general comments and observations about the status and practices of workers in both sectors and how this may differ, if at all.

Certainly it is true to say that in the Government CRU system residents have, in the main, been charged less for service provision than in the non for profit sector and thus have capacity to engage in a range of activities that may enhance quality of life outcomes. It could also be argued that staff in the not for profit sector (particularly the smaller services) have a stronger sense of connection to both residents and the employing organisation and this can have a major impact on the staff approach to work.

It would also be the writers contention the not for profit sector has been held far more accountable for their practices than perhaps has been the case for the government service system. Auditing of the not for profits although not perfect has demanded they at least can demonstrate a commitment to good policy and procedure as a condition of licencing and this does demand at least an acknowledgement of the need for good practice.

It is problematic for Government staffed services to be subject to the same level of rigour when government is the funded, service operator, complaints manager and the regulatory body for service provision. This raises the question of how should government respond when one of its services is found to be operating at poor levels with high rates of complaint from service users.

Government is in an excellent situation when issues of poor practice/abuse arise in their own services to provide significant resources to address the concern whilst for the not for profit sector the capacity to resource and support outcomes is far more problematic.

As an aside it should be noted that some 8 years ago a costing exercise to compare the two sectors in costs of service provision demonstrated a saving in excess of \$45Mil would be achieved if Government exited service provision and transferred all CRU's to the not for profit sector.

Recommendation

Government services to be subject to the same level of auditing and certification as the not for profit sector and where a service (CRU) is shown to be operating poorly the service be transferred to a service provider who can demonstrate best practice service models.

6.5 *Should the National Disability Insurance Scheme adopt a similar quality assurance and safeguard framework to that used in Victoria. If not why not*

The current system of auditing has its beginnings from the more traditional models of certification based on manufacturing. This is a model built on the notion of quality assurance, that is, a model which audits the quality of “widgets”, whereas the disability sector is built around the more difficult to assess quality of outcomes and practice.

This then demands a different focus on the auditing process both from the systemic perspective but equally or perhaps more importantly the acquired knowledge and skills of the auditor.

The existing auditing system is predominately provided by approximately 12 organisations registered as auditors within the JAS-ANZ system. These organisations provide a lead auditor and “technical expert” to conduct the audit of the organisation. The lead auditor does not need to have a background in Disability as the “technical expert” theoretically provides the expert advice. Thus the auditor concentrates on policy and procedure and the “technical expert” comments on practice.

There is an assumption in this process that both the policy and practice sides of the coin are thus covered in the audit.

The writer contends that in many cases this does not occur and the emphasis is on policy and the measurable “quality assurance” side of the ledger rather than the more important element of quality practice and outcomes.

It is argued that if the Disability sector is to embrace the opportunities provided by the NDIA and to address potential issues of abuse then a much greater focus needs to be placed on both the role of the auditing process and the consequence of non-compliance.

Critically Government must have the courage to remove funding and services from organisations not meeting their obligations and use the certification process to encourage and enhance quality of life outcomes within the sector.

Recommendation

The quality assurance and safeguarding framework should have a greater expectation on the knowledge and skills of the auditing team and a much stronger focus on practice and quality of life outcomes.

Services that do not pass the audit process to lose their licence and funding.

6.6 What improvements could be made to internal practices for recruiting and training disability service workers?

As stated earlier the real challenge in disability organisations is the ability to ensure staff are adequately trained prior to recruitment and then to identify where there are shortfalls in skills and competencies in response to individual support needs and being able to respond in a timely and appropriate manner with support and guidance.

Achieving these outcomes demands a particular approach by service providers including the ability to accurately assess the support needs of individual service users, develop targeted and achievable goals within a service user's individual support plan, observe practice and how it links to individual plans, monitor performance and the interaction between staff and service users and provide appropriate and supportive supervision.

All of this implies the organisation has skills and competencies with the recruitment and induction of both staff and service users, an understanding and appreciation of the importance of interactive and regularly updated individual support plans and the capacity of management to effectively manage staff and to have the difficult conversations critical to ensure quality of life outcomes.

It is important for staff to be provided with opportunities to engage in reflections on practice, to discuss with other staff challenges of service support within a supportive rather than critical environment and to identify and access training and professional development on a regular basis.

Recommendation

Services be funded to provide opportunities for staff to participate in reflective practices, case conferencing and attend training and professional development programs to enhance skills

6.7 *How effective are community service organisations at monitoring staff recruitment, employee screening and other workforce practices when they engage in sub-contracting arrangements? And to what extent does the department effectively monitor these arrangements.*

Distinctive Options does not sub-contract work to service users accessing support through our organisation.

Provider Registration Requirements

7.1 *Are Victoria's Human Services Standards adequate to prevent abuse in disability services?*

The disability standards have evolved from the initial Standards for Disability Services to the relatively recent evolution to the Department of Human Services standards which are broader with specific standards and expectations for the various program areas funded by DHHS.

The issue is not so much do the standards adequately prevent abuse but rather could any set of standards ensure abuse does not occur.

It could be argued that in the vast majority of cases service user abuse is very much an individual staff action rather than as a result of organisational culture or limiting standards. Having said that it should also be recognised that where an organisation is not effectively monitoring and supervising staff or demanding certain standards of behaviour from staff there is the risk that abuse may be more likely to occur.

Likewise if the process of awareness raising and support to report abuse is lacking then for many individuals with a disability there is little capacity for them to raise concerns.

This suggests that within the implementation of the Human Services standards greater emphasis and assessment on how the service informs and educates service users with regards abuse and their right to report becomes critical.

In effect most services have some form of written documentation that advises service users of their rights but in many cases this level of support does not recognise the ability or in many cases the inability of service users to read and to comprehend the material being provided.

In the case of this organisation we have developed a video of the various forms of abuse and identified who a person can complain to if they believe they have experienced abuse. This video is presented to every service user on a regular (3 monthly basis) as part of the broader support planning process and includes two service users who can be support people if a complaint is lodged.

Recommendation

Government fund the development of a visual (video/dvd) resource showing clearly the various forms of abuse to support visual learners and those who may be unable to read.

7.2 *Is self-assessment an adequate way for service providers to demonstrate their understanding of their client's rights*

It is the position of the writer that in all instances the certification/auditing process must be both rigorous and courageous and where services fail to meet the standards those organisations be required to address the concerns within timeframes that reflect the seriousness of the issues identified.

In saying that it can be argued that when it comes to ensuring service users are aware of and exercise their rights that this is an issue which includes the broad service sector and there is a need for consistency. This will be more critical particularly as individual service users become more mobile and move from service organisation and support type across the life span.

A broad information initiative should be supported by Government and funded as part of the support model for all funded service users. This will ensure all service users become familiar with their rights, service providers will understand their obligations and staff will be able to implement a common approach to supporting client rights in any and all service settings.

Recommendation

Government fund the development of material to inform and support service users to exercise their rights both within the service system and more broadly within the community.

7.3 *What changes or improvements, if any, might be required?*

This question has been addressed in the response to questions 7.1 and 7.2.

Complaints and Monitoring

8.1 How effective do staff and disability services respond to critical incidents relating to abuse in their service? Are the internal processes used by service providers rigorous enough to prevent abuse reoccurring.

This question supposes that organisations experience critical incidents relating to abuse in their service. Certainly many organisations will have experienced one or more incidents over the years but how often they occur or if they have were they reported by the service user may be problematic to capture.

Certainly most, if not all organisations, will have developed policies and procedures that instruct all concerned on what, how and when to respond to reports of abuse however this again suggests that service users both understand what abuse is and then have the capacity and knowledge to report the abuse to the appropriate person or organisation.

It is here, the writer contends, the system is most likely to fall down as services do not necessarily have the most appropriate or targeted awareness raising processes for service users to access.

Again it is clearly the role of the auditing/certifying process to ensure that services not only have effective communication strategies in place but equally can demonstrate that service users are regularly exposed to the messages and supported to raise concerns or claims of abuse.

Recommendation

The Human service standards and the auditing/certifying process assess and determine the organisational processes for learning about and reporting claims of abuse and the organisational response.

8.2 What are the strengths and weaknesses of the Department of Health and Human Services in the management of critical incidents relating to funded services and services it provides.

Having only observed via media reports DHHS responses to critical incidents involving organisations such as Yooralla and E.W. Tipping the writer is unable and unwilling to make any comment on the strengths or weaknesses of the department of Health and Human Services in the management of critical incidents.

8.3 What are the strengths and weakness of the Disability services Commissioner model? Should the model be considered for the National Disability Insurance Scheme quality and safeguards framework?

This organisation has had no contact with the Disability Services Commissioner so comment can only be based on perception. However the notion of a Disability Services Commissioner or its equivalent is supported as one mechanism to support complaint making and is strongly endorsed.

8.4 *Is the Community Visitors program effective in preventing and responding to abuse in disability services?*

The Community Visitors program plays a critical role in the monitoring of services with particular reference to the residential services sector.

Clearly within the residential sector the need to monitor and support service users is important and the Community Visitors play an integral role in this process. In saying that it is noted that again within the construct of the program the ability of residents to firstly identify if they have suffered abuse and then their ability to raise the concern with a community visitor and finally for the community visitor to understand what is being raised is the challenge.

This raises a number of challenges including the challenge for the community visitor to have a sufficiently close relationship to the residents in a CRU that they will feel comfortable to share their concerns. Do the residents and/or the community visitor have the communication skills to raise their concerns in a way that is understandable to the community visitor? If an issue is raised by a resident does the community visitor have sufficient skill to explore the issue sufficiently to determine there is a legitimate issue of abuse to be addressed?

The next step in that process is the capacity and skill of the community visitor to acknowledge the complaint, assess the level of concern and to take the necessary steps to support and report.

This would suggest a number of issues with the Community Visitor Program that will need to be addressed if they are, or even should play a more pro-active role in the addressing of concerns regarding abuse.

One issue of concern would be the ability of community visitors to undertake any level of investigation and whether this is appropriate given the skills and competency of community visitors.

To take on the role of visiting a residential service, meet with residents and ask if they have any issues is generally fairly straight forward. Having said that the question is how often do Community Visitors unearth claims of abuse and when they do what level of skill and competence do they have to investigate and should in fact this be a role of the program.

It could be strongly argued that the role of the community visitor is not to undertake investigations but rather to report back when residents raise their concerns and this should then prompt a more formal investigation by individuals more skilled in investigation than the Community Visitor..

Recommendation

Community Visitors receive training in communication skills and to undertake more detailed assessments of risk and subsequent report writing.

8.5 Are their powers adequate for responding to allegations of abuse and preventing further abuse? How can they be improved?

As already noted it is the writer's position that it is important to consider not only the role of the Community Visitors but also their skill set when determining if their powers are sufficient.

Clearly the Community Visitor can at any time report their concerns or observations if they believe a service user is or has experienced abuse and this report can be provided to Police, Government or senior management of the organisation or a combination of all three.

In saying that the ability to take this action is based on a number of assumptions and they include:

- The capacity of the service user to identify and raise the issue of abuse
- The service user understands the role of the community visitor and the complaints process
- The community visitor has the necessary skill and empathy to communicate effectively with the service user.
- The community visitor has the ability, skill and confidence to undertake a due diligence exercise to ensure the complaint is legitimate
- The capacity of the Community visitor to determine the seriousness of the issue and thus reporting process

In many cases the concern is not the competency or skills of the community visitor but rather whether or not the service user knows what abuse means, is able to recognise the role of the community visitor in the complaints process, is able to express clearly the complaint or abuse experienced and can then engage in the formal investigation and possible legal process that flows from the complaint of abuse.

Recommendation

Community Visitors to be given appropriate training and information and resources to support service users to understand all forms of abuse and how to complain if they believe they have experienced abuse.

8.6 *Do the Community Visitors use their powers adequately to achieve the best outcomes for people who use disability services?*

The writer has no response to this question.

8.7 *Is the Senior Practitioner (Disability) effective in preventing and responding to the use of restrictive interventions and compulsory treatment in disability services?*

8.8 *Are the powers of the Senior Practitioner (Disability) adequate for identifying preventing and responding to the misuse of restrictive interventions and compulsory treatment? If not, how can these be improved.*

8.9 *Does the Senior Practitioner (Disability) use its powers adequately to achieve best outcomes for people who use disability services?*

Distinctive Options does not use restrictive interventions with any service users and thus have no comment to make with regards the role of the Senior Practitioner (Disability).

9. Impacts on Rights and Protections of People Using Disability Services.

9.1 *Are there any impacts on the rights and protections of people accessing disability services under the current system of safeguards in Victoria?*

9.2 *Do these bodies use their powers adequately to achieve best outcomes for disability service users?*

9.3 *Are these safeguards effective models for the National Disability Insurance Scheme to integrate into its safeguard framework?*

The current system with the exception of the Community Visitors program could be seen as being reactive rather than pro-active in dealing with safeguarding practices in the disability sector.

In operational terms the current system assumes a number of conditions are being met that support the ability of individuals in the sector to be able to avoid or at least report if abuse occurs.

These assumptions assume that staff in the sector will have the confidence and support within their organisation to report abuse when and if they see it happen and this may not always be the case.

There is also the assumption that individuals with a disability are able to report incidents of abuse and that when they report the incident it will be acted on and this assumes they have the capacity and awareness to do so. Not only must they be able to report but the service will accept the report and take action to respond.

In the case of the Disability services Commissioner and the Senior Practitioner in both instances these are reactive processes that are triggered when and if abuse or excessive use of restrictive interventions are observed. In both instances these responses do little or nothing to stop abuse but rather are reactive.