

Submission S028

Received 09/07/2015

Family and Community Development Committee



Peak body for independent disability advocacy in Victoria

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Submission to Family and Community Development Committee

8 July 2015

Inquiry into Abuse in Disability Services - Ombudsman's Report Phase 1

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Introduction

Disability Advocacy Victoria is the peak body for independent advocacy organisations in Victoria. Disability Advocacy Victoria has a membership of 18 advocacy organisations.

Last month the Victorian Ombudsman released her Phase 1 stage report in the "*Reporting and Investigation of Allegations of Abuse in the Disability Sector:-the Effectiveness of Statutory Oversight*".

Disability Advocacy Victoria supports the Ombudsman's conclusions in relation to the inadequacy and ineffectiveness of the current statutory regime in overseeing reports of abuse by people with disabilities.

We address the Ombudsman's recommendations below.

Ombudsman's Recommendation 1

In considering the findings of this report, in particular the lack of consistent mandatory reporting, complex oversight arrangements and gaps in oversight, I recommend that:

a. the Victorian Government either establish, or transfer responsibility to an existing agency, for a single independent oversight body, containing the elements in Appendix 4 (see page 102).

This body could become part of, inform, or eventually be replaced by a national quality framework which ensures Victorians with disability are not provided with less protection under a national scheme.

b. That the Victorian Parliament Family and Community Development Committee further examine the logistics of a single independent oversight body, as it considers interim measures to strengthen the disability system prior to the introduction of the NDIS.

Disability Advocacy Victoria Position Recommendation 1

Disability Advocacy Victoria supports the Ombudsman's recommendation that a single independent oversight body containing the elements in Appendix 4 of the report be established.

Our preferred recommendation is that a new independent body be established, which could become part of or inform a new national body charged with the oversight of complaints about disability service provision throughout Australia.

We do not believe that any of the current statutory authorities have demonstrated sufficient aptitude for responding to complaints from people with disabilities

regarding violence, abuse, neglect and exploitation to warrant such powers being transferred to them.

If it is the case, however, that the Victorian Government decides to transfer responsibility to an existing agency, our first preference is that this agency be the Victorian Ombudsman¹.

Any consideration that the Victorian Parliament Family and Community Development Committee gives to the logistics of a single independent oversight body, should occur in the context of a national independent oversight body.

Ombudsman's Recommendation 2

The findings of this investigation support an increase in the funding for advocacy, which should be informed by a comprehensive assessment of the need. This is particularly critical in the transition to the NDIS. I recommend the government:

a. undertake a comprehensive assessment of the advocacy needs of people with disability

b. transfer sufficient funding provision from DHHS, and responsibility for administering advocacy services, to the Office of the Public Advocate, including:

(i). ensuring access to advocates to assist people with allegations of abuse, and to support them through the process

(ii). providing oversight for advocacy services to ensure consistency and best practice.

Disability Advocacy Victoria Position Ombudsman's Recommendation 2

Disability Advocacy Victoria supports the Victorian Government undertaking a comprehensive assessment of the advocacy needs of people with a disability. We recommend strongly that if such an assessment takes place it actively involves people with disabilities.

We do not support transferring funding provision and administering of advocacy services to the Office of the Public Advocate ("OPA").

The OPA Guardianship Program represents a conflict for some people with disabilities and their advocates. OPA's role in acting as Guardians against the wishes of people with disabilities and their families is problematic and has at times resulted in complaints by people with disabilities and their advocates against OPA.

¹ One Disability Advocacy Victoria member recommends that the Disability Services Commission be given expanded powers to carry out this role.

If OPA is responsible for administering funding to advocacy agencies, the situation is not too dissimilar from the current one, which is where advocates and people with disabilities are making complaints against DHHS, who currently administer funding. One thing is clear, and that is that people with disabilities and their advocates need to make complaints without fear of retribution or victimisation. Therefore there should be no situation where any organisation providing a "service" or "function" to people with disabilities which could attract complaint, should be in a decision-making position in regard to advocacy funding.

It is recommended therefore that an independent body be established to be responsible for funding advocacy agencies.

In relation to ensuring that advocacy services provide consistent and best practice advocacy, Disability Advocacy Victoria welcomes this recommendation. However we again do not support oversight of this function being allocated to the Office of the Public Advocate. OPA operate in an entirely different manner to independent advocacy organisations. OPA operate from a "best interest" model, where they make a judgement about what is in the best interest of a person with a disability. This can be in conflict with the wishes of a person with a disability. Independent advocacy organisations represent people with a disability, respecting that they have inherent rights under law, including the same right to take risks and make mistakes as the rest of the community does. OPA, operating differently, does not have the knowledge or skill base in independent advocacy to ensure consistency and best practice.

We recommend that Disability Advocacy Victoria be funded to provide oversight to advocacy services to ensure consistency and best practice.

Disability Advocacy Victoria recognises that all the recommendations made by the Victorian Ombudsman, and indeed our own responses, are complicated by the fact that advocacy agencies receive money from a number of different sources and this presents difficulties in consistency and practice. However it also presents safeguards as support and funding to advocacy agencies can fluctuate depending on which political party is in power at any given time.

Any strengthening of the advocacy sector should be seen to strengthen the position of people with disabilities who rely on independent advocacy for assistance, support and access. The advocacy sector should be viewed as willing to keenly participate in discussions around its future.

Summary of Recommendations

Recommendation 1

A single independent oversight body containing the elements in Appendix 4 of the Victorian Ombudsman's Phase 1 should be established.

Recommendation 2

The independent oversight body should be newly established, becoming part of or informing a new national body charged with the oversight of complaints about disability service provision throughout Australia.

Recommendation 3

If it is the case that the Victorian Government decides to transfer responsibility to an existing agency, our first preference is that this agency be the Victorian Ombudsman.

Recommendation 4

The Victorian Government undertake a comprehensive assessment of the advocacy needs of people with a disability.

Recommendation 5

An independent body is established with the responsibility of administering the funding for advocacy agencies.

Recommendation 6

Disability Advocacy Victoria is funded to provide oversight to advocacy services to ensure consistency and best practice.