



**Family and Community Development Committee  
Parliament House  
Spring Street  
EAST MELBOURNE VIC 3002**

**21 October 2015**

**Subject: Submission to the Victorian Parliamentary Inquiry into Abuse in Disability Services**

Dear Secretary

Disability Justice Advocacy Inc (DJA) makes the following submission based on our experience of working with people with disabilities in disability services.

We refer you to two other relevant submissions we have made to the Australian Senate and the Victorian Ombudsman on this issue.

DJA provides advocacy services to people with high support needs associated with disability that live in any of the 28 metropolitan municipalities as shown on the map below.



Over 3.1 million people live within this catchment and according to the 2011 Census; almost 160,000 people with disabilities with high support needs are potential clients.

We are funded by the federal government through the Department of Social Services (DSS)

In our experience, the responses to abuse and neglect against people with disability by disability services are inadequate.

### **Prevention of neglect and abuse of people with disability**

People with disabilities need to be empowered to report abuse and neglect when it happens to them.

The Victorian Government's commitment to implement the National Disability Strategy; and its commitment to the full roll out and trial of the NDIS is a good starting point because both will provide information and support to people with disabilities who may be victims of abuse and neglect.

However, while these will in time improve the lives of many Victorians with disability, there are some areas where Victorians with disability will remain extremely vulnerable to neglect and abuse.

For example, from the 01/10/2009 to the 31/03/2015 **16.75%** of our advocacy clients have been victims of violence, abuse or neglect in residential or respite services in our intake area. Another **4.86%** of victims made requests for advocacy but lived outside our intake area so we had to make referrals for them to other services.

In the interim Stage 1 report "the Committee found there was no reliable source of information and it was unable to determine the extent of abuse in disability service providers." Basically the same determination was made by the state Ombudsman.

There is no doubt that the Victorian Ombudsman's investigation and the Committee's interim Stage 1 report have identified the need for the reporting of abuse and neglect.

Furthermore, for this to happen, people with disability need to become informed and empowered to know what neglect and abuse is. They also need to have the personal knowledge, skills and capacity to make a report when it happens. As a consequence many people with disabilities are unable to do this for a variety of reasons, namely;

1. Notifications of allegations by victims are too often treated as Incident Reports by disability services and not referred to relevant authorities such as the police
2. Police sometimes regard abuse allegations as internal residential or OHS issues and fail to investigate the matters further or even attempt to interview the victim

3. Police though apparent lack of training, find it too difficult to interview victims who are non-verbal and/or cannot read or write.
4. Some victims are reluctant to report abuse because of fear of reprisals such as withdrawal of support or accommodation services. In fact a major conflict of interest occurs in the Group home environment when a person with a disability is a victim of abuse and neglect by one of the staff because the employer is also the victim's landlord. This discourages reporting by the victim.
5. Some victims are unable to communicate the abuse due to a lack of support and appropriate Augmentative and Alternative communication aids.
6. Some victims are prevented from reporting abuse by pressure from family members.
7. Some victims do not know their rights and how to obtain disability advocacy services from agencies like Disability Justice Advocacy.

Up to this point there has been limited commitment by relevant government authorities to build the capacity of people with disability to:

- Identify and understand what constitutes neglect and abuse
- How to report neglect or abuse
- Who to report the neglect or abuse to
- Where to get help to protect their human rights

Disability advocacy agencies have been significantly under-resourced by state and federal governments to support people with disability and families to advocate for their basic human rights, including the right not to be subject to neglect or abuse.

DJA is funded by the federal Department of Social Services through the National Disability Advocacy Program (NDAP).

DJA is informed by the principles of core disability human rights legislation, frameworks, strategies and UN conventions such as:

- The UN Conventions on the Rights of Persons with Disability,
- The Disability Services Act 1986 (DSA),
- The Disability Discrimination Act 1992,
- The National Disability Strategy,
- The National Disability Advocacy Framework

While the NDAP outlines six models of advocacy (individual, citizen, family, self, legal and systemic), DJA is funded to provide individual, legal and systemic advocacy as follows:

- 60% Individual Advocacy
- 10% Legal Advocacy, and
- 30% Systemic Advocacy.

At the very core of the organisation is an obligation to promote justice and advocacy for social change. Maslow's 'Hierarchy of Needs' is used to prioritise allocation of available resources in a non-discriminatory manner.

Current funding under the NDAP is inadequate as demand far exceeds the capacity to meet it. Whilst DJA has over 160,000 potential clients it is only funded for an annual target of 80 clients regardless of how complex the issue is or time needed to try to resolve the issue. We have had to close our Waiting List several times a year for months on end because we don't have the resources to meet the demand from clients.

### **Recommendation 1:**

There needs to be a clear commitment from the Council of Australian Governments' Disability Reform Council that all Individual advocacy regardless of whether it relates to decision supports, safeguard supports and capacity-building for participants, including support to identify and report neglect and abuse will be block funded either under the NDIS or by the pooling of other resources from state and federal sources.

### **Rationale:**

Disability advocacy agencies like DJA are best placed to build the capacity and empower people with disability to understand what neglect and abuse is and how and where to report it.

This is particularly important for the cohort of people with disability who are most vulnerable to abuse and neglect that have communication issues associated with disability where they are unable to speak, read or write. In fact during the period 01/10/2009 to the 30/09/2015 **12.9 4%** of our client base fell into this category. Without access to disability advocacy these clients would not be able to exercise their basic human right to be free from neglect and abuse.

With adequate funding, DJA and other similar agencies could establish training forums under a Self Advocacy model using people with lived experience of disability within its geographical intake area to train people with disabilities and their families in:

- understanding what neglect and abuse is
- the different types of neglect and abuse
- knowing what behaviours and actions are inappropriate
- steps to stop neglect and abuse
- how to speak up for themselves– self assertiveness and confidence
- knowing when and where and who to tell, including how to report a crime
- how to access advocacy services for support

These forums could also be used for

- sharing stories to empower others
- supporting each other
- other topics as identified

This would result in:

- Improved awareness of neglect and abuse by people with disability and their families and how to report it in disability service settings;
- Reduced incidences of neglect and abuse through the development of an accessible information kit for people with disability to identify, report and have incidents properly investigated;
- Training sessions being delivered by skilled people with first hand experience of disability;
- Delivering the training in a range of settings, including diagnostic specific settings.

## **Recommendation 2**

The current safeguarding responsibilities should be allocated to a single existing body, namely the Victorian Equal Opportunity and Human Rights Commission with relevant amendments made to the Victorian Equal Opportunity Act 2010 to facilitate this.

## **Rationale**

Neglect and abuse of people with disabilities in disability services is a human rights issue. Services provided by the VEOHRC include:

- a free telephone Enquiry Line
- a free, fair and timely dispute resolution service
- information and education about equal opportunity and the Charter of Human Rights and Responsibilities
- education, training and consultancy services

The VEOHRC has a strong commitment to human rights as already identified on its website at <http://www.humanrightscommission.vic.gov.au/index.php/human-rights>

*“Human rights are basic entitlements that belong to every one of us, regardless of our background, where we live, what we look like, what we think or what we believe.*

*Based on the values of freedom, equality, respect and dignity, human rights acknowledge the fundamental worth of each person. The law places responsibilities on government and other public authorities to consider people's rights when developing laws, policies and delivering services.*

*Human rights are the cornerstone of strong, healthy communities where everyone can participate and be included’*

The VEOHRC has already produced an excellent ground breaking report entitled “Beyond Doubt” into people with disabilities as victims of crime which includes abuse and neglect

See <http://www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/reports/item/894-beyond-doubt-the-experiences-of-people-with-disabilities-reporting-crime>

I commend this submission to the Committee

Yours Sincerely



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