

**Deakin University**

**Submission**

**Victorian Parliament Family and Community Development Committee  
Inquiry into Abuse in Disability Services**

30 October, 2015

**Preamble**

Deakin University is pleased to contribute to the Victorian Parliamentary Inquiry into Abuse in Disability Services. This submission reflects the University's interest in the development of approaches to the prevention of and safeguarding from abuse of people with a disability in a way that strengthens their opportunities to be safe in services. It is important to align responses to abuse in disability services for people with disabilities with responses available to other community members. When abuse occurs in disability services the law that is applied in other settings should also be applied. Deakin University has a key interest in undertaking research that can inform appropriate responses to abuse and that strengthen mainstream services' capacity to work effectively with people with a disability. The outcomes of this research will help ensure that people with disabilities who suffer or report abuse receive responses that equate with those that other victim/survivors of abuse receive.

Reform is needed to strengthen policy governing the way disability services perceive their role in safeguarding people with disabilities. Currently, there is a strong focus on protection rather than prevention and a disconnect between the mainstream and disability sector in approaches to reporting abuse. All forms of abuse are illegal and an assault on the human rights of the victims. Deakin University calls for a review of the current reporting approaches of any services financed through disability funding. It is particularly important that these approaches and processes align with mainstream practices and that any new approaches or processes developed in the National Disability Insurance Scheme reflect a human rights approach, rather than a risk management goal.

Academic references pertaining to this submission are contained in Appendix 1.

## Deakin University's responses to the Terms of Reference and key questions for the Inquiry Stage 2

### a) **Systemic issues that impact on why abuse of people accessing services provided by disability service providers within the meaning of the Disability Act 2006 are not reported or acted upon.**

Our submission draws on a model for understanding experiences of abuse that has been used in our research to focus prevention and response work. This ecological model, first reported in a disability context by Sobsey (1994) highlights that violence, abuse and neglect for people with disabilities is a result of a complex interaction between individual, community (family/disability services) and social factors. Research undertaken using this framework (see Fitzsimons, 2009; Frawley (2011; 2015), Hollomotz, 2011; Sobsey, 1994) aligns with research and practice in public health in the mainstream (VicHealth, 2007; WHO, 2002). This alignment is seen as important in strengthening prevention and responses in the disability context (Mikton & Shakespeare, 2014).

To understand why abuse of people with disability accessing services is not reported or acted upon requires a systems approach to understanding why abuse occurs. This model has been used in recent research and evaluation by Dr Patsie Frawley on violence and abuse prevention and the development of enhanced response services for people with disabilities. The following section highlights the key components of this model and discusses how it can inform our understanding about why abuse is not reported or acted upon.

#### ***Individual***

At the individual level there are a number of factors that can impact on risk of experiencing abuse. These factors can intersect with each other and with broader experiences of social disadvantage that are known to increase the risk of abuse. This has been theorised as intersectionality, (McCall, 2005) and has been recognised as relevant for understanding violence and abuse of people and in particular women with disabilities (Oroleva & Lewis, 2012). The research on disability, violence and abuse confirms that living with a disability is one factor that increases risk to abuse. People with a disability have a 50% higher chance of experiencing violence and abuse than the general population (Hughes et al., 2012), and women with disabilities experience violence and abuse twice as often as other women (Plummer & Findley, 2012). Individuals with an intellectual disability are at a higher risk than people with other disabilities (Horner-Johnson & Drum, 2006). This risk is particularly high for sexual abuse (Cambridge et al., 2011). Further compounding factors can be severity of disability and having severe communication impairment or little or no functional speech (Stalker & McArthur, 2012). The incidence of abuse of women with little or no functional speech who cannot report is thought to be as high as 93% (Tamura & Webber, 1992).

The research is limited in this area as it relies on reported cases. Reporting abuse is not easy and is particularly difficult for people with disability. This indicates a need for further focussed research with people with disability suspected of suffering abuse or who have reported abuse. Recent high profile cases in both the United Kingdom and Australia have identified the particular risks for people with disability sustaining abuse when living in residential services (Plomin, 2013; Michelmore et al., 2014).

At the individual level, as outlined here there are a number of key factors that impact upon reporting of abuse of people with disabilities. In particular these relate to the ways of telling available to a person with a disability that are impacted by:

- severity of disability
- complex communication needs
- recognition that the experience is one of abuse
- having knowledge that you can report and a way of reporting that is going to be believed and acted upon.

### ***Community/organisational***

Where people with disabilities live and the cultures of the organisations that provide services, in particular residential services, are significant factors that impact upon risk of violence, abuse and neglect (Flynn & Citarella, 2013; Plomin, 2013; Robinson & Chenoweth, 2011; White et al., 2003) and the likelihood that abuse will be reported and acted upon. Isolation from broader society and the closed nature of disability services can lead to what Cambridge (1999) refers to as the corruption of care. Research on human rights in closed environments in Australia found that having residential institutions as part of the disability service model and the placement of people with intellectual disabilities in these services and other residential services on the basis of disability, contradicts the intentions of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) (Frawley & Naylor, 2014). Research evidence demonstrates that such services and the culture within them perpetuate violence, abuse and neglect, yet institutions and residential services remain a key model of funded disability services in Australia and internationally. Unlike other countries, in Australia there has been a lack of scrutiny of the impact of the disability services culture on violence and abuse and neglect. In the United Kingdom high profile cases of abuse of people with intellectual disabilities in residential services has led to significant legislative, policy and practice changes.

Learning from the United Kingdom in particular, there is a strong need to open up these closed environments to a stronger reporting system that does not allow for organisations to conduct their own investigations. Another important lesson from the United Kingdom is the need to provide much clearer and more focussed training to service and support staff on what constitutes abuse and how to respond to and report it<sup>1</sup>.

### ***Society/Social***

People with disabilities are identified as a socially disadvantaged group in Australia experiencing low participation rates in employment and education and above average deprivation overall (Saunders, 2008 p. 185). Recent research with young people with disabilities in Australia found they were five times more likely to suffer multiple and entrenched disadvantage and were more likely to experience homelessness, feeling unsafe in the community and being victims of crime (Llewellyn, Emerson & Honey, 2013). Addressing social disadvantage is an important issue that encompasses addressing risk of abuse.

At a social level, more needs to be done to educate the Australian community about the abuse experienced by people with disability in services in order to make the issue a social issue rather than a disability service issue. Such education should include highlighting the link between social disadvantage, social isolation and abuse of people with a disability. We would argue that the development and instigation of social campaigns to inform society about the importance of a zero

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<sup>1</sup> See for example the work of Paul Cambridge and others on adult safeguarding approaches in the UK following the No Secrets guidance (2000) developed under the Local Authority Services Act 1970. This guidance informed policy reform and practice, in particular in relation to interagency responses to abuse and training of staff in responding to abuse.

tolerance stance on abuse that includes a focus on people with a disability in particular, could go some way to engaging society as active advocates against rather than bystanders to abuse.

**i. Interim measures to strengthen the disability services system prior to transition to the NDIS**

Current practices in safeguarding people with disability in disability services in Victoria are lacking coordination and consistency. The move to a national approach to services and support that will be more individualised than the current service models and suggests the need for stronger advocacy for individuals along with closer scrutiny by service providers of the experiences of service users, in particular in individual support relationships.

**ii. Measures to strengthen the capacity of providers to prevent, report and act upon abuse to enhance the capacity of service providers to transition to the NDIS**

The work that has been undertaken by National Disability Services, *Zero Tolerance*<sup>2</sup> is an important step towards engaging with disability services across Australia on the issue of abuse prevention and the development of robust identification and reporting mechanisms that align with domestic legislation on reporting abuse within the criminal justice system and within disability services. The practice advice information for disability services contained within this program is an important step towards informing disability services about prevention of abuse and strengthening their accountabilities to report and respond appropriately when abuse occurs. Further research about the outcomes of the approaches advised by this program is needed. It is important to evaluate if these recommended approaches shape cultural change within disability services and if and how this impacts upon the incidence and prevalence of abuse of people with disability within services. This work is an important national approach that if used by disability services, could form the basis of a strong service provider sector that understands abuse and how to respond within the new disability landscape shaped by the NDIS. Research and evaluation of its implementation along with the implementation of the NDIS framework on safeguarding will be needed to develop evidence based knowledge and practice in prevention and appropriate responses to abuse of people with disabilities, in particular in relation to new service and support models that develop from the NDIS.

**iii. Measures to support people with a disability, their families and informal supports to identify, report and respond to abuse**

As noted earlier, an ecological model for understanding abuse of people with disability leads to an analysis of the issue from a systemic perspective. This approach informs both prevention work and responses to ensure that individual, community (including disability service culture) and social factors that increase risk to abuse for people with disabilities are understood. It is important to know not only the reasons but also the impact of lack of reporting and appropriate responses to abuse when it occurs. This means that a comprehensive approach is needed that includes work with all those involved, including those affected by abuse and the cultures or environments where abuse occurs.

People with little or no functional speech, including those with severe, profound and/or multiple disabilities require special attention. It is imperative that they are provided with appropriate communication systems, which in some cases may be notes describing their behaviours that indicate their physical or emotional states. Care should be taken to respond to any concerns raised by people who know them and extra care should be taken to not put them at risk. No one chooses not to communicate- communication systems

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<sup>2</sup>See detailed information about the development of this guidance and its implementation from National Disability Services <http://www.nds.org.au/projects/article/194>

should be carefully tailored to the user's needs and adequate monitoring, support and training should be provided. There are many people who have indicated that they wished to report abuse but had no system, were not listened to or were too frightened. It is important that people with disability, in particular those with communication difficulties, have access to a trusted advocate who knows them well.

**Deakin Advice:**

- All staff in disability services receive training on recognising and responding to violence, abuse and neglect.
- It be acknowledged that people with cognitive impairments can recognise experiences of violence and abuse and neglect and are entitled to receive accessible and useable information to support them to report independently.
- That further research be undertaken on the specific barriers to reporting for people with severe communication impairments or little or no functional speech to inform policy and practice.

**b) Undertake research to determine best practice approaches to how abuse of people accessing services can be prevented.**

Aligning what happens with and for people with disabilities to prevent violence, abuse and neglect with what is happening in broader society is important. Recent research in disability and violence and abuse prevention has highlighted this need, noting that the focus on protection rather than prevention has not worked (Mikton, Maguire & Shakespeare, 2014). There is a call to develop comprehensive approaches using the mainstream public health ecological framework that focuses on individual, community and social approaches to prevention. Research and programs using this approach highlight the importance of a cross-sectoral approach that brings the disability sector, including people with disabilities, families, carers and disability organisations, together with the mainstream violence and abuse sector in prevention efforts.

One program that has aimed to do this is the *Living Safer Sexual Lives: Respectful Relationships* program (Frawley et al., 2011; Frawley, Dyson & Barrett, 2012; Frawley & Anderson, 2015). This program joins together community networks, including people with an intellectual disability, and violence and abuse sector organisations to run a peer led respectful relationships program for people with an intellectual disability. Research and evaluations of this program have demonstrated that having people with an intellectual disability at the centre of a violence and abuse prevention program promotes more positive views about the rights of people with an intellectual disability to be safe and highlights their place in promoting this as peer leaders. Importantly, this program has established a strong cross-sector approach to prevention where mainstream services are now working alongside local government disability programs, self-advocacy groups of people with an intellectual disability and other disability organisations. Together, they are leading local prevention efforts for and with people with an intellectual disability who have previously missed out or been overlooked in mainstream programs and approaches (Frawley & Anderson, 2015). Mainstream services have reported that this model has enhanced their capacity to engage with people with an intellectual disability in their services. Furthermore, together they have been able to promote this inclusion at the regional level through joint presentations at conferences and forums. While it is difficult to provide evidence for the success of violence and abuse prevention programs and approaches, this cross sectoral model has brought a disability focus into mainstream prevention work and in the three sites where the model is well established, prevention of violence efforts are including a focus on disability.

More needs to be done, however, on developing an understanding about the effect of these approaches and on addressing the barriers that still exist to cross sector prevention work. The most significant issue experienced in this program has been gatekeeping' of information and opportunities from people with a disability. This has resulted in many people missing out on the opportunity to participate in this peer led program and to become peer leaders in prevention. Families, carers, managers of disability services and staff need opportunities to learn more about prevention approaches and how prevention is more achievable when people with disabilities are empowered and engaged in programs that highlight their strengths.

**Deakin Advice:**

- The public health model of prevention be adopted and reflected in disability policy.
- People with a disability be engaged in prevention programs as leaders.
- Longitudinal research be undertaken to determine the outcome of prevention approaches that include people with disabilities and a focus on disabilities in the community.
- A greater focus be given to supporting the communication of people with disability who experience abuse through the use of speech pathology services and innovative ways to assist people with disability to gain equitable access to the justice system.

**c) Examine the powers and processes of Victorian investigation and oversight bodies with jurisdiction over abuse of people with disability, with particular focus on the ongoing role of these bodies in the context of the NDIS.**

See point d below.

**d) Regard for the final report, findings and recommendations of the Ombudsman's investigation, and other evidence that the Committee considers appropriate**

The findings of the Ombudsman's report (Ombudsman Victoria, 2015) and investigation of allegations of abuse in the disability sector Phases 1 and 2 should form the basis of the Committee's deliberations on the best approach to investigation and oversight of abuse of people with disability in Victoria. These findings should also be considered for informing the development of national bodies and their jurisdiction over abuse of people with disability. This is particularly important in relation to the question of whether existing oversight bodies should be strengthened and/or these models translated to the development of one national body that has oversight across Australia. There are important learnings from the work of bodies including the Offices of Public Advocates across Australia, the Disability Services Commissioner in Victoria and the Office of the Senior Practitioner, Victoria that are important to consider when shaping any new body, as raised as a consideration by the Victorian Ombudsman.

**Deakin Advice:**

- That the Ombudsman's report and investigation of allegations of abuse in the disability sector Phases 1 & 2 should form the basis of the Committee's deliberations on the best approach to investigation and oversight of abuse of people with disability in Victoria.

## Appendix 1: References

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