

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Inquiry into services for people with autism spectrum disorder

Melbourne — 21 November 2016

Members

Ms Maree Edwards — Chair

Ms Cindy McLeish — Deputy Chair

Ms Chris Couzens

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Witness

Ms Karen Burgess.

The CHAIR — Welcome, Karen, to this private hearing.

Ms BURGESS — Hi.

The CHAIR — Thank you again for attending today. All evidence at this hearing taken by the committee is protected by parliamentary privilege as provided by the Constitution Act 1975 and is subject to the provisions of the Parliamentary Committees Act 2003 and other relevant legislation. Any comments you make outside the hearing will not be afforded such privilege. It is a contempt of Parliament to provide false evidence. Recording of the proceedings will commence today, and you will be sent a proof copy of the transcript and be able to make factual or grammatical corrections if necessary.

This hearing is being conducted as a private hearing at your request. Although only the committee and parliamentary staff are present at the hearing, the evidence will be taken down and become public evidence in due course. Please note that the committee will be following the practice of earlier parliamentary inquiries in relation to the naming of alleged criminal offenders. The committee will not hear evidence referring to individuals by name in relation to their alleged criminal acts unless the person and acts have already been publicly disclosed. If you wish to inform the committee about specific allegations of this kind, the committee will reconvene the hearing in camera. Please advise the committee if you wish to do so.

Karen, thank you again. We have met several times now. We would like you to succinctly go through some of the things that you felt you did not get to say last time or felt a little intimidated about saying. That would be a good starting point, and then we will throw to a few questions. But we do have only a very short time.

Ms BURGESS — Well, first of all, I am disappointed to be back here, because I feel that the last time was quite unnecessary, in that members of autism services showed up. I was invited here; they were not. Both of the people who showed up featured in my previous complaints of bullying and harassment. In just sheer good taste they should not have done that.

The CHAIR — Well, if it is a public hearing, we cannot control who is in the gallery.

Ms BURGESS — Well, Melissa Webster and Ben James, who were in the gallery, therefore should accept that they would be named and criticised publicly for their actions. I mean, if they are going to do this, they cannot stand behind being blacked out of the behaviours that they are engaging with, which include the overseeing of the abuse of people with a disability.

The CHAIR — Have their names been publicly brought to attention? I just mentioned to you about naming people.

Ms BURGESS — Yes, through the hearing.

The CHAIR — No.

Ms McLEISH — Not through the hearing.

The CHAIR — So specific allegations against — —

Ms BURGESS — But it is not an allegation, because I am stating a fact. They were here the other day. It is not an allegation.

The CHAIR — Is this an allegation against criminal offenders?

Ms BURGESS — No. They were sitting in the gallery.

The CHAIR — In the public gallery.

Ms BURGESS — Right. They were sitting in the public gallery. That is my statement, and their response to me while I was in the workplace and what I was subjected to in the workplace — they featured heavily in those complaints.

The CHAIR — Have those complaints been made public?

Ms BURGESS — In what way? In relation to a WorkCover claim, do you mean?

The CHAIR — Yes.

Ms BURGESS — Yes. In relation to my WorkCover claim, my WorkCover claim was accepted on the — —

The CHAIR — So no criminal act?

Ms BURGESS — No.

The CHAIR — Okay. That is fine.

Ms BURGESS — So my WorkCover claim was accepted on the proviso that I was bullied at work. I had stress and anxiety as a result of being bullied in the workplace, and they were named as the people who bullied me.

The CHAIR — So what did you want to talk to us today about?

Ms BURGESS — The circus that is this. Because I have provided information to the committee.

The CHAIR — You have indeed, and we are very grateful for it.

Ms BURGESS — I have come in all sincerity and goodwill to explain what is happening very clearly to people with a disability.

The CHAIR — And you have done that very well, thank you.

Ms BURGESS — And the people who are involved in these processes continue, I feel, to be protected. Now, I am using — —

The CHAIR — How do you feel that they are being protected?

Ms BURGESS — I am using a public hearing to expose the people who are doing what they are doing, and I am demonstrating what they are doing, and they are being excluded from the discussion by being blacked out of my submission. Not all of those were allegations of a criminal act.

The CHAIR — One thing we need to make very clear: this committee is not about investigating individual allegations about anything. We are actually here to look at our terms of reference, which are in relation to autism. So if you could stick to those terms of reference, we would be very appreciative of that.

Ms BURGESS — And I am talking about the people who are working at autism services —

The CHAIR — Okay. That is what we want to hear about.

Ms BURGESS — and the treatment. So while I am talking about these people and what I am seeing and referring to — the specific dates, times and people who are doing what they are doing — I am providing the information about this. I do not know how to do it other than, ‘This is what this person did, on this date, at this time, to these people’.

The CHAIR — That is fine. That is another matter — completely another matter. We are not here to investigate those specific allegations. What we want to hear about are things like how widespread do you think the abuse of people with ASD is in the disability sector? Things like what are the principle changes that need to occur to make the programs for people with ASD supportive of their needs? How can we make this better? Not reflect continually on what has gone before, because we know that there are bad behaviours within the disability sector. We want to know how we can address that.

Ms BURGESS — The outcomes of these investigations, as Adrian Ford recently said in a letter on 8 September, where there were a number of investigations and apparently as a result of these investigations they cleared the organisation of any wrongdoing, I believe need to be made public. If these investigations have actually occurred, then they need to be made public. I do not understand, for example, how these investigations

could have taken place, especially around what was mentioned in this public letter by the executive. What was mentioned in this letter was that the restrictions and the box were investigated. Yet I was never consulted on all but one of the police investigations, and I am not sure how that could have occurred. I believe if there are investigations occurring, especially around specific allegations, those need to be made public. That would certainly help with the public profile of understanding and identifying what is happening behind closed doors, which is what I am talking about.

I mentioned also the kind of treatment of staff and what has been happening to me as a result of making a lawful complaint. People are more upset that I brought the media in, which is a human right by the way. I am allowed to go to the media and tell people what I know. It is a human right, and it is in the human rights charter.

The CHAIR — Our previous inquiry into abuse in disability services clearly made recommendations around supporting and protecting whistleblowers. This inquiry is not about that; this inquiry is about autism, and I would like you to address some of the questions that I have already asked.

Ms BURGESS — This is what is happening in autism services. I am giving you a very specific example.

The CHAIR — What is happening in autism services?

Ms BURGESS — Autism spectrum is following me post my employment with them. That is unnecessary, and they do not need to be doing that. I have provided information on how they are following me post my employment.

Ms McLEISH — Have you raised these issues with the police?

Ms BURGESS — Yes, I have.

Ms McLEISH — I think that is probably the right forum. What Maree has said is that our terms of reference here are about inquiring into the services for people with autism spectrum disorder. You have had an experience. It is very evident that you have had a very traumatic experience of that, and last time when those people were here you clearly felt intimidated and you mentioned that at the time, which is why we are back here. You have had that experience, and we understand that, and we are now looking broadly at the terms of reference because that is one issue that has been raised, and you have raised it a couple of times now with us, and that is fine. It has obviously been in your WorkCover claim and you have raised it with the police, because they are the ones who will do that investigation.

Ms BURGESS — The problem is these departments are not accepting these complaints. Why is that? Why can I not put in a submission to the hearing and not have items blacked out? Why can I not have my appendices published? Why am I being bounced from department to department, and why is this not being fully accepted?

The CHAIR — We are not here to answer those kind of questions; we are here to hear about the autism spectrum disorders and what we can do to help those people.

Ms BURGESS — And the services — governments are funding these services, even though they know there are problems. You are putting money and money into these services. Even though they know that there are issues and those issues are being well-documented even before my time, they continue to put money into it. Instead of promoting these abusive services, why not find another service and put out a tender and find a suitable service to provide non-abusive services when there has been a history of abuse, especially at a number of services.

Ms McLEISH — We visited many different service providers and talked with people having those services and people with autism. We have talked to staff and we have talked to teachers and we have talked to health professionals, so we have talked to a wide variety of people, and it is clear that there are issues in some places. The department does fund a very broad net of services. Within education quite a large number of different types of services are funded, as through DHHS. I think we could all say, 'Yes, there are issues in lots, and some of them might be smaller than others', but I think DHHS have that oversight authority and responsibility to be looking into those sorts of matters. There are processes in place if that is failing as well.

Ms BURGESS — When you are saying 'issues', are we talking about the same thing? I am talking about the abuse of people with autism spectrum on the lower end of the scale. You are saying 'issues'.

Ms McLEISH — There is a range — an absolute wide range.

Ms BURGESS — My focus is on the abuse and violence of people with disability who are attending these services, and I understand that you have already done a hearing on abuse — —

The CHAIR — We have done an inquiry, and there has been a report tabled in Parliament and recommendations made.

Ms BURGESS — But this is specifically for autism services, and this is a service that I am giving you information on. This is \$65 million a year business — \$2 million of that is raised through their own funding. The rest of it is government money.

The CHAIR — Part of our previous inquiry was around disability services, both privately and publicly funded. This inquiry is related specifically to autism services. Any autism service will be required, just like all other disability service, to meet the new requirements once the recommendations are handed down. They will come under the same umbrella irrespective of whether they are just autism services or whether they are overall disability services. The other thing to take into account of course is the national disability insurance scheme, which is coming and coming very rapidly. All service providers in Victoria will be required to be registered and have accreditation to provide NDIS services in Victoria, including those that are autism specific, as well as meeting the requirements of the other recommendations that we have put forward in our previous inquiry.

I am quite confident that regarding abuse in disability services that hopefully there will be a zero-tolerance approach and there will be a mandatory reporting system, and that this will be a big turnaround — certainly a starting point but also a big turnaround — from where we are right now.

Ms McLEISH — Karen, how widespread do you think the abuse of people with ASD is in Victoria?

Ms BURGESS — As I said last time, and I worked with the Department of Human Services from 2000, there is ongoing low or moderate abuse occurring in these services all the time. It is not being addressed. The leadership team is not addressing it, and when you put people like me in a position of having to fight so hard to get the message out, it really warrants for a hostile and aggressive environment to be able to get the message out to people adequately. I do not think the systems that you are putting in place are actually going to address it on the ground. I think you need to be looking at the leadership structure and you need to be looking at best — —

The CHAIR — Well, we have. It is actually addressed in the recommendations.

Ms BURGESS — But the staff are still there.

The CHAIR — Well, there are recommendations around staff training as well.

Ms BURGESS — But the staff were trained. The staff at this service were trained. They had the knowledge not to build wooden boxes and put people in them. They knew it was wrong. They certainly were not presenting it to the families that that was a strategy that they used on their children. They knew how to hide it, and they did. It is not about staff training. It is about abuse, and you need to understand — —

Ms McLEISH — We are not talking about abuse in staff training at all.

The CHAIR — We are not arguing that it is not about abuse; we agree that it is about abuse, very much so.

Ms BURGESS — There is no amount of putting staff training in to not address the abuse. You need to address the system and provide an area where prosecutions can be laid against people who are found to be abusive.

The CHAIR — Thank you very much, Karen. Can I recommend that you read our previous report.

Ms BURGESS — I have read it, and —

The CHAIR — Have you read the recommendations?

Ms BURGESS — and as I said, I do not believe it goes far enough.

The CHAIR — Oh well, it is unfortunate that you think that, but it is done now.

Ms McLEISH — Karen, the process going forward is that the government gets to respond to our recommendations and put measures in place to make some of the changes that we have recommended. They obviously do not have to take our recommendations to heart. They can, or they respond how they see fit. If you are wanting to change the culture, that is certainly a leadership matter, and if the leadership and the structure gets addressed, it does not change overnight. You cannot change a culture overnight. I worked in the area of change management and culture building in organisations and it can take years. You do need to have lots of changes with staff and things like that, but we have not had the response to that report yet.

The CHAIR — We have had a response to two.

Ms BURGESS — There is a very inhuman aspect to what is happening and people in positions have more power and they know what to do if they do not provide better support for people with a disability. When was the last time you guys were actually in a service?

The CHAIR — Last week.

Ms McLEISH — Last week.

Ms BURGESS — In an unofficial capacity?

The CHAIR — The week before that.

Ms McLEISH — Mine was probably a little bit earlier than that; mine might have been a month.

Ms BURGESS — Well, you are not seeing it, and they are not showing it. When the commissioner and their representatives visited Autism Spectrum, and they knew the visit was happening, they modified the environment to pretty it up. They took the other clients who had behaviours of concern out so the commissioner would not even see the clients and the issues that were occurring, and they doubled the amount of staff. That is what happens.

Ms McLEISH — Look, I have no doubt that that does happen in some places. It happens when people get audited — that they try to put their best foot forward. I certainly firmly believe that unannounced visits are in order. With us, with our inquiry, that is not the way these inquiries run, but through other mechanisms there are those sorts of things that can happen.

Ms BURGESS — I do not feel that this committee is committed to people with autism in these circumstances. I feel very let down by the committee in their response. I do not feel enough is being done by people who are in positions to be doing more. I have been bounced around from department to department and there are people in positions who could be doing more and they are not.

Ms McLEISH — Our committee makes recommendations to government. We do not implement them. We make the recommendations.

Ms BURGESS — You heard the last testimony from someone who had a lengthy experience about what was happening with them and you listened intently to them. I am kind of expecting the same attention. I believe — —

The CHAIR — Karen, we have given you a couple of opportunities to present to our inquiry. I appreciate that this is a very difficult time for you. I appreciate that you have been through an enormous amount of stress and trauma, that you felt last time that you were feeling very intimidated by having people in the public gallery that you felt were there for whatever reason. We have no control over the public gallery. If you had requested previously a private hearing, which I think we did indicate was available to you, we could have cleared the gallery as we have done for you today. But we cannot assist you in your own private and personal investigation —

Ms BURGESS — This is not about me.

The CHAIR — around your WorkCover claim. We understand what you are saying about people with autism and the abuse that occurs.

Ms BURGESS — Maree, this is not about me. This is about the people that I saw being abused at this service.

The CHAIR — I agree.

Ms BURGESS — I have reported it and reported it, and sufficiently, and nothing has been done.

The CHAIR — We are not here to investigate those kinds of individuals.

Ms BURGESS — I am not expecting you to.

The CHAIR — We are here to hear about what you are saying in terms of autism.

Ms BURGESS — At least listen to me.

The CHAIR — We have been listening to you, Karen. I think we have given you a fair amount of listening, actually.

Ms McLEISH — What is the last thing you want to say to us? What were you wanting to get across?

Ms BURGESS — Is there any way that I can get an audio recording of my last testimony, because it looked like it was out of order?

Dr GARDINER — Not that I am aware of. It is a transcript. It is an electronic transcript —

The CHAIR — It is a transcript.

Dr GARDINER — that Hansard provides. It is an electronic transcript which has been transcribed.

The CHAIR — So the electronic transcript is available, which should have been sent to you pretty much straightaway.

Dr GARDINER — It has been.

Ms McLEISH — And that is what you think is out of order?

Ms BURGESS — Yes, and that is what I believe is not — —

The CHAIR — We can make inquiries about how that happens, if you think it is out of order. If there is something in it that you think was misrepresented, please let us know about that.

Ms BURGESS — Yes, I will. I am really disappointed by my experience with this committee so far.

The CHAIR — I am not quite sure, because I do not know exactly what you wanted from us apart from us asking questions and finding out about your situation, which we have done, and enabling you to present to two hearings — this is your second hearing — as well as your written submission. I am not quite sure what else you expect from the committee.

Ms BURGESS — I was not expecting so many large parts of my submission to be blacked out, I was not expecting the appendix not to be published and I was not expecting for people to see it as anything but added pressure when Autism Spectrum decides — —

I understand what you are saying and the position you are taking. That is a version that you are accepting. I do not accept that. I do not believe that. I believe with the ongoing nature of Autism Spectrum and the people that are following me and harassing me that that is just another example of that. I am disappointed in the way the committee has responded in terms of my concerns over that. Thank you for seeing me again.

The CHAIR — So there are a number of reasons why we do that, and I am pretty sure the secretary explained those to you in correspondence.

Ms BURGESS — I am disappointed about that being the reaction.

The CHAIR — I am sorry you are disappointed, but we did our best, I think.

Ms McLEISH — Karen, we have not treated you any differently from others.

Ms BURGESS — I believe you have. I understand the position you are taking. You are in the position that you are. You wield a lot of power, and I believe that power could be more supportive of the people that I am talking about.

Ms McLEISH — We are here for the people with autism.

Ms BURGESS — Okay.

The CHAIR — Thank you very much, Karen. Take care.

Ms BURGESS — Thank you.

Witness withdrew.