Disability Advocacy Victoria Inc.

Peak body for independent disability advocacy in Victoria

4/3 Tuck Street
Moorabbin VIC 3189
ABN 15 557 421 367

Submission to Family and Community Development Committee

10 July 2015

Supplementary Submission into Inquiry in to Abuse in Disability Services

Contact:
Jan Ashford
Secretary
Disability Advocacy Victoria
C/- 4/3 Tuck Street,
Moorabbin, Vic, 3189
Phone: 03 9555-8552
Email: jashford@communicationrights.org.au

Disability Advocacy Victoria Inc. (DAV) is the state peak agency for independent disability advocacy in the state of Victoria.

We make this supplementary submission into the Inquiry into Abuse in Disability Services and address bar Family and Community Development Committee Terms of Reference below.

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

Employment recruitment screening practices are currently inadequate in preventing abuse and identifying the most appropriate people to work with vulnerable people with complex disabilities (or any person with a disability).

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

Training and supervisory practices are ineffective at preventing abuse in disability services.

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

DHHS requirements for disability services are inadequate. They do not require any level of quality and skill in care workers. This links therefore to issue 6.1 above. DHHS are in a position where they could put any amount of detail in their service agreements with their contractors requiring certain levels of skill and expertise for direct service provision. They choose not to. This is an integral part of the problem relating to the abuse of people with disabilities.

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

Workforce practices differ across government and community service organisations largely due to chance, or perhaps the individual personalities of senior staff. When policies, procedures and guidelines are broad, they allow multiple "interpretations" and these result in uneven workforce practices across the sector, in both government and community services.

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 quality assurance and safeguard framework in Victoria is inadequate (we refer to the June Phase 1 Victorian Ombudsman's Report on the *Reporting and Investigation of Allegations of Abuse in the Disability Sector: the Effectiveness of Statutory Oversight)* and should therefore not be used as a model in any other jurisdiction.

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

DAV, in responding recently to the National Senate Inquiry into Violence, Abuse and Neglect against People with Disabilities endorsed the submission of our member agencies, Disability Discrimination Legal Service and Communication Rights Australia. DAV understands that the Committee has the submission. We also attached the submission from Disability Advocacy Victoria. Please see the Disability Discrimination Legal Service/Communication Rights Australia Submission Section J "*Identifying the Systemic Workforce Issues Contributing to the Violence, Abuse and Neglect of People with Disability and How These Can Be Addressed."*

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?

See our response to 6.1 and 6.3. The monitoring of staff recruitment and employee screening is inadequate within community service organisations and DHHS. Recent job advertisements from Yooralla revealed only a requirement for a First Aid Certificate. This is a good indication of the standard required generally and in our view is not acceptable.

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

The Human Service Standards have not prevented abuse, and are therefore inadequate. Their failure to prevent abuse is self-evident.

7.2 Is self-assessment an adequate way for service providers to demonstrate their understanding of their clients' rights?

No. There is a significant difference between organisations being able to produce materials that on their face indicate they understand client rights, and them acting upon those rights. DHHS is a very good example of an organisation that can provide substantial documentation that ostensibly sets out a good understanding of client rights through various domestic and international legislation, and human rights standards. On the other hand, it is the experience of advocates and people with disabilities that in practice there is either often a complete misunderstanding of such rights by individual workers, or a reluctance to grant rights due to conflicts of interest such as arbitrary capped funding, or disinterest in hiring staff with sufficient skills to competently undertake their jobs.

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

In terms of assessment, the only genuine method of establishing whether client rights are being upheld, is to seek the feedback of clients, families and advocates. Such feedback should be obtained independently, in other words invited generally, rather than service providers choosing who will be consulted with.

8.1 How effectively 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?

The fact that abuse is occurring repeatedly, and has been occurring for quite some time, reflects that internal processes are not rigorous, and staff and services are not responding adequately to incidents relating to abuse.

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 the services it provides?

We are not in a position to identify any strengths, however the weakness, (apart from the fact that their management of critical incidents has not prevented ongoing abuse), is that there is an inherent conflict of interest between DHHS, its own services and its funded services. It is not in the interest of DHHS to find fault with itself due to concern about liability, or to find fault with its service providers, for the same reason. In addition, if DHHS believed one of its major providers' quality of service was fatally flawed, this would require an inordinate amount of work on the part of DHHS to find a replacement service. That is a driving force,, we submit, behind their lack of a stringent response to the many failures of service providers.

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

The education component of the service of the Disability Service Commissioner may be of some value. However there are many weaknesses. The Disability Services Commissioner has few powers, and does not fully utilise the most useful powers it has, that of investigation. Many people with disabilities, their families and advocates have raised the issue of whether it is appropriate for the Disability Services Commissioner to be an ex-senior employee of DHHS. This model should definitely not be considered for the National Disability Insurance Scheme. We defer to the conclusions of the Victorian Ombudsman's Report mentioned above in 6.5, in what is needed in an oversight body.

8.4 Is the Community Visitors program effective in preventing and responding to abuse in disability services?
8.5 Are their powers adequate for responding to allegations of abuse and preventing further abuse? How can they be improved?
8.6 Do the Community Visitors use their powers adequately to achieve the best outcomes for people who use disability services?

In relation to 8.4-8.6, to date the Community Visitors Program has not been effective in preventing abuse. The Program is not seen to be resourced efficiently in order that Community Visitors are able to communicate with all of the people with disabilities they may visit. Until Community Visitors are accompanied by Auslan Interpreters, Deaf/Blind Interpreters and Communication Support Workers when necessary, they will not be able to properly fulfill their role.

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

We question whether the Senior Practitioner has either sufficient resources or independence to properly carry out his remit. The Office of Professional Practice should not be within DHHS. This is a conflict. That aside, the use of restrictive practices against people with disabilities continues, many times unnecessarily in our view. It is unclear whether the Office of Professional Practice has sufficient (in number, or sufficiently skilled), behaviour practitioners assessing Positive Behaviour Plans. The Office of Professional Practice, when workers are requesting permission to use restrictive practices, should be requiring Functional Behaviour Assessments and Positive Behaviour Plans developed by qualified professionals.

It is one thing to adhere to the Office of Professional Practice "Physical Restraint Direction Paper" May 2011 guidelines by providing evidence of a "comprehensive behaviour support plan", but such a plan needs to be checked for quality and best practice. The ongoing incidences of chemical and physical restraint, and seclusion, indicate Victoria is not moving towards the reduction and elimination of restrictive practices, as set out in the "*National Framework for Reducing and Eliminating Restrictive Practices in the Disabilities Service Sector*". Given the research behind Functional Behaviour Assessments and Behaviour Analysis there should be no reason that when given competent professional support, these practices should be continuing. However they do. To our knowledge there is no Board Certified Behaviour Analyst consulting to the Office of Professional Practice. Given the fact that this is the highest qualification in this area, and these professionals exist in Victoria and the Australia, this should be seen as an oversight.

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?

See directly above. In terms of improvement, the Office of Professional Practice needs to have the staff to properly oversee every Behaviour Plan and supporting documentation it receives to substantiate quality. It should also be noted that Behaviour Intervention Support Services, part of DHHS, who claim to be the experts in addressing challenging behaviours (such behaviours which then often result in restrictive practices) are usually unqualified in behaviour analysis, perhaps apart from claiming some online training. Putting their ability to carry out their job aside, they have a long waiting list and do not involve themselves with clients for any length of time. This results in a situation which will never be effective in terms of supporting people with disabilities who exhibit challenging behaviours.

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

Refer to 8.7 and 8.8.

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 the best outcomes for disability services users?
9.3 Are these safeguards effective models for the National Disability Insurance Scheme to integrate into its safeguard framework?

In relation to 9.1-9.3, we refer again to the conclusions of the Victorian Ombudsman Report mentioned above in 6.6. The current framework is not effective, has not been effective, and it should be assumed will continue not to be effective. There is no strength or power in the current system. This results from a combination of a lack of will, and insufficient powers initially being conferred on each organisation.