

# Family Planning Victoria

## ***Submission to Senate Community Affairs References Committee***

***Response to Questions for Stage 2 of the inquiry into violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability***

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## **About Family Planning Victoria**

Family Planning Victoria (FPV) is a not-for profit, state-wide provider of reproductive and sexual health care, education and advocacy. Governed by a voluntary board of directors, we have been providing comprehensive reproductive and sexual health services in Victoria for over 40 years.

We provide a range of services which are accessible, culturally relevant and responsive to the needs of the diverse Victorian community. These services include clinical care, education and training to help build the capacity of educators and health care professionals working in the reproductive and sexual health sector. These services aim to empower disadvantaged, at risk and marginalised people who experience difficulty accessing mainstream services.

We value partnerships with organisations in metropolitan, regional and rural Victoria committed to the reproductive and sexual health of all Victorians. Our key stakeholders include state, federal and local government. We are members of Family Planning Alliance Australia (FPAA) through which we are associated with the International Planned Parenthood Federation.

## **Experience of disclosing or reporting abuse reporting abuse**

### **What experiences have people with disability, families and carers had when disclosing or reporting abuse?**

In our experience, people with intellectual disability are commonly disbelieved when they report sexual abuse to a family member, worker or other professional. This appears to be particularly true when the alleged perpetrator is someone who cares for the person. Rather than supporting the person with an intellectual disability to report the matter to the police and refer them to counselling and support services, it is our experience that organisations commonly undertake internal investigations or question the person with an intellectual disability extensively to make their own determinations regarding the truthfulness or plausibility of the accusation. Furthermore, the person making the disclosure may be restricted from accessing services whilst the internal investigation is taking place.

### **What systems and processes do disability service providers have in place to prevent abuse occurring in their organisation or to respond to any allegations of abuse or neglect of people accessing their disability services?**

FPV employees undertake a thorough screening process prior to their commencement of employment. All new employees are required to undertake a National Police Check and to have a current Working with Children's Check. FPV employees who work with clients with an intellectual disability hold specialist qualifications and are familiar with the DHHS publications 'Responding to allegations of physical or sexual abuse' and 'Critical client incident management instruction'. They are aware of appropriate measures to take in the event that abuse is disclosed to or witnessed by them. This includes completing an internal and/or external incident report, conducting a risk assessment, formulating a safety plan, supporting the client to report the matter to the police and referring the client to appropriate counselling and support services.

## **Human rights and safeguards**

### **How can the rights provided under the Charter of Human Rights in Victoria be maintained for people accessing disability services in the transition to the NDIS once it has been fully rolled out?**

The Victorian Charter of Human Rights should continue to apply to all individuals who receive NDIS funding and NDIS service providers should be held accountable to the Charter. Service providers should undergo a thorough registration process to ensure their policies and practices are consistent with the Charter and a registry of excluded organisations and barred persons should be developed.

An independent authority should investigate and handle complaints made about the NDIA, its staff and NDIS service providers. Restricted practices should be kept to a minimum and closely monitored and recorded according to rigorous and stringent safeguards. Frequent use of restrictive practices should be investigated by an independent authority and finding should be provided to NDIS service providers to assist them to reduce their use of restrictive practices.

## **Independent oversight body**

**During the interim period of transition to the NDIS from 2016 to 2020, should the Victorian Government:**

- **create a new body under new legislation?**
- **allocate the responsibilities to a single existing body?**
- **improve the integration of existing bodies to fill the gaps and address overlaps on the boundaries?**

A new body should be created under legislation. This should be an independent and external authority with the power to investigate complaints made about the NDIA and NDIS service providers.

**If the current safeguarding responsibilities were allocated to a single existing body should this body be:**

- **Disability Services Commissioner?**
- **Victorian Equal Opportunity and Human Rights Commissioner?**
- **Victorian Ombudsman?**
- **another existing body?**

No comment.

**Should the state maintain responsibility for some elements of the safeguarding system during and after the transition to the NDIS?**

No comment.

**If a single oversight body were established in Victoria what governance, accountability and oversight arrangements would need to be established to ensure it is accountable in safeguarding people who access disability services?**

No comment.

## **Disability advocacy services**

**What would be the most appropriate approach to the administration of funding disability and advocacy services, bearing in mind there are both state and federal funding streams?**

A block funding arrangement should be instated with disability advocacy services to ensure that they are still able to provide advocacy services under the NDIS, and to provide advocacy services for people with a disability who are not eligible for the NDIS. This funding should be taken from the overall NDIS budget. As recommended by the 2011 Productivity Commission Inquiry Report into Disability Care and Support, systemic advocacy, legal review and representation should be funded outside the NDIS.

**Should an existing or new body have responsibility for this role?**

The Department of Social Services would be well placed to assume responsibility for the funding, oversight, management and regulation of advocacy services

**In undertaking a comprehensive assessment of advocacy needs, what components of the advocacy system need to be evaluated or reviewed?**

No comment

## **Prevention, screening and accreditation**

**Should the Victorian Government develop a statewide prevention and risk management strategy for the Victorian disability workforce from 2016 to 2019?**

To ensure ease of transfer, The Victorian Government should work in conjunction with the NDIA to develop a state wide prevention and risk management framework for the Victorian disability workforce from 2016 to 2019.

**If so, what specific components would comprise such a strategy?**

This strategy would seek to address minimum qualification requirements, training into the management of critical client incidents and minimum professional development standards.

**In Victoria, what would be the most preferable screening system to establish:**

- a legislated disability worker exclusion scheme?
- a legislated working with vulnerable persons check?
- a combined version of an exclusion scheme and a working with vulnerable persons check?

A combined version of an exclusion scheme and working with vulnerable person's check would afford the most protection to people with a disability.

**Should a disability worker registration scheme be established, similar to the Australian Health Practitioner Regulation Agency (AHPRA)?**

- If so, should this be a national or state agency?

Yes, a national agency should be established that works in a similar capacity to AHPRA.

**Should an independent body be established to oversee service standards, accreditation and registration?**

- **If so, should this be a national or state agency?**

Yes, an independent, national body should be established to oversee service standards, accreditation and registration.

## **Professional development**

**Should minimum qualifications be introduced for all disability workers?**

Yes, minimum qualifications should be introduced.

- **If so, what should be the minimum qualification?**

Certificate III in Disability Studies or the equivalent

- **Should this be a state or national requirement?**

This should be a national requirement.

**Should there be compulsory requirements for professional development for disability workers?**

Yes, professional development should be compulsory for disability workers as it is for other workers in the health care and human service profession.

- **If so, what core components of ongoing professional development would be required?**

The main focus should be on keeping current with legislation and regulatory guidelines, behaviour management techniques and relevant research findings.

## **Workforce culture**

**What does the Victorian Government need to do to support a disability workforce culture that does not tolerate abuse, neglect or exploitation?**

The Victorian Government should invest in prevention and early intervention. An independent complaint and monitoring system should be developed and the government should provide resources and training to support a positive complaints and feedback culture. The government should build community awareness about abuse, neglect and exploitation of people with disability and should invest in advocacy programs for people with disability.

**What do Victorian disability service providers need to do to promote and achieve a workforce culture that does not tolerate abuse, neglect or exploitation?**

Service providers need to develop effective responses to abuse, neglect and exploitation that include reporting procedures, referrals and clear processes for managing employees suspected of abuse, neglect or exploitation. Thorough training needs to be provided to all staff on strategies to prevent abuse, neglect and exploitation and staff need to be aware of the organisational procedures should they become aware of any maltreatment of clients. Staff members should be able to disclose suspicions of maltreatment without fear of encountering professional or personal harm

## **Complaints handling**

**If the Victorian Government introduces an independent oversight body, should it have responsibility for handling general complaints about disability service providers, as the Disability Services Commissioner currently does?**

Yes.

**If there is a new independent oversight body with responsibility for complaints handling and responding to serious incidents, should it have the power to conduct own-motion investigations?**

Yes.

- **Should these powers relate to both complaints and the investigation of allegations of abuse and neglect?**

Yes.

## **Guidelines for responding to abuse**

**If an independent oversight body is established in Victoria, should that body have responsibility for developing a standard set of guidelines for responding to allegations of abuse and neglect in disability services?**

Yes but these guidelines need to be uniformly applied to all Australian states and territories.

## **Visiting schemes**

**In view of the skills necessary in identifying and responding to abuse and neglect, should consideration be given to paid inspectors or paid official visitors in Victoria?**

Paying officials or inspectors to conduct inspections will likely increase the quality of these inspections and more easily allow for the adoption of universal guidelines and policies related to these inspections.

**If a paid inspector or paid official visitor role is introduced in Victoria, should they be located with an independent oversight body or other entity?**

They should be located within the same body that oversees complaints and manages investigations.

**In relation to visiting schemes and the existing community visitor scheme:**

- **Should volunteer Community Visitors continue to be part of the safeguarding framework in Victoria?**

There is certainly a place for Volunteer Community Visitors as part of the safeguarding framework in Victoria. However, these volunteers should not be solely responsible for the inspections and should be reinforced with paid officials.

- **If Community Visitors continue to be part of a safeguarding framework in Victoria, should they be located within the Office of the Public Advocate, a new independent oversight entity or another body?**

They should be located within the new independent oversight body.

## **Mandatory reporting**

**Should the Victorian Government introduce mandatory reporting of serious or critical incidents to a new independent, oversight body? If so:**

- **What individuals and organisations should be mandated to make such reports?**

All professionals working with people with disability and all organisations involved in service provision to people with disability should be mandated to report serious or critical incidents to the new independent, oversight body.

- **What current functions of the Department of Health and Human Services regarding the management of critical incidents should be transferred to the new body? And should the Department retain any functions relating to critical incident management?**

## **Oversight of restrictive practices**

**Should the Senior Practitioner be independent from the Department of Health and Human Services in its role in oversight of restrictive practices?**

Yes. Independence is required to promote impartiality and neutrality.

**If the view is that the Senior Practitioner should be independent, what option would be most appropriate for the nature of that independence:**

- **a specific entity with independent statutory powers and its own office?**
- **a new single independent oversight body?**



A new single independent oversight body would be most appropriate.

**Should Authorised Program Officers in disability services have minimum qualifications for making decisions in relation to emergency restrictive practices, such as restraint?**

Yes. It is vital that the Authorised Program Officers be well educated with regard to emergency restrictive practices and their management. As such, minimum qualifications and ongoing professional development is required.

**For further information please contact:**

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