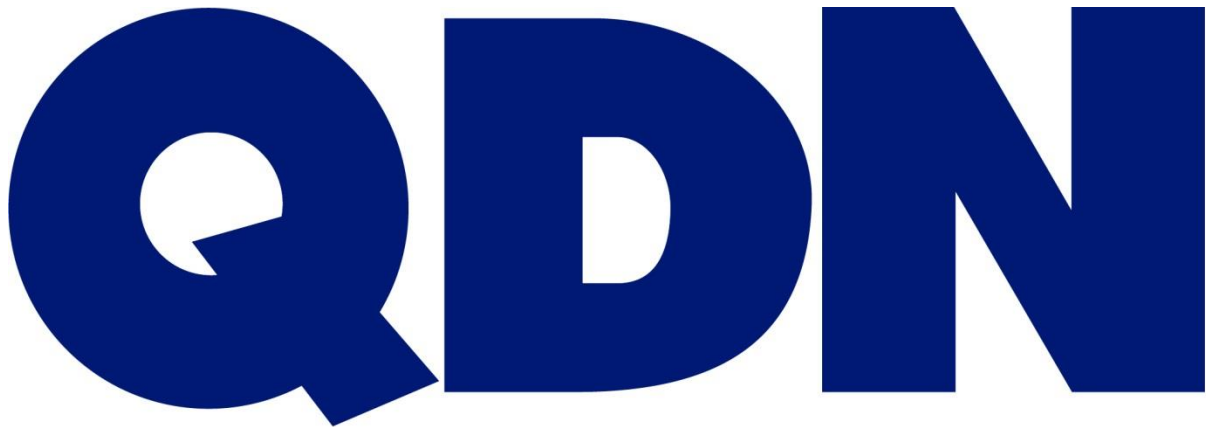

**RESPONSE TO THE INQUIRY OF VIOLENCE, ABUSE,
AND NEGLECT AGAINST PEOPLE WITH DISABILITY IN
INSTITUTIONAL AND RESIDENTIAL SETTINGS**



QUEENSLANDERS WITH DISABILITY NETWORK
NOTHING ABOUT US WITHOUT US

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About Queenslanders with Disability Network (QDN)

QDN is an organisation of, for, and with people with disability and the organisation's motto is "nothing about us without us." QDN operates a state-wide network of members who provide information, feedback and views from a consumer perspective to inform systemic policy feedback to Government and peak bodies. QDN also provides information and referral support to people with disability.

QDN has over 700 members across Queensland. All of QDN's voting members are people with disability.

Value Statement on People with Disability

QDN's work in providing feedback and input into systemic policy issues is based upon the organisation's core values and the place of people with disability in an inclusive, Australian society.

QDN believes that:

- All people with disability have a right to a place in the community and have contributions to make to community. This is as empowered, free citizens who are as valued, present, participating and welcomed as members of any dynamic and diverse society.
- The place of people with disability in the community is not just about people with disability having a house in the community. Core to this is that they are welcomed in the community as ordinary citizens where they are genuinely given opportunities to contribute and actively participate. People with disability need to be in communities where their individuality, their talents, and their lived experiences of disability are recognised and acknowledged.
- Culturally and historically, people with disability are not afforded the same value, opportunities or access to community life.
- Any inclusion in community for people with disability is conditional and vulnerable to withdrawal.
- Many people with disability in Queensland are excluded from the most basic experiences of ordinary lives.
- Current exclusionary practices are unacceptable and must be challenged.
- These issues affect not only people with disability but the whole community.
- The responsibility is shared. It lies within government (federal, state and local) and the community at large, to ensure that people with disability have a place and are resourced to belong in community.

QDN Consultation

A consultation was undertaken by QDN with its members and with key allies. QDN also collaborated with key sector organisations aligned with QDN's values, within the disability sector in Queensland, to inform the development of QDN's response.

QDN's submission also includes a series of recommendations which have grown out of the consultation feedback.

Overview

Queenslanders with Disability Network (QDN) welcomes the opportunity to respond to the Senate Community Affairs Reference Committee's inquiry into the abuse, violence and neglect against people with disability in institutional and residential settings.

Research recognises the high incidences of abuse, neglect and violence against people with disability internationally¹. Institutional and residential settings which are outlined in the scope of this inquiry, by their very nature reduce individual choice, control, autonomy and privacy. Any type of environment which increases segregation from community, fosters dependency and amplifies a power imbalance between workers and service recipients, or also between people with disability who may be more vulnerable, creates a heightened risk for abuse, neglect and exploitation. QDN also acknowledges the double disadvantage that people with disability experience based on gender, age, and cultural background including Aboriginal and Torres Strait Islander people and people from culturally and linguistically diverse backgrounds.

Given the international recognition for the high incidences, impact and prevalence of abuse for people with disability, they further experience, or are at risk of experiencing, disadvantage and discrimination at the point of response to disclosure of abuse. This includes lack of belief and acceptance at an organisational level that an incident has occurred, through to discrimination and little to no access to necessary medical treatment after an incident, therapeutic support and counselling, access to safe environments such as refuges and adequate responses within the criminal justice system including police and courts.

Australia's international obligations as signatory to the United Nations Convention on the Rights of People with Disability to protect people with disability from abuse, exploitation, violence and torture, cruelty, inhuman or degrading treatment or punishment are enshrined

¹ French, P., Dardel, J., & Price-Kelly, S., *Rights denied: Towards a national policy agenda about abuse, neglect and exploitation of persons with cognitive impairment*, People with Disability Australia, 2009 ISBN: 978-0-9807364-0-3 First print: September 2009 Second print: July 2010.

in article 15 and article 16. Furthermore, Australia is also signatory to the following United Nations Conventions which afford all people, including people with disability, protection from abuses to their human rights, including the:

- Convention on the Elimination of All Forms of Discrimination against Women;
- Convention on the Rights of the Child;
- International Convention on the Elimination of All Forms of Racial Discrimination; and
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

QDN acknowledges the legislative and policy environment that has been put into place to improve responses to people with disability, however recognises that there is a significant way to go in implementing these at a practice level to ensure people with disability can experience freedom from abuse, violence and neglect within these environments.

There are a number of areas that can be strengthened and built upon to ensure people with disability experience better outcomes in relation to prevention, reporting, and responding to abuse, violence and neglect.

As we move to an individualised funding arrangement and a dynamic and changing market environment for people with disability under the National Disability Insurance Scheme (NDIS), it is essential that effective quality safeguards are put in place to regulate how organisations and the community protect people, and respond to individuals, but also what supports and interventions can be put in place to empower individuals and build their capacity to understand what is abuse, and who they can talk to if it is happening to them.

All levels of Government and the community have a role in preventing abuse and violence against people with disability. As an Australian society we will move towards upholding the human rights of people with disability to be free from abuse, exploitation, violence and neglect when:

- people have wide ranging strong relationships in their life, and are living in an inclusive community
- people are given access to a nationally consistent reporting and response framework to be actioned by organisations providing support in these environments
- there is increased community awareness about the nature of abuse, neglect and violence that is experienced by people with disability
- there is increased identification by individuals and people in their life when abuse is occurring
- people are believed when they disclose and appropriate measures are in place to investigate the complaint and individuals are afforded access to protection and justice to the full extent of the law

- when people are supported by well trained staff, can access adequate, quality and timely mainstream supports, such as appropriate medical treatment, violence prevention services, sexual assault services, when needed and
- there are regulatory systems in place that strengthen the requirements and investigative powers of independent statutory bodies and increase the capacity of mainstream systems like police and courts to be able to respond to people with disability appropriately and effectively.

KEY AREAS

Experiences, impact, incidence and prevalence of all forms of violence, abuse and neglect against people with disability within residential and institutional settings.

QDN has undertaken a broad range of work over the past 15 years in which many members have shared stories of their experiences of violence, abuse and neglect in the institutional and residential settings in which they have lived and been supported. These stories are personal and evoke high levels of trauma and emotions when retold.

The definition of 'abuse, violence and neglect' used by this inquiry reflect the broad range of experiences of people with disability that have been shared with QDN.

Abuse and violence ranges from once-off incidences to systemic and ongoing abuse which is perpetrated over long periods of time towards individuals. Perpetrators of the abuse include staff of organisations, support workers, taxi drivers, bus drivers, family members, partners, co-tenants and other people with disability. Additionally, systemic practices in place by organisations also can result in acts of abuse, violence and neglect.

People with disability, in particular people with intellectual and cognitive disability experience abuse, neglect and violence at four times the rate of the general population. Dick Sobsey's research suggests that 48% of offenders of abuse towards people with intellectual disability have accessed the victim through a disability service provider who is in place because of their disability and need for support, ie support workers, carers, transport providers.

According to Sobsey and Doe's 1991 analysis of 162 reports of sexual abuse against people with intellectual disabilities, the largest percentage of offenders (28%) were service providers (direct care staff members, personal care attendants, psychiatrists). In addition, 19% of sexual offenders were natural or step-family members, 15.2% were acquaintances (neighbors, family friends), 9.8% were informal paid service providers (baby-sitters), and 3.8% were dates. Further, 81.7% of the victims were women, and 90.8% of the offenders

were men. ²People with disability experience higher vulnerability to abuse, violence and neglect than the general population³. There is a dearth of statistics that document the extent of abuse, violence and neglect of people with disability. However the data that is available continues to highlight women with disability experience high incidences of violence abuse and exploitation, and men with disability are also victims of abuse. This is reported to occur in a variety of different ways within institutional and residential settings to what we might witness in other settings. Some of the practices that organisations put in place to 'protect' people, can result in making people more vulnerable.

An example of this is a program put in place to help a woman with intellectual disability to stop smoking on feedback from her doctor, for health improvement benefits. The program involved restricted access to cigarettes by staff, in that she was given one each time staff came to support her at meal times, ie 3 per day. This restriction in access to cigarettes led her to go to the park down the road where a group of men would regularly proposition her by asking her to exchange sexual acts for cigarettes whenever she came to the park seeking a cigarette. This woman did not know at the time that this was a form of sexual violence, abuse and exploitation, and it was only disclosed when she mentioned in general conversation about something in a TV show, and then talked about her experience. She then went on to receive therapeutic counselling and education about abuse and exploitation, and protective behaviours.

As well as different types of physical and sexual abuse that people experience, in QDN's experience and work over the years, it has identified that people with disability in these settings and environments have had wide and ranging experiences of neglect, institutionalised systematic abuse and violence. There are many practices that are in place within the culture of service settings, whether they are environments where 4 people live together, 30 people come together for day programs through to 100 people living together in congregate arrangements.

The following outlines examples of 'practice, care and support' and is not an exhaustive list; however illustrate the broad ranging things that people experience:

- lack of, or minimal support that is provided in a way that only meets individual's basis needs of food and water, where staff have no personal interaction or emotional interaction with the person;

² Sobsey, D.; Doe, T (1991). "Patterns of sexual abuse and assault. Sexuality and Disability". Sexuality and Disability 9 (3): 243–259. doi:10.1007/bf01102395.

³ For example, figures from the Victorian Office of the Public Advocate (OPA) show that between 2006-2011, police examined more than 1000 cases of alleged abuse involving people with severe disabilities living in state residential care or private homes in Victoria - including 282 allegations of assault, 320 of rape, and six alleged abductions or kidnapping. See: 'Law failing to protect disabled in state care'; *The Age Newspaper*, April 24, 2011. Accessed online October 2011 at: <http://www.theage.com.au/victoria/law-failing-to-protect-disabled-in-state-care-20110423-1dse1.html> as cited in Women With Disabilities Australia: 'Submission to the United Nations Committee against Torture (CAT)' (September 2014)

- no privacy or dignity for a woman sharing house with 7 other people, for example she had the door left open while she was having a shower;
- people given injections in the hallway of a facility;
- individuals not provided with their communication aid to be able to communicate, eg aid is left at home or kept at the back of their wheelchair so they can't use it, and/or not offered when asked as it is considered too much work;
- a person with disability who continually experiences violence and abuse by a co-tenant who has complex behavioural needs is forced to continue to live with the person and can not be moved as they are told there are no other accommodation options for them;
- staff members leaving an individual's bedroom door open at all times so they cannot have any privacy to masturbate as this is considered dirty by the staff members;
- staff members not knocking on individual's bedroom doors before they enter or giving information about who they are before coming in;
- young people with disability being prematurely placed into aged care settings;
- individual's denied access to items or support such as:
 - person with physical disability and mobility have a call bell placed outside person's reach so staff can't be disturbed
 - person not given access to any money to spend when they go out
 - individual denied access to the telephone for period of time
 - individual denied access to watching their own television in their bedroom;
- over medicalising people with no or limited medical needs, eg night-time turns as standard practice for everyone rather than individualised to only those who require it;
- People labelled with challenging behaviours treated without dignity or respect and discussed in front of everyone, called bad, rather than a focus on their behaviour and what it is trying to communicate; and
- Support workers being rough with peoples' intimate body parts and/ or neglectful of people's personal hygiene and grooming when assisting with personal care tasks as there are many clients to assist within a limited timeframe.

Restrictive practices is another area that has traditionally been used in the past as a form of control, punishment, abuse, and neglect. The over-use of medication to control individuals and their behaviour was highlighted during the introduction of the Restrictive Practices legislation in Queensland. During this time individual reviews were required to understand the purpose and conditions for the prescription of psychotropic medication used as chemical restraint. Across many organisations very poor information was held on file about why medication was prescribed, and the history of its usage or need. Very few individuals had a diagnosis that required the use of that type of medication, and subsequently we have seen positive outcomes for many individuals who have an improved quality of life following medication review and coming off medication that they have been on for 20 years without review. The failure of systems to identify and review this is itself an example of neglect.

Responses to violence and abuse and neglect

People with disability have experienced varying responses to abuse, neglect and violence from different organisational levels of institutions and residential settings.

It is widely recognised that there is significant under reporting of experiences of abuse, violence and neglect by people with disability. There are broad ranging systemic issues and societal values about people with disability that contribute to under reporting and also the responses that people experience if they do report, or if unable to do so for themselves, a third party reports.

Some of these arise from commonly-held attitudes towards people with disability that disempower, devalue and trivialise their experience and contribute to their vulnerability or deny or dismiss their experiences. These include:

- “they are not competent to give evidence in court”;
- ‘no one would take advantage of a person with disability’;
- “people live in safe places where they are protected”; “they have a propensity to make up stories”; and
- “women with intellectual disabilities are promiscuous and act out in sexualised ways”.

Often, people with intellectual or learning disability may not be able to name exactly what is happening to them as they have not been given access to education and information about their body, relationships, sexuality, and sexual education.

A woman who was supported to live in an accommodation support service told one of her support workers that “#\$#2 hurts me with a can of coke.” The support worker reported that this didn’t seem right to a line manager, and on investigation, another worker was sexually abusing the woman and would give her a can of coke to ‘buy’ her silence as he knew she really liked coke. It is important to recognise that for some people, a disclosure about their experience of abuse, neglect or exploitation may become apparent through a change in behaviour, or an abstract communication.

One of the issues that people with disability have experienced in regards to responses to disclosure of abuse is organisations internally ‘managing and investigating’ what are often criminal matters. Under the definition of the Criminal Code^{4 5} in Queensland, many people with disability disclose abuse, neglect and violence that would meet the definition of a

⁴ National Campaign to End Violence and Abuse against People with Disability in Residential and Institutional Settings JANUARY 22, 2015 / ‘Letter to the Australian Prime Minister, Hon. Tony Abbott’ (January 2015). See: <http://wwda.org.au/national-campaign-end-violence-abuse-people-disability-residential-institutional-settings/>

⁵ Disability and Community Care Services Preventing and responding to the abuse, neglect and exploitation of people with a disability Tips and resources for disability service managers and staff Department of Communities, See: <https://www.communities.qld.gov.au/resources/disability/information/publications/abuse-policy/documents/tips-and-resources-for-disability-service-managers-and-staff.pdf>

reportable incident and offence to the police. However instead of referring matters immediately to police, some organisations have internal investigation processes to determine if they think the incident has occurred. This is often interlaid with issues of human resource management and industrial relations if the offender of the abuse is a staff member. These practices and approaches can be in conflict with what is in the best interests of the person with disability who has experienced abuse.

Some organisations have sophisticated systems of reporting and responding to abuse, violence and neglect. For example, one organisation in Queensland has an online system in place for staff to report, a framework for escalating the decision making around the actions to respond, immediate support responses in place for the victim, and the convening of a three party decision-making group to review the process. They also have in place an external advisory body comprising industry experts including academics, senior executives from Government and Non-Government organisations and leading practice experts. This advisory body reviews the organisation's systems and processes on a regular basis through non-identified data and makes recommendations for organisational and systemic improvements.

Regardless of the efficacy of internal organisational systems that are in place to report and respond to abuse, without a well-skilled and informed workforce who can identify indicators that identify that individuals with disability may be experiencing abuse, violence and neglect any system will be ineffective. At all levels of organisations and service providers, front line support staff are with people on a day-to-day basis, and have the responsibility to notice any changes they see in the individual's behaviour, and also listen well to their communication. Without education, training and support for the workforce across all levels human service workers are left without a framework to identify, respond appropriately to, and report abuse, violence and neglect.

There is limited data available with regards to reporting and responses to abuse, neglect and violence, despite there being a National Abuse and Neglect Hotline. There are no nationally consistent guidelines or frameworks for organisations, and no nationally consistent regulatory framework that requires reporting of data that helps to develop a national picture about the prevalence and incidence of abuse, types of abuse, responses to that abuse and supports needed for individuals.

It is essential that throughout the reporting, investigating and responding to allegations and incidents of violence and abuse individuals with disability are provided access to the necessary medical care they need, formal disability advocacy and therapeutic support. Individual independent advocacy is fundamental to safeguarding rights for people with disability, particularly those with limited voice and no natural informal supports in their life. QDN recognises that advocacy builds upon, and compliments, a person's natural and peer supports (family, friends) and the role people choose to play as self-advocates and decision makers as citizens.

The conflicts of interest that can arise with internal or informal advocacy may increase people's vulnerability and the secondary victimisation that they may experience through the process.

CONCLUSION

QDN acknowledges the positive steps that the Parliament of Australia has undertaken in referring this matter to the Senate Community Affairs Reference Committee for inquiry and report. There a broad number of legislative and policy frameworks that have been put into place over the past twenty years for people with disability to support their social and economic participation in community. Australian Government at all levels have identified the importance of ensuring people with disability are free from violence, abuse, and neglect, however, there are a range of legislative, regulatory and policy frameworks that can be implemented to influence systemic change to ensure people with disability within institutional and residential settings are safe, and their human rights are upheld.

QDN makes the following recommendations to the Senate Community Affairs References Committee across the key areas of prevention, reporting and response to abuse, violence and neglect against people with disability in institutional and residential settings.

RECOMMENDATIONS:

1. Prevention:

- a. People with disability have access to high quality medical care and education, training and support about their bodies and health, sexuality, relationships, abuse, violence and neglect and protective behaviours.
- b. People with disability have choice about where they want to live and with whom; in community to widen relationships and people in their life – no forced co-tenancy based on government allocation of finite resources.
- c. Within the National Disability Strategy, and National Disability Insurance Scheme, adequate resources are given to build inclusive and accessible communities to ensure people with disability are part of community.
- d. A national community awareness campaign focussed on abuse, violence and neglect of people with disability to improve community understanding and ways to ensure people are free from these experiences and protected.
- e. Support models that focus on the community inclusion of people with disability and individual choice and control so that there is a move away from institutional settings which heighten peoples risk of abuse, neglect and violence
- f. A national standard for staff development that regulates a minimum requirement for staff training about identifying abuse, neglect and

exploitation and addresses attitudes and barriers that support cultural shift about this issue and how to respond.

- g. A national data collection and research framework that service providers are required to feed into; to inform systemic policy and frameworks that better serve and protect people with disability who experience abuse, violence and neglect.
- h. A national approach to schemes such as the Community Visitor Program to ensure people with disability have access to external parties and scrutiny to improve their safety and protection.

2. Reporting:

- a. Nationally consistent standards and guidelines that define data requirements and reporting systems for organisations to guide implementation.
- b. Service providers and organisations to give people with disability clear information in accessible formats about how and who they can report to, and that this be the task of organisations or Disabled Persons Organisations (DPOs) so it is free from conflicts of interest.
- c. Service providers and organisations as part of their induction of staff provide clear guidelines about reporting processes.
- d. Access to formal advocacy for individuals once an allegation of abuse has been reported.
- e. As part of a national reporting system that collects consistent data and is able to monitor reporting of allegations of abuse, neglect and violence and the responses that implemented at organisational and systemic level.

3. Responding

- a. A Regulatory framework that prescribes best practice approaches for organisations in responding to abuse, violence and neglect.
- b. Build the capacity and knowledge of mainstream services to better respond to people with disability within their environments including sexual assault services, domestic violence services and refuges.
- c. Build the knowledge and skills of the criminal justice system to enable investigation and prosecution of allegations of abuse, violence and neglect that fit within the criminal code, including police and court systems.
- d. An independent statutory body to oversee the regulation of practices that prevent incidences of abuse, neglect and violence
- e. safeguards be put in place around abuse, neglect and exploitation to address prevention, early intervention and responses that encompass system capability to “red flag” patterns of incident reporting, regardless of whether the allegations have been substantiated through a formal process.

Queenslanders with Disability Network – 29 May 2015.