

Chapter 3

Lived experience of violence, abuse and neglect

Introduction

3.1 This chapter will examine the first three terms of reference of this inquiry. These terms of reference explore the lived experience of people with disability who have experienced violence, abuse and neglect as a part of their everyday lives.

3.2 The committee is very disturbed by the significant body of evidence it has received which details the cruel, inappropriate and, in many cases, unlawful treatment of Australians with disability. The committee is equally disturbed by the largely inadequate responses that these cases have received when reported to authorities and people in positions of responsibility. The committee is also concerned by the fact that many more cases remain unreported, partly as a result of inadequate responses to reporting. This is clearly unacceptable.

3.3 This chapter will focus on evidence relating to lived experiences in the general community and institutions—such as residential care, and aged care. Chapter five will examine the lived experience of those in schools—particularly as it relates to restrictive practice—and also people subject to guardianship orders.

3.4 The committee notes that although this chapter seeks to detail many examples of violence, abuse and neglect against people with disability, these accounts barely scratch the surface when compared to the huge body of lived experience evidence provided to the committee both in submissions and at hearings.

3.5 The committee has received a great deal of lived experience evidence *in camera*, due to the highly sensitive nature of the material. This evidence has had a profound impact on the committee. Taken as a whole, the evidence shows a systemic failure to protect people with disability, and has influenced the recommendations made in the final chapter of this inquiry report.

Experiences of violence, abuse and neglect: General community

3.6 Although later parts of this chapter will focus on instances of violence, abuse and neglect against people with disability in institutions and schools, as per the terms of reference for this inquiry, this first section looks at the mistreatment that people with disability receive in their homes and in the general community, and the lack of appropriate protective responses from mainstream institutions when such acts of mistreatment are reported.

3.7 The committee has received many accounts from people with disability, their families and friends, advocates, and workers in the industry. The committee has been humbled and shocked by the many examples of lived experience. Each person's personal experience is important and valued, but it is only by taking a consolidated view of this evidence that the enormity of the mistreatment of people with disability in Australia is demonstrated. As Ms Carolyn Frohmader, Executive Director, Women with Disabilities Australia noted in her evidence at the Sydney hearing:

These are not isolated stories. We hear stories like these every single day—not once a week, not once a month, but every single day. Just last night, as I was packing my suitcase in order to fly here to speak to you today, my phone rang. It was a woman with disability trapped in the laundry of her home, hiding behind the washing machine whilst her husband—her carer—raged outside the laundry door, threatening to kill her. Again this is not an isolated incident. Every day, every night, every weekend we hear these stories. So today we stand united to say to you that people with disability in Australia represent the most detained, restrained and violated sector of our population. They are significantly overrepresented in prisons, institutionalised and segregated within communities, locked up in schools, confined in mental health facilities, incarcerated in detention centres and trapped within their own homes.¹

3.8 In its submission, Disability Clothesline, a disability advocacy group², told the committee the experience of Ms Kyla Puhle, a young woman with spastic quadriplegic cerebral palsy and scoliosis, who was found dead in her own home as a result of gross neglect in 2011:

I was left to starve in a beanbag, alone. My parents went to work surrounded by laughing, healthy children. They withdrew me from my services and when they found my body, it weighed 12 kilos. Nobody went to jail.³

3.9 The submission notes:

Puhle's [mother] and her husband were originally charged with Kyla's murder because they had allegedly made a conscious decision to deny her basic care—withdrawing her from her day program and leaving her alone in a beanbag during the day in front of the television, refusing her medical attention. The prosecutor said that it wasn't a momentary lapse, but neglect that continued over an extended period of time...that Kyla was literally starved to death.

When she died, 27 year old Kyla weighed just 12 kilos...

...In South Australia, where Kyla was starved to death, the offence of ill treatment of an animal—whether or not that ill treatment results in death—carries a maximum penalty of \$50,000 or four years in prison.⁴

1 Ms Carolyn Frohmader, Executive Director, Women with Disabilities Australia; Australian Cross Disability Alliance, *Committee Hansard*, Sydney, 27 August 2015, p. 37. See also: Australian Cross Disability Alliance, *Submission 147*, p. 6.

2 The Disability Clothesline collates accounts about people with disability who have been abused or neglected and aims to break the silence about violence, and abuse against people with disability. See: <http://disabilityclothesline.weebly.com/>

3 Disability Clothesline, *Submission 68*, p. [1].

4 *Submission 68*, p. [2].

3.10 The Australian Cross Disability Alliance (Disability Alliance) shared several lived experiences in its submission to the committee. These are three of the 70 separate cases presented to the committee:

Frances was physically beaten by a group of young girls at a regional TAFE institute. The violent attack was captured on CCTV footage. The local police advised Frances not to pursue charges because she was "mentally retarded" and there would be "no chance of any conviction" against the perpetrators...

Andrea lived in a violent relationship with her husband. Police had been called to Andrea's home on a number of occasions as a result of the violence, but advised Andrea there was little they could do for her. Andrea became pregnant. She delivered her baby in the local hospital. A week later police arrived at her house with child welfare officials. The police physically restrained Andrea whilst the child welfare officials took the baby. Andrea was told at the time that her baby was being taken because Andrea had an intellectual disability and because there was a history of domestic violence. Andrea was never offered counselling or any form of support for either the removal of her baby or the domestic violence. Andrea's baby was never returned to her...

Shelley is a young Aboriginal woman with intellectual disability who works at an Australian Disability Enterprise (ADE). Shelley has been subject to ongoing and intense workplace bullying and sexual harassment from 3 or 4 other workers.

One day, one of the male employees who bullies Shelley, took her by the hand, saying, 'Come on, come with me', and then grabbed her on her bottom. Shelley reacted, saying, 'Don't do that, don't touch me like that, I don't like it.'

She complained to her supervisor, who told the male employee that his behaviour was inappropriate. He is known to have sexually assaulted several other female employees. Although, this behaviour is ingrained in the workplace culture, there has been limited intervention by ADE management, in breach of all the usual protections afforded employees by industrial law. The ADE management claim that sexual harassment and sexual assault is the responsibility of the police to investigate, but the police did not respond or investigate these reports.

Shelley began to respond violently to the bullying and sexual harassment, and so ADE management suspended her from her job.⁵

3.11 The issue of hate crimes against people with disability were raised by some submitters to highlight the issue that people with disability are seen as less valued than other members of society:

Frederick Brooks, 17, was another young man with an intellectual disability. He received electric shocks to his penis and testicles, and had a burning sparkler pushed down into his penis; after his toes were crushed

5 Australian Cross Disability Alliance, *Supplementary Submission 147*, p. 8.

and his nose and ears burned with cigarettes, he was allowed to choke to death on his gag.

29 year old Gary O'Dwyer, an intellectually disabled man with an ABI [Acquired Brain Injury] who lived alone. He was seen as an easy target after the killers asked if he had any family, and his body was found with burn marks which were inflicted using a variac machine to apply electric shocks.⁶

3.12 This submission concludes with a poignant observation on how people with disability are viewed in modern day Australia:

People with disability are painted as being 'less than' in Australian culture, and our lives are consequently regarded as less, and 'other'.⁷

Experiences of violence, abuse and neglect: Institutions and residential settings

3.13 It is well-known that 'where people with disabilities live and the cultures of the organisations that provide services, in particular residential services, are significant factors that impact on risk of violence, abuse and neglect'.⁸ Deakin University noted that it is the 'isolation from broader society and the "closed" nature of disability services' that can lead to a 'corruption of care'.⁹

3.14 Ms Samantha Connor, of People with Disability WA, also noted the largest contributing factor for abuse is the lack of transparency in institutional service delivery:

People with a disability are most likely to be abused in segregated service environments, where abusive practices go unrecognised and unreported and where client and family participation in services is devalued. Delivering safe, open and accountable services that respond to individuals with capable staff and comprehensive accountability must be the minimum expectation[.]¹⁰

3.15 In its submission, Disability Clothesline noted the propensity for violence, abuse and neglect of people with disability living in institutional care to be 'swept under the carpet' and not be properly investigated. The submission contended that momentum for investigation and inquiry of any allegations of this nature requires the following thresholds to be met:

- A person with a disability is raped or abused or killed and there is enough evidence to ascertain that this has occurred.

6 Disability Clothesline, *Submission 68*, p. [87].

7 *Submission 68*, p. [88].

8 Deakin University, *Submission 109*, p. 5.

9 *Submission 109*, p. 5. See also: NSW Disability Network Forum, *Submission 55*, p. 2.

10 Ms Samantha Connor, Researcher, People with Disability WA, *Committee Hansard*, Perth, 10 April 2015, p. 33.

- The police or justice system are unable or unwilling to act, for a variety of reasons.
- A parent of a child or adult with a disability manages to garner enough interest (usually via a sympathetic journalist, after much letter writing and pleading to Ministers) to get public attention.
- The relevant Minister is forced to respond.
- A review is announced.
- After some lengthy time, the review is conducted.
- Occasionally an institution is closed. Sometimes changes are made. Often, nothing really happens at all.¹¹

3.16 In most cases, unsurprisingly, the criteria for momentum cannot be met. In most cases, victims and allegations are forgotten; victims are blamed for the crimes perpetuated against them; and the violence, neglect and abuse continues. It is unacceptable that people with disability who are victims of criminal actions cannot make allegations against a perpetrator and expect a normal police investigation and trial. The following section examines the lived experience of people with disability who live in residential settings, including institutional care.

Residential care

3.17 There are a range of residential care types used by people with disability. Residential care or 'cared accommodation' can include a range of shared supported accommodation, respite facilities, hospitals, nursing homes, and psychiatric hospitals. The level of support provided is largely dependent on the type of disability and the extent to which a person is able to complete everyday living tasks themselves. According to the most recent survey by the Australian Bureau of Statistics, there are 12,200 people aged 15–64 years of age that live in 'cared accommodation', the majority of whom (9,100 people) have profound core activity limitations.¹² These are vulnerable people with high level support needs.

3.18 The committee has received substantial evidence about the mistreatment of people with disability at a range of disability accommodation facilities. The Disability Clothesline provided the following accounts:

- A 29 year old man with quadriplegia who could only communicate using his eyes lived at a disability care residence. He was found suffocated with his face buried in his pillow. His death was found to be not suspicious despite an outstanding allegation of sexual misconduct against a staff member.¹³

11 Disability Clothesline, *Submission 68*, p. [67].

12 ABS 4430.0, *Disability, Ageing and Carers, Australia: Summary of Findings*, 2012, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4430.02012?OpenDocument> (accessed 25 September 2015).

13 *Submission 68*, p. [83-84].

- Mark, a 39 year old man with an intellectual and physical disability, and epilepsy lives in a group home. Mark uses body language to communicate his needs to others. When Mark refused to go to his day placement activity, two staff members dragged him along the carpet to the bus giving Mark second-degree burns in the process that were not medically treated. Despite a number of incident reports being lodged, the response was inadequate. The Ombudsman found that the 'department showed a disregard for the resident's human rights and the duty of care that the department has to exercises. It was considered that the assault on the resident was clearly a category one incident requiring the police and the family of the victim to be notified.¹⁴
- Client 1 was a 'profoundly disabled' 22 year old woman with a 'mental age equivalent to an infant of five months'. Client 1 had received a serious injury to her head:

an open bloody gash running down the centre of her scalp from crown to hairline...about one cm wide by 5 cm long...this horrible laceration had all the appearances and was consistent with her having been delivered a brutal blow to the head.¹⁵
- It was revealed during this examination that client 1 had not only been sexually assaulted by a staff member at the facility in which she resided but was also pregnant as a result. The child, when born, was taken from client 1. Client 1 was one of 122 people living at the Basil Stafford Centre that had been victims of violence, abuse and neglect.¹⁶

3.19 Ms Joyce Langmaid described the situation at her son's group home during a visit by family:

...a grandmother arrives to see her grandson on a freezing Tasmania winter's day. She finds him locked out of his own home in a courtyard that is used as a cage. No staff are present and she cannot get to him. Staff are located at the rear of the property smoking and laughing. The courtyard was a regular punishment and lockdown space, no amount of family requests or demands or reporting this to the senior practitioner ceased this restrictive practice in three years. But as expected the provider made it clear we the family were the problem and the service decides to stop family visits and drop in and time for Nan to visit him in his own home.¹⁷

3.20 Youth Disability Advocacy Services (YDAS) presented a number of lived experiences in their submission. One focuses on the inappropriate expectations that are forced on people with disability that would not be expected of other Australians:

14 Disability Clothesline, *Submission 68*, p. [67].

15 *Submission 68*, p. [67].

16 *Submission 68*, p. [67]. See also: Queensland Crime and Misconduct Commission, *Report of an inquiry conducted by the Honourable D G Stewart into allegations of official misconduct at the Basil Stafford Centre*, March 1995.

17 Ms Joyce Langmaid, *Submission 115*, p. [1].

Kelly, a 22-year-old woman living in a Community Residential Unit who has physical disabilities and requires full assistance with toileting, menstrual care and showering, made multiple complaints to staff about the lack of female support workers. It is unacceptable to her, and an abuse of her right to bodily autonomy, to be forced to have her personal care needs attended to by male staff. This has resulted in her foregoing showers and delaying bowel movements, leading to multiple and very serious health problems. Kelly was very anxious about staff finding out that she is accessing advocacy services for fear of retaliation and further neglect but could not attend meetings outside the Unit to discuss her case because she needed attendant care to leave the house which is not provided for her. (YDAS client, February 2015)¹⁸

3.21 Neglect within hospitals around the performance of fundamental tasks such as the provision of a safe environment during mealtimes was highlighted by some submitters and witnesses. The intersection of institutional care and transition to a home or other place of residence is significant as this is often where fundamental care needs are overlooked. Mr Peter Marshall provided a detailed case study of a family member who had a long history of being transferred between different residential facilities, interspersed with hospital stays. Mr Marshall submitted that in many instances, the lack of continuity of care resulted in medical neglect:

We ask for a pre-release medical discussion. This does not happen, but we do meet the team after his release. To my absolute amazement neither doctor was one of the three that first met me. They insist that they were in charge all along, and look at me, as if I am a bit tired and emotional.

During this debacle we find out that Eric is on a psychotropic drug every day, and three doses of [Valium] a day...

... Eric is admitted to Westmead again, to Neurology. They ascertain that there is no underlying physical illness. The head of Neurology, asks why Eric is on all these drugs, and suggests that he be immediately, but slowly, taken off them.¹⁹

Further examples of neglect are presented in Box 3.1 below.

18 Youth Disability Advocacy Service, *Submission 88*, pp [2–3].

19 Mr Peter Marshall, *Submission 153*, pp 3-4.

Box 3.1: Examples of neglect against people with disability in government and non-government cared accommodation

Three young men in their early 20s, all with severe intellectual disability (ID)¹, and non-verbal, left alone overnight in their group home while the only staff member on shift went out on a date.

Elderly man with moderate-severe ID and early dementia became incontinent. Staff attributed this to the dementia and failed to follow advice to have a GP check to rule out infection. Man developed a serious kidney infection.

Staff failure to heed a 'difficult' parent's request to have a mole on her intellectually disabled daughter's back checked by a doctor. Mole turned out to be a melanoma which resulted in the young woman's eventual death.

Staff in a high support needs group home spending most of their shifts chatting and drinking coffee while the residents were left to their own devices.

Young woman with severe ID and non-verbal tied to a chair when she became agitated and started to throw objects around in her 24/7 staff-supported individual option.

Woman with mild—moderate ID being given prescribed medications not in accordance with medical directions—medications stopped and started depending on staff opinion. In same group home, staff 'borrowed' money from client's bank accounts to tide themselves over to pay day. Also large amount of prescription sleeping pills (Temazepam) unaccounted for.

Teenager with severe ID, non-verbal and incontinent stripped naked and forcibly held on toilet for up to 30 minutes while she screamed. Investigation revealed that she had a 'mechanical' bladder problem which prevented her urinating unless she was extremely relaxed e.g. travelling in a vehicle or going to sleep at night.

Source: Australian Psychological Society, *Submission 41*, pp 8–9.

3.22 An issue that was repeatedly raised by different submitters to this inquiry is that the abuse reporting mechanisms, discussed in greater detail in chapter five, do not adequately protect people from abuse. In some cases, reporting mechanisms can actually cause abuse:

Retribution is such a difficult thing. You complain about someone who is providing you with very intimate levels of care, and then the management still sends that same person to look after you. That is completely unacceptable, particularly in the nursing home domain. We had one complaint against a nursing home by a number of people. They were so scared that, when we took it to the Aged Care Complaints Scheme, we had to submit that complaint anonymously. They asked, 'How can you submit an anonymous complaint?' and we said, 'They're really scared.' Imagine going to bed at night and you are scared in your own home. That is what was happening.

I do not know the technicalities or the practicalities, but it is clear that, at the very least, if someone has made an allegation of abuse, that person

should not have to receive care or interaction in any way until that person is satisfied.²⁰

Aged care

3.23 The inquiry received evidence from submitters in various states and territories, detailing the abuse of people with disability, often age-related disability, in aged care facilities.

3.24 During the course of this inquiry, a coronial inquest was underway into the murder of a 94 year old man with dementia, in an aged care facility in Canberra. The coronial inquest was told that a nursing assistant found Mr McCulloch in his bed with significant nose and face injuries. Without checking Mr McCulloch's pulse or assessing whether he was alive or dead, the nursing assistant left the room to inform the Director of Nursing. Initially, the nursing assistant was told not to call police; however, nearly an hour later a decision was made to call police:

In the meantime, the scene was left unsecured, Mr McCulloch's body was left unsupervised, and the man staff suspected to be the killer was left free to roam the ward.

Detective Sergeant Casey said there was evidence the body was interfered with, and a doctor later found a pillow had been placed over Mr McCulloch's face.

When they eventually arrived, police also found paper napkins shoved down his throat, something that may have contributed to his death.

The suspect, whose name is suppressed, was left in the same room as the body for periods of time.

He is also thought to have assaulted three others in Jindalee that morning, with the victim of the earliest attack later telling police:

"He grabbed my hair, he grabbed my throat. I'm afraid he's going to kill me."

Staff later found another resident with facial injuries, her head covered by a bloodied pillow. The woman survived the attack.²¹

3.25 Although the Coroner had not handed down his findings at the time of writing this report, it is deeply concerning to note that this is the third inquest into this facility

20 Mrs Sonia Di Mezza, Deputy CEO, ACT Disability, Aged and Carer Advocacy Service, *Committee Hansard*, Canberra, 21 August 2015, p. 35.

21 Christopher Knaus, 'Body left unsupervised, staff not to call police after dementia ward killing', *The Canberra Times*, 4 May 2015, <http://www.canberratimes.com.au/act-news/body-left-unsupervised-staff-told-not-to-call-police-after-dementia-ward-killing-20150504-1mzfry.html> (accessed 25 September 2015).

in recent years.²² The committee notes the distress caused to families who are struggling to get answers to what happened to their loved ones. Similar to other forms of residential care, aged care residents are particularly vulnerable to violence, abuse and neglect due to their age, frailty and specific disabilities such as dementia.

3.26 Those who live in aged care facilities face much the same risks as those living in other cared accommodation. At a public hearing in Canberra, Mrs Sonia Di Mezza told the committee about Katrina:

[A] frail old woman in her 90s who suffered from some mobility issues and who lived in a residential aged care facility. One day Katrina went to the kitchen area of the facility to make herself a cup of coffee. While she was there, a carer approached her, shoved her in a corner and touched her in the genital region. He mocked her and dared her to complain, saying that no one would believe her and that he would be back to give her more. Katrina was shocked and devastated by this. She was afraid to go anywhere in the facility and became depressed.²³

3.27 Box 3.2 contains a number of lived experience examples reported in the Western Australian aged care system in the last six months.

Box 3.2: Examples of abuse and neglect in the Western Australian Aged Care system reported in the last 3–6 months.

Recently during an education session an ambulance driver informed us that she had been called to pick up an elderly lady who was in a facility, had a number of disabilities and had had a fall. She was in her eighties, and the ambulance driver had been told the fall was within the last 24 hours. When collecting the woman the driver noticed that the bruising on the woman's leg was actually green and yellow, indicating the bruise was considerably older than 24 hours. The woman was in a lot of pain when she was moved and transported, and when diagnosed in the hospital she was found to have quite a bad fractured femur. There was no apparent reason for this apart from the fall...

A daughter was concerned that her mother had bruising on the top of her head. She was informed by a facility that this had occurred as a result of a fall; but, as the bruising was right on the top of the head, the daughter was not convinced that this was the way this injury had actually occurred. Later hearsay rather than absolute proof was that somebody had actually hit the woman over the head with the buzzer because she was a person that liked to buzz fairly frequently. The daughter chose not to complain but removed her mother to another aged-care facility because she felt that she was not getting any kind of hearing by the people who worked in the facility...

22 Megan Gorrey and Christopher Knaus, 'Narrabundah Jindalee Aged Care Residence nursing staff did not check pulse of man found dead in dementia ward', *The Canberra Times*, 24 September 2015, <http://www.canberratimes.com.au/act-news/narrabundah-jindalee-aged-care-residence-nursing-staff-did-not-check-pulse-of-man-found-dead-in-dementia-ward-20150924-gjtsuu.html> (accessed 25 September 2015).

23 Mrs Sonia Di Mezza, Deputy CEO, ACT Disability, Aged and Carer Advocacy Service, *Committee Hansard*, Canberra, 21 August 2015, p. 33.

Box 3.2 (continued)

A woman who lives in an aged-care facility in the rural areas had some difficult behaviours but was very well supported by her family and husband in the area. The facility decided that they could not manage her behaviour and informed her husband she would have to be moved. The closest other facility was in excess of 100 kilometres away, so it would have made it impossible for him to visit his wife. At that time he just walked down the street to see her. After a meeting with Advocare staff, family members and the facility staff, it was agreed that they would use the services DBMAS to write a specialised care plan to manage this lady's behaviour. A month or so later the family rang us and said that the facility decided that they did not want to do this, because of the cost that might be involved, and that they were pushing further for the lady to be removed to another facility...

Another lady who lives in a facility in the southern area of Perth liked to sleep with a toy cat. She did like to call staff at night, so staff punished her by removing the cat from her bed. She was found by her family to be crawling around on the floor one morning, looking for the cat and being very confused. She was taken into hospital, where the doctor actually cross-examined the son as to why this woman was so badly covered in bruises. He explained that she was actually in an aged-care facility. The doctor has recommended that the family look into the care that she is being provided, and the family are now contacting the Aged Care Complaints Scheme (see box 3.3 below).

Source: Ms Sharon Richards, Acting CEO, Advocare, *Committee Hansard*, Perth, 10 April 2015, p. 1.

3.28 Box 3.3 outlines the current complaints handling mechanisms and mandatory reporting requirements for Australian Government funded aged care facilities.

Box 3.3: Aged care complaints mechanisms and mandatory reporting requirements

The Aged Care Complaints Scheme (scheme) investigates complaints relating to an approved provider's responsibilities under the *Aged Care Act 1997* or Commonwealth funding agreement. Complaints that fall outside this scope are referred to other organisations. Responsibility for the scheme transferred from the Department of Social Services to the Department of Health in November 2015. From 1 January 2016, responsibility for the scheme will transfer to the new Aged Care Complaints Commissioner.

Under section 63-1AA of the *Aged Care Act 1997*, approved providers of Commonwealth aged care services have clear mandatory reporting requirements in relation to alleged or suspected 'reportable assaults'. Reportable assaults are defined as 'unlawful sexual contact, unreasonable use of force, or assault' as defined by the *Accountability Principles 2014* and must be reported to the police and the Secretary of the Department of Health within 24 hours. The *Accountability Principles 2014* prescribe the circumstances in which the requirement to report an alleged or suspected assault does not apply.

The Productivity Commission's 2011 report on aged care suggested there was not enough evidence to suggest that a review of mandatory reporting requirements for assault in aged care facilities was an 'immediate priority'.

Source: Office of Aged Care Quality and Compliance, *Aged Care Complaints Scheme*, <http://agedcarecomplaints.govspace.gov.au/>; Productivity Commission, *Caring for Older Australians*, vol. 2, August 2011, p. 447, <http://www.pc.gov.au/inquiries/completed/aged-care/report> (accessed 19 November 2015).

3.29 Another issue raised by submitters has been that of young people (aged under 65 years) with severe disability who currently live in residential aged care facilities (RACF). This committee has recently concluded an inquiry into this issue finding that there were over 7,000 young people living in aged care, of which over 90 per cent were aged 50–64 years. This report concluded that aged care was inappropriate for the vast majority of young people for a range of reasons including instances of violence, abuse and neglect.²⁴ In her appearance before the committee in August, Ms Susan Salthouse, Official Visitor for Disability in the Australian Capital Territory concurred with this assessment:

Our major concern is about the quality of life and the safety of people under 65 who live in aged-care facilities. On the whole, their capacity to maintain a level of independence is compromised. They have limited access to age-appropriate activities and they lack appropriate mobility equipment or therapy to maintain their physical capabilities. As a result, many of these individuals whom we visit have narrowed their horizons and no longer seek external contact or activities.²⁵

3.30 The passive disempowerment of individuals—regardless of age—within the aged care environment was also raised by other witnesses to the inquiry. Ms Susan Richards, acting CEO of Advocare noted:

If we want to improve aged care or care that is being given in facilities for every person who lives in there—bearing in mind that most people in there have one disability or another—then we need to be stronger with maintaining their rights as individuals and we need to see them as people who can contribute back. Currently, that is not what is happening. Instead of looking at what the UN sees as the 18 principles for older people, we see people parked in front of televisions who have never watched a television in their life. They are not being treated as individuals, they are being treated as a nuisance more often than not. In part, that is because the staff are very busy, overworked and probably insufficiently trained.²⁶

3.31 Ms Richards also noted the attitude of some aged care providers:

When you speak to aged care facilities, quite often they will say: 'Don't you expect people to deteriorate when they come in here?' and my answer is: 'No.' They are getting three square meals in a day, being looked after in a nice, warm, comfortable environment. I would expect them, in some ways, to improve, not to deteriorate.²⁷

24 Senate Community Affairs References Committee, *Adequacy of existing residential care arrangements available for young people with severe physical, mental or intellectual disabilities in Australia*, June 2015. In the context of aged care, 'young people' are deemed to be 65 years of age or under.

25 Ms Susan Salthouse, *Committee Hansard*, Canberra, 21 August 2015, p. 28.

26 Ms Sharon Richards, *Committee Hansard*, Perth, 10 April 2015, p. 5.

27 Ms Sharon Richards, *Committee Hansard*, Perth, 10 April 2015, p. 3.

3.32 Moreland Community Legal Centre provided a submission which focused on the issue of abuse of people with disability in aged care facilities. The submission included a number of case studies, including the following:

One client reported that she had found her mother blue in the face due to a badly fitting neck collar and on a number of occasions choking on liquid feed administered in a PEG feeding apparatus because of faulty positioning despite her putting a big diagram on the wall to indicate the right position for PEG feeding. She also developed pressure sores which were not properly attended to and became much more severe. When she started attending more frequently she was threatened with being banned from attending her mother altogether because the staff claimed she was bullying them. One staff member refused to attend to her mother in her presence saying she had to leave the room, and would not work under her observation. When she made a complaint to the Aged Care Complaints Line she was threatened by the management of the organisation that she would be banned from attending. She was her mother's only child and there was no-one else to advocate for her.²⁸

3.33 The submission from Moreland Community Legal Centre provided additional analysis of the aged care system and made the following points in regards to provisions of the *Aged Care Act 1997*:

- the Aged Care Quality Standards are not enforceable except as a requirement to retain a service delivery licence or Commonwealth funding;
- mandatory reporting requirements only cover incidents which would be considered a criminal offence;
- the Charter of Residents Rights is not enforceable; and
- the Aged Care Commission lack impartiality as it is not independent of the department that administers aged care, and its aged care complaints scheme focuses on dispute resolution rather than investigation.²⁹

Experiences of violence, abuse and neglect: Schools

3.34 From the mid 1970's Australia has been transitioning and integrating students with disability from segregated special schools into mainstream classrooms. The primary drivers behind this transition have been the principles of inclusion and normalisation for these students.³⁰ Most children with disability attend classes in mainstream schools (65.9 per cent) with 24.3 per cent attending special classes in mainstream schools and 9.9 per cent attending special schools. Students with a

28 Moreland Community Legal Centre, *Submission 87*, p. 3.

29 *Submission 87*, pp 3-6.

30 P.Kell, W. Vialle, D. Konza and G. Vogl (eds), *Learning and the learner: exploring learning for the new times*, University of Wollongong, 2008, p. 39.

disability represent one in 12 of all students enrolled in mainstream Australian schools.³¹

3.35 This section explores evidence, which shows that young people with disability are treated differently to their classmates due to their disability. Abuse, neglect, bullying, and physical and sexual violence are seen as acceptable against people with disability and not responded to in an acceptable and appropriate manner due to the misplaced attitude—by teachers, principals, social workers and police—that those with a disability can be treated differently because of their disability.

3.36 In its submission to the inquiry, Children with Disability posed a series of questions that are asked—directly and indirectly—by many other submitters and witnesses to this inquiry:

Why is it okay for children with disability to be denied access to a toilet? Why is it okay for a student to have his work desk in the sick bay at his school? Why is it okay to leave a child tied in a highchair or pram for hours to restrict movement? Why is it okay to not search for a reason a child is extremely distressed and self-harming? Why is it okay to deny a child use of an essential resource she needs to communicate? The direct experiences of children and young people indicate that many incidents of abuse are deemed acceptable when a child or young person has a disability.³²

3.37 Ms Joyce Langmaid juxtaposed the expectations of the non-disabled and of those living with a disability, and asks why these expectations are not the same:

People take their children to an accredited and quality assured child care and pick them up safe and sound at the end of the day. We do not have that level of safety assured to our son.

Fussy and particular mothers are embraced inside schools as wanting the very best for their child and respected. We do not have that we are vilified, used and ignored because of our son's disabilities.

We just want what is equitable and provided to others without question. Our son did not choose to become ill and become severely disabled. We chose to become parents, no matter what. He is our son and we will stand speak advocate agitate and care no matter what.³³

3.38 Educational institutions such as schools and early childhood learning centres are entrusted by parents on a daily basis to support, nurture and educate their children. Evidence to this committee suggests that this is not the experience for many children and young people in these places.

31 Australian Bureau of Statistics, *4429.0—Profiles of Disability, Australia, 2009: Children at School with Disability*, June 2012, <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4429.0main+features100302009> (accessed 30 September 2015).

32 Children with Disability Australia, *Submission 144*, p. 6.

33 Ms Joyce Langmaid, *Submission 115*, p. [5].



Image 1: Child with autism being physically restrained in a purpose built chair.

Violence, abuse and neglect

3.39 In its submission, Families Australia noted that there is an increased risk of violence, abuse and neglect for children and young people with disability in 'school and transportation to and from school'.³⁴ The Disability Alliance stated:

Violence and abuse perpetrated against children and young people with disability in schools, educational and child care settings, including out-of-home care, is a widespread, unaddressed problem in Australia. Restraint, seclusion, segregation, sexual violence and abuse, withdrawal of food and drink, bullying and harassment are commonplace yet are often downplayed and justified as 'behaviour management' and/or 'behaviour modification' practices.³⁵

3.40 These experiences range from physical abuse and violence to emotional abuse and bullying from teachers, aides and fellow students alike. A snapshot of these experiences can be seen in Box 3.4.

34 Families Australia, *Submission 3*, p. [3].

35 Australian Cross Disability Alliance, *Submission 147*, p. 40.

Box 3.4: Lived experience of children and young people with disability in the Australian education system

Mainstream schools have not met (my daughter's) needs...(she was) sexually harassed by students and teachers—Parent.

My daughter attended a social program, (where) she was shown and directed to massage violent male students...This was excused away in the complaints process, no one questioned this or supported my daughter's need for specialist counselling. She was manhandled by up to four adults, including males. She learnt about fear, failure, humiliation, isolation, violence, abuse—the list goes on—Parent.

My 7 year old son experienced peer to peer sexual assault at school. I was informed 'x' (the sexual assault counselling service) don't have the capacity to see children with disability.

My brother was beaten by his teacher last year...(He) was in the middle of a seizure while he was beaten. He has a very small vocabulary made up of mostly echolalia and was unable to tell us what happened—Sibling.

On placement in a special school, I saw kids being dragged by their hair and shoved outside— Student teacher.

(My daughter)...was smacked in kindergarten by her teacher. She was the size of a three year old and forced to sit on the floor at the front of the class, she moved off the 'X' he had drawn on the floor and was smacked. As she was non-verbal, the other children told me about it and all gave evidence... No disciplinary action against the teacher (was) taken—Parent.

In 2005 my son began in a mainstream, government school...By mid-2006 ongoing, unchecked and unreported bullying and harassment by older students resulted in a head injury. After I lodged a complaint the school decided they were ill equipped to ensure my son's safety and support his education—Parent.

(My daughter) got so badly bullied, (she was) stabbed with an earring in year three (but) no one cared—Parent.

A 12 year old student was king hit, a sudden and forceful punch to the head, and knocked out by one of his peers. When he regained consciousness he had to phone his parents himself because the school had not done so.

A girl in Grade two who was being regularly bullied by a boy in her class and kept coming home with bruises on her arms. One day the boy ran up to kick her and knocked her to the ground leaving her almost unconscious. The school took no action. Two weeks later she was found at lunchtime hanging by a rope, tied under her armpits, from the top of the slide in the playground. Her mother was not told in person but read about it in the communication book used for regular written correspondence from teachers.

(My son) has broken an ankle through bullying, has been beaten up on the way home from school and is now under the care of a psychiatrist and psychologist—Parent.

Box 3.4 (continued)

I received a call at work from the school to come and pick my son up as he had a runny nose. My husband and I were unable to leave work immediately, so my mum collected him from school. Our son was brought out from a room by three teachers, including his own teacher, with a bloodied face. The teachers and receptionist said that he had just had an accident whereby he had sneezed and bit his bottom lip. Mum then drove him home and cleaned up his face. She discovered that it was full of severe scratches, one near the eye, in addition to cuts on his lip. She rang the school for an explanation and was told that his teacher would call back to discuss. His teacher left a message later, but did not return any further calls after my husband and I left messages looking for an explanation... (Later) an incident report was sent home stating that another student had caused the injury—Parent.

I saw one of the staff wrestling a teenage boy with autism to the ground and screaming profanities at him. I think he bit her, not sure. It was all out of control—Parent.

My child was abused at mainstream school. She was humiliated, isolated (and) placed in the corner facing the wall... That is just the tip of the iceberg of what happened to her—Parent.

...Remembering all the times I have been bullied at school, I sink into my darkest times. I am being continually pushed over the edge, no-one has resolved the incident, and my Mum is not supportive enough to get me out of the greatest depression of my life. Now, I am considering killing myself just so no-one can bully me anymore—Student, boy aged 14 years.

For me the worst thing is the bullying. There are just so many kids that are freaked out by disability and some teachers are as well, to be honest. This year I have been hit in the head, punched, called a retard just too many times or on a not so bad day just told I am not normal. I sometimes over-react to the bullying and then I get detentions for my behaviour. Once I had to wear my uniform to parent/teacher day because I had a detention. I then had to empty rubbish bins for 90 minutes. It didn't make me think about my behaviour, it just made me incredibly sad. How does that help someone learn? All this stuff really impacts on a kid's self-esteem you know—Student, boy aged 13 years.

I get bullied about my disability and the way I work. At lunch time I go to the library to avoid this. I wish people would accept me—Student, boy aged 10 years.

My son was horrendously bullied, isolated, humiliated, tormented (and) left to his own devices. My son was self-harming and pushed to the brink of suicide because of the school system—Parent.

Source: Children with Disability, Submission 144.

3.41 Removal or exclusion from normal school activities is common for children with disability. This exclusion by teachers and principals is a form of emotional bullying and can only negatively impact on a child's sense of involvement, community and educational outcomes. As one parent noted:

School says they only (provide) support for 'core learning' (areas) of literacy and numeracy and will not support other disability-specific needs. (My child is) not permitted to attend lunch or any classes after 12pm each day (or) attend sports carnivals, any sports program, interschool sports, excursions or camps—even if we go (to provide support).³⁶

3.42 Ms Fiona Given, a person with cerebral palsy, relates her lived experience at school as a person with disability. Ms Given's submission focuses on the role of her support aide during her high school years. This support aide performed her duties in an inappropriate and insensitive way. Ms Given also felt excluded from regular school activities by the very person who was meant to help maintain connection and participation in this area. For example:

There were always problems with her performance of her duties in supporting me. She spent most of the time socialising with teachers and other students rather than supporting my participation. All she really assisted me with was going to the bathroom and personal care on excursions and camps. She provided minimal support with participation in my actual classes. She made friends with the other girls in my year which hindered my friendships and isolated me, this later created a barrier from me speaking out when the abuse started to occur...

I generally felt bullied by her, overpowered and uncomfortable in her presence.³⁷

3.43 Despite this support aide being reported, she went on to work in other government schools.³⁸ Ms Given says that the reason she did not report her aide for emotional abuse and bullying was that Ms Given did not want to be indirectly punished as a result of this. Ms Given said:

I fought so hard to go to a mainstream school that I feared that if I complained about my aide I would have been sent to a special school. The results of this would have been catastrophic for me. I would not have been able to go on to university and have a career.³⁹

3.44 The prevalence of emotional abuse has been described as rife, 'especially among people with little or no speech' as it is difficult for those people to speak up in their own defence at the time of the incident or later to report it.⁴⁰

36 Children with Disability, *Submission 144*.

37 Ms Fiona Given, *Submission 34*, pp [1–2].

38 *Submission 34*, pp [1–2].

39 Ms Fiona Given, *Committee Hansard*, Sydney, 27 August 2015, p. 14

40 Ms Fiona Given, *Committee Hansard*, Sydney, 27 August 2015, pp 14–15.

3.45 Even teachers who attempt to intervene when students are being inappropriately treated are often left as victims themselves:

I commenced work at BSHS [Brisbane State High School] 2009 and from the moment I began this teacher abused our students without impunity. I complained repeatedly to the HOSES [Head of Special Education Services] head of our department to no avail.

The final straw for me came in 2011 when this teacher in front of two witnesses tried to cause a fight with a very unstable student. The teacher kept pushing the boy in the chest daring the boy to punch him. In my attempt to stop the teacher I was deliberately injured by him to get me to leave. The whole experience was terrifying and left me suffering from PTSD [Post Traumatic Stress Disorder].⁴¹

3.46 Some submitters highlighted that 'there is a false idea that by infantilising people with disabilities and not teaching us these life skills we are being kept safe':

As an example, it appears that many students with disabilities miss out on sex education in school for various reasons, including but not limited to the fact that it is often a component of the physical education curriculum in which many students with physical disabilities, for example, might not participate.

There is also a concerning lack of information about personal safety, relationships and sexuality for people with cognitive impairment and/or low literacy or for people who may not know much about these topics for other reasons, such as their cultural background. What information is available on the subject often seems to assume a certain level of prior knowledge, which is not true of everyone. Some organisations are doing good work in closing these gaps but there is certainly more to be done.⁴²

Transport and other services

3.47 The committee recognises that violence, abuse and neglect is not simply confined to the classroom and the schoolyard. A common place that abuse occurs is on transport to and from school, but can also occur in other environments.⁴³

3.48 In her submission, Mrs Catherine McKenzie described to the committee her autistic son's school bus journey that is itself a form of neglect, because it takes two hours in each direction, despite living only 16 kilometres from the school.

These children are being treated unfairly, how do we expect our children to learn under these conditions when they do so much travel just to get to and from school. They are treated in an inhuman way having NO access to

41 Ms Anna Lorcan, *Submission 24*, p. [1].

42 Ms Kelly Vincent MLC, Dignity for Disability, South Australian Parliament, *Committee Hansard*, Adelaide, 28 August 2015, p. 58. See also: Deakin University, *Submission 109*,

43 Families Australia, *Submission 3*, p. [3].

toilets, cannot stretch their legs in the two hour ride and cannot drink or eat.⁴⁴

3.49 Further to this, Mrs McKenzie noted a range of other side effects that impact on her son's and other children's ability to learn and enjoy a reasonable quality of life as a result of the school bus journey. These include dehydration; sickness, 'more meltdowns' and unable to eat properly due to exhaustion and being run down from the school bus trip; missing out on after school therapies, sports and other activities; medications being administered at sub-optimal times due to being on the bus; the emotional and physical toll on the child and families; and children being 'less attentive' and 'possibly more disruptive' during classes.⁴⁵

3.50 Spending four hours per day on a school bus for a person with a disability is not unusual. In fact, it is Victorian Department of Education and Training (DET) policy that children can 'spend up to two hours one way on a bus from their home to the school'. In addition to not being able to eat, drink, or take bathroom breaks, 'some children may be strapped into a seat for that length of time due to the fact that, understandably, they do not wish to remain seated'. It is also acknowledged that these long trips do not reflect the distance that children live from their school, but rather the lack of bus services that result in all children with disability being loaded into one bus regardless of where they live. Ms Julie Phillips, a disability advocate, notes that this is 'due to a disinterest by the Victorian DET in spending sufficient money in order to ensure that students with disabilities are treated humanely'.⁴⁶

3.51 Mrs Carmen Pratt-Hincks, a disability advocate, highlighted the inappropriate treatment of Corrina, an 11 year old girl, by her school bus driver:

They put [Corrina, 11 years] in a harness on the [school]bus so she could not move. This upset her for the whole day. She started showing distressing behaviours like head banging and tearing her clothes.⁴⁷

3.52 The Bolshy Divas, a disability advocate organisation, presented the lived experience of nearly 40 people with disability, many of them children who cannot speak for themselves:

We bear witness [to] David Gitsham and the other 33 victims of South Australian bus driver Brian Perkins who raped and sexually abused those children and an uncounted number of others during his employment at St Ann's, a Catholic school.

The abuse happened over a long period of time in the eighties and nineties, but the school and church did not tell the parents what had happened for many years. For years David screamed himself awake and would get up in the middle of the night screaming. His parents moved down to sleep in the

44 Mrs Catherine McKenzie, *Submission 100*, p. [1].

45 *Submission 100*, p. [1].

46 Ms Julie Phillips, *Submission 131*, p. 49.

47 Mrs Carmen Pratt-Hincks, *Committee Hansard*, Perth, 10 April 2015, p. 27.

garden shed. Other boys who were abused became aggressively sexual and others were sent to institutions.

We bear witness to David and other children and adults whose voices remain unheard, because of professional cover-ups.⁴⁸

3.53 The Bolshy Divas also detailed the betrayal of the trust of a young girl and her family by an organisation supposed to provide respite to Amber during the school holidays:

We bear witness for Amber, a 12-year-old WA schoolgirl who went to a school holiday program for children with disability in Western Australia last year and returned with a cut so deep to her vagina that she required eight stitches and several days in hospital. Although her mother took her to the hospital, and police and the child protection unit investigated, nobody ever admitted accountability, and the family is now too terrified to access respite. The hospital said that it was unlikely to be an accidental injury caused by a fall as Amber was wearing a continence aid at the time. Amber does not speak and could not tell police what had happened.

We bear witness for Amber and for the other children who have been injured in school holiday programs for children with disability.⁴⁹

3.54 The mother of a young daughter with a disability relates the circumstance in which her daughter was left in the care of a childcare centre:

I took my daughter to a NSW child care service (the centre) one morning and she was well, happy and able to walk inside the building on her own with her usual level of caution. I went to collect her from the centre at lunchtime and found her sitting on the floor of the school hall all by herself. Staff explained that she had been left there to think about her behaviour as she had a temper tantrum and had refused to walk. I saw immediately that she was in pain and incapable of walking and I had to carry her with her legs dangling down, to my car.

I then presented my daughter to the local hospital with x-ray revealing a broken hip.⁵⁰

3.55 Despite her daughter naming the staff member responsible for the injury, that person was cleared of any wrongdoing. The mother was quite proactive on this issue, contacting a range of government bodies (NSW Department of Ageing, Disability and Home Care, Department of Education and Training, Department of Family and Community Services, and the Australian Human Rights Commission), about this incident at the time and shortly after, yet it seems that very little has been done. The mother noted:

48 Ms Zel Iscel, Member, Bolshy Divas, *Committee Hansard*, Perth, 10 April 2015, p. 14. See also evidence from Ms Connor on this page and page 16. The Bolshy Divas came prepared with over 550 stories from individuals and groups of violence, abuse and neglect against people with disability.

49 Ms Jackie Softly, Member, Bolshy Divas, *Committee Hansard*, Perth, 10 April 2015, p. 18.

50 Name withheld, *Submission 54*, p. [1].

It made myself as a parent realise just how vulnerable my daughter and other people with disabilities are, particularly those with limited verbal communication.⁵¹

3.56 The lived experience of Taylor, a 15 year old girl with disability, who was sexually abused on the school bus and her unsuccessful struggle for justice is outlined in Box 3.5.

Box 3.5: Taylor's account

Taylor is 15 years old and she has Prader-Willi syndrome. Two years ago Taylor was raped on the special school bus in the southern suburbs of Perth. She was digitally penetrated by another student, a 16-year-old boy, for an hour. Taylor did not say anything when she got off the bus at home but next day she told the staff she had been raped. The principal told her she had not been raped and talked to her about the seriousness of making accusations. She sent Taylor home with a letter to her parents that said the school would like to talk to them about Taylor being suspended. Taylor's mother asked her to write her account of the rape, and Taylor did—and the account is quite specific. Taylor is adamant that she did not want the student to put his fingers in her vagina and that she said no. Taylor was 13 years old at the time.

A meeting was proposed for the next day and the school told Taylor's mother that the boy who raped Taylor would also be attending the meeting, with his parents. Taylor's mother flatly refused. Taylor's mother attended with her support person, Taylor's psychologist. The mood was hostile. The school had concerns that Taylor continued to use the word 'rape' when referring to the rape that was carried out against her on the bus and it said other students were upset by the use of the word. The solution was to implement a containment policy whereby Taylor would be sent to detention in the office for three weeks. The purpose of this was to minimise the exposure of the other children in the learning support unit to the account of Taylor's rape and to prevent Taylor from speaking out about it. Taylor's mother and the psychologist objected strenuously to this arrangement because 'Taylor should not be punished for being raped'. Eventually it was agreed that she would be let out with the other students at recess and lunchtime but would have to be under the constant supervision of an education assistant.

After the meeting, Taylor was segregated from the other students. It is the mother's opinion that Taylor's segregation and the reinforcement that she had done something bad was almost as damaging to her as what happened to her on the bus. Taylor's mother contacted the Department of Child Protection; there was no mandatory notification made by the school. After some months, the Department of Child Protection said they could not investigate as it was outside their mandate and it had occurred in a community setting. They said they would return the matter to police.

After some further months, they told Taylor's family that the police would not investigate as the perpetrator has an intellectual disability—and no contact was ever made between Taylor, her family and the police. A few years on, Taylor now has suicidal ideation and has been prescribed Prozac. She changed schools and her mother now must now drive her to school every day—a half-hour trip. This means her mother cannot work. Her mother says she lives from day to day.

Source: Ms Samantha Connor, Committee Hansard, Perth, 10 April 2015, p. 31.

51 Name withheld, *Submission 54*, p. [2].

3.57 Another significant source of violence and abuse of children with disability is the use of seclusion and physical restraint in schools. This issue is detailed in chapter four, which discusses disability-specific interventions.

Trauma recovery

3.58 The committee was given first-hand accounts of violence from a large number of people during the course of this inquiry. Many of these witnesses raised the issue of the ongoing trauma as a result of their experience of violence, abuse or neglect, that could not be resolved through achieving a complaints or criminal justice outcome. The need for specialist trauma recovery and counselling services to address these issues was raised by Working Alongside People with Intellectual and Learning Disabilities – Sexual Violence Prevention Association (WWILD):

It is WWILD's experience that people with intellectual disabilities require individual support and advocacy when seeking support and justice when having had experienced violence, abuse and neglect within institutional settings. In many cases that support may be a family member or other committed person, but in many cases it is important and useful for that person to have an independent advocate to raise and address issues alongside them.

3.59 WWILD also outlined the need for individual counselling to assist people to manage trauma, and stressed that such services should understand the disability context:

This work [individual counselling] supports the person to manage the effects of trauma, and often works to support people to understand their own personal relationships, what they do and don't want going forward. This often involves sharing information with important supports in their life about what will help them gain more control in their lives...

On another level, the impacts of the abuse, exploitation and neglect experienced by people with intellectual disabilities in institutional and residential settings is exacerbated and felt more severely due to the lack of recognition of the effects of abuse, the minimising of violence and the silencing of victims.⁵²

3.60 Children with Disability Australia also discussed the need for counselling services that can meet the needs of people with disability, citing instances where children with disability were refused counselling services by mainstream providers:

My 7 year old son experienced peer to peer sexual assault at school. I was informed 'x' (the sexual assault counselling service) don't have the capacity to see children with disability.⁵³

52 Working Alongside People with Intellectual and Learning Disabilities –Sexual Violence Prevention Association, *Submission 127*, pp 3-5.

53 Children with Disability Australia, *Submission 144*, p. 9.

3.61 Of great concern is the evidence presented by Consumers of Mental Health WA (CoMHWA) of mental health providers acting as gatekeepers in preventing access to sexual assault counselling:

CoMHWA is also aware of 2 consumers who experienced gatekeeping of access to sexual assault counselling (assaults external to service delivery environment) by their clinical mental health providers, on account of a diagnosed or suspected psychosis or intellectual disability, resulting in failure to receive sexual assault counselling.⁵⁴

Committee view

3.62 The evidence to this inquiry shows that as well as trauma resulting from the primary act of violence, people with disability are often re-traumatised by the subsequent reporting and investigating procedures.

3.63 The committee is concerned with the lack of appropriate counselling and trauma recovery services available to people with disability who have experienced violence, abuse and neglect. The committee believes that more funding of counselling services is necessary, as well as training and re-purposing of existing mainstream services to ensure that people with disability are not discriminated against by a lack of counselling service provision.

Concluding committee view

3.64 This chapter has outlined an alarming snapshot of what is currently happening within institutional and residential settings charged with providing a safe environment to some of our society's most vulnerable people.

3.65 The committee is convinced that violence, abuse and neglect against people with disability is widespread and is occurring across all Australian communities. At the heart of this mistreatment are questions as to how our society views people with disability.

3.66 The committee thanks witnesses for their bravery in coming forward to share accounts of pain, suffering and humiliation of themselves or their loved ones. The breadth of evidence provided on the range of violence, abuse and neglect of people with disability is highly disturbing and cannot be ignored.

3.67 The committee notes with great concern, the lack of reliable and consistent data on violence, abuse and neglect of people with disability, and the complete lack of data on the outcomes of reporting and investigations. It is impossible to adequately address an issue that has not properly been identified. Part of the work to eliminate violence and abuse of people with disability must surely include quantifying the precise nature of the problem.

54 Consumers of Mental Health WA, *Submission 110*, p. 16.

Concluding committee view continued

3.68 The committee also notes the high rates of abuse of people with disability that occur in aged care and the general community, with limited adequate response from mainstream reporting and investigating mechanisms. Clearly, protecting vulnerable Australians in aged care and the general community should be given greater focus from all levels of government.

3.69 The committee is very distressed by the range of evidence provided which details cases of violence, abuse and neglect of children with disability, particularly within schools. The committee is disturbed by evidence of a lack of appropriate regulation, oversight and independent reporting and investigating mechanisms within the schools framework.

3.70 Although this section has examined examples of the mistreatment of individuals by individuals, chapter four of this report examines systemic disability-specific therapeutic interventions, which in other service contexts would themselves be seen as violence or abuse.

