



Inquiry into abuse in disability services

Submission to the Victorian Parliamentary Committee on Family and Community Development

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Women with Disabilities Victoria

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Women with Disabilities Victoria

Women with Disabilities Victoria is an organisation run by women with disabilities for women with disabilities. Our members, board and staff live across the state and have a range of disabilities, lifestyles and ages. We are united in working towards our vision of a world where all women are respected and can fully experience life. Our gender perspective allows us to focus on areas of particular inequity to women with disabilities; access to women's health services, gendered NDIS services, and safety from gender-based violence (see Appendix Fact Sheet 2).

We undertake research, consultation and systemic advocacy. We provide professional education, representation, information, and leadership programs for women with disabilities.

We have dedicated particular attention to the issue of men's violence against women with disabilities, due to its gravity and prevalence in our lives. Since 2008 we have had a Policy Officer, funded by the Victorian Government, to focus on violence against women with disabilities. This has been a valuable resource for the community sector (for the provision of information and advice) and for the Government (for consultation and input into key documents such as the Personal Safety Act (2010), the Family Violence Common Risk Assessment Framework (2008), the Disability State Plan (2013) the Victoria Police Code of Practice for the Investigation of Family Violence, and Victoria's Plan to Address Violence Against Women and Children.

Under Victoria's Plan to Address Violence Against Women and Children we were funded to pilot a ground breaking workforce development program in disability services. The Gender and Disability Workforce Development Program commenced in 2013 and the program evaluation will be completed in August 2015.

In 2014 we published the Voices Against Violence research project with partners Office of the Public Advocate Victoria and Domestic Violence Resource Centre Victoria. The 7 papers of the project examined the intersecting forms of gendered and disability based violence experienced by women with disabilities, studying literature, Office of the Public Advocate Victoria files, legislation, and interviewing Office of the Public Advocate Victoria staff and women with disabilities.

Introduction

This submission is based on research, practice experience, and a focus group of women with disabilities. This was the only focus group held for women for the Quality and Safeguarding Framework consultation. The focus group on the 21st April 2015 was hosted by the Department of Social Services (DSS), Women with Disabilities Victoria and Women with Disabilities Australia – a DSS representative was in attendance. Women from around Melbourne and Geelong (in Barwon) attended the focus group. The women were of various ages and had a diversity of living arrangements, histories, sexualities and cultural backgrounds. The women who attended had a range of disabilities which included cognitive, intellectual, psychosocial, sensory, physical and communication. Quotes from these women are dispersed through this submission as examples of what they raised as important safeguarding and quality issues. All quotes in this submission are from the consultation, unless otherwise noted.

We see this as a once-in-a-lifetime opportunity to design safeguards which are responsive to the particular needs of women's safety. In regards to quality, women require gender sensitive services which are responsive to our sexual and reproductive health, our roles as mothers and carers, our equality of opportunity and gender based violence.

The consultation paper notes that the framework is intended to be risk based. There are two key types of risk that need to be considered. There is a risk that people with disability could receive poor quality supports that do not help them achieve their goals. There is also a risk that people with disability could be harmed in some way. Note that our submission focusses primarily on the latter risk, and that in consultation with women with disabilities, safety was a critical concern they expressed

We strongly support the approach of three broad areas: developmental, preventative and corrective. We are of the view that the developmental approach must have a significant investment of resources to empower people with disabilities to be safe and to know their rights. This potentially will be the most effective of the three approaches.

List of recommendations

1. Opening Remarks

Principles

1. That the principles for the Quality and Safeguarding Framework are expanded to include ease of use of the system, that no person be subject to a lesser standard of safeguard or quality through nationalisation, that persons with disabilities are entitled to risks within the law and that empowerment underpins all policies and strategies.

Language

2. That the NDIA recognise the strength, resilience, credibility and experiences of people with disabilities by; using the words 'targeted' and 'at risk' rather than 'vulnerable', using the word 'disclosures' rather than 'allegations', and naming violence against women.

2. Developmental Factors

Include women with disabilities in planning, policy and data

3. That the NDIA provide avenues for women with disabilities to participate actively in decision-making – in service planning and reviewing: both for decisions about themselves as individuals and systemically.
4. That the NDIA ensure all policies, protocols and practices to ensure that they are gender sensitive.
5. That all NDIA data is gender disaggregated.
6. That the NDIA create gender specific resources for women with disabilities, and promote the WDV factsheets developed for women.

Peer support

7. That the NDIA recognise the value of peer support and identify opportunities to resource and foster peer support programs.

Community Participation

8. That Government resource Metro / Rural and Deaf Access Officers across Australia to create and promote local opportunities and connections for people with disabilities

Employment

9. That the NDIA, the Australian Government and the State Governments set targets of employment of a diversity of people with disabilities, with an equal representation of men and women.

3. Preventative Factors

Human Rights framework

10. That the NDIS Quality and Safeguarding Framework is grounded in a Human Rights Framework inclusive of the CRPD and CEDAW.

Background checks

11. That the NDIA establish options for participants to have staff who have had background checks, or to employ people or choose services without background checks. It is

important that participants who choose background checks are not financially disadvantaged for doing so.

Service review system

12. That the NDIA create a range of ways for people to share information about services; staff checks, training and qualifications; service competencies in relation to gender, culture, race, impairment types; and avenues for complaints and feedback. Information should be available online with service user reviews, and in a range of accessible formats and via face-to-face arrangements. This accommodates a range of access requirements, for example, internet access barriers, literacy and language barriers, reducing social isolation or personal preference.

Advocacy

13. That Governments recognise and resource peer groups, independent advocacy, self advocacy and systemic advocacy as essential safeguards.

Service level safeguards - core competencies and workforce development

14. That the Victorian Government influence the Australian Government to fund the implementation of a specialist violence prevention training program. This should be developed in consultation with, and delivered by women with disabilities, family violence, sexual assault, justice, police, mental health, aged care and disability organisations.
15. That NDIA planners, LACs and service delivery staff receive violence prevention (Gender Equity) Training developed and delivered by people with expertise in gender equity.
16. That the NDIA commitment to a cross sectoral, evidence based approach to preventing violence against women with disabilities.

Safeguards for participants managing their own plan - provider registration

17. That the NDIA establish a two option system so that those who less restrictive self-management can choose and those who do can choose. These options would be as follows.

Option 1 - Self managed

This would offer participants:

Information and resources, Training, An advice line, Peer support.

This would offer providers: Resources, Training, Standards of Practice.

Option 2 – Provider Registration

This would mandate: Provider registration, Background checks, Standards, A complaints system.

18. That the NDIA create a system for independent mediation between participants and providers, that mediation operate in guidelines which ensure that it is not unsafe or unequal, and that research is done to inform these guidelines.

Family can be a positive or a negative support

19. That the NDIA risk assessment tool assesses family violence, and that the NDIA ensures that family are not present during assessment. If family violence is disclosed or suspected, NDIA staff such as case planners take all possible steps to uphold participants' safety, rights and interests.

4. Corrective Factors

Governance

20. That the NDIA and Governments arrange that people with disabilities are provided avenues to participate actively in, and be represented on, decision-making, advisory and planning bodies. This should be across all areas relating to the Quality and Safeguarding Framework, ensuring that women and other marginalised groups are equitably represented.

Legislation

21. That the Disability Reform Council facilitate legislative change so that there is a national law against paid workers having sex with their clients / service users.

Exclusion List

22. That the NDIA manage a publicly available exclusion list of workers found guilty of assault or other inappropriate or illegal behaviour.

Oversight mechanisms

23. That the Australian Government create an independent oversight body to independently investigate and respond to violations of rights and ensure appropriate service response to disclosures of abuse. This should include a community visitors program and have the reach to review services provided in private dwellings.
24. That the oversight body meet people with disabilities where they are to build understanding of service user's rights, and the body's statutory powers and processes.
25. That a review process should be established where people with disabilities are consulted on what improvements the oversight body requires.

System for handling complaints

26. That the NDIA work with the Government to investigate best practice in effective, accessible complaints processes to then create and promote pathways for consumer complaints.
27. That the Victorian Government influence the Australian Government to establish an independent complaints body which reports directly to government.
28. That the complaints body receive all complaints from NDIS participants and support appropriate referrals to other complaints bodies as required with a 'no falling between the gaps' policy.
29. That the complaints body collect data on the demographics of complainants.

Police

30. That Governments create legislation to strengthen relationships between police and disability services to require referral and improve reporting rates.
31. That disability services be mandated by legislation to report disclosures of physical and sexual assault and economic abuse to police immediately for investigation – where the victim has given consent.

Cross sector approaches to responding to violence against women

32. That the NDIA recognise allegations as disclosures and take a trauma informed approach. When responding to disclosures, that the NDIA and registered services affirm the right to safety and respond to immediate psychological and physical safety needs.

- That the NDIA affirm this in protocols, policies and practices and develop them in consultation with violence against women experts.
33. That the Quality and Safeguarding Framework link with the National Action Plan on Violence Against Women and their Children and other key documents to cross fertilise – working parties communicate and coordinate. That the NDIA commitment to a cross sectoral, evidence based approach to responding to violence against women with disabilities.
 34. That the NDIA ensures that appropriate safeguards, standards and practice guidelines are developed that prioritise and drive responses to violence against people with disabilities and ensure referral pathways to violence response services. As part of this, the new NDIS workforce must be trained in understanding gendered violence and applying the principles of good practice to uphold the safety of people with disabilities.
 35. That the NDIA work with violence against women experts to develop a risk assessment tool that can identify violence against women.
 36. That the NDIA develop a violence against women response training package delivered by women with disabilities and workers from across specialist sectors (police, domestic violence, sexual assault, legal).
 37. That the NDIA adopt a comprehensive, gendered approach to data collection that records serious disclosures of rights violations disaggregated by their type, service setting and perpetrator characteristics, and that this data be analysed to inform systemic responses.
 38. That all data collected by the NDIA is disaggregated by Socio Economic Status, gender, cultural background and disability type.

1. Opening Remarks

Principles

The establishment of guiding principles will shape all the development of the Quality and Safeguarding Framework. Women with Disabilities Victoria support the principles laid out in the discussion paper:

Embedding work in the human rights framework

- Choice and control
- Maximise opportunities for people with disability
- Risk-based and person-centred approach
- Presumption of capacity
- National consistency
- Reducing/minimising regulation
- Administrative efficiency

We believe there should be four additions to the rationale underpinning these principles:

- Simplicity/ease of use of the system is essential for an accessible system for people with disabilities.
- That with national consistency of the framework that no person in any state should be subject to a lower standard of safeguard or quality than currently exists in their state.
- That persons with disability are entitled to take the same risks as other persons provided they are within the law.
- Power imbalances are a risk to quality and safeguards and thus all possible steps should be taken to empower people with disabilities.

Recommendation 1: That the principles for the Quality and Safeguarding Framework are expanded to include ease of use of the system, that no person be subject to a lesser standard of safeguard or quality through nationalisation, that persons with disabilities are entitled to risks within the law and that empowerment underpins all policies and strategies.

Language in policy and other documents

The language used in NDIA legislation, policy, protocols and practice is important for what it can reveal and conceal. The Safeguarding and Quality Framework developers have a responsibility to use language which does not disempower victims of violence or hide their experiences. We recommend consideration of the following terms.

Allegations Vs disclosures

It is known that people with disabilities experience high rates of violence and that reports of violence are rarely made-up. In fact, people with disabilities who report genuine experiences of violence are commonly, repeatedly disbelieved. The safeguarding system must address this appalling practice. When the word 'allegation of abuse' are used they impute a question of the reality of the violence. Rewording 'allegations of abuse,' to be identified as 'disclosures of abuse' would challenge the current scepticism of people with disabilities who report abuse. A move to using the word, 'disclosure,' would promote person centred, trauma informed good practice.

Naming violence against women

The Safeguarding and Quality Framework discussion paper discusses "critical incidents", "death", "allegations of physical and sexual assault", "significant damage to people and property and adverse events." It is important to be clear about language, to name disability based violence, violence against women, sexual assault and family violence.

Vulnerability

WDV recognises the merit of a Working with Vulnerable Persons Check system. It is important, however, to recognise a problem with this terminology. People with disabilities are not born 'vulnerable.' People with disabilities are strong and resilient people, especially those who have lived with violence. It is not our disabilities that cause us to experience higher rates of violence and abuse. The violence and abuse experienced by people with disabilities is caused by the choices of those who perpetrate it. Research shows that perpetrators target their victims. 'Vulnerability' is a disempowering word which puts the emphasis on characteristics of the victim. We must place the responsibility for violence in the hands of the perpetrators.

In our experience, disability services are often reluctant to involve adult women with disabilities in discussions about violence and abuse. This appears to be based in a fear of women's reactions to this information (which is unfounded) and / or a fear parents' reactions to their adult daughter having access to such information. This is a real issue preventing women with disabilities having access to information and resources that must be addressed.

Recommendation 2: That the NDIA recognise the strength, resilience, credibility and experiences of people with disabilities by; using the words 'targeted' and 'at risk' rather than 'vulnerable', using the word 'disclosures' rather than 'allegations', and naming violence against women.

2. Developmental factors

Gendered policy, protocols and codes of practice

WDV support the statement in the Quality and Safeguarding Framework discussion paper, “The aim of a risk-based framework is to target those areas where the dangers are greatest and the consequences of harm the most severe.” Protocols, policy and codes of practice must identify areas of need and tools to address identified risks. These documents can drive a gendered approach. Here the NDIA can do what the National Disability Strategy failed to do – the Quality and Safeguarding Framework can be strong, it can be gendered, it can be take a cross sectoral approach.

Why take a gendered approach?

As women with disabilities we encounter discrimination on many levels, each of which restricts our opportunities for equal participation in economic, social, educational and political life. Some women with disabilities experience multiple layers of discrimination based on their race, age, gender, and sexual orientation, as well as their disability.

We are often ignored in government legislation, policies and programs and within community organisations and services. We have traditionally been excluded from the mainstream women’s social movement whilst specific concerns of women with disabilities have been ignored by the broader disability advocacy movement.

On all measures of social and economic participation (housing security, income, employment and education), women with disabilities are disadvantaged compared not only to people without disabilities but also to men with disabilities.

Women with disabilities lack access to adequate health care and other services for ourselves and our children, particularly when health centres fail to provide a welcoming, inclusive environment.

Women with disabilities are targeted more in relation to violence and less likely to know about or have access to services responding to violence against women.¹

If we don’t take a gendered approach we fail to

- take account of the importance of gender in compounding the power imbalance between disability workers and clients
- take account of sexist attitudes which might influence the disability workers treat men and women with disabilities differentially. We need more research on this. For example, are women more restricted, more ‘protected’, more controlled?
- take account of sexist attitudes which might influence the way workers respond to violence against women and men, for example rape against a woman with disability may not be taken as seriously as violence against men with disability, or the tendency of not listening to women who disclose (we don’t know what impact gender has on worker’s responses)
- involve women’s violence response services in supporting victims of violence.

¹ Women with Disabilities Victoria, ‘Fact Sheet 2: Women with Disabilities.’ 2014. WDV.

By applying a gender lens to all significant documents, the NDIA can provide a safer and higher quality service to women. For example; developing risk assessment, ask if the tool can detect family violence; developing support package policies, ask how flexible packages are for women and children escaping family violence in a crisis; developing types of support, ask how they account for women with disabilities who are mothers. Gender auditing can vastly improve the quality of service for women and girls and support their safety in accordance with Australia's commitment to CEDAW.

Office of the Public Advocate Victoria have taken steps in this direction through their Interagency Guideline on Neglect and Abuse protocol (IGUANA).² To develop this, Office of the Public Advocate Victoria consulted across sectors to develop this document, which includes appropriate ways to respond to and report disclosures of violence against women.

Include women with disabilities in planning, policy and data

Women with disabilities face additional inequalities to men with disabilities; for example women are more likely to be unemployed, have primary caring responsibilities, and be affected by poverty. Compared to other women, women with disabilities have reduced access to sexual and reproductive health care and information and an increased risk of violence. Despite this, Australia's disability planning, policy and data collection does almost nothing to recognise gender differences.

Gender equity means fairness of treatment for women and men, according to their respective needs. This may include equal treatment or treatment that is different but which is considered equivalent in terms of rights, benefits, obligations and opportunities.³ It is incumbent on all programs administered by Commonwealth and State Governments to be equitable in their approach to services for women and men, girls and boys. For example, it was noted that few women with disabilities participated in Quality and Safeguarding Framework consultations, that it was mostly carers, services providers and men with disabilities in attendance.

“Regarding NDIA reporting structures and women with disabilities not being believed when they report violence, would the NDIA have process and capacity for handling disclosures and reports?”

(Naomi, a woman with a disability, speaking at the Quality and Safeguarding Framework consultation for women with disabilities, Melbourne, 21st April 2015).

Recommendation 3: That the NDIA provide avenues for women with disabilities to participate actively in decision-making – in service planning and reviewing: both for decisions about themselves as individuals and systemically.

Recommendation 4: That the NDIA ensure all policies, protocols and practices to ensure that they are gender sensitive.

Recommendation 5: That all NDIA data is gender disaggregated.

² Victorian Office of the Public Advocate, IGUANA protocol, OPA, 2013.

³ UNESCO, 'Gender Equality and Equity.' UNESCO, 2009.

Resources for women

WDV support the point in the discussion paper, “Governments should also contribute to building credible, robust information and exchange systems that allow NDIS participants to seek and share knowledge.”

Through the Voices Against Violence Research we found many women did not have access to information about their rights and support services.⁴ To provide women with access to these resources on an ongoing basis is one important strategy to develop strength and increase choices, thus providing preventative and corrective outcomes.

WDV is developing factsheets on the NDIS for women with disabilities. These are being developed based on consultations with women with disabilities. They will provide information on how to plan for a safe and quality service, and options if you are not receiving one.

Recommendation 6: That the NDIA create gender specific resources for women with disabilities, and promote the WDV factsheets developed for women.

Peer support

Peer support groups can develop natural safeguards and supports. Women in the focus group said peer connections and support are important for reducing social isolation and building confidence. Peer support is also an important mechanism for sharing information on services, rights and corrective measures. These views were shared by many of the women interviewed for the Voices Against Violence research who found this more informal support could be the most helpful.⁵

“I am linked in with the self-advocacy group for people with ABIs. I said I'm not accessing support at the moment [at the beginning of the session] but I forgot to mention peer support. It's very important to have peer support. It happens by phone and group meetings are important too. 20 years ago I was a wreck. I had to write notes to shop keepers and I was afraid to speak publicly. Now I can't shut up (because of peer support).”
Chris

“The deaf blind community are a very tight group and they do talk together and find out who the best interpreter is.... We talk about the services we like and don't like.” Libby

“Opportunities to talk together are important. We get information and support this way.”
Suni

Peer support – practice example

WDV's **Enabling Women** is a leadership program for women with disabilities funded through a philanthropic trust, the Portland House Foundation. The program aims to provide training and skills to women with disabilities to become leaders of change within their communities. It is primarily based in local areas so women can establish links with local

⁴ D. Woodlock, et al, 'Voices Against Violence: Paper 6: Raising Our Voices - Hearing from with Women with Disabilities.' Women with Disabilities Victoria, Office of the Public Advocate and Domestic Violence Resource Centre Victoria, 2014.

⁵ D. Woodlock. Op cit, 'Paper 6.' 2014.

groups and other women. The 8 two hour facilitated modules cover topics including the social model of disability, self-identity, human rights and advocacy. Enabling Women is run in Easy English to ensure it is accessible to as many women with disabilities as possible.

Since 2013 the program has run in 6 regions. Following the Melbourne leadership program, 5 graduates are now advocating with the Australian Commission for a federal/state electoral voting system that offers greater accessibility to people with disabilities. Other graduates have successfully advocated local access improvements in their community. Some graduates in Barwon and Melbourne are working to establish local leadership networks to continue the work started in Enabling Women.

After completing the Gippsland program, a woman with an intellectual disability has secured a job at her local gym. She has also addressed a large audience as a panel member on her experience of self-advocacy. Another graduate has put herself forward to speak about her experience of community housing at the Having a Say Conference in Geelong.

Enabling Women participants' feedback;

"I felt included, it made us feel important and valued and respected"

"My voice will be louder, it has given me more confidence to speak out, I'll be more vocal around non-disabled people, I have growing leadership skills."⁶

An important part of the program's success is the community development approach it takes. Steering committees are comprised of women with disabilities and representatives from committed local organisations. Rural and Metro access workers have played a major role on these committees - promoting, recruiting participants, offering participants mentoring and support during and on completion of the program.

The training program was developed with the assistance of community representatives and women with disabilities.

Recommendation7 : That the NDIA recognise the value of peer support and identify opportunities to resource and foster peer support programs.

Community Participation

Community participation and preventing social exclusion are critical means of ensuring NDIS participants are informed and empowered. Current initiatives to involve people with disabilities in local community life should be continue to be resourced under the NDIS and will be a means of maintaining quality and safety.

Community Participation - practice example

Metro / Rural and Deaf Access Officers work locally across Victoria to support and create social inclusion. These local government based positions are a lynch pin for engaging people with disabilities in many aspects of community life. They also play an important role in building locally based programs (such as the Enabling Women Leadership Program (described directly above).

⁶ Woman with a disability who have feedback on the WDV Enabling Women Program, 2014.

“She (a Metro Access Officer) holds meetings and consultations so I can have a say in local developments, (eg. the development of our sports centre, and an audit of our shopping centres). She seeks our views on policy issues, like the municipal disability action plan. She also seeks the views of a diversity of people with disabilities (eg. she seeks my view as a woman with a disability, and links me to council's gender policy unit). She also links local people with disabilities to services. She reminds other parts of Council that it's their job to be accessible – if it wasn't for this, I doubt I could attend all the council events that I do (like consultations, awards and meetings).” Online survey response from a woman with a disability to WDV's 2014 Social Inclusion consultation.

“Belonging is about building your local networks. If you have people around you feel safer.” Val, WDV member speaking during WDV's 2014 Social Inclusion consultation.

Recommendation 8: That Governments resource Metro / Rural and Deaf Access Officers across Australia to create and promote local opportunities and connections for people with disabilities.

Employment

Employment of people with disabilities is a natural safeguard to participants with disabilities, as recognised in the discussion paper. The NDIA and governments have a leadership role for adopting employment targets of people with disabilities. Further, targets must recognise the diversity of people with disabilities and so, the need to employ a representation of people, with half of them being women. Women with disabilities are less employed than men with disabilities, this can be changed, and the NDIS and Government must lead the way.

Recommendation 9: That the NDIA, the Australian Government and the State Governments set targets of employment of a diversity of people with disabilities, with an equal representation of men and women.

3. Preventative Factors

The question of what the Government must do to prevent people with disabilities from harm is not a simple one, and Australians hold divergent views. Following are some core principles about rights, information, support, advocacy, training and family which Women with Disabilities Victoria recommend are required preventions. Additionally, there is discussion on whether services should be registered.

Human Rights framework

A range of resources on NDIS Safeguards and Quality Frameworks are required for a range of audiences; people with disabilities, women with disabilities, cultural groups with disabilities, and of course, for NDIA staff and registered service staff. All resources should be grounded in human rights with particular regard to the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention To Eliminate All Forms of Discrimination Against Women (CEDAW).

“I think the framework needs to be more human rights driven. This should feed into our rights in the convention. We have to report back about how we are meeting the human rights of these people under then NDIS?” Renee

Another woman responded, “It also need to be put in practice - not just that they are following the convention and that that's enough.” Lara

Recommendation 10: That the NDIS Quality and Safeguarding Framework is grounded in a Human Rights Framework inclusive of the CRPD and CEDAW.

Addressing power imbalances

Women were acutely aware of the power imbalances often present between themselves and others such as service providers and family members. We heard story after story demonstrating of how they can be discredited and have their rights ignored, or simply never be given the opportunity to speak up. The Voices Against Violence research found ‘not being believed’ was a most significant factor in the lack of support given to women.⁷

Recognising gender and power inequalities is important for quality and safeguarding. The stark findings of the Voices Against Violence report highlight the need for recognition of the ways that gender norms and stereotypes perpetuate and uphold men’s entitlement to use violence against women with disabilities.

It is easier for men to hurt women when women themselves are considered less than, and easier still when they are viewed by society as less than, are disregarded, unheard and not valued because they have disabilities. Gender inequality and unjust power relations must be addressed at every level of society, including within the private sphere of intimate and family relationships and the public sphere of services, communities, workplaces and schools.

Alongside the need for gender equality is the need to address discrimination against people with disabilities and an understanding of how these views contribute to the continuation of violence against women with disabilities.⁸

⁷ D. Woodlock, op cit, 2014.

⁸ D. Woodlock Delanie, L.Healey, K. Howe, M. McGuire Magdalena, V. Geddes, S. Granek, ‘Voices Against Violence Paper One: Summary Report and Recommendations.’ WDV, OPA, DVRCV, 2014.

“If people do the wrong thing by a client you're usually there by yourself and it's your word against theirs.”

“We know that women with disabilities experience high rates of financial and economic abuse. Support workers helping you with finance for your housing or your banking.... how can you be sure things are being administrated properly? Especially if it's a family member helping you.”

“These safeguards don't get into the personal side of life. They don't necessarily believe you over family members. Again you are not believed because of [your disability].”

“When you are dealing with the bigger institutions it can be even harder to report neglect. My friend has tried to complain and been told that she is just a trouble maker and complaints are not taken seriously.”

“With the deaf blind community you have to remember the communication access and that it's different for each person and there's a power situation when you lodge a complaint. Red tape and it ends up that the person who has the disability experiences victimization and misses out on a good service.”

“The most frustrating thing was not being believed, being told I was making a mountain after a molehill and staff believing staff.”

“There is a perception when you have an ABI - that the ABI accounts for *everything* - it's the ABI's fault that you have made these things up...we would need an independent specialist service to be believed.”

“When women report violence their concerns aren't always seriously taken, they aren't believed and it rarely goes to court. We need some kind of balance to ensure that we are safe, even if we don't get to court. There has to be a register and it can't just be about residential services because if you are receiving services in your own home you are even more vulnerable”

Australia needs a Quality and Safeguarding Framework that provides checks and balances to address this gross power imbalance experienced between people with disabilities and those without, between women and men, between individuals and systems, between customers and big businesses.

Provider information for participants - Information about services for women

Women in the focus group said they needed certainty that workers had been vetted so that none had in the past behaved in a way that was inappropriate for working with people with disabilities. Ready access to this information was critical to them to inform their choice of services.

Background checks

WDV believe that participants who wish to have access to worker's background checks should be able to do so.

"I live by myself which is another vulnerability for me. I need to know that when people come into my house that myself and my stuff are safe. New providers will all need to be police checked so that we know the kind of people that are coming into our houses." Suni

"Home cleaning or gardening aren't seen as traditional disability services, but as someone with a disability I need to know that, for example, Jim's gardening services have undertaken police checks." Rose

"If you have live in carers or support carers I would want to be presented with a Working with Vulnerable Persons Check and a police check. I would want to see it right in front of me. I think it's a good way to directly assure the client." Andy

"...if someone is a serious offender they shouldn't be anywhere near a woman with a disability. We need to know about it [by having access to see an Exclusion list]." Lara

Recommendation 11: That the NDIA establish options for participants to have staff who have had background checks, or to employ people or choose services without background checks. It is important that participants who choose background checks are not financially disadvantaged for doing so.

Service review system

Several women wanted to be able to have an online resource to compare notes on the quality of services. But it was noted that many Australians do not readily have internet access so information must also be available face to face and in other ways. WDV's **'Your Say, Your Rights Research Project'** examined the use of communications technologies by women with disabilities to access social support and information. The project found that some women with disabilities face a range of barriers to accessing the internet, including a lack of opportunity to access it and to develop skills.⁹

"It would be good to have a website of reviews so that people can report on how service providers are going and you could find out about services (how long they have been around, how many clients they have, do they specialize for indigenous consumers or gender? What is their particular lens or view of the world? Services reviewed by service users in combination with information provided by the service. Are their support workers trained and qualified?" Renee - To which another women commented, "Instead of trip advisor we'd have 'crip advisor' - laughs)." Kaz

Recommendation 12: That the NDIA create a range of ways for people to share information about services; staff checks, training and qualifications; service competencies in relation to gender, culture, impairment types; avenues for complaints and feedback. Information would be available online with service user reviews, and in a range of accessible formats and via face-to-face arrangements. This accommodates a range of access requirements, for example, internet access barriers, literacy and language barriers, reducing social isolation or personal preference.

⁹ C. Jennings, 'Your Say, Your Rights.' WDV and SARU, 2012.

Independent advocacy and self-advocacy

Australia's history of disability rights has shown funded advocacy and self advocacy supports to be an essential safeguards that build capacity amongst people with disabilities and service providers. WDV strongly support funded advocacy and self advocacy programs. Victoria's Self Advocacy Resource Unit (SARU) have demonstrated the power of supporting self advocacy. SARU support a range of groups which are run by, for example, people with Acquired Brain Injury, people with intellectual disabilities, and people with intellectual disabilities who have lost their children through child protection. Members of these groups work together, setting goals, running forums, sharing information, meeting with government representatives, and making change. Women saw independent advocacy as a critical aspect of a disability service system.

"A lot of people are worried that advocacy is going to be defunded." Jody"

A national independent advocacy body is important so you can go to them with any problems with NDIA." Renee

Systemic Advocacy

Systemic advocacy and representation is able to achieve things which service providers, individuals and individual's advocates cannot. Systemic advocacy creates change so that there is integration of / access for people with disabilities in mainstream services (such as housing, family violence, police, education, legal and health).

WDV has been able to give voice to the requirements of women with disabilities to instigate and support a range of programs and policies. Without a driven focus on gender and disability, the following selection of examples would not have been possible.

- Healthy Services, Healthy Women is a WDV workforce development program run with the Royal Victorian Women's Hospital to improve services for women with disabilities.
- Disability represented in the Personal Safety Act, the Family Violence Protection Act and the Police Code of Practice for Responding to Family Violence (with examples of violence against women with disabilities)
- Consultation of women with disabilities in the development of key government policies (including the Disability State Plan and the Violence Against Women and Children Action Plan.
- The Victorian Government Disability Family Violence Crisis Response Initiative for responding to violence, and The Workforce Development on Gender and Disability Program for preventing violence.

"Individual and systemic advocacy and representation are so important. Without the community sector, we would not be represented at all." Glenda in WDV's online 2014 Social Inclusion survey consultation.

"They should definitely continue funding disability advocacy organizations. Without them, we'd be so much more lost." Carol in WDV's 2014 Social Inclusion consultation.

"If you look back at what the community sector has achieved through representation, it is obvious that it needs to continue." Rani in WDV's online 2014 Social Inclusion survey consultation.

Recommendation 13: That Governments recognise and resource peer groups, independent advocacy, self advocacy and systemic advocacy supports as essential safeguards.

Service level safeguards - core competencies and workforce development

Worker qualifications

To choose a service, women said they needed information about workers training and qualifications.

“It’s important to know what level of training people have received from their employees? If something goes wrong do they have first aid skills? Can they resuscitate? Do they have the training they will need to come into your home.” Rose

“It makes me feel definitely better about accessing a service if I knew they had received cultural sensitivity training.” Joanna

Disability training for workers

Whether disability training was necessary for workers did not have consensus in the focus group. Many women did say that workers need general training on how to work with people with disabilities to be able to provide a safe and good service.

“People need to be able to use basic equipment and cope with an emergency.” Andy

“Taxi drivers had to have specific training (10 hours each) because in providing normal services to the community they need to be able to work properly with people with disability.” Renee

While others felt training could not necessarily instil workers with an interest in providing a quality service.

“I did training in Cert 4 in disability and the other students were more interested in the colour of their nail polish. It was awful, it’s more important that people have motivation and that it’s not just about the money.” Sandra.

It is extremely disconcerting that, according to anecdotal evidence, TAFE courses for aged care and disability workers are under pressure to pass students who do not meet the competency required for the course, and are not adequately trained to provide care. The nature of funding arrangements puts courses under compunction to provide education and pass students regardless of their skill level. For example, newly arrived migrant students who cannot read labels and have adequate English to safely provide care. One example provided was a worker who was putting detergent on meals because she couldn’t read the label on the bottle.

Specialised training

Women said beyond general training, some workers would need specialised training to work in particular situations or with certain disability types.

“Training for disability would be good, but it needs to be specialist and qualifies for different people and needs.” Chris

“People who have general training have a glimpse at disability but not the specialist knowledge. We need to look at specialist qualifications such as deaf/blind training.” Rose

Workforce development for prevention of violence against women

Workforce development on gender is widely recognised as necessary for disability services. This position is held by Women with Disabilities Victoria, Women with Disabilities Australia and the Victorian No More Deaths Alliance¹⁰ among others.

Both violence against people with disabilities and violence against women have become prominent social issues of our time. Research has established a link between these two forms of violence which, when it intersects, increases the risk of violence for women with disabilities exponentially. Consequently, violence against women with disabilities is a prevalent and serious problem which cannot be ignored by disability service providers (see Appendix WDV violence position paper).

The highly regarded VicHealth Framework for Preventing Violence Against Women holds that rigid gender roles and denigrating attitudes towards women drive violence against women.¹¹ Violence against women can be prevented. VicHealth say this can be done by improving gender equity, and most importantly, increasing understanding of the causes of violence against women.

WDV's Gender and Disability Workforce Development program was a Victorian Government funded pilot to prevent violence against women using the VicHealth Framework. This innovative program worked across two disability services, with executives, managers, staff and clients who are women with disabilities. The program took a cross sectoral approach, as training was co-delivered by workers from women's services such as sexual assault and women's health services. These professional trainers co-delivered with women with disabilities, demonstrating empowerment and equality between women with a disability and without a disability. (see Appendix G&D for more information). The Gender and Disability Workforce Development Program would be ideal for NDIA staff and registered providers.

Recommendation 14: That the Victorian Government influence the Victorian Government to fund the implementation of a specialist violence prevention training program. This should be developed in consultation with, and delivered by women with disabilities, family violence, sexual assault, justice, police, mental health, aged care and disability organisations.

Recommendation 15: That NDIA planners, LACs and service delivery staff receive violence prevention (Gender Equity) Training developed and delivered by people with expertise in gender equity.

Recommendation 16: That the NDIA commitment to a cross sectoral, evidence based approach to preventing violence against women with disabilities.

¹⁰ No More Deaths, 'Fact Sheet 5: Preventing violence against women and children.' 2014. Members of the No More Deaths Alliance represent all Victorian family violence and legal services, WDV are members of the Alliance.

¹¹ VicHealth, 'Preventing violence before it occurs.' Victorian Health Promotion Foundation, 2007. <http://www.dvrcv.org.au/sites/thelookout.sites.go1.com.au/files/NoMoreDeaths-FactSheet-5.pdf>

Safeguards for participants managing their own plan - provider registration

All the women present recognised that choice was important. But they all also identified structural power imbalances that needed to be addressed through checks and balances.

The focus group facilitator asked, **“What sort of duty care should the NDIS have? Does it come down to the individuals? Or would most people like to have some checks and balances in place?”** This was met with wide agreement.

Women were cautious about what access they would have to information and education on employing workers directly. They spoke about the need for support to draw up contracts and find out about unfair dismissal laws, for example.

Should you be able to choose whoever you want to provide your services? i.e. a neighbor or a family member?

“I wouldn't feel comfortable but it should come down to personal choice.” Suni

“Yes, but you have to have trust. You are putting everything in one person's hands. I would have to have multiple meetings with them to be clear on what I want and need. Then I might develop a contract. It would be good to have help in developing a contract.”
Renee

“I think it's a good idea to have a police check even if you know and get along with your neighbour. I mean we know there are people out there who have abused people... who didn't have checks. It happened to me.” Jody

Many women articulated a need for a professional relationship with service providers. One woman raised the need for a mediation process if things go wrong. The Dispute Settlement Centre of Victoria has developed guidelines on mediation which recognise mediation should not be conducted in cases where there a power imbalances and / or where one party has been traumatised by the other.

“Personal friends or family might know some of your personal needs (helping you with dinner or things) but they don't know more about disability and what it's like to encounter structural barriers. There are reasons we have pushed to develop the professionalism of the workforce.” Sandra

“You need to be sure it's a family or friend with whom you have a formal arrangement through the tribunal or advocacy body where you can enter mediation if things go wrong.” Renee

“Best intentions' can easily change, what's the reality is what really matters. I think definitely keep that line between family and friends and professionals need to be clear.”
Chris

“Employing family members potentially as carers, there needs to be a border line between the professional and personal.” Andy

Recommendation 17: That the NDIA establish a two option system so that those who do not want checks can self manage and those who do can choose. These options would be as follows.

Option 1 - Self managed

This would offer participants:

Information and resources
Training
An advice line
Peer support

This would offer providers:

Resources
Training
Standards of practice

Option 2 – Provider Registration

This would mandate:

Provider registration
Background checks
Standards
A complaints system

Recommendation 18: That the NDIA create a system for independent mediation between participants and providers, that mediation operate in guidelines which ensure that it is not unsafe or unequal, and that research is done to inform these guidelines.

Family can be a positive or a negative support

This consultation’s discussion paper identifies family as a natural safeguard for people with disabilities. Similarly, the Voices Against Violence research found that family members can be a strong source of support for women with disabilities experiencing violence.¹²

“I have lived out on my own for ten years and there have been up and downs (my health has gone dramatically down) and they are still talking about the dreaded nursing home) (wide comments of ‘nooo!’ were heard around the room) but I'm only 37 so I'm interested in having family and professionals work together to make my life work [outside of nursing homes].”

However, people with disabilities drive for independence from family members must be respected in NDIA practice. The NDIA must recognise too, that family members can seek to serve their own interests above those of family members with disabilities.

“My family doesn't think I can stand on my own two feet. But in the past three years I have lived independently - so I have lived both lives - and I don't want to go back.” Suni

Further, it must not be ignored that family violence is one of the most common forms of violence against Australian women, and women with disabilities are by no means immune. In fact, research shows that we are at higher risk as women with disabilities. For example, the Voices Against Violence audit of Victorian Office of Public Advocate files found high

¹² VAV

rates of family violence against women with disabilities.¹³ Family violence can include a range of behaviours such as economic abuse, physical and sexual assault, threats to harm, psychological derision and cultural or religious control. People who perpetrate domestic violence often use power and control for extended periods of time, and can be skilled in discrediting their victims in the eyes of authorities such as case planners.

“Women should be able to speak to a planner without a family member present.” Lara

“You need to be listened to separately from family carers where it is assumed that they are acting in your best interest.” Chris

“We need to make sure that people aren't asked, for example, ‘are you happy with your mother being you administrator,’ in front of their mother. That people are fully briefed about their rights and are able to speak privately.” Sandra

“If I was in situation where a family member was being my administrators and I found out they were misusing my funds I would want support in the process to get them removed as my administrator because their might be backlash (emotional or financial) I need an independent person to make sure my best interest is protected.” Andy

Key questions about family and safety

This consultation’s discussion paper asks the question, “What can be done to support people with a limited number of family and friends?” In reality, how safe someone is does not come down to their number of family members. The questions might be; what can be done to support people who have limited positive personal supports? What might be done to support people who have negative personal supports such as those experiencing family violence?

Recommendation 19: That the NDIA risk assessment tool assesses family violence, and that the NDIA ensures that family are not present during assessment. If family violence is disclosed or suspected, NDIA staff such as case planners take all possible steps to uphold participants’ safety, rights and interests.

¹³ M. McGuire, ‘Voices Against Violence: Paper 4: A Review of the Office of the Public Advocate’s Records on Violence Against Women with Disabilities.’ Women with Disabilities Victoria, Office of the Public Advocate and Domestic Violence Resource Centre Victoria, 2013.

4. Corrective Factors

Governance

The Quality and Safeguarding Framework governance should and have active participation from a diversity of people with disabilities. WDV know through experience, and through our Voices Against Violence research, that women with disabilities offer important experience and expertise. Ultimately, the involvement of women with disabilities in governance improves services outcomes for women with disabilities.

Recommendation 20: That the NDIA and Governments arrange that people with disabilities are provided avenues to participate actively in, and be represented on, decision-making, advisory and planning bodies relating to the Quality and Safeguarding Framework, ensuring that women and other marginalised groups are equitably represented.

Legislation

Legislation can be a Corrective safeguard, but it can just as much be seen as a Preventative safeguard. While it can discipline offenders, legislation can also send a clear message about what is unacceptable.

NDIA staff and registered providers must be clear that it is not permitted to have sex with individual service users who they work with. Legislation is a key strategy to achieve this. Current legislation found in the Crimes Acts of various jurisdictions' need to be broadened to include all disability types, and it must certainly cover people with little or no speech.

Current sexual offences legislation

Specific offences have been enacted to address the particular vulnerabilities to sexual assault of people with a cognitive impairment.^[127] These specific offences may supplement other sexual offences where offending against a victim with a cognitive impairment is an aggravating factor. The offences often regulate people in a particular position, for example those who have a role in caring for the person,^[128] or are providers of medical or therapeutic services^[129] or special programs.^[130]

The additional complexities surrounding sexual assault of adults with a cognitive impairment are particularly evident with respect to the issue of consent. In some jurisdictions, where the accused is a person responsible for the care of the person with the cognitive impairment, or where sexual intercourse was conducted with the intention of taking advantage of that person, consent is not a defence to the charge.^[131]¹⁴

Recommendation 21: That the Disability Reform Council facilitate legislative change so that there is a national law against paid workers having sex with their clients / service users.

Exclusion List

Women at the focus group talked about their own experiences of abuse from support workers, and those of their friends. Their reports are supported by research into the prevalence of violence against women in disability service settings. The women present supported an exclusion list. WDV recommend that this list is not limited to specific service settings, as the current Victorian list is, and that it is available to service users. The only voices reservation was about how it might become a tool for defamation.

¹⁴ Australian Law Reform Commission, '[Sexual offences against people with cognitive impairment](#).'

“What makes me sick... now is... knowing friends with complex needs - most of them are women - are exposed to these same workers. And it terrifies me because I'm not there to support them.” Sandy

“How do people get on to the (exclusion) list? Who gets to access the list? Are we both the client and the employer? Do we see the list? Are there questions of defamation? But if someone is a serious offender they shouldn't be anywhere near a woman with a disability. We need to know about it.” Renee

Recommendation 22: That the NDIA manage a publicly available exclusion list of workers found guilty of assault and other inappropriate or illegal behaviour.

Oversight mechanisms

In Victoria bodies that oversee policies, support complaint processes and report misconduct have raised the profile of the rights of people with disabilities. WDV recommend that models such as the Disability Services Commissioner and Office of the Public Advocate Victoria are studied for national implementation. Programs such as Community Visitors and Independent Third Person play a crucial role in recognising violations and upholding rights. However, to be truly effective, such bodies require adequate resourcing and extended powers. They must not be reliant on volunteers with very limited powers.

“I think the community visitor role needs to be expanded to go into individual homes as well as group houses. The culture of the houses - the staff all know each other and stick together. If you complain there's a risk of retaliation or not being believed, people may be physically unable to make the report unaided in safety. That should bring an independent system to the person.” Renee

“We need a legal team within an independent advocacy body to ensure legal rights are met.” Naomi

Recommendation 23: That the Australian Government create an independent oversight body to independently investigate and respond to violations of rights and ensure appropriate service response to disclosures of abuse. This should include a community visitors program and have the reach to review services provided in private dwellings.

Recommendation 24: That the oversight body meet people with disabilities where they are to build understanding of service user's rights, and the body's statutory powers and processes. Recommendation

Recommendation 25: That a review process should be established where people with disabilities are consulted on what improvements the oversight body requires.

System for handling complaints - independent complaints and investigation body

Service providers need to have internal complaints processes that encourage feedback and complaints. It is also important to have an NDIS complaints system that is independent from providers of supports. The complaints body cannot be positioned to fear recrimination from the NDIA but always act in the interests of people with disabilities.

The NDIA will expose people with disabilities up to a world of marketing and an environment ripe for false advertising. But what redress will there be for receipt of services

that aren't as promised? Consumer affairs bodies are not known for being powerful, fast, or disability accessible (for example, providing information in Easy English).

"In terms of designing housing – what can you do when a house claims to be disability accessible but the benches are up high and the showers are unsafe to use? I have lived in houses that were supposed to be accessible, but they weren't." Naomi

The governance of this body is important. Ideally it would be led by a person with lived experience of disability. It must be led by someone qualified to uphold the rights of people with disabilities, such as a human rights or discrimination lawyer.

The complaints body should collect demographic data of who makes complaints, disaggregated by gender, cultural background, rurality, race and disability type. This data can be analysed in comparison with NDIS participant demographic data eg. if women make up 50 per cent of participants but only make 12 per cent of complaints, does this mean women are receiving a more satisfactory service? If people with communication difficulties are under-represented, does this mean that they are receiving a satisfactory service?

Public reporting of the complaints data is critical to track relevance and accessibility of services against population groups.

This body should be equipped to take any form of complaint, regardless of whether it relates to an NDIS service. If the matter needs to be referred elsewhere, the body must be willing and able to actively refer appropriately, providing support when required. As we know, many complaints can fall between gaps. It would be all too easy for this to happen in circumstances where the NDIS and several other services are involved.

Women said they needed information about how to complain.

- Principles for a complaints process:
- Simple
- Accessible (eg. options for electronic, in person, by phone)
- Supported by advocacy
- Single entry portal that bridges referrals

"There needs to be a clear understanding of how women can complain." Chris

Recommendation 26: That the NDIA work with the Government to investigate best practice in effective, accessible complaints processes to then create and promote pathways for consumer complaints.

Recommendation 27: That the Victorian Government influence the Australian Government to establish an independent complaints body which reports directly to government.

Recommendation 28: That the complaints body is established to receive all complaints from NDIS participants and support appropriate referrals to other complaints bodies as required with a 'no falling between the gaps' policy.

Recommendation 29: That the complaints body collects and publishes data on the demographics of complainants.

Police

WDV have received reports that police are discouraged from investigating crimes in disability services, and that disability services are reluctant to report crimes to police. Relationships between police and disability services need to be strengthened to enable referrals. For more information on referrals between disability service providers and specialist services, please refer to WDV's ILC submission (Appendix ILC). It is essential that victims are asked if they would like police to be contacted, and that victims are offered to speak with relevant services such as sexual assault and legal for support.

Recommendation 30: That Governments create legislation to strengthen relationships between police and disability services to require referral and improve reporting rates.

Recommendation 31: That workers be mandated by legislation to report disclosures of physical and sexual assault and economic abuse to police immediately for investigation – where the victim has given consent.

Trauma informed Care

Trauma informed practice has become common in the field of social work. Given the alarming that the prevalence of trauma experienced by people with disabilities is now widely recognised, it is time for the disability sector to take on this approach. Trauma informed care puts the victim at the centre of responses and is empowering for them.

The Voices Against Violence research is among the studies that found many women who disclose violence are not believed. Other women reported that workers did not know how to help them and would turn them away. Women who are not responded to loose trust in services and must continue to face violence. This strengthens the case for a policy and protocol framework to scaffold and direct staff development on responding to disclosures.

Case example

An Indigenous woman was not believed by her case manager when she disclosed that her partner was abusive towards her. The perpetrator always presented with a caring persona and was able to say 'the right things' to the right people. In this way, he was using the woman's disability against her as it was her disability that enabled him to be a care provider. By being able to present himself in a credible way to people in a position of influence, the perpetrator became even more powerful in the relationship. His story was viewed as more plausible than hers and this undermined her ability to exert influence on the relationship.¹⁵

Recommendation 32: That the NDIA recognise allegations as disclosures and take a trauma informed approach. When responding to disclosures, that the NDIA and registered services affirm the right to safety and respond to immediate psychological and physical safety needs. That the NDIA affirm this in protocols, policies and practices and develop them in consultation with violence against women experts

¹⁵ Women with Disabilities Australia; Women with Disabilities Victoria, 'Submission in Response to the Productivity Commission's Disability Care and Support Draft Report.' WWDA and WDV. 2001. p.10.

Cross sectoral approaches to responding to violence against women

As discussed above under the theme of Prevention, violence against women is an issue which must be addressed by disability service providers, including the NDIA. Women need staff equipped to understand, recognise, respond and refer (to specialist agencies such as police, domestic violence, legal and sexual assault services).

“Advocacy and referrals to agencies that can support you, like a family violence service, is essential. There needs to be somewhere you can report easily and get support through what has happened.”

“If it is something like a rape case you need access to emergency doctors to have all the necessary checks for the person to be convicted (if that is the choice of the person who has experienced the hardship).”

The first step in achieving these aims is to build cross sectoral relationships with response services. Unfortunately the evidence to date does not indicate strong cross sectoral collaboration. For example, the National Disability Services ‘Zero Tolerance’ project on neglect and abuse did not involve gendered violence response experts or practitioners.

Why take a cross sectoral approach?

Kelly’s experiences, brought to light by Community Visitors from the Office of the Public Advocate Victoria, are illustrative of an agency’s failure to engage in cross-sector work in order to respond effectively to Kelly’s allegations of sexual harassment.

A young woman residing at a Supported Residential Service (SRS) of Metropolitan Melbourne was referred by her Community Mental Health Service case manager to a Community Care Unit (CCU) for a four-week assessment.

On the first day that she was at the CCU, Kelly telephoned her SRS manager begging him to let her come back to the SRS. She told him that she was being sexually harassed. She was distressed and said that none of the staff at the CCU would help her.

That evening Kelly returned to the SRS by taxi. According to the SRS manager, she was in an extremely distressed state, and afraid ‘the man’ would get her. The SRS manager calmed her down and her roommate took her to bed at around 1am. The next morning Kelly’s case manager asked Kelly to return to the CCU and she refused to return.

As Bedson notes, the SRS manager’s response to the allegations was ‘inadequate’ (Bedson, 2012: 11). Aside from following DHS administrative protocols, no attempt was made to ensure that the allegations were responded to by involving the police, Kelly’s case manager or a sexual assault support agency, and no report was forthcoming on the outcomes of the complaints that Community Visitors took to the regulator on Kelly’s behalf.

The Victorian Systemic Review of Family Violence Deaths – First Report highlights prevention in the context of victims with disabilities or mental ill health as requiring “improved responsiveness” (Walsh, McIntyre, Brodie, Bugeja, Hauge, 2012: 47). The report notes that if these victims had received a better service response, they would have been less isolated, more likely to seek assistance from services, and workers might have a better understanding of the situation and thus averted fatalities. This finding provides incontrovertible evidence for the importance of professionals responding to violence to be proficient in working across the disability, mental health and family violence –sexual assault sectors.¹⁶

¹⁶ L. Healey, ‘Voices Against Violence: Paper 2: Current Issues in Understanding and Responding to Violence Against Women with Disabilities.’ Women with Disabilities Victoria, Office of the Public Advocate and Domestic Violence Resource Centre Victoria, 2013. p53-56.

The NDIA has the opportunity to structure a Quality and Safeguarding Framework set to deal with violence against women with disabilities. This would take many facets across governance, partnerships, staff training, risk assessment, secondary consultation, responding to disclosures, reporting and data collection.

The NDIA has a responsibility to develop the disability access capacity of these specialist services, thus strengthening the need for cross sectoral work. Police, family violence, sexual assault and legal services can all learn more about disability access by increased referrals and contact with disability service providers and people with disabilities.

“It's not just advocacy, we need strong legal supports with specialize in disability.”

Recommendation 33: That the Quality and Safeguarding Framework link with the National Action Plan on Violence Against Women and their Children and other policy documents to cross fertilise – working parties communicate and coordinate. That the NDIA commitment to a cross sectoral, evidence based approach to responding to violence against women with disabilities.

Recommendation 34: That the NDIA ensures that appropriate safeguards, standards and practice guidelines are developed that prioritise and drive responses to violence against people with disabilities and ensure referral pathways to violence response services. As part of this, the new NDIS workforce must be trained in understanding gendered violence and applying the principles of good practice to uphold the safety of people with disabilities.

Recommendation 35: That the NDIA work with violence against women experts to develop a risk assessment tool that can identify violence against women.

Recommendation 36: That the NDIA develop a violence against women response training package delivered by women with disabilities and workers from across specialist sectors (police, domestic violence, sexual assault, legal).

Data

There is scarce opportunity for serious incidents of violation of the rights of people with disabilities to be systemically analysed. The Victorian Disability Services Commissioner 2012 report, Safeguarding People's Right to be Free of Abuse, recommends analysis of serious incidences and outcomes.¹⁷

Recommendation 37: That the NDIA adopt a comprehensive, gendered approach to data collection that records serious disclosures of rights violations disaggregated by their type, service setting and perpetrator characteristics, and that this data be analysed to inform systemic responses.

Recommendation 38: That all data collected by the NDIA is disaggregated by Socio Economic Status, gender, cultural background and disability type.

¹⁷ Victorian Disability Services Commissioner, Safeguarding People's Right to be Free of Abuse, June 2012.

Conclusion

This submission is based on WDV's research, anecdotal evidence received over years of working in the area of violence against women with disabilities, and consultation held with women with disabilities. The establishment of a critical Quality and Safeguarding Framework is significant, and it is critical that this opportunity is taken to create a framework which is equitable for women with disabilities.

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- Quotes:**
- Women with disabilities' written survey responses and spoken quotes from Women with Disabilities Victoria's consultation for Victorian Social Inclusion Inquiry, 2014.
- Women with disabilities speaking a safeguarding focus group consultation held in Melbourne by WDV, WWDA and DDS, 21st April, 2015.
- Women with disabilities feedback to the WDV Enabling Women Leadership Program.