

Learning from Complaints

Occasional Paper No.1

Safeguarding People's Right to be Free from Abuse

Key considerations for preventing and responding to alleged staff to client abuse in disability services

June 2012

**Disability Services Commissioner is an independent voice
promoting rights and resolving complaints about disability services.**

Learning from Complaints - Occasional Paper 1

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Foreword

This is the first of a series of Occasional Papers which we will produce on ‘Learning from Complaints’. These papers will cover key issues and learnings identified from our analysis of the themes arising from complaints made about disability services. Our learnings tell us that systemically, when people who provide services do not have as their key driver a person centred and rights based approach to their work, less than optimal and sometimes adverse outcomes result for people with a disability.

This first paper deals with one of the most disturbing of issues which can occur in disability service provision, namely alleged assaults or abuse of clients by staff entrusted to provide care and support. These incidents adversely affect not only those directly involved, but also the confidence of other clients, families and staff in relation to the disability service system. We acknowledge that the vast majority of staff working in disability services are committed to, and do provide, positive care and assistance to the people they support and it is vital for them to feel part of a dedicated strategy to safeguard people’s rights to be free from abuse.

Our goal in producing these papers is to identify key considerations for practice and service improvement and suggest ways of addressing some of the underlying causes of complaints, in order to promote and protect the rights of people with a disability and to contribute to effective preventative strategies. We do not claim to cover all aspects of the topic but instead aim to stimulate further thought, discussion and action based on these important learnings from matters we have dealt with.

At the conclusion of this paper, we have detailed a number of strategies we believe appropriately define and characterise good practice and suggest a range of key features and considerations that disability services might apply to enhance sector and organisational responses to the significant issues canvassed in this paper which we commend for consideration of all parties.

Laurie Harkin

Disability Services Commissioner

Background

The Disability Services Commissioner (DSC) is an independent statutory authority established under the Victorian *Disability Act 2006* (the Disability Act) to provide an independent and accessible resolution mechanism for people with a disability who have a complaint about services provided by disability service providers.

The Disability Act requires all disability service providers to have clear, accessible and well documented internal complaints management and resolution processes in place. Disability service providers must report annually to the Commissioner on the number of complaints they have received and how these complaints have been resolved.

DSC provides a strong, independent voice to promote and protect the rights of people using disability services, exercising powers provided under the Disability Act to assess and attempt to informally resolve complaints, refer complaints to conciliation or investigation, and make recommendations to improve services. DSC has a range of other important functions which include conducting education, training and research relating to complaints about disability services, and to identify systemic causes of complaints and suggest ways in which these can be addressed.

In performing these functions, DSC seeks to promote a quality culture within the Victorian disability service sector, where people with a disability are heard, their rights upheld and better service outcomes are delivered. Through reflections and analysis of complaints made to DSC, together with the complaints data and experiences reported annually by disability service providers, DSC is able to identify important trends, systemic issues and causes of complaints which require attention in order to achieve improved outcomes for people with a disability.

Since the establishment of DSC in July 2007, complaints about alleged or actual incidents of staff to client assaults or abuse in disability services have been identified by DSC as warranting specific attention in order to understand the systemic causes and develop effective prevention strategies and responses. In 2010-2011, 3 per cent of complaints to DSC and 6 per cent of all complaints reported by service providers involved alleged or actual abuse by staff.¹ As only a proportion of allegations or incidents are recorded as complaints,² it is not so much the numbers but rather the seriousness and complexity of the issues that have prompted DSC to examine and share the learnings from these complaints. These incidents can have profound impacts not only those directly involved, but also on the confidence of other clients, families and staff in the disability service system.

The issue of violence and abuse of people with a disability has received increasing attention in recent years through reports in the media, and by the Public Advocate, the Community Visitors Program, and the Victorian Ombudsman. In 2010 the Office

1. Disability Services Commissioner (2011), *Annual Report 2011*, 13.

2. In DSC's experience, allegations made as part of an incident report are not often also treated as a complaint, unless a separate complaint is explicitly made.

Background

of the Public Advocate published a paper on *'Violence against people with cognitive impairments'*³ highlighting situations that had come to the attention of the guardianship and advocacy program. The report by the Victorian Ombudsman to Parliament in 2011 on an investigation into an assault of a resident of a disability supported accommodation service⁴ further highlighted the need to identify and implement effective ways to safeguard people's right to be free from abuse.

DSC notes that the Victorian Department of Human Services responded to the Ombudsman's report by implementing new protocols to respond to incidents of alleged staff to client assaults including conducting *'Quality of Support Reviews'*⁵ to review the management of the incident investigation, post incident support provided to clients and to identify practice improvements from review of these incidents. The Department of Human Services has also developed a protocol with DSC, commencing June 2012, *'where notification of allegations of staff to client assaults are provided to the Commissioner to allow independent monitoring of the quality of responses provided to clients.'*⁶

The report by the Productivity Commission on *'Disability Care and Support'*⁷ which outlines recommendations for the introduction of a National Disability Insurance Scheme, identified the risks of abuse, neglect and exploitation of people with a disability and the need for the proposed new scheme to establish effective safeguarding mechanisms to protect people from such harms.⁸ The Victorian Law Reform Commission's final report on proposed reform of Victoria's guardianship laws⁹ also identified these issues and recommended that new guardianship legislation include a new 'public wrong' with civil penalties which makes it *'unlawful for a person with responsibility to care for a person with impaired decision-making ability because of a disability to abuse, neglect or exploit that person'*.¹⁰ Whilst focusing on substitute decision makers, the Law Reform Commission recommended that these proposed safeguards be extended to paid staff in order to 'crystallise' the legal duty of care and to place enforcement in the hands of public authorities.¹¹

3. Office of the Public Advocate, *Violence against people with cognitive impairments* (2010) Melbourne, Victoria, Australia.

4. Victorian Ombudsman, *Ombudsman investigation: assault of a disability services client by Department of Human Services staff* (2011) Melbourne, Victoria, Australia.

5. The Department of Human Services implemented this protocol and Quality of Support Reviews in March 2011.

6. The development of this protocol was referred to in the Victorian Government's response to issues raised by the Community Visitors Program in relation to incidents of staff to client assaults and incident reporting in disability services. See Victorian Government *'Community Visitors Annual Report 2010-2011'* Victorian Government's Response March 2012 (2012), Victoria, Australia, 10.

7. Productivity Commission (2011) *Disability Care and Support Productivity Commission Inquiry Report No 54 31 July 2011*, Commonwealth Government, Canberra, Australia.

8. *Ibid*, 493-519.

9. Victorian Law Reform Commission, *Guardianship: Final Report. April 2012* Melbourne, Victoria, Australia.Ch 18, 417-422.

10. *Ibid*, 419.

11. *Ibid*.

Background

DSC's experience and data on the themes identified in complaints involving alleged abuse by support staff offers an important contribution to the growing concern to establish effective safeguards, preventative strategies and responses to these matters. From DSC's experience in dealing with these complaints, it is clear that these incidents and complaints present many challenges for all concerned, with adverse impacts and trauma not only for those directly involved, but also for other clients, families and staff who may witness or become aware of the incident. These incidents involve questions of breaches of rights, trust, duty of care, and reputation, and require sensitive and adept handling in relation to criminal, investigatory and disciplinary processes and effective responses to the client's wellbeing, safety and access to justice.

DSC's experience in dealing with these complaints has highlighted the need for the disability sector to develop approaches which are informed by a person centred rights based framework and by contemporary literature and research on abuse prevention. Key issues identified by DSC include the need for disability services providers to be better informed about the known risks and prevalence of abuse, the barriers to access to justice experienced by people with a disability, and the specialist approaches required for investigation and support, particularly for people with cognitive impairment and/or communication support needs.

DSC has also identified that responses to incidents of alleged staff to client assaults have a tendency to focus on whether or not the alleged assault can be 'substantiated' for the purposes of criminal or disciplinary proceedings, and not also consider the nature and impact of the incident more broadly from the client's perspective, and whether the client has experienced abuse, a breach of their rights, and trauma as a separate and equal consideration.

This paper draws on Australian and international literature and research, together with key learnings identified from complaints to DSC, to put forward key considerations for preventing and responding to alleged staff to client abuse in disability services. DSC acknowledges that the vast majority of staff working in disability services are committed to providing positive support to clients and upholding their rights. This paper outlines the need for disability services to take proactive steps and actively involve staff in implementing dedicated abuse prevention strategies to safeguard people's fundamental right to be free from abuse.

The term 'client' is used throughout this paper to refer to a person with a disability who is receiving disability services, as this term is most commonly used in the literature and research on this subject.

Key considerations from the literature and research

Defining abuse

The Australian and international literature and research on assaults and abuse in disability services reveal consistent themes about the nature and prevalence of abuse, and the multi-faceted strategies that are required to effectively prevent and respond to abuse experienced by people with a disability. The issue of staff to client assaults in disability services is most often addressed in the literature and research within the broader term of 'abuse' of people with a disability. This focus in the literature on 'abuse' rather than the term 'assault' is noteworthy as the definition of 'abuse' lends itself to a focus on the impact on the client as a separate consideration to the nature or intent of the alleged perpetrator's actions and whether these reach a criminal threshold. The Victorian Law Reform Commission's recommendation of a new 'public wrong' with civil penalties for abuse of people with impaired decision making supports this view, with the Commission noting that whilst behaviour may constitute a criminal offence of assault *'It is important, however, that abuse of vulnerable people be characterised as a public wrong in some circumstances, even when criminal proceedings are unavailable or unlikely to succeed.'*¹²

The Victorian *Disability Act 2006* sets out the right of people with a disability to *'live free from abuse, neglect and exploitation'* and to have *'respect for their human worth and dignity as individuals'*.¹³ These rights are also reflected in the Victorian *Charter of Human Rights and Responsibilities Act 2006*, and in the United Nations *Convention on the Rights of Persons with Disabilities*.¹⁴ Specifically, Article 16 of the Convention deals with people's right to *'Freedom from exploitation, violence and abuse'* and requires that appropriate measures are taken to *'prevent all forms of exploitation, violence and abuse'* and ensure *'assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse.'*¹⁵

The industry standards for disability services which were first introduced in 1997, and incorporated into the *Quality Framework for Disability Services in Victoria 2007* have required disability services to ensure *'Freedom from abuse and neglect'*, with detailed evidence indicators relating to this standard.¹⁶ The new *Department of Human Services Standards*, which will apply to disability services in Victoria from 1 July 2012, also require

12. Victorian Law Reform Commission (2012) above n 9, 419.

13. *Victorian Disability Act 2006* s 5(2)(a)& (b).

14. *Victorian Charter of Human Rights and Responsibilities 2006* s 8, s10, and s21; *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 993 UNT 3 (entered into force 3 May 2008) Articles 14, 15, and 16. Australia is a signatory, and ratified this Convention in 2008.

15. *Ibid*, Article 16.2.

16. Department of Human Services, *Quality Framework for Disability Services in Victoria* (2007) Victoria, Australia, Industry Standards 8.11.8, and 9.

Key considerations from the literature and research

that 'Services are provided in a safe environment for all people, free from abuse, neglect, violence and/or preventable injury' and set out a number of related evidence indicators.¹⁷

The following definition of abuse is used by the National Disability Abuse and Neglect Hotline:

Abuse is the violation of an individual's human or civil rights, through the act or actions of another person or persons.¹⁸

This definition of abuse includes physical, sexual, verbal, psychological or emotional abuse, constraints and restrictive practices, financial, legal, civil and systemic abuse, and may consist of a single act or repeated acts. The focus on violation of human and civil rights is consistent with definitions found in the international literature, including that used in the well documented 'No Secrets' strategy adopted by the Department of Health, United Kingdom for protecting vulnerable adults from abuse.¹⁹ When this definition of abuse is applied to dealing with complaints or incidents involving alleged staff to client assaults, it requires a focus on the impact on clients and their human and civil rights, as a separate consideration to whether the actions of the alleged perpetrator are assessed as meeting the legal definition of assault. The risk of not considering assaults within the broader definitions of abuse or violence, is that when actions are deemed by police or others as not meeting the threshold of assault, the nature of the incident and the client's experience may not be fully considered in the response to an incident or allegation, nor represented in the data and thematic analysis of incidents.

At the same time, DSC upholds the importance of responding to an alleged assault as a criminal act which requires a response from the justice system,²⁰ with clients being proactively supported to provide evidence and participate in police and justice processes. Serious offences and crimes should also not be masked through a failure to use the correct legal term where required.²¹ The report by the Office of the Public Advocate on 'Violence against people with cognitive impairments' released in August 2010 puts forward the importance of being able to recognise and name experiences as ones of violence in order to ensure appropriate and just responses.²²

17. Department of Human Services (2011) *Department of Human Services Standards June 2011*, Criteria 3.5; see also Department of Human Services (2012) *Department of Human Services Standards evidence indicators December 2011*, Criteria 1.1, 1.2 & 3.5. These standards are a single set of standards which will apply to all types of client services funded by the Department of Human Services from 1 July 2012.

18. <<http://www.disabilityhotline.org/what-is-abuse-neglect.html>>

19. Hutton, J, Denham, J & Clarke, C (2000) *No secrets: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse*, Department of Health, United Kingdom.

20. See discussion by Robinson, S and Chenoweth, L 'Preventing abuse in accommodation services: from procedural response to protective cultures' *Journal of Intellectual Disabilities* (2011) vol. 15, no. 1, 64-65

21. See 'The Language of Abuse' in the report by the Nucleus Group, *Abuse Prevention Strategies in Specialist Disability Services: Final Report Commissioned by the National Disability Administrators on behalf of Commonwealth, State and Territory Ministers responsible for disability services* Commonwealth Department of Family and Community Services, Canberra (2002), Australia, 71-75.

22. Office of the Public Advocate (2010), above n 3, 7-10.

Key considerations from the literature and research

Risk and prevalence of abuse

A consistent theme in both Australian and international research on abuse, is the finding that people with a disability, particularly people with an intellectual disability, cognitive, communication and/or sensory impairments, high support needs, and behaviours of concern, are much more likely to experience abuse, including physical and sexual assault, than the general population.²³ At the same time, it is widely recognised in the literature that the available data is unlikely to give the true picture of the level of risk and prevalence of abuse, due to the obstacles experienced by people with a disability to reporting abuse, such as fear of losing services or not being believed, reliance on assistance for day to day support, language or communication difficulties and lack of awareness of rights and what constitutes abuse.²⁴ The research also indicates that people with a disability are much more likely to experience abuse in a service setting than people without a disability, with some studies also finding that the largest group of individuals who perpetrate sexual abuse against people with an intellectual disability are staff in services.²⁵ In DSC's view, this established knowledge of the prevalence of risk of abuse for people receiving disability services should inform both safeguarding measures and practices in relation to people's right to be free from abuse and neglect.

Some reviews have estimated that women with cognitive impairments are three times more vulnerable to assault and up to 10 times more likely to be sexually assaulted than women without a disability, with particular risks and vulnerabilities identified in residential settings.²⁶ The Victorian Law Reform Commission's report on 'Sexual Offences' in 2004 noted that '*people who have a cognitive impairment are more vulnerable to sexual assault and abuse because they depend on others for assistance with daily life.*'²⁷ A 2010 United Kingdom report into referrals of sexual abuse to the Adult Protection Board found that two thirds of referrals were from residential homes. This report noted that whilst allegations of abuse by staff were second highest to alleged abuse by other residents, sexual abuse by staff was also more likely to be hidden and under reported.²⁸

23. See bibliography for articles and reports dealing with prevalence and risks of abuse for people with a disability such as Bruder C & Kroese BS (2005); Casteel C et al (2008); Goodfellow J & Camilleri M (2003); Howe K (2010); Mahoney A & Poling A (2011); Martin SL et al (2006). Office of Public Advocate (2010).

24. See review of research in report by Office of the Public Advocate (2010) above n3, and Goodfellow, J & Camilleri, M (2003) *Beyond belief, beyond justice: the difficulties for victim/survivors with disabilities when reporting sexual assault and seeking justice*, Disability Discrimination Legal Service, Melbourne, Victoria, Australia.

25. See review of research by Goodfellow, J & Camilleri, M (2003) *Ibid*; Bowman RA et al (2010) 'Sexual abuse prevention: a training program for developmental disabilities service providers', *Journal of Child Sexual Abuse: Research, treatment, & Program Innovations for Victims, Survivors, & Offenders*, vol. 19, no. 2, pp. 119-127; Mahoney A & Poling A (2011) 'Sexual abuse prevention for people with severe developmental disabilities', *Journal of Developmental and Physical Disabilities*, vol. 23, no. 4, pp. 369-376.; Cambridge P et al (2010) 'Patterns of risk in adult protection referrals for sexual abuse and people with intellectual disability', *Journal of Applied Research in Intellectual Disabilities*, vol. 24, no. 2, pp. 118-132; Victorian Law Reform Commission (2004) *Sexual Offences: Final Report*, Victoria, Australia.

26. See review of research in Camilleri M & Goodfellow J (2003), above n 24.

27. Victorian Law Reform Commission, (2004), above n 25 Para 6.3.

28. Cambridge et al (2010), above n 25.

Key considerations from the literature and research

Whilst much of the research on the risk of abuse for people with a disability has focused on women, overseas research has found that people with an intellectual disability of both genders are more likely to experience both physical and sexual abuse than the general population, with one study finding that whilst the majority of staff to client sexual assaults are by male staff, the clients who experienced abuse were in equal proportions of male and female.²⁹ Several studies have highlighted the particular risks of abuse to both men and women with a disability in the context of the provision of intimate and personal care by staff, and abuse becoming incorporated into personal care regimes.³⁰

Australian research about sexual assault has highlighted the risks for women with a disability in residential settings: *'Perpetrators of sexual violence who work in care-providing roles can maintain ongoing access to potential victims, selecting those women who are least able to resist or make a formal complaint.'*³¹ The paper by the Australian Centre for Study of Sexual Assault also refers to the documented experience of a Centre for Sexual Assault in NSW of perpetrators moving between services:

*'Offenders will often move from facility to facility. When suspicions arise in one place they will move on. We were contacted recently about an offender who has now sexually assaulted in at least three different facilities. However because he hasn't been formally charged he is still working with an agency which provides locums to disability and aged care services. He always targets clients with little or no verbal communication.'*³²

Children with a disability are also identified as being at particularly high risk, with one review of research finding that they are three to four times more likely to experience sexual abuse than their peers, with many not having the language or ability to communicate the abuse.³³

Reports and literature reviews commissioned by the Office of the Senior Practitioner³⁴ on responses to behaviours of concern and the use of physical restraint by staff are also useful for understanding the risks and prevalence of physical abuse in service settings. Research by Emerson found that almost half (44 per cent) of staff typically resorted to

29. See Bowan RA et al (2010), above n 23,; Powers LE et al (2008) 'End the silence: a survey of abuse against men with disabilities', *Journal of Rehabilitation*, vol. 74, no. 4, pp. 41-53; Saxton M et al (2006) We're all little John Waynes: a study of disabled men's experience of abuse by personal assistants', *Journal of Rehabilitation*, vol. 72, no. 4, pp. 3-13.

30. Yoshida KK et al (2009) 'Women living with disabilities and their experiences and issues related to the context and complexities of leaving abuse situations', *Disability and Rehabilitation*, vol. 31, no. 22, pp. 1843-1852; Zweig J et al (2002) 'Assisting women victims of violence who experience multiple barriers to services', *Violence Against Women*, vol. 8, no. 2, pp. 162-180; Cambridge P et al (2010), above n 25.

31. Murray S & Powell A *Sexual assault and adults with a disability: Enabling recognition, disclosure and a just response*. Australian Centre for Study of Sexual Assault (2008), Australia, 5.

32. *Ibid*, 5.

33. Skarbeck, D, Hahn, K & Parrish, P 2009, 'Stop sexual abuse in special education: an ecological model of prevention and intervention strategies for sexual abuse in special education', *Sexuality and Disability*, (2009) vol. 27, no. 3, 155-164.

34. See for example, Office of Senior Practitioner, *Physical Restraint in Disability Services* (2009), State of Victoria, Australia.

Key considerations from the literature and research

the use of physical restraint when confronted with behaviours of concern by clients.³⁵ The risks of physical assaults or harm inflicted as a consequence of inappropriate or ill equipped responses by staff to behaviours of concern, along with associated issues of culture and design of residential services, are well documented in the literature. Strategies relating to staff training, positive behaviour support and the culture of services therefore feature in many of the approaches to prevention of abuse articulated in both Australian and international literature.

Approaches to prevention and intervention

Much of the literature on prevention of abuse refers to the need for strategies to consist of three levels, being primary, secondary and tertiary intervention. Whilst the definitions can vary, the aims of these different levels of intervention tend to be described in the following way:

Primary interventions: aim to prevent abuse from occurring in the first instance;

Secondary interventions: aim to identify and respond directly to allegations of abuse;

Tertiary interventions: aim to remedy any negative and harmful consequences and to put in place measures to prevent re-occurrences'.³⁶

This tiered approach features in a resource kit on *'Preventing and responding to the abuse, neglect and exploitation of people with a disability'* which was released in March 2012 by the Department of Communities in Queensland to assist disability services to develop effective strategies for each of these different levels of intervention.³⁷ The 'safeguarding schema' proposed by the South Australian Minister's Disability Advisory Council in 2011,³⁸ drew on the work of Michael Kendrick from the United States³⁹, and also proposed a three tiered approach with an emphasis on the dynamics of 'inclusion and protection':

Developmental safeguards: which aim to produce desirable social conditions for 'inclusion and protection' of people with a disability, supporting their valued status in community and developing supports through family and intentional relationship building;

Preventative safeguards: which focus on 'personalisation', service design and cultures to prevent abuse and neglect and actively address identified risks for individuals;

Corrective safeguards: which offer redress and trauma support after incidents occur.⁴⁰

35. Ibid, 12.

36. Faulkner A & Sweeney A, *Prevention in adult safeguarding* (2011) SCIE United Kingdom.

37. Department of Communities, Queensland Disability and Community Care Services (2012) *Preventing and responding to the abuse, neglect and exploitation of people with a disability*, Queensland Government, Australia.

38. South Australian Minister's Disability Advisory Council *Inclusion & Protection; A dynamic safeguarding schema for South Australians with a disability who are also vulnerable to neglect and abuse*. (2011).

39. See for example Kendrick, M, 'Self Direction in Services & The Emerging Safeguards and Advocacy Challenges that May Arise'. (2005) <[http://www.communitylivingbc.ca/what we do/innovation/pdf/Self Direction Advocay.pdf](http://www.communitylivingbc.ca/what%20we%20do/innovation/pdf/Self%20Direction%20Advocacy.pdf)>

40. South Australian Minister's Disability Advisory Council (2011), above n 38, 23-24.

Key considerations from the literature and research

In addition to these different levels of intervention, the literature also discusses the need to identify the different targets of intervention such as described by Fitzsimmons:

Universal prevention: which targets the general public to help ‘bystanders’ to be involved, and to change social attitudes and beliefs;

Selective prevention: which targets people at higher risk;

Indicated prevention: which targets highest risk individuals or groups where there are indicators of potential abuse.⁴¹

A comprehensive review of these integrated models of prevention strategies is outlined in the Commonwealth report on ‘Abuse Prevention Strategies in Specialist Disability Services’⁴² commissioned in 2001 by the National Disability Administrators on behalf of Commonwealth, State and Territory Ministers responsible for disability services in Australia. This report provides a detailed framework for the development of abuse prevention strategies for adoption by States in their provision of disability services, and was referenced in the policy and resource kit developed by Queensland’s Department of Communities.⁴³ The framework outlined in the Commonwealth report incorporates the different levels and targets of intervention described above, and is based on an ‘ecological’ model of prevention which considers the interaction of culture, environment and relationships as core factors in how abuse can occur. This model is attentive to attitudes and behaviours of those in the immediate environment who are the potential ‘bystanders’ to acts of abuse, issues of power in relationships between staff and clients, and the development of strategies to change these. It also considered the wider socio-cultural attitudes and structures that reinforce or perpetuate abuse.⁴⁴ The framework sets out detailed strategies under the five key areas of:

- *Understanding Abuse*
- *Primary Prevention*
- *Preventing Systems Abuse*
- *Creating Safer Environments*
- *Responding to Abuse or Identified Risks.*⁴⁵

The strategies detailed under each of these areas draws in a large part from the work on the development of prevention strategies that has occurred in the United Kingdom, largely arising from the ‘No Secrets’ strategy adopted by the Department of Health, United Kingdom in 2000. The range of strategies that have been developed are outlined in the

41. Fitzsimmons, N (2011) ‘Preventing Abuse and Neglect. Approaches to Stopping Harm’ Conference Paper, *Everybody’s Business Symposium*, Griffith University, Brisbane, Queensland.

42. Nucleus Group (2002), above n 21.

43. Department of Communities, Queensland Disability and Community Care Services (2012), above n 37.

44. Nucleus Group, (2002), above n 21, 19; See Sobsey, D, *Violence and Abuse in the lives of People with Disabilities: The end of silent acceptance?* (1994), Baltimore, United States.

45. *Ibid*, 67, 69-166.

Key considerations from the literature and research

2011 review of the literature on *'Prevention in Adult Safeguarding'* by the Social Care Institute for Excellence (SCIE) in the United Kingdom. This review found increased attention in adult care (disability) services on prevention strategies as a result of the key messaging of the 'No Secrets' overarching strategy in the United Kingdom.

The following key prevention, intervention and response strategies are outlined in SCIE's report, and are identified in both Australian and international literature on the prevention of abuse in disability services.

Key prevention and intervention strategies

Person centred approaches, empowerment and choice

Person centred approaches in disability services, which focus on maximising the capacity of people with a disability to exercise control and choice in their lives,⁴⁶ have been identified in the literature as being central to prevention of abuse and safeguarding of people's rights. Robinson and Chenoweth, for example in a recent review of current approaches to abuse and prevention in disability accommodation services in Australia, point to empowerment and choice being central to any effective prevention strategy. *'In the context of preventing abuse and neglect, the importance of control and choice cannot be understated for people with intellectual disability.'*⁴⁷ The authors highlight that the same features that have been found to be associated with effective approaches to accommodation and support for people with an intellectual disability, have also been demonstrated to be protective of people's safety. The key features of these approaches include a focus on positive support of people with a disability at an individual level, exercise of choice and control, and on supporting and facilitating the connection of people in a range of relationships and with a range of communities of their choosing.⁴⁸

Similarly, DSC's experience has found that when people who provide services do not have as their key driver a person centred and rights based approach to their work, less than optimal and sometimes adverse outcomes result for people with a disability. The Productivity Commission's report on *'Disability Care and Support'*⁴⁹ also recognised the importance and influence of person centred approaches, noting that much of that report was *'about how to give people genuine control over their lives.'*⁵⁰ The policy and program

46. For an outline of person centred approaches or 'personalisation' in services, see for example, Sanderson H & Lewis T, *A Practical Guide to Delivering Personalisation: Person-Centred Practice in Health & Social Care* (2012) United Kingdom.

47. Robinson S & Chenoweth L (2011), above n 20,66; see also Reece A (2010) 'Leading the change from adult protection to safeguarding adults: more than just semantics', *The Journal of Adult Protection*, vol. 12, no. 3, 30-34.

48. Ibid; See also Clement T & Bigby C (2007) *Making life good in the community: the importance of practice leadership and the role of the house supervisor*, La Trobe University, Victoria, Australia; Bigby et al (2011) *Uncovering dimensions of informal culture in underperforming group homes for people with severe intellectual disabilities*, Awaiting publication.

49. Productivity Commission (2011) *Disability Care and Support Productivity Commission Inquiry Report No 54 31 July 2011 Vol 1*, Commonwealth Government, Canberra, Australia, 344-346.

50. Ibid, 345.

Key considerations from the literature and research

directions in Victoria, which emphasise increasing choice and individualised models of support, also support the development of approaches which have been associated with the prevention of abuse in disability services.

Addressing cultures of services

Approaches to prevention which focus on empowerment and choice are often aligned with the 'ecological' model of prevention which focuses on addressing factors such as culture, attitudes and relationships within services. In these approaches *'the underlying causes of abuse are recognised to be broad and to include the behaviours and characteristics of abusers and the people they abuse, as well as aspects of service cultures and environments (and), failings within the social care system.'*⁵¹

Robinson and Chenoweth in their review of abuse prevention strategies in disability accommodation services also stressed the importance of moving away from what they identify as being primarily *'procedural'* or *'managerial'* responses to addressing abuse in services. These authors put forward the importance of services developing strategies which focus on changes to the culture and practices of services and building what they describe as *'protective cultures'*. The features of such service cultures include person centred approaches, control and choice being vested in or close to the person, community connections and positive relationships between staff and residents based on respect and a recognition of rights.⁵² Recent Australian research has also focused on creating 'protective cultures' or 'cultures of respect' as a potential framework for the development of abuse prevention strategies in group homes.⁵³

The literature on the relationship between service cultures and abuse, points to the importance of examining the service cultures and associated practices surrounding any incident of alleged or actual abuse in order to address the underlying causes. In this context, it is critical that reviews of incidents of abuse are not limited to 'procedural' or 'audit' approaches that focus on whether or not certain actions have been taken.⁵⁴

Complaints and feedback mechanisms: 'positive complaints cultures'

A key feature of what has been described as 'protective cultures' in services is what DSC would describe as 'positive complaints cultures' where people are supported and encouraged to 'speak up' about what is working and not working for them, and staff and management recognise complaints as an integral part of providing a quality service.⁵⁵ Supporting people to speak up and to lead their supports is fundamental to person centred approaches to disability service provision.

51. Marsland, D, Oaks P & White C (2007) 'Abuse in care: the identification of early indicators of the abuse of people with learning disabilities in residential settings', *The Journal of Adult Protection*, vol. 9, no. 4,6-20,8.

52. Robinson S & Chenoweth L (2011), above n 20, 64-71.

53. Ibid; see also Bigby C et al (2011), above n 48.

54. See the review of Clegg's work in Robinson S & Chenoweth L (2011), above n 20, 69.

55. See Disability Services Commissioner, Victoria, (2011) *Complaints Culture Surveys for people with a disability, families / advocates and staff*, <<http://www.odsc.vic.gov.au/publications.htm#cultural>>

Key considerations from the literature and research

Accessible and effective complaint and feedback mechanisms are identified in the literature as one of the key features in abuse prevention,⁵⁶ and were considered by the Productivity Commission to be an essential component for ‘safeguarding quality’ in its recommendations for the proposed National Disability Insurance Scheme.⁵⁷ However complaints mechanisms are not always recognised as being as important for the primary prevention of abuse as they are for secondary and tertiary interventions, when incidents or allegations occur.

The development of positive complaints cultures within services, where clients, families, advocates and staff are supported and feel confident to raise concerns, should also be recognised as a primary prevention strategy. From DSC’s experience, services need to proactively address the fear that many clients and their families express about speaking up and making complaints. Addressing these potential barriers to disclosure is a key strategy for changing the conditions that can allow abuse to occur and be perpetuated. Complaints processes that empower all levels of staff to raise concerns and act on complaints, can also play a critical role in addressing the issue of ‘bystanders’ to acts of abuse as part of an ecological approach to prevention discussed above.

Family and community connections and advocacy

The literature also points to the importance of both services and residents being connected to the community to prevent isolation and reduce the risk of abuse occurring. The work of Marsland, Oaks and White⁵⁸ emphasised the dangers of isolated services and the importance of ensuring that residents have connections with someone outside the service who can be alert to the possibility of abuse as well as being a potential source of support and advocacy should abuse occur.⁵⁹ Programs like the Community Visitors Program are identified as playing an important role in detecting and reporting suspected abuse, particularly for isolated services. The importance of clients having a key support person outside the service is highlighted in the research, including the important role played by families in this regard.⁶⁰

DSC’s experience in dealing with complaints made by families about alleged abuse and responses to incidents involving staff members, has also highlighted the critical role played by families in recognising abuse, enabling disclosure and providing advocacy and support. Michael Kendrick’s work in the United States has pointed to the need to recognise and support the ‘informal safeguards’ of families and friends, as well as build ‘intentional safeguards’ for those people without effective networks of support.⁶¹

56. See ‘Key Features of abuse prevention in services’ in Department of Communities, Queensland Disability and Community Care Services (March 2012), above n 37, 16-18; South Australian Minister’s Disability Advisory Council (2011), above n 38, 20 & 24.

57. See discussion on ‘Safeguarding quality’ in the report by the Productivity Commission (2011), above n 7, 507-8.

58. Marsland D, Oaks, P & White C (2007), above n 51.

59. Faulkner A & Sweeney A (2011), above n 36, 24.

60. See Robinson S & Chenoweth L (2011), above n 20.

61. Kendrick M (2002) ‘Intentional Safeguards for Older People’ A presentation to the New Zealand Council of Christian Social Services March 2002 <<http://socialrolevalorization.com/articles/kendrick/safeguards-for-older-people.pdf>>

Key considerations from the literature and research

This work is aligned to the concept of identifying and developing ‘circles of support’⁶² for people with a disability, which in DSC’s experience can be critical for both identifying abuse and providing support and advocacy in the event of abuse occurring.

Bigby and Fyffe in their recent review of literature and research on the role of families with disability services also point to the vulnerability of adults with intellectual disability who lack strong family or other informal networks of support.⁶³ The 2011 Latrobe University policy roundtable on ‘*Services and families working together to support adults with intellectual disability*’ highlighted the importance of services developing approaches which recognise the key roles played by families and to support and strengthen these relationships, especially for clients who are dependent on services for their day to day needs.⁶⁴ DSC’s Family Engagement Project aims to draw on both the literature and the experiences of services, families and people with a disability to develop approaches for supporting the positive engagement of families with services, and the role of families as ‘natural safeguards’ in abuse prevention strategies within disability services.⁶⁵

Access to advocacy has also been identified in the research as a key component of prevention in enabling people to be aware of their rights, have the opportunity to disclose potential or actual abuse to someone outside the service, and to be supported following allegations.⁶⁶ Ensuring access to advocacy is included in the requirements of standards 8.11.8, 9.8 and 9.9 of *Quality Framework in Disability Services in Victoria 2007* and the evidence guide for criteria 1.2 of the new Department of Human Services standards.⁶⁷ This access to advocacy includes the advocacy that may be provided by families and friends as outlined above, and access to advocacy organisations and self-advocacy groups.

Accessible information to understand abuse and rights

Providing accessible information about people’s rights, how to recognise abuse and what to do about it is also identified in the literature as an essential building block in prevention. This is reflected in the requirements of standard 9.9 of *Quality Framework in Disability Services in Victoria 2007* and criteria 3.5 of the new Department of Human Services standards where service providers are required to provide accessible information regarding freedom from abuse and neglect ‘*in a format that facilitates understanding*’.⁶⁸ This means that disability service providers should have resources such as information sheets in easy English and plain English for clients on what abuse is, their rights and what they

62. See discussion on ‘circles of support’ in Sanderson H & Lewis T (2012) above n 46.

63. Bigby C & Fyffe C (ed) (2012) ‘*Services and Families Working Together to Support Adults with Intellectual Disability: Proceedings of the Sixth Annual Policy Roundtable on Intellectual Disability Policy 29 November 2011*’, Latrobe University Bundoora, Victoria, Australia, 5.

64. Ibid, 3-11.

65. See Tiffen R & Kolmus A (2012) ‘*Family engagement project: A call for change*’ in Bigby C & Fyffe C (ed) (2012) Ibid; DSC has established a reference group this project which will formally commence in June 2012.

66. See research reviewed by Faulkner A & Sweeney A (2011), above n 36, 15 & Robinson S & Chenoweth L; (2011) above n 20 ,65-67.

67. Department of Human Services (2007), above n16, Industry Standards 8.11.8, 8.11.11 & 9; Department of Human Services (2012), above n 17 18-19.

68. Ibid.

Key considerations from the literature and research

can expect from the service, and how to raise concerns. Apart from the availability of this information, the research however also identifies the importance of tailoring, individualising, and revisiting the information, with one study finding that only 20 per cent of people could recall receiving or understanding the information about what to do if they had concerns about abuse.⁶⁹ The effectiveness of provision of such information also relies on an understanding of each individual's communication support needs and the availability of up to date communication assessments and communication aides where needed.

Rights based education and training for clients

The literature also reveals that some of the most common prevention strategies include training and education for clients on their rights and protection in relation to abuse. The importance of training and education in relation to freedom from abuse was recognised in standard 8.11.8 of the *Quality Framework in Disability Services in Victoria 2007* in the requirement for disability services to provide '*training in self-protective behaviours for support users and staff*'.⁷⁰ The evidence guide for criteria 3.5 of the new Department of Human Services standards also includes the provision of '*rights based abuse prevention training*' for clients.⁷¹

The ecological approach to prevention of abuse suggests that training should be focused on understanding rights, including the right for respect, dignity, choice and control, and involve both clients and staff in order to effect a change in culture.⁷² Whilst the importance of providing such programs within accommodation services is widely acknowledged, a recent review of approaches to abuse prevention in Australia has found however that '*little education and training appears to occur around abuse and neglect of people with an intellectual disability living in services and what is in place is piecemeal*'.⁷³ Similarly, DSC's experience in dealing with complaints involving alleged abuse and assaults by staff, has been that attention to such training has been triggered in response to an incident, rather than occurring as a standard feature of service delivery.

There are a range of models and approaches which have been developed to enable people with a disability to acquire skills, knowledge and confidence to recognise and protect themselves from abuse.⁷⁴ Models which involve peer education and a focus on rights, empowerment and rehearsal of strategies have been found to have the greatest impact.⁷⁵ Examples in Victoria include a sexual abuse prevention program

69. Study by CSCI (2008a) reviewed by Faulkner A & Sweeney A (2011), above n 36, 14.

70. Department of Human Services (2007), above n16, Industry Standard 8.11.8

71. Department of Human Services (2012) above n 17, 43

72. See Robinson S & Chenoweth L (2011) above n 20, 69-70.

73. Ibid,70

74. See Faulkner A & Sweeney A (2011), above n 36,16-17; Robinson S & Chenoweth L (2011), above n20, 69-70; Bruder C & Kroese BS (2010) 'The efficacy of interventions designed to prevent and protect people with intellectual disabilities from sexual abuse: a review of the literature', *The Journal of Adult Protection*, vol. 7, no. 2, pp. 13-27; Doughty A AH & Kane LM (2010) 'Teaching abuse-protection skills to people with intellectual disabilities: a review of the literature', *Research in Developmental Disabilities*, vol. 31, no. 2, pp. 331-337.

75. See review by Robinson S & Chenoweth L (2011), above n20, 69-70

Key considerations from the literature and research

called '*Living Safer Sexual Lives*'⁷⁶ for people with an intellectual disability which has been successfully piloted and evaluated over the past three years in Victoria and Tasmania using a peer education model. Other training programs that could be expanded to include a specific component on 'Being safe: freedom from harm' include the '*My Rights Training Program*'⁷⁷ by VALID, the Victorian Advocacy League for Individuals with a Disability, and the programs developed by the self-advocacy organisation REINFORCE on '*My House, My Home, My Rights in a CRU*'.⁷⁸

Recruitment, supervision and training of staff

Focusing on the values and attitude of staff in recruitment processes is also highlighted in the literature as an important prevention strategy.⁷⁹ Personal qualities such as the ability to empathise and values such as respect for people's rights, dignity and worth are put forward as key selection criteria for staff. The involvement of clients in selection processes has been found to be an important way of increasing the chances of recruiting staff with these values and skills, and for screening out unsuitable applicants.⁸⁰ The research also suggests the importance of findings from investigations into allegations of staff to client assaults being used to inform approaches to recruitment of staff.

Michael Kendrick writes about the importance of establishing the 'right relationship' between staff, organisations and the people they support⁸¹ and focusing on these as the priority in supervision and support of staff. The focus on positive relationships between staff and clients based on respect and recognition of rights, is also central to delivering effective person centred services.⁸² Key features of abuse prevention strategies in relation to staff include the provision of regular supervision which promotes practice reflection and skill development of staff, along with clear learning and continuous improvement strategies within teams and services as a whole.⁸³ Having a clear code of conduct for staff is also emphasised in this literature.

76. See Frawley, P et al (2011) *Living safer sexual lives: respectful relationships, A violence and abuse prevention program for people with an intellectual disability*, Australian Research Centre in Sex, Health and Society, La Trobe University, Melbourne, Victoria, Australia; Barrett, C & Dyson, S (2011) *Real people, core business: evaluation of the living safer sexual lives: respectful relationships peer education program for people with intellectual disabilities*, Australian Research Centre in Sex, Health and Society, La Trobe University, Melbourne, Victoria, Australia

77. Victorian Advocacy League for Individuals with a Disability VALID (2009) '*My Rights Training Program*' Victoria, Australia. An updated version of this training manual and resource will be available in the second half of 2012 through DSC sponsorship and input.

78. Reinforce, '*My House, My Home, My Rights in a CRU*' DVD and Training program. <<http://reinforce.org.au>>

79. Faulkner A & Sweeney A (2011), above n 20; Mansell J (2011) '*Protecting People from Abuse: an eight-point plan for preventing abuse in services*', in 'Preventing abuse of adults with learning disabilities in the wake of the Winterbourne' June 2011. Community Care. <<http://www.communitycare.co.uk/Articles/17/06/2011/117034>>

80. Mansell J (2011) Ibid.

81. Kendrick, M (2000) '*Some Initial Thoughts On Establishing the 'Right Relationship' between Staff, Professionals, Service Organisations and the People They Assist*' <<http://www.socialrolevalorization.com/articles/kendrick/the-choice-between.pdf>>

82. See for example Sanderson H & Lewis T (2012), above n 46.

83. Department of Communities, Queensland Disability and Community Care Services (2012), above n 37,17

Key considerations from the literature and research

The literature also points to the importance of training and education for staff on client's rights in relation to freedom from abuse, including the right for respect, dignity, choice and control, and how to recognise and report abuse. There are resources available to services on physical indicators and behavioural signs of abuse such as that produced in Queensland's Department of Communities' resource on *'Preventing and responding to the abuse, neglect and exploitation of people with a disability.'*⁸⁴ The research on the effectiveness of staff training and education as prevention strategies also focus on the importance of training in positive behaviour support, communication skills, and person centred approaches.⁸⁵

Public Awareness

The literature suggests that public awareness campaigns on issues such as *'every citizen's right to be free from abuse'* as one of the building blocks in a comprehensive approach to prevention of abuse, by raising awareness of abuse and how to recognise it.⁸⁶ This is what is described as *'Universal prevention'* which targets the general public to help 'bystanders' to be involved, and to change social attitudes and beliefs, as well as educating future staff and raising their awareness of issues of abuse in service settings.⁸⁷

Identifying and addressing risk factors for abuse

This approach to prevention includes identifying risk factors which enable proactive strategies and interventions. This approach is also what has been described earlier as 'selective' or 'indicated' prevention which targets highest risk individuals or groups where there are indicators of potential abuse.⁸⁸

The literature and research, both in Australia and overseas, identify a range of risk factors for individuals and service settings, that have been found to be associated with occurrences of abuse, such as:

- People with cognitive, communication and/or sensory impairments, particularly people who are non-verbal
- People with high physical support needs and dependence
- People who display behaviours of concern
- People without family, advocacy and community connections
- Neglected physical environments
- Staff turnover, stress and high use of agency or casual staff
- Isolated or 'closed' services, where unacceptable staff attitudes and practices can become normalised
- 'Weak' management and lack of practice leadership
- Lack of policy awareness and skills of staff.⁸⁹

84. Ibid, 2-3

85. Faulkner A & Sweeney A (2011) above n 36, 16-20; Mansell J (2011), above n 79.

86. Faulkner A & Sweeney A (2011), above n 36, 12.

87. See Fitzsimmons, N (2011) above n 41.

88. Ibid.

89. See research reviewed by Faulkner A & Sweeney A (2011), above n 36, 8-11.

Key considerations from the literature and research

This research highlights the importance of services identifying risk factors for both individuals and service settings, and developing proactive strategies to address these. Given the particular issues identified for clients with cognitive, communication and/or sensory impairments, such targeted strategies should include ensuring clients have up to date person centred plans, communication assessments and tools to facilitate clients' ability to communicate concerns or disclose abuse, along with staff's capacity to recognise signs of trauma or potential abuse.

The resource kit developed for disability services in Queensland⁹⁰ includes a template for the assessment of risk under the categories of service, family and individual characteristics, and the identification of strategies to reduce risks. This resource also recommends that individual support planning should include such assessments along with strategies to reduce identified risks.⁹¹ The evidence guide for criteria 3.5 of the new DHS standards requires services to have '*documented practice guidelines that recognise the particular risks of abuse, neglect, violence and preventable injury that may be experienced in service environments by people with a disability*'.⁹² In DSC's view, this requirement should be interpreted as including the types of individual and targeted prevention strategies discussed above.

The research also suggests the importance of processes which examine the context and potential contributing factors to any incident of abuse or neglect, and for this information to be used to inform targeted strategies to address those factors in the particular service setting, such as through service reviews, increased monitoring by managers and Community Visitors, staff training and creation of greater community connections for clients. The development of thematic categories for recording contributing factors to incidents of abuse or neglect is also indicated in the research as a way of building a knowledge base to inform targeted prevention strategies.⁹³

Policies and procedures

The research on the role that policies and procedures play in abuse prevention points to the need for comprehensive policies which have as their basis a genuinely person centred approach to care underpinned by a 'zero tolerance' policy on abuse and neglect.⁹⁴ The literature highlights the importance of policies which support individualised planning which considers potential risks of abuse and needs, and risks assessments for people who have experienced abuse, in the interests of working to support the person and informing the types of targeted strategies discussed above.⁹⁵

90. Department of Communities, Queensland Disability and Community Care Services (2012), above n 37, 7-8.

91. Ibid, 18; See also Faulkner A & Sweeney A (2011), above n 36, 21.

92. Department of Human Services (2012), above n 17, 43.

93. Reece A (2010), 'Leading the change from adult protection to safeguarding adults: more than just semantics', *The Journal of Adult Protection*, vol. 12, no. 3, 33.

94. Faulkner A & Sweeney A (2011), above n 36, 20.

95. See review of research by on '*Care planning and assessment*' by Faulkner A & Sweeney A (2011), above n 36, 21

Key considerations from the literature and research

The literature outlines the importance of clearly documented policies and procedures for reporting incidents and allegations of abuse, and for responding to such events. The experience in the United Kingdom on the implementation of the 'No Secrets' abuse prevention strategy highlighted the importance of staff having comprehensive guidance for responding to allegations and suspected abuse, and understanding their role for instance in engaging with police early and ensuring appropriate support for the client.⁹⁶

Standard 8.11.8 of the *Quality Framework in Disability Services in Victoria 2007* specifies requirements for disability services to have policies and procedures which address reporting and investigation of allegations of abuse, including steps, timeframes and roles and responsibilities of staff⁹⁷. The evidence guide for criteria 3.5 of the new Department of Human Services standards also includes similar requirements, along with processes which confirm that staff *understand* these mechanisms and their duty of care requirements.⁹⁸ The Department of Human Services policy on '*Responding to allegations of physical or sexual assault: departmental instruction 2005*',⁹⁹ together with related Department of Human Services' instructions such as '*Critical Client Incident Management Instruction 2011*'¹⁰⁰ set out the core policy requirements for responding to allegations and incidents of alleged assaults and abuse of clients. In order to meet the requirements of the quality standards and provide comprehensive guidance for staff, more detailed procedures and practice guidelines are also required which address the particular issues experienced by disability clients in different service settings.¹⁰¹

Regulatory and legislative safeguards

The literature also points to the important role of regulatory and legislative safeguards in relation to prevention and service improvement strategies, particularly inspection, external monitoring and review processes. The common features include processes for identifying individual and systemic issues, gaps in processes and standards, and providing external mechanisms for protection and safeguarding of rights of people receiving services.¹⁰² The United Nations *Convention on the Rights of Persons with Disabilities* also recognises the importance of external mechanisms in Article 13.3 which states:

96. Hutton, J, Denham, J & Clarke, C (2000) above n 19, 22-29; Brown M et al, (2002) 'The response to "No Secrets"', *The Journal of Adult Protection*, Vol 4, No. 1, 4-14.

97. Department of Human Services (2007), above n 16, Industry Standard 8.11.8

98. Department of Human Services (2012), above n 17 ,43-44.

99. Department of Human Services (2005) '*Responding to allegations of physical or sexual assault; departmental instruction 2005*'. Victorian Government Department of Human Services, Melbourne, Victoria, Australia.

100. Department of Human Services (2012), '*Critical Client Incident Management Instruction 2011*'. (February 2012) Victorian Government Department of Human Services, Melbourne, Victoria, Australia.

101. The Department of Human Services' *Residential services practice manual* provides some specific procedures for departmentally operated disability accommodation services. See Department of Human Services (2009) *Residential services practice manual*, Victorian Government Department of Human Services, Melbourne, Victoria, Australia.

102. Faulkner A & Sweeney A (2011), above n 36, 26

Key considerations from the literature and research

*In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.*¹⁰³

The *Disability Act* 2006 in Victoria, provides important legislative safeguards and external mechanisms for monitoring the quality of disability services. These include the roles of the Senior Practitioner, the Disability Services Commissioner, independent monitoring against the quality standards, the Community Visitors Program, notification requirements to the Public Advocate, and review of certain decisions by the Victorian Civil and Administrative Tribunal.¹⁰⁴ As discussed earlier, recommendations made by the Victorian Law Reform on proposed reforms to Victoria's guardianship laws seeks to further strengthen legislative safeguards through the creation of a new 'public wrong' with civil penalties for abuse of people with a disability, and increasing the powers of the Public Advocate.¹⁰⁵

The literature and research in the United Kingdom on policy and legislative frameworks for 'safeguarding of vulnerable adults' highlight the roles played by inspectors, Adult Safeguarding Boards and the Care Quality Commission in providing 'transparent and accountable mechanisms' for preventing and addressing abuse in services.¹⁰⁶ In the United Kingdom, legislation provides for service providers to report any allegation of abuse in their service to the Care Quality Commission, in addition to their 'local authority', enabling external monitoring of such incidents.¹⁰⁷ The provisions of the Victorian *Disability Act* 2006 have been used to enable DSC to provide independent monitoring of incident reports relating to staff to client assaults from June 2012, through a protocol with the Department of Human Services.

The legislation in the United Kingdom also provides for mandatory staff 'care standards' and maintaining 'a list of individuals who are considered unsuitable to work with vulnerable adults'.¹⁰⁸ There is no direct parallel to these legislated mechanisms regulating the 'suitability' of staff in disability services in Victoria or in Australia apart from criminal and referee check requirements which may not reveal instances of alleged abuse which have

103. United Nations, *Convention on the Rights of Persons with Disabilities*, above n 14, Article 13.

104. Victorian *Disability Act* 2006, Part 3, Divisions 3,5 & 6, Part 6, Divisions 3,6,7, Parts 7 & 8; See also Office of the Public Advocate (2011), *Community visitors annual report: promoting the human rights, interests and dignity of Victorians with a disability or mental illness*, Parliamentary paper, no. 52, Victorian Government Printer, Victoria, Australia; Office of the Senior Practitioner (2011) *Senior Practitioner report 2010-11* Victorian Government, Department of Human Services, Melbourne, Victoria, Australia.

105. Victorian Law Reform Commission, *Guardianship: Final Report. April 2012* Melbourne, Victoria, Australia Ch 18, 417-422.

106. Hutton, J, Denham, J & Clarke, C (2000) above n 19; Department of Health (2011) *Government Policy on Adult Safeguarding* United Kingdom.

107. *Health and Social Care Act 2008 & Health and Social Care Act 2008 (Regulated Activities) Regulations 2010* United Kingdom; See also Care Quality Commission's website <<http://www.cqc.org.uk/>> and Pitt, V, 2011 'The seven things that providers must report to CQC', *Community Care*, <<http://www.communitycare.co.uk/Articles/10/08/2011/117279/The-seven-things-that-providers-must-report-to-CQC.htm>>

108. *Care Standards Act* 2000 United Kingdom, Part VII; See also discussion of this Act and report by Murray S (2010) on compulsory registration schemes for disability workers. The Winston Churchill Memorial Trust of Australia.

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not resulted in criminal charges.¹⁰⁹ In Victoria, as in other states, there is no independent mechanism to determine whether abuse has occurred and the suitability of staff to continue to work with disability clients, such as exists for out-of-home carers of children.¹¹⁰ This is a clear gap in the existing regulatory framework for the prevention of abuse in disability services. Legislation recently tabled in South Australia for proposed mandatory reporting of abuse of people with a disability¹¹¹ is an example of increased attention and debate occurring about the adequacy of existing regulatory safeguards in this area.

Analysis of data to understand and address risks

The analysis of data from incident reporting and notifications of abuse is also put forward in the literature as playing an important role in informing prevention and intervention strategies. Reece's work on the Adult Safeguarding Boards in the United Kingdom points to the importance of analysing for trends and patterns, including 'under reporting' and shifts in patterns to identify potential risk factors or issues in training or awareness deficits.¹¹² In Victoria, central and regional offices of the Department of Human Services are required to monitor and review incident reporting data to identify gaps, trends, and practice and systemic improvements.¹¹³ Regional offices of the Department of Human Services are now also required to conduct 'Quality of Support Reviews' of incidents of staff to client assaults, which include identification of practice and systemic improvements, as well as review of the adequacy of actions and responses to specific incidents.¹¹⁴

The Department of Human Services' incident reporting and management instructions also emphasise the importance of service providers reviewing and learning from incidents, in order to address underlying causes and prevent reoccurrences.¹¹⁵ The approaches developed by DSC to the reporting and analysis of annual complaint data from service providers, which includes key issues and learnings reported by providers,¹¹⁶ could be potentially applied to incident reporting data and provide a more complete picture to inform prevention and intervention strategies. Given the risk factors associated with behaviours

109. In Queensland, a 'yellow card' is required to work in disability services which requires a criminal history check every three years. See <<http://www.communities.qld.gov.au/disability/key-projects/criminal-history-screening>>

110. See provisions for the Suitability Panel in the Victorian *Children, Youth and Families Act* 2005, Part 3.4, Division 5.

111. The *Disability (Mandatory Reporting) Bill* 2012 was introduced by Hon Kelly Vincent MLC in May 2012; A similar bill was introduced to the South Australian Parliament in 2010 but lapsed. See <<http://www.parliament.sa.gov.au>>

112. Reece A (2010), above n 93,33.

113. Department of Human Services (2012) above n100; see also previous departmental instruction Department of Human Services (2010) *Incident reporting instruction – technical update December 2010*.

114. See reference to Quality of Support Reviews in Victorian Government's response to the Community Visitor Program 2010-11, above n 6, 10.

115. Ibid.

116. See Disability Services Commissioner, *Annual Report 2010* and *Annual Report 2011* for discussion on the annual complaint reporting (ACR), analysis of complaint data reported by service providers and chapters on 'Learning from Complaints'.

Key considerations from the literature and research

of concern and use of restrictive interventions, aggregating data on the use of restrictive interventions¹¹⁷ with incident reporting data could also be used by services to identify areas warranting targeted intervention strategies.

Key response strategies

Responding effectively to incidents and allegations of abuse

The literature on providing effective responses to abuse addresses the need for clear policies and procedures for reporting, rigorous investigations of allegations of abuse, the importance of recognising and responding to trauma, and enabling effective access to justice. Links are also made between the quality of immediate responses to allegations or incidents in terms of attending to client's safety needs and impacts, justice outcomes and recovery from abuse.¹¹⁸

The effectiveness of responses to incidents of abuse is also reliant on the key features of abuse prevention strategies outlined above, such as person centred rights based approaches, the engagement of advocacy and circles of support, and the availability of communication tools to facilitate clients' ability to disclose the details of the alleged abuse, along with staff's capacity to recognise signs of potential trauma.

The work of Focht-New and colleagues on psycho-educational and therapeutic interventions for people with an intellectual disability who have experienced violence and abuse puts forward the need to recognise that people experience the full range of effects of trauma and may need a range of specialised interventions and support to be able to deal with these. This work highlights that people with limited verbal communication skills are much more vulnerable to developing post traumatic stress because they may not have the language to express their experience and fears.¹¹⁹ This research points to the importance of ensuring appropriate and specialised responses have been provided in relation to the client's experience of trauma arising from incidents of alleged staff to client abuse.

DSC's experience in dealing with complaints about the adequacy of responses to such incidents has highlighted the need for both training and specific practice guidelines for responding to and supporting clients following alleged assaults and trauma. The research on the impact of trauma for clients with communication support needs also reiterates the importance of ensuring that these clients have up to date communication assessments and tools such as communication dictionaries and books for staff to be able to recognise and respond to signs of trauma.

117. Comprehensive data on the use of restrictive interventions in disability services is collected through the Restrictive Interventions Data System (RIDS) of the Office of Senior Practitioner. See analysis of data in the annual reports of the Office of the Senior Practitioner (2011) above n 111.

118. See for example, Focht-New, G, Barol, B, Clements, PT & Milliken, TF (2008), 'Persons with developmental disabilities exposed to interpersonal violence and crime: approaches for intervention', *Perspectives in Psychiatric Care*, vol. 44, no. 1, pp. 89-98; Goodfellow, J & Camilleri, M (2003) above n24.

119. Ibid Focht-New, G,F et al (2008).

Key considerations from the literature and research

The Department of Human Services' instruction for *Responding to allegations of physical or sexual assault*¹²⁰ applies across all program areas, including disability services and out of home care for children and young people. As discussed earlier, this instruction sets out the core requirements for responding to allegations such as: procedures for assessing situations, reporting to the police and referrals to CASA (Centre Against Sexual Assault); requirements for informing the client, arranging advocacy notifying family or guardian, recording actions in a 'care plan' and arrangements for clients who use an alternative form of communication; reporting requirements within the department; procedures to prevent further contact between alleged 'victim and perpetrator'; and procedures where a staff member is the alleged 'perpetrator'.

The instruction requires that allegations of assault be reported to the police and that every attempt is made to ensure the safety of the client and prevent further contact with the alleged 'perpetrator'.¹²¹ In dealing with alleged assaults by staff, the instruction appropriately emphasises that sexual and physical assaults are crimes and refers to the need for disciplinary procedures and investigations to be instigated without undermining any police investigation. As this instruction does not provide any specific guidance for investigations which involve evidence from people with cognitive impairments or communication support needs, and the process of weighing up and testing evidence in these matters, the findings from the literature point to the need for services to access or develop this expertise and guidance.¹²² In DSC's experience, initial assessments or internal investigations by services can be critical for ensuring effective responses and enabling access to justice, particularly in respect of allegations of assaults where police decide to await the outcome of an investigation or not pursue a matter.

Enabling effective access to justice

The United Nations *Convention on the Rights of Persons with Disabilities* recognises effective access to justice as a fundamental right of people with a disability. Article 13 of this Convention creates an imperative for bodies operating under Commonwealth or State legislation to '*ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.*'¹²³

120. Department of Human Services (2005), above n 99.

121. *Ibid.*, 8 & 24.

122. Examples of resources which can be adapted for this purpose include the guidelines developed by the Office of the Public Advocate and Victoria Police for interviews of people with a cognitive impairment '*Ready Reckoner - Responding to People with a Cognitive Impairment*'; NSW Ombudsman' (2004) '*Investigating Complaints - A manual for Investigators*' outlines requirements for conducting investigations that can be applied to incidents and allegations. <<http://www.ombo.nsw.gov.au/show.asp?id=132>>

123. United Nations, *Convention on the Rights of Persons with Disabilities*. Article 13; The *Charter of Human Rights and Responsibilities* 2006 (Victoria) is an example of state legislation which sets out recognition and equality before the law as a human right (Part 2 s8).

Key considerations from the literature and research

The barriers and difficulties experienced by people with intellectual disability and cognitive impairments in relation to access to justice are well documented in the literature, and are the subject of a Parliamentary Inquiry in Victoria.¹²⁴ The Australian Centre for the Study of Sexual Assault¹²⁵ outlines the particular barriers that people with a disability face in disclosing sexual assault, including the lack of confidence or competence of staff to recognise sexual assault or respond appropriately to disclosures. Margaret Camilleri's doctoral research on *'Why reports of sexual assault made by adults with cognitive impairment fail to proceed through the justice system'*¹²⁶ details the challenges faced by individuals in dealing with police processes in Victoria, including stereotypical judgements about credibility or capacity to give reliable evidence. This research, together with earlier work by the Disability Discrimination Legal Service,¹²⁷ points to the importance of specialised advocacy and ongoing support for victims to ensure that police reporting and investigation processes are tailored to the person's individual needs, including the need for timely and empathetic responses, and that all necessary communication assistance is provided.

The recommendations from Margaret Camilleri's research identify opportunities for increasing the likelihood that reports of sexual assault made to police by adults with cognitive impairment will progress through the justice system, from report to prosecution. Specifically, the recommendations include strengthening the relationships between police and other key agencies such as disability services, investigation processes and questioning techniques, the role of the Independent Third Person Program in providing support in police interviews¹²⁸ and the need for advocacy and early referral to victim support services. Recent research conducted by the Office of the Public Advocate on the Independent Third Person Program also identified opportunities for strengthening this program to provide increased support and early intervention for people with cognitive impairments involved in police interviews and processes.¹²⁹

124. See Camilleri M & Goodfellow J (2003) above n 24; Howe K (2000), *Violence against women with disabilities: an overview of the literature*, Women with Disabilities Australia, Victoria, Australia; Robinson S & Chenoweth L (2011), above n 20; See also the Victorian Parliament's Law Reform Committee (2011) *'Inquiry into Access to and Interaction with the Justice System By People with an Intellectual Disability and Their Families and Carers'*. The report from this Inquiry is due in 2012. <<http://www.parliament.vic.gov.au/lawreform/article/1462>>

125. Murray S & Powell A (2008), above n 31.

126. Camilleri M (2009) *[Dis]abled Justice: Why reports of sexual assault made by adults with cognitive impairment fail to proceed through the justice system*. Ballarat University; Camilleri, M (2008), 'New ways forward – pathways to change', *National Victims of Crime Conference*, Adelaide, South Australia, September 2008.

127. Camilleri M & Goodfellow J (2003) above n 24.

128. An Independent Third Person (ITP) is a volunteer trained by, and registered with, the Office of the Public Advocate in Victoria. The Victoria Police Manual requires ITPs to assist people with a cognitive disability or mental illness during interviews, or when giving formal statements, to Victoria Police. See <http://www.publicadvocate.vic.gov.au/file/file/Volunteers/ITP%20Program/ITP_Brochure_09.pdf>

129. See Office of the Public Advocate (2012) *Breaking the Cycle Project* Melbourne, Victoria, Australia.

Key considerations from the literature and research

A two year pilot project '*Making Rights Reality: Access to justice for sexual assault victims with a disability*'¹³⁰ is being implemented in Melbourne's south eastern region, which aims to address the barriers experienced by people who have a cognitive impairment and/or communication difficulties in relation to the criminal justice system. This project by the Federation of Community Legal Centres, South East Centre for Sexual Assault and the Springvale Monash Legal Service Inc, will facilitate co-ordinated responses from advocacy, victim support and disability services with Victoria Police, the Office of the Public Advocate and the Office of Public Prosecutions. Clients will be provided with specialised support including crisis care, counselling, advocacy, legal information and advice, and support through the justice process, including police investigation, prosecution, and crimes compensation processes. Communication support, support workers and transport will also be provided as part of this service to increase access to both specialist services and justice processes.

The research which informed the above project, highlights the need for staff and disability services to take a proactive approach to ensuring that clients are actively supported to be able to provide evidence and participate in police and justice processes. This includes ensuring that clients have appropriate communication aides and tools which will facilitate disclosures and provision of evidence, alerting police to the need for an Independent Third Person and the client's particular communication support needs, and the need for timely interviews to facilitate recall of information. The literature points to the critical role staff play in receiving and responding to allegations of assault made by people with a disability, and the reliance many clients have in staff reporting allegations on their behalf to police.

As discussed earlier, the experience in the United Kingdom on the implementation of the 'No Secrets' abuse prevention strategy highlighted the importance of staff having comprehensive guidance for responding to allegations and suspected abuse, and understanding their role in engaging with police early and ensuring appropriate support for the client.¹³¹ DSC's experience in dealing with complaints about the adequacy of responses to incidents and allegations, has identified this as an area warranting dedicated attention by disability services in order to improve responses and justice outcomes for clients.

130. See report and outline of this project: Federation of Community Legal Centres (Vic) Inc, (2012) *Making Rights Reality. Access to Justice for Sexual Assault Survivors with Cognitive Impairment*, February 2012, Victoria, Australia; See also information on '*Making Rights Reality*' on website of South East Centre for Sexual Assault (SECASA) <<http://www.secasa.com.au/index.php/secasa/47/461>>

131. Hutton, J, Denham, J & Clarke, C (2000) above n 19, 22-29; Brown M et al (2002) above n 96.

Learnings from complaints and incidents

In dealing with complaints involving incidents and alleged staff to client assaults or abuse over the past five years, DSC has identified the need for the disability sector to develop approaches which are informed by the literature and research on abuse prevention, as summarised earlier. Key issues identified by DSC include the need for disability service providers to be better informed about the known risks and prevalence of abuse, the barriers to justice experienced by people with a disability, and the specialist approaches required for investigation and support, particularly for people with cognitive impairment and/or communication support needs. The majority of complaints to DSC involving alleged staff to client assaults or abuse have related to residential or day service settings. DSC acknowledges that attention is also required to identifying the nature of safeguards and responses required for individualised support arrangements.

Some of the particular areas identified by DSC for improvement in service provider responses to complaints involving incidents and alleged abuse by support staff include:

- Approaches to person centred planning which ensure client's individual needs, ways of communicating and characteristic responses are understood by staff
- Timely and skilled engagement with the client's family and significant others which addresses both their need for support and information, and the role they will play in the planning and provision of support to the client
- Recognition and responses to indicators of potential abuse and trauma
- Clarity of responses and level of investigation required for unexplained injuries
- Timeliness of reporting of incidents both within services and to police to ensure that safety issues are promptly addressed, evidence is preserved and clients have the best opportunity to recall and disclose details of the alleged abuse or incident
- Availability and use of communication aides and resources to facilitate client's disclosures and provision of evidence
- Approaches in facilitating arrangements with police for interviews and examination of evidence, including alerting police to the need for an Independent Third Person and providing information about the client's communication support needs and aides.
- Documented and rigorous approaches to investigations, which ensure appropriate interviews and evidence is obtained, particularly from clients with cognitive impairments or communication support needs
- Focus on the client's experience and outcomes as a separate and equal consideration to the determination of the allegation against the staff member
- Providing trauma-informed responses to clients following incidents and allegations
- Responses to address the impact of incidents on witnesses, particularly other clients
- Communication of outcomes of investigations to the client and family.

Learnings from complaints and incidents

As mentioned above, DSC has identified that responses by disability service providers to incidents of alleged staff to client assaults have a tendency to focus on whether or not the alleged assault can be 'substantiated' for the purposes of criminal or disciplinary proceedings. This means that investigations may not adequately address the nature and impact of the incident from the client's perspective, and whether the client has experienced abuse, a breach of their rights, and trauma as a separate and equal consideration. When police do not pursue a matter and a decision is made that the alleged assault cannot be 'substantiated', findings should still be made as to whether a client has experienced abuse. These findings, together with the impact on the client, should be taken into account as the *primary* consideration in related disciplinary, performance management and employment decisions concerning any staff member.

DSC's experience points to the need for responses to incidents and allegations of abuse to provide a greater focus on the outcome and experience from the perspective of the client. This requires attention by disability service providers to the following factors:

- the way in which responses to incidents address client's safety, health and wellbeing needs, acknowledge the rights of clients, and the adequacy of responses from the client's perspective;
- the nature of support provided to the client to participate in police or other investigation processes;
- understanding of the impact of the incident on the client and specialist support that may be required;
- whether a breach of the *Disability Act 2006* or the *Charter of Human Rights and Responsibilities Act 2006* has occurred and been acknowledged;
- whether the outcome for the client has included sufficient **Acknowledgement**, **Actions**, **Answers**, and the provision of an **Apology** where appropriate.

Learnings from complaints and incidents

DSC has developed the 'four A's' of *Acknowledgement, Actions, Answers and Apology* as a useful framework for providing effective responses to complaints. These 'four A's' are the four most common things sought by people when making a complaint, but equally apply to assessing the adequacy of responses to incidents involving alleged abuse from a client outcome perspective:

Acknowledgement:

- *Has the impact on the client (and his/her family or significant others) been sufficiently recognised and acknowledged?*
- *Has the client felt heard and have his/her concerns been acknowledged and addressed, particularly where the client has made the allegation.*

Actions:

- *Have all actions necessary to address the health, safety, wellbeing and rights of the client, including access to justice, been undertaken?*
- *Have these actions been informed by what is important to, and for, the client and have ongoing responses been incorporated into his/her person centred or support plan?*
- *Have investigations been conducted with appropriate rigour, documentation and independence, and ensured all relevant evidence was obtained, particularly from clients with cognitive impairments or communication support needs?*

Answers:

- *Has the client (and his/her family or significant others) received sufficient information and explanation of the events associated with the incident, actions taken and outcomes of police or other investigations into the allegations against staff?*
- *Does the client (and his/her family or significant others) understand what conclusions and decisions have been made?*

Apology:

- *Has an apology been provided where appropriate?*
- *Where incidents have been observed and are undisputed, has an apology been offered?*

DSC has also developed the following broader framework for reviewing responses to allegations and incidents involving alleged abuse by support staff, which can be used by disability services to review their own responses and to identify potential learnings and areas for improvement:

Responses to client wellbeing, health and safety:

- *Were appropriate steps taken to address the client's immediate safety, health and wellbeing needs such as removal of any staff member in question from the service setting, obtain medical attention and other specialist/victim support services as required?*
- *Have responses to client wellbeing, health and safety been informed by person centred approaches, recognition of trauma, an understanding of the impact of the incident on the client and his/her right to feel safe from abuse?*

Learnings from complaints and incidents

- Have ongoing responses and plans been incorporated into the client's support plan as required by the DHS instruction '*Responding to allegations of physical and sexual assault*'?

Actions and support to clients following incidents and allegations:

- Have the client's specific support needs been addressed, including the availability of a key support person, timely and effective engagement of family, significant others and 'circles of support', advocacy and specialist/victim support services?
- What steps were taken to proactively support the client in respect to the known barriers and difficulties people with a disability can experience in relation to police and investigation processes?

Addressing clients' rights and outcomes:

- Has appropriate consideration been given to potential breaches under the *Disability Act 2006* and the *Charter of Human Rights and Responsibilities Act 2006*, and if so has this been communicated to staff and appropriate acknowledgement and/or apology given to the client?
- Have investigations been conducted with appropriate rigour, documentation and independence, and enabled effective access to justice?
- Has feedback been sought from the client (and his/her family or significant others) on the outcomes of responses to the allegations and incidents from their perspective?

Actions to prevent reoccurrences of individual incidents:

- Have all necessary actions been taken to stop further incidents, such as removal of any staff member in question from the service setting, assessments of the adequacy and appropriateness of investigations and consequent outcomes, and analysis of the precursors, contextual factors and root causes of the incident?

Contributions to prevention strategies, practice and systemic improvements:

- Have the key issues and potential underlying causes of the incident been understood and identified, and used to inform strategies for prevention, practice and systemic improvement?

The above frameworks can be used by disability services both to plan responses to allegations and incidents, and to review the adequacy of responses and identify areas for attention and improvement.

Safeguarding people’s right to be free from abuse in disability services

The literature review, together with the learnings from DSC complaints, highlights a number of key considerations for preventing and responding to incidents and alleged abuse by support staff in disability services. DSC’s experience indicates the need for disability services to take proactive steps and implement dedicated abuse prevention strategies to safeguard people’s right to be free from abuse. As the same features associated with quality services for people with a disability have also been demonstrated to be protective of people’s safety, safeguarding measures should also be seen as an integral part of quality improvement in disability services.

On the basis of the findings from the literature and learnings from complaints, DSC has identified the following key features and considerations for disability services to develop effective abuse prevention strategies and responses to incidents and alleged staff to client abuse.

Strategy	Key features and considerations for disability services
Understanding abuse	<ul style="list-style-type: none"> • An understanding and focus on the client’s experience of abuse as a violation of human and civil rights • Recognition of assault as a criminal act, and clients’ rights to effective access to justice • Recognition of the prevalence and known risks of abuse for disability clients, particularly in residential settings • Knowledge of the barriers and challenges to disclosure of abuse • An understanding of contemporary approaches and integrated strategies for abuse prevention
Promoting practices and safeguards which can prevent abuse: <i>Primary prevention</i>	<ul style="list-style-type: none"> • Recognition of the features in service models and approaches that are protective of people’s safety • A commitment to person centred approaches which maximise people’s capacity to exercise choice and control, and recognise client’s right to ‘speak up’ and to lead their own supports • Attention to addressing service cultures which can allow abuse to occur, and to building ‘protective cultures’ or ‘cultures of respect’ within services • Accessible complaints processes and ‘positive complaints cultures’ which support people to ‘speak up’ about concerns within their service, and to access the Disability Services Commissioner or other appropriate external processes • Recognition of the importance of services and individuals being connected with families, friends and the broader community to prevent isolation and reduce the risk of abuse occurring

Safeguarding people’s right to be free from abuse in disability services

Strategy	Key features and considerations for disability services
<p>Promoting practices and safeguards which can prevent abuse:</p> <p><i>Primary prevention</i> (continued)</p>	<ul style="list-style-type: none"> • Practices to support the positive engagement of families with services and recognition of the role families can play as ‘natural safeguards’ • Access to advocacy, and to someone outside the service, as a source to disclose concerns, and to provide support following allegations • Approaches to person centred planning which ensure client’s individual needs, ways of communicating and characteristic responses are understood by staff, and ongoing feedback sought on the quality of supports being provided • Provision of accessible information to clients on their right to be free from abuse • Abuse prevention education and training for clients which focus on rights, recognition of abuse, rehearsal of strategies and empowerment • Rigorous referee checks, and recruitment, supervision and training of staff which focus on values, the quality of relationships with clients, recognition of clients rights and the code of conduct required of staff • Education and training of staff on recognition of indicators of abuse and trauma, positive behaviour support, communication skills and rights based person centred approaches • Continuous quality improvement processes, which promote practice reflection, feedback from clients and learning from complaints and incidents • Recognition of the importance of external mechanisms for monitoring quality and service practices such as independent quality audits, the Community Visitor Program, the Office of the Senior Practitioner, and the Disability Services Commissioner
<p>Identifying and addressing particular risk factors:</p> <p><i>Targeted prevention</i></p>	<ul style="list-style-type: none"> • Identification of people or settings with known risk factors for abuse and the development of proactive and targeted strategies to address these risk factors, such as service reviews, increased monitoring by managers and Community Visitors, staff training, and creation of greater community connections and/or ‘circles of support’ for clients • Approaches to individual support planning which include identification of risk factors and strategies to address these • Processes to ensure that clients with communication support needs have up to date communication assessments and tools to facilitate clients’ ability to communicate concerns or disclose abuse

Safeguarding people’s right to be free from abuse in disability services

Strategy	Key features and considerations for disability services
<p>Responding to incidents and allegations of abuse:</p> <p><i>Secondary prevention</i></p>	<ul style="list-style-type: none"> • Education and practice guidelines for staff on recognising and responding to indicators of potential abuse and trauma • Detailed policies and procedures which provide comprehensive guidance for reporting and responding to allegations and incidents, including those involving unexplained injuries • Processes to ensure timely reporting of incidents both within services and to police to ensure that safety issues are promptly addressed, evidence is preserved, and clients have the best opportunity to recall and disclose details of the alleged abuse or incident • Identification of a key support person, timely and effective engagement of family, significant others and ‘circles of support’, advocacy and specialist/victim support services • Documented and rigorous approaches to investigations, which ensure all relevant evidence is obtained and considered, particularly from clients with cognitive impairments or communication support needs • Responses which proactively address the known barriers and difficulties people with a disability face in relation to access to justice, including alerting police to the need for an Independent Third Person and the client’s particular communication support needs, and the need for timely interviews to facilitate recall of information. • Responses which address the nature and impact of the incident from the client’s perspective, and whether the client has experienced abuse, a breach of their rights, and trauma, as a separate and equal consideration to the determination of the allegation of assault against the staff member • Clearly articulated disciplinary and performance management processes and decisions which have clients’ right to be and feel safe from abuse, as the primary consideration.

Safeguarding people’s right to be free from abuse in disability services

Strategy	Key features and considerations for disability services
<p>Responding to incidents and allegations of abuse:</p> <p><i>Secondary prevention</i> (continued)</p>	<ul style="list-style-type: none"> • Person centred responses to incidents and allegations which address what is important to, and for, the client, and include the provision of sufficient <i>Acknowledgement, Actions, Answers</i> and an <i>Apology</i> where appropriate • Provision of trauma-informed responses to clients following incidents and allegations, which recognise specialised responses that may be required for people with cognitive impairments and communication support needs. • Responses to address the impact of incidents on witnesses, particularly other clients • Communication of outcomes of investigations and actions taken, and processes for seeking feedback from the client and/or family or significant others
<p>Identifying and addressing underlying causes and systemic issues:</p> <p><i>Tertiary prevention</i></p>	<ul style="list-style-type: none"> • Assessments of the adequacy of investigations and consequent outcomes, and analysis of the precursors, contextual factors and root causes of incidents • Maintenance of clearly documented human resource records on investigations into alleged staff to client assaults or abuse to identify potential patterns in behaviour, and issues for referee checks • Analysis of individual incidents, and data to identify key learnings, potential underlying causes and themes • Use of aggregated data from incidents, complaints and restrictive interventions to inform prevention strategies, targeted interventions, and practice improvements • Identification of systemic issues and development of strategies to address identified gaps in safeguarding measures

Together these key features represent a rights based person centred framework for safeguarding people’s right to be free from abuse in disability services. These approaches are important not only for developing effective abuse prevention and intervention strategies, but also for promoting a quality culture within disability services, where people with a disability are heard, their rights upheld and better service outcomes are delivered.

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