



Victorian Disability Registration and Accreditation Consultation

Submission to Department of Premier and Cabinet

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About Women with Disabilities Victoria

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

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

We have dedicated particular attention to the issue of men's violence against women with disabilities, due to its gravity and prevalence in our lives. Since 2008 we have had a Policy Officer, funded by the Victorian Government, to focus on violence against women with disabilities. This has enabled us to have impact in consultations and the reports of The Royal Commission into Family Violence and the Parliamentary Inquiry into Abuse in Disability Services.

The WDV Gender and Disability Workforce Development Program commenced in 2013 and the [pilot's evaluation](#) was completed in 2015. With continued funding from the Victorian Government the program is still providing disability services with training and frameworks to develop gender-responsive services. This work provides us with unique insights into the need to resource workers with skills and women with disabilities with information about those skills to inform their service choices.

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

Introduction

There is value in equitably resourcing all people with disabilities to be active and effective in choosing and controlling their services. That would be a long term investment. That is our driving principal for a registration scheme.

This submission is based on research, practice experience, and a [2015 focus group of women with disabilities](#) about quality and safeguarding with the support of the Department of Social Services (DSS). The women who attended were of various ages and had a diversity of living arrangements, histories, sexualities and cultural backgrounds. The women had a range of disabilities which included cognitive, intellectual, psychosocial, sensory, physical and communication. Quotes from these women are dispersed through this submission as examples of what they raised as important safeguarding and quality issues. All quotes in this submission are from the consultation, unless otherwise noted.

We see state and national disability registration and accreditation reforms as a unique opportunity to design safeguards that are responsive to the particular needs of women's safety. When our members are choosing services they want to know what registration and accreditation means for them. Women want to know, for example, will a service be responsive to her role as a mother or a carer, her reproductive and sexual health needs, her gender equality of opportunity, her appetite for risk, and her experiences of family violence and gender based violence. Any robust scheme would account for these human rights of women set out in the Convention on the Rights of Persons with a Disability and The Convention on the Elimination of all Forms of Discrimination Against Women.

How do we put this system in the hands of people with disabilities for them to drive it rather than for it to be done to them? How do all people with disabilities have equal access to information, rights, choice and control, including those who have always had less access to services and choices such as girls and women? The recommendations we share in this submission focus on the way a new scheme can empower people with disabilities rather than restrict us. A representative diversity of people with disabilities need to be part of the regulation body, to be meaningfully involved in the registration and accreditation of workers.

If we consider the three approaches to safeguarding in the national 2017 Quality and Safeguarding Framework - developmental, preventative and corrective - WDV are of the view that the developmental approach has the most potential to be effective. It must have a significant investment of resources to empower people with disabilities to feel safe when engaging disability services and to know their rights to exercise choice, control and justice.

List of recommendations

1. That people with disabilities are resourced with support to manage workers through contracts, mediation and administration processes.
2. That the Victorian Government resource peer groups, independent advocacy, self advocacy and systemic advocacy as essential safeguards.
3. That people with disabilities are resourced to actively participate in the registration and accreditation of workers and services.
4. That adults with disabilities have the right to choose their own support workers without family intervention.
5. That Victoria's Multi Agency Risk Assessment and Management system (MARAM) is implemented in the disability sector to boost safeguards and the registration system .
6. That the Victorian Government's commitment to gender equality is applied to this scheme in recognition of the gender gaps in the National Quality and Safeguarding Framework and the Zero Tolerance Framework.
7. That worker accreditation is optional, and information about workers' registration status and accreditation is readily available to NDIS participants.
8. That the scheme have monitoring and review mechanisms informed by people with disabilities.
9. That ease of use and access of the scheme is a foundational principal to ensure that the scheme is designed to be easily understood by the whole community.
10. That risk-based registration levels are developed with violence against women experts to identify power and control in various situations.
11. That the NDIA or Victorian Government manage access for service users to an exclusion list of workers found guilty of assault or other inappropriate or illegal behaviour.
12. That the regulator research and implement guidelines to ensure that complaints and corrective processes are not unsafe or unequal for people with disabilities.
13. That reasonable adjustments to ensure that people with disabilities are represented in the disability workforce and have equal access to career progression opportunities.
14. That the Victorian Government consider creating an opt-out option for people who choose to receive services from non-registered providers – with a proviso that the opt out option would only apply to adults with disabilities themselves.
15. That minimum qualifications are linked to Victoria's Family Violence Industry Plan to include violence prevention and response.

1.1a Where are the greatest opportunities for the Victorian scheme to provide value beyond the national quality and safeguarding system?

Recommendation 1: That people with disabilities are resourced with support to manage workers through contracts, mediation and administration processes.

The scheme's final guiding principal for establishment is that it adequately accounts for resourcing implications of administering the scheme. While there are strong reasons to regulate the workforce, this investment must be balanced with investment in people with disabilities to be empowered in the disability service market (otherwise known as preventative and developmental strategies in the national Quality and Safeguarding Framework).

Aside from any registration and accreditation safeguards established, the women we consulted with were clear that they require support to make decisions and uphold their rights in purchasing supports.

They identified that they require information and support to change administrators, draw up contracts and receive mediation. They were clear that they benefit from all forms of advocacy and the peer support that advocacy programs provide.

These messages accord with what we have heard from a range of other people with disabilities including the Summer Foundation and YDAS who have spoken at consultations about the need to balance external oversights with resourcing for people with disabilities to be active participants in their own safeguarding.

To date, state and national safeguarding reform frameworks have not demonstrated how they will maximise choice and control for people with disabilities. For WDV, choice and control means women having access to information on their rights and services and mechanisms to actively, effectively manage their own services. Rather than build fences to contain people with disabilities, safeguarding and regulation schemes would empower us – to engage services and systems, not receive them.

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

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

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

Respondents in a [WDV members' consultation](#), 2015.

Recommendation 2: That the Victorian Government resource peer groups, independent advocacy, self advocacy and systemic advocacy as essential safeguards.

A registration scheme with corrective functions alone can not make people feel safe in daily life. A scheme needs an integrated network of quality and safeguarding programs that include all types of advocacy.

Victoria's \$1.5 million advocacy innovation fund is a positive step and should be understood as an essential quality and safeguarding strategy. A funding boost to Victoria's diversity of advocacy programs can only be an investment in future preventative, developmental and corrective outcomes for people with disabilities. In referring to the diversity of programs we are recognising the work of advocacy groups representing young people, women, parents of children with disabilities, migrant communities, diagnosis specific groups and more.

It is because of funded systemic, individual and self advocacy programs that cases of abuse in disability services have come to light. Advocates' reports parliament, inquiries and police demonstrate the corrective function of advocacy.

Women consistently tell us about the confidence and skills they develop through advocacy programs. In these programs they build networks and social connections. They share information about rights, services. These outcomes speak to the very heart of prevention and developmental aims of a desirable safeguarding framework and would create the ideal conditions for a registration scheme to function effectively.

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

"I am linked in with the self-advocacy group for people with ABIs... 20 years ago I was a wreck. I had to write notes to shop keepers and I was afraid to speak publicly." Chris

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

Respondents in a [WDV members' consultation](#), 2015.

"I felt included (in the self advocacy program), it made us feel important and valued and respected" Irene

"My voice will be louder (since joining an advocacy group), it has given me more confidence to speak out, I'll be more vocal around non-disabled people, I have growing leadership skills." Sal

[Participant feedback](#) on the WDV [Enabling Women Program](#), 2014.

Recommendation 3: That people with disabilities are resourced to actively participate in the registration and accreditation of workers and services.

Transforming the role of disability service users into the roles of assessors and trainers would be the mark of an exemplary Victorian scheme. Around 15 years ago we saw [Jas Anz](#) develop innovative practice in this area and if we want to empower people with disabilities we should build on this innovation.

1.1b Are there any problems about a scheme that the Government needs to be aware of?

Recommendation 4: That adults with disabilities have the right to choose their own support workers without family intervention.

Recommendation 5: That Victoria's Multi Agency Risk Assessment and Management system (MARAM) is implemented in the disability sector to boost safeguards and the registration system.

It is easy to understand why some advocates might call for family to be able to choose workers and provide paid support. How do we monitor how family are choosing and controlling supports? Where are the mechanisms in this scheme to ensure it does not support family violence? How will the reforms support children with disabilities to develop skills to choose their own workers and services?

WDV support the scheme's second guiding principle, that the scheme is risk and evidence based. The research about the risk family violence is clear, men with disabilities experience higher rates than men without disabilities and women with disabilities experience higher rates than women without disabilities ([Royal Commission into Family Violence](#)).

In contrast, safeguarding policy consistently reverts to framing family as a positive support. In practice, at client intake, disability services sometimes undertake a risk assessment about forms of family violence recognised in the Family Violence Protection Act, particularly financial abuse. However, Victoria's very own multi-agency evidence based family violence risk assessment and response tools are not used in the disability sector.

[WDV's evidence to the Royal Commission](#) explained the way disability services respond to family violence by calling a family case conference rather than drawing on Victoria's risk assessment and management systems. Police, courts, hospitals, maternal child health nurses and family violence services all share a common framework for risk assessment. Yet the disability sector has not incorporated it despite the rates of family violence against women with disabilities.

Our safeguards and regulatory schemes have a responsibility to ensure such arrangements are not permitting any form of family violence including physical, economic or controlling abuse.

"These safeguards don't get into the personal side of life. They don't necessarily believe you over family members. You are not believed because of your disability." Fiona

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

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

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

"Best intentions' can easily change, it's what's the reality is what really matters. I think definitely keep that line between family and friends and professionals need to be clear. You need to be listened to separately from family carers where it is *assumed* that they are acting in your best interest." Chris

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

Respondents in a [WDV members' consultation](#), 2015.

Recommendation 6: That the Victorian Government’s commitment to gender equality is applied to this scheme in recognition of the gender gaps in the National Quality and Safeguarding Framework and the Zero Tolerance Framework.

[VicHealth](#) and [OurWatch](#) report that gender inequality is the primary driver of violence against women, and that other power inequalities such as disability are additional, compounding risks. Victoria has adopted their frameworks through strategies in gender equality, violence prevention and a ten year plan to address family violence. The Victorian Government is a recognised leader in promoting gender equality.

As this consultation’s paper notes, 10 of the 227 recommendations from The Royal Commission into Family Violence were specific to disability. WDV have identified another six that are specifically relevant to the disability sector. Likewise, in the [Parliamentary Inquiry into Abuse in Disability Services report](#) an entire chapter was dedicated to gender.

Despite the mandates of these reports and strategies, consultation around this scheme has not identified any gender-responsive safeguards beyond practice advice for gender preferences for provision of intimate supports. The context surrounding Victoria’s new scheme is that the Zero Tolerance Framework and the national frameworks have a few lines dedicated to women but they are not gender-responsive. They do not draw upon the evidence or connect with the significant work addressing gender inequality referred to above.

Taking these factors into account with what we know about risk, it is incongruous that this risk based scheme is not setting out gender responsive safeguards.

Gender-responsivity in this scheme would include;

- That scheme adopt language recommended by the [Inquiry into Abuse in Disability Services report](#) (specifically naming *violence against women, family violence* and *sexual assault*, referring to ‘targeted’ and ‘at risk’ rather than ‘vulnerable’, and ‘disclosures’ rather than ‘allegations’).
- That the scheme provide avenues for women with disabilities to participate actively in decision-making about themselves as individuals and systemically.
- That the all policies, protocols and practices to are gender responsive.
- That all the scheme’s data is gender disaggregated.
- That the scheme create gender specific resources for women with disabilities, or promote WDV factsheets developed for women.
- All disability service clients are given accessible information and protections on choosing the gender of support workers in accordance with Equal Opportunity and Sex Discrimination Law exemptions.
- That the regulator undertake and actively promote cross sector engagement with specialist services in recognising, responding to and preventing family violence and violence against women – including adopting the MARAM system and applying it in circumstances where families are choosing and providing paid supports.
- That NDIA staff and registered providers are not permitted to have sex with the service users they work with. Legislation is a key strategy to achieve this - Victoria’s Crimes Act needs to be broadened to include all disability types, and it must certainly cover people with little or no speech.
- That any minimum qualifications include evidence based training on preventing, recognising and responding to violence - such as the range or programs developed by WDV with support from the Victorian Government.
- That the regulator ensures the scheme meets Australia’s commitments to Convention on the Elimination of all Forms of Discrimination Against Women

1.1c Collecting workforce information to inform participants and improve quality

Recommendation 7: That worker accreditation is optional, and information about workers' registration status and accreditation is readily available to NDIS participants.

Recommendation 8: That the scheme have monitoring and review mechanisms informed by people with disabilities.

Women we consulted were clear that they want to be able to choose between accredited and non-accredited workers.

Those who wanted accredited workers said it was essential for them to have access to information about individual workers' qualifications to inform their choices. Those who didn't want accredited workers identified a range of criteria they would use to choose services such as shared interests or identified comparable values.

Once services have been chosen, the big question is, how does a registration scheme collect data to monitor and review and improve the service quality? Such reviews would tell the regulator, for example, if cultural sensitivity training has been effective and that most clients think workers with that accreditation are performing in that domain. Such a system would tell us if regulation and accreditation is working to produce the quality it is designed to promote.

Such a system can only be informed by people with disabilities themselves as service users if we are to move beyond the paternalism that meant women with disabilities must rely on the protection and oversight of others to be safe.

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

"When they come into my house, I want to know if I can trust them around my kids." Angela

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

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

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

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

Respondents in a [WDV members' consultation](#), 2015.

Q 3 Who should the scheme apply to?

Recommendation 9: That ease of use and access of the scheme is a foundational principal to ensure that the scheme is designed to be easily understood by the whole community.

The consultation documents suggest a move towards various levels of registration for workers. The discussion paper identified ten types of workers in the disability system. Participants in consultations have reported this amount of categorisation confusing. Any Victorian system could be additionally complicated by its interaction with a national system.

For graded registration to work in practice, it is essential that the levels of registration be easily understood by workers and by people with disabilities. As the discussion paper mentions, under the scheme a broad segment of our community will have to manage and understand recruitment and professional development.

WdV believe that no person be subject to a lesser standard of safeguard or quality due to inaccessible information about the scheme.

Recommendation 10: That risk-based registration levels are developed with violence against women experts to identify power and control in various situations

If registration levels are rated by risk then the scheme needs to recognise what we know in Victoria about risk, as discussed through this submission.

It has been proposed that levels of registration might be based on the type of work being undertaken or the capacity of the client – or the capacity of their family to direct service.

WdV are concerned about several factors;

- nominating family to direct service should not be done arbitrarily
- the risks of and to individuals or circumstances are not necessarily static.

People are dynamic. Some people could need more safeguarding over time, some people could need less or it could fluctuate. Likewise, the risk of situations can vary.

The violence against women and family violence sector has developed and is honing evidence based tools to assess and respond to risk which would inform a granulated registration scheme.

Additionally, the scheme can support women to implement their own safeguards through developing peer groups, advocacy, or choosing women for all their support service roles.

As Victoria's individual transport services are deregulated it is time for a serious look at safety and risk.

SCENARIO: Millie lives in a rental property and is blind and has fluctuating MS. Based on her disabilities and her university qualifications she is assessed as a low risk client.

While her disability support package includes a range of items, the only service delivery is a monthly lawn mowing service. This service is graded as a low risk activity.

Millie is unemployed and socially isolated. Over time, the regular gardener, Dave, builds a trusted friendship with her. He starts coming into the house offering to help with chores. He begins to do Millie's online banking.

The relationship becomes abusive. When Millie's MS symptoms are peaking, Dave has the power to do whatever he likes in Millie's house and this grows into a general pattern. He threatens her that if she tells anyone about his violence he will kill her guide dog.

4.2.5 What information sharing powers should the regulator have?

Recommendation 11: That the NDIA or Victorian Government manage access for service users to an exclusion list of workers found guilty of assault or other inappropriate or illegal behaviour.

Women who we consulted were supportive of a registration or de-registration list and they wanted to have access to the list to inform their decisions about choosing providers and recruiting workers.

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

Respondents in a [WDV members' consultation](#), 2015.

4+ What role should the complainant play in a disciplinary process?

Recommendation 12: That the regulator research and implement guidelines to ensure that complaints and corrective processes are not unsafe or unequal for people with disabilities.

Complaints and corrective processes can be disempowering for people with disabilities. The Disability Services Commissioner has done some work to address this but research is needed to guide the most equitable, safe practices.

WDV recommend that a good complaints system would include the following features:

- independence from service providers and government
- have ease of access for people with disabilities
- transparent reporting to government
- collecting and reporting on demographic data including gender, settings and relationships
- make referrals to other complaints bodies and referrals for support for complainants (with a no-wrong-door process).

5.2a Should there be flexible pathways for workers to register and qualify?

Recommendation 13: That reasonable adjustments to ensure that people with disabilities are represented in the disability workforce and have equal access to career progression opportunities.

Equal opportunity for workers with disabilities is an important aspect of a regulatory scheme. Expert advice can be drawn from the DHHS Office for Disability and the Australian Network on Disability. They should not be disadvantaged by the new system, rather, the new system is an opportunity to improve work opportunities for people with disabilities.

5.3 How is workforce growth balanced with workforce quality?

Recommendation 14: That the Victorian Government consider creating an opt-out option for people who choose to receive services from non-registered providers – with a proviso that the opt out option would only apply to adults with disabilities themselves.

Many advocates have called for the option to choose non-registered workers. Some submissions to this consultation recommend a registered-worker-opt-out system. WDV see merit in this recommendation supporting adult choice and independent decision making.

With the aforementioned risks of family violence, it is clear that perceptions of who is making the decision to opt out could be blurred where nominees and plan managers are involved and that people could take advantage of that.

Consequently, WDV would only support an opt-out option if it is certain that it is the adult person receiving services making the decision and not their nominee, family member or another person in their life. This is a positive option for people who know their rights and they can exercise choice and control.

Consideration should be given to how people transition to adulthood or experience a decrease or fluctuation in their opportunities and capacities to exercise their choice.

Recommendation 15: That minimum qualifications are linked to Victoria’s Family Violence Industry Plan to include violence prevention and response.

Changing understandings or risk have sensitised us to the evidence base around violence prevention and response. All of the work in Victoria now tells us that for workers to prevent, recognise and respond to violence that they need skills developed through training. So any robust accreditation system would include these skills.

This scheme’s development is a clear opportunity to position workforce development in sync with the Family Violence industry plan. The plan, now being finalized by the Victorian Government, has four tiers of workforces that need to be trained in violence prevention and response. Tiers three and four include the disability sector. This plan was informed by recommendations from the Royal Commission into Family Violence. This is where Victoria can be leading the way. There’s an onus on organisations to pay for this training.

The point of giving a woman the ability to choose a worker is so that she knows they've got skills that she cares about. Women with Disabilities Victoria and our members are among the many Victorians who wish to know if their worker can prevent, recognise and respond to violence.

Family Violence Royal Commission Recommendations

[Recommendation 172](#) The Victorian Government fund training and education programs for disability workers—including residential workers, home and community care workers, interpreters and communication assistants and attendant carers—to encourage identification and reporting of family violence among people with disabilities [within two years].

[Recommendation 173](#) The Victorian Government, through the Council of Australian Governments Disability Reform Council, encourage the Commonwealth Government and the National Disability Insurance Agency to ensure that all disability services workers involved in assessing needs and delivering services have successfully completed certified training in identifying family violence and responding to it. This could include further developing and mandating the units on family violence and responding to suspected abuse in the Community Service Training Package [within five years].

Conclusion

This submission is based on WDV’s research, anecdotal evidence received over years of working in the area of violence against women with disabilities, what we have learned from women with disabilities, disability workers and violence against women workers. The establishment of a Registration and Accreditation Scheme is significant, and it is critical that this opportunity is taken to create a framework that is equitable for all women with disabilities.