

TRANSCRIPT

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Inquiry into abuse in disability services

Melbourne — 19 October 2015

Members

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Witnesses

Ms Keran Howe, Executive Director, and

Ms Jen Hargrave, Policy Officer, Women with Disabilities Victoria.

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The CHAIR — The Committee calls Women with Disabilities Victoria. Thank you for coming along this afternoon. This afternoon we have Keran Howe, Executive Director, and Jen Hargrave, Policy Officer, from Women with Disabilities Victoria and I believe we will have an additional in camera hearing after this.

All evidence at this hearing taken by the Committee is protected by parliamentary privilege as provided by the Constitution Act of 1975 and subject to the provisions of the Parliamentary Committees Act 2003 and other relevant legislation. Any comments you make outside the hearing will not be afforded such privilege. It is a contempt of Parliament to provide false evidence.

Recording of the proceedings will commence today and you will be sent a proof copy of the transcript and will be able to make factual and grammatical corrections if necessary.

Post the presentation by Jen and Keran, this hearing will be conducted in camera. No one present may publicly discuss evidence raised during the course of this evidence after it is completed. The evidence obtained in this hearing will remain private under conditions in respect to the joint standing orders of the Parliament of Victoria. For the public gallery, post the presentation by Jen and Keran the public gallery will be cleared, thank you.

Over to you.

Ms HOWE — I'd like to acknowledge the traditional owners of the land we are meeting on today, the Wurundjeri people of the Kulin Nation, and pay my respects to elders past and present and in particular any elders that may be present with us this afternoon.

I'd also like to acknowledge people with disabilities who have experienced abuse and violence over the years in disability care and to thank those who have spoken out for their leadership on behalf of us all as people with disabilities.

We take pride in our identity as women with disabilities to speak of our experiences and to represent our members who are diverse in our experiences of race, ethnicity, sexuality and the nature of our disabilities. We're very pleased that the Parliament has seen fit to carry out this critical inquiry. In particular, to look at the way that abuse occurs within disability services. We are hopeful that as a result of this inquiry rigorous prevention and effective victim-focussed response measures are introduced in Victoria.

Women with Disabilities works closely with other women's organisations who are concerned with violence against women and we are particularly concerned with representing a gendered view of abuse and neglect and exploitation here today. We note that gender has been given very little recognition in other representations to the inquiry but it does have significant implications with regard to the way we understand, prevent and respond to what is quite currently an intolerable situation of abuse.

As you've stated, later you will hear from a member of Women with Disabilities Victoria about her experience of abuse and of what happened when she reported her concerns.

I'd like to speak of Women with Disabilities Victoria's view on the systemic issues that the inquiry has signalled their interest in. Jen, perhaps I should hand over to you now to start by speaking about response intervention.

Ms HARGRAVE — We're here today talking about how to address abuse of people with disabilities. We are fortunate to have great expertise at hand. Our state of Victoria has been a leader, nationally and internationally, in responding to violence against women. What has been learnt is transferrable. It is transferrable because the effects and treatments are similar and because the causes are similar. They lie in derogatory attitudes towards both women and people with disabilities and inequalities in power.

The three points I am going to share with you today, which I'm hoping will be helpful, are about how it can work when sectors work together, the importance of listening to victims, and prevention strategies. Through the work on violence against women we see what can be achieved when sectors work together. Some of you may have been involved in the 2005 reforms which integrated services so that police, courts and family violence services shared responses such as the common risk assessment framework.

In a disability service context there is so much we can take from these approaches where expertise is shared across sectors. Together they make an integrated system which responds to inequalities in power between individuals.

A critical thing about working with people with disabilities is that there are inherently inequalities in power. Many workers know this and work to empower people with disabilities, but others choose to abuse their power.

A fundamental way services can empower people with disabilities is by listening to what they say makes them feel safe and what they say makes them feel unsafe. In one instance reported to us recently a service is refusing to provide female support workers for a woman. She says she feels unsafe with the male workers, and I'm sure that you can imagine how that would feel to have a male come in and help you with the most intimate of care with your menstrual management and those types of things after you have made it really clear, emphatically, that that is not something you feel safe with.

Likewise, when violence has occurred the incident reporting system has not been structured to listen to the voices of people with disabilities. Incident reporting focuses in on allegations of abuse. Placing the focus on the investigation means that the victim can easily be forgotten.

In the evidence that will be provided to the Committee in camera the witness will speak about how her reports to a disability service were ignored for six months. In fact, when the service did respond the only support she was personally offered was an in-house counsellor who was not independent from her service provider. I'm sure you can see the problem with that.

In contrast, sexual assault, for family violence services use a person-centred approach. This responds to the person who discloses the abuse. Disability services can work with violence-response specialists like this to respond to the victim's fear, their trauma, their safety and their rights. I think this person-centred approach is important to consider when we are considering whether or not mandatory reporting is appropriate, how we hold a person-centred approach at the same time as having a mandatory reporting system.

In regards to violence prevention, Victoria has also led the way. VicHealth reports that violence can be prevented. In 2007 VicHealth released a gender violence prevention framework based on global evidence. The framework highlights three areas for action: promoting respectful relationships; promoting non-violent norms; and improving access to information and support. This Committee in considering the benefit of a Victorian strategy to address abuse of people with a disability - a prevention strategy is something we support as we have seen what can be achieved through statewide strategies on violence.

Components of an effective prevention strategy will include: changing community attitudes which devalue us; providing peer support; supporting self-advocacy programs; and providing accessible information on rights, relationships and services.

In terms of changing community attitudes and providing peer support, self-advocacy programs and accessible information, I'm happy to provide examples in question time and we also have them in our Part 1 submission and our position statement here.

The VicHealth framework has been complemented in 2009 by a statewide Government prevention strategy which supported practice development. Successive Governments have committed to violence prevention and also made investment in regards to women. Now the whole community has a growing awareness of preventing violence against women by addressing its causes. This has been increasingly publicly discussed especially through the royal commission recently. Rosie Batty has become a leader and a household name speaking about violence prevention. We could achieve this too with violence against people with disabilities. With a state strategy and strong leadership we can start to really make change. When WDV speaks about leaders we are thinking about individuals making a change like Christine Nixon did with family violence. We are also speaking about a whole-of-government approach and whole-of-government leadership.

I will hand back to Keran to continue.

Ms HOWE — Thanks, Jen. I think where we start there are two things we wanted to talk about, about the whole of Government approach. Firstly is a policy that recognises that inequalities create an environment of violence and so we are hopeful that the Royal Commission Into Family Violence will address issues like gender inequality and come up with strategies as well as a whole-of-government policy around this issue and we expect that there would be recommendations within this around issues of women with disabilities experiencing violence. We would hope that this inquiry should also consider relevant findings from the royal commission and also look at recommendations with regard to a whole-of-government policy on the inequalities that women and people with disabilities experience.

So strategies that might be appropriate to think about within such a policy would certainly have to focus on employment, and the disadvantage that people with disabilities experience with regard to employment is a very sad story in Victoria, in Australia, where we are ranked 27 out of 29 OECD countries in terms of employing people with disabilities. The track record is even worse for women with disabilities, who are disadvantaged even compared with men with disabilities. Employment is one area we think needs significant attention.

Housing is another area that Australia is lagging behind with regard to universal design principals and in Victoria we saw an attempt to change building regulations some years ago that didn't get through. It got as far as a regulatory impact statement. We'd like to see that taken up and that there be adequate building codes and building regulations with regard to accessible and affordable housing both in private and public spheres.

With regard to the question of training and professional development, as a prevention strategy we heartily endorse the need for human rights and gender equity training. Women With Disabilities' work in this area has been funded under the Victorian Violence Against Women and Children Action Plan and that program, which we've written about in our submission to Stage 1, focuses on changing organisational culture within disability organisations and with training provided by both women with disabilities in collaboration with facilitators from the violence response and violence prevention services. This model has been evaluated and found to be very effective in changing attitudes of disability workers and in deepening workers' understanding about respectful ways of relating to women and men. I'm happy to take further questions about that program because we're very hopeful that that is something that can be rolled out. It has been funded again in this year and we're hopeful that it will have a significant impact on disability service culture.

With regard to oversight, the current approach of disability organisations conducting their own investigations of allegations only consolidates the powerlessness of people with a disability who receive care. That is no longer tenable as clearly this inquiry suggests.

In addition to the current justice system we would suggest two specific mechanisms are needed: an independent oversight body to ensure that organisations have appropriate policies and practices in place; and to respond appropriately to disclosures, that organisations can learn from these disclosures

and their policy. We believe this must be appointed by Government and responsible to Government and not be a self-regulating body.

It must be empowered to investigate and enforce recommendations.

So this culture of handling allegations and the normalisation of violence must stop. We support the notion of one organisation at the Victorian level and we support the committee's view that safeguarding mechanisms work most effectively at the state level.

We believe that the Disability Services Commission has not demonstrated sufficient effectiveness in its conciliation style. It is well-known that extreme power differentials between disability organisations and service users make conciliation ineffective in addressing their concerns. Furthermore, an independent single-entry response for the victim, external to the disability service where abuse occurs, is critical to repair harm and support the victim to achieve justice. This is not something that's been canvassed. We tend to think about critical incidents and management - effective management - within disability organisations but unless we have independent responses and independent services that people who want to disclose can go to, we really are just in a circle and a circle of effectual response, I think. So, such a service should have expertise in both disability and abuse response and we see that in organisations like South-East Centre Against Sexual Assault, which did have a pilot program for accepting referrals from people with cognitive disabilities and communication disabilities. So it developed expertise in working with people with disabilities on top of its expertise around responding to victims of sexual assault. So such an organisation could be very effective - I'm not speaking specifically about a CASA but that sort of model would be very effective.

Of course we are talking about the need for police and justice responses to improve the way they work with people with disabilities, which at the moment is not effective. So we are seeing that people with disabilities who want to make a statement sometimes don't get to make a statement. If they get to make a statement they don't get further than that. They don't get caught. They don't get their day in court. If they do get their day in court they are often not empowered by the court process and the court response.

In addition to external mechanisms we would recommend that disability organisations appoint leaders and champions who have specific expertise internally around responding to abuse so it's not just a report to management but there be a culture of leadership and champions within disability organisations.

We'd also support the Committee's view that quality assurance and screening should have a national focus and so all of the issues that have been canvassed around quality assurance standards, accreditation, training and screening, worker exclusion schemes and legislation for worker exclusion schemes should be at a national level.

With regard to mandatory reporting, our view is that it doesn't guarantee effective practice unless it's within a context of empowering victims and so we're - where a victim doesn't have decision making capacity there may be a case for mandatory reporting to ensure that the issue is taken externally. But, the empowerment of the victim must be central and reporting must be undertaken in concert with the victim, unless that is not possible. I think, again, as Jen pointed out, there is a model for this within interpersonal violence response services and family violence response services that we can take their lead on.

With regard to advocacy - systemic and individual advocacy - it might be nice to know that we think that is critical and fundamental to upholding the rights of people with disabilities and mediating power differentials that create the opportunities for violence. We believe that advocacy should be run by people with disabilities, all people with disabilities, as a model of empowerment and leadership. As a systemic organisation and advocacy organisation we support a comprehensive assessment of

advocacy needs as the first stage report has recommended and that there be further consultation about a specific body to administer funds at the Victorian level.

A critical gap in the current system is obviously resourcing with, I think, \$2.4 million for the whole advocacy sector in Victoria. So we would strongly, of course, recommend better resourcing and at the moment the funding that we receive as an organisation for our leadership and empowerment program as women with disabilities comes from a philanthropic trust, very well resourced by philanthropic trust, but this is the sort of thing I think the Government should fund.

I want to comment on research and data collection, that we know nothing publicly with regard to the prevalence and incident of abuse within disability services because we have no data collection that is transparent and publicly available. So we don't know about the gender of victims or perpetrators, their relationship, the setting in which it occurs and the type of violence that occurs. So we need research and we need our data to be collected and monitored closely.

That concludes my formal presentation.

The CHAIR — Thank you very much. It is an interesting point that you make around the fact that women with disabilities are obviously more at risk and I think we all understand that as people who come from backgrounds where English is not their first language and different culture.

You talked about gender-sensitive services. We see that with the CASA's et cetera. How do you see that fitting in within the disability sector and how would that assist with preventing abuse?

Ms HOWE — Traditionally I think disability services have not been very conscious of, or aware of, gender. It's what you might say is a gender ignorant sector, as are a number of other sectors, but when you are talking about human services and responding to women and men we need services that are sensitive to the needs of women and men and, I think, there is no reason why we can't have gender-sensitive services provided by disability organisations. It is really about those services examining their values and their culture and looking at the ways in which they may not have taken account of the marginalisation of women.

So we see the common view of a person with a disability is an individual in a broader family of origin and we talk about the individual and their families but we don't talk about people with disabilities as having caring responsibilities, which many adult women with disabilities have. So our services have not considered that we need to think about the caring responsibilities when we think about providing support to individuals with a disability and, in fact, what we see happening is that we have a very broad myth in the community about whether, in fact, women with disabilities can even be a parent and so we see child protection often being a default organisation that steps in when a woman reports family violence from an intimate partner who she may be dependent on for care or she may be dependent on for the care of her children. In that instance it is not uncommon for the care of the children to be allocated to the perpetrator of violence.

The CHAIR — Is there a higher number of people with disabilities who are parents within the child protection sector?

Ms HOWE — Yes, there is, yes.

The CHAIR — Is there anything currently being done to prevent that?

Ms HOWE — We don't think there is sufficient being done to prevent that at all. There is, again, a problem with culture and also the default position of notification rather than us looking seriously at policy around more tailored family support services for parents with a disability.

The CHAIR — Are there any services anywhere that have the gender focus?

Ms HOWE — Yes. With regard to responding to mothers with disabilities, I'm aware of - in a previous role I was with the social work department at the Royal Women's Hospital and there were quite good targeted intervention programs for mothers with a disability and referral to those services proved really effective in keeping families together. In regions where those services didn't exist then it was much more likely the child would be separated from the families. So that is an example of where you can actually have a tailored service.

The CHAIR — Was that like a peer support where a mother with a disability who has just had a child or was about to have a child would be matched with a mother who has had several children and living - was that part of it?

Ms HOWE — That was part of it. There was group support and peer support was part of that and family support workers provided individual one-on-one parenting education.

Can I just make one more point regarding a gender-centred service because we are talking about parenting but with regard to individuals within disability care, or anyone within disability care, for women and the point Jen made around gender-specific intimate care, I believe not only should women have the choice about receiving services of intimate care from a woman but, in fact, if we know that the perpetrators are more likely to be men and victims more likely to be women we are putting women at significant risk by even suggesting that personal care or intimate care should be provided by male workers.

Mr FINN — I was interested to hear you talking about the need to have Victorian-based services. Everybody is getting very excited about the NDIS, of course. This is going to be the solution to all our problems we're told. I doubt it.

Ms HOWE — For some people.

Mr FINN — I'm just wondering why you were so emphatic about the need for state-based or Victorian-based services.

Ms HOWE — This is something we reflected upon on reading the recommendations from the first stage that, in fact, whilst we have a national program we have got strong - we do have stronger safeguards in Victoria than we have in other states. We are not saying that these safeguards are perfect, as we can see, but if we've got better safeguards at the Victorian level and also, I guess, you know, human services being provided by states, we have mechanisms for regulation of those services that work well at state level. Whilst we might have national services being delivered, certain components of that, we think, should be considered to be state based - might be resourced nationally but implemented at state level. Where possible, consistency between states, of course.

Ms MCLEISH — One of the things you raised earlier was about statements and people with a disability making a statement and if they get to make a statement, or they can, it tends to go nowhere and they never get their day in court. Have you got examples of where that has happened and where someone hasn't been able to get into court where they should have and conversely where they have and what's been the difference of somebody getting to and not getting to?

Ms HOWE — We've had with our research for Voices Against Violence we interviewed 20 women about their experiences of violence and a number of women said that they were ridiculed by police when they went to police to make a statement about their - in these instances they were intimate partners and the view of police...

Ms MCLEISH — They were all intimate partners?

Ms HOWE — Some of them were other family members. They weren't all intimate partners. Those women did not - not all of those women received a respectful response. The difference we

found is that women who approached the SOCIT teams received a much more respectful and effective response than going to the general police station. So, sexual offences teams were much more effective.

For women who got to court, some of them talked about feeling - well, the actual physical layout of the court meant - one woman said she had to run over the feet - she had to come so close to her intimate partner that she was taking an intervention order against that she was crashing into him and the difficulty of trying to negotiate the court and the embarrassment of trying to negotiate that situation made it very difficult for her as well as, of course, having to give evidence with the perpetrator there in court. So there were a number of issues about the court that was difficult.

The lack of - often the lack of communication assistance so that women who have communication needs being able to be adequately able to tell their story in court. There's also been issues of women with communication boards not being able to add words that they need to talk about sexual assault or abuse, for example 'penis'. If it is not on the board, you are not allowed to add to the board. The police would see that as leading the witness. She is not able to give adequate evidence. There is a whole raft of issues around court issues.

Ms KEALY — I just wanted to ask one question that you've raised in your submission - your written submission - it was around the Working with Vulnerable Persons Check and you were concerned 'vulnerable' is a disempowering concept. What would be your recommendation for a certification or check that goes beyond the regular police check?

Ms HOWE — We talk about "at risk" and we talk about people being at more at risk because they're targeted by perpetrators who perceive us to be easy targets, if you like. The current stereotype of women with disabilities is that we're compliant and submissive and the research would suggest that men who have strong, dominant sex roles, stereotypical traits do target women with disabilities and similarly we know now in disability and care, we get disability and care workers who target women and men with disabilities. I guess we need - I think a worker exclusion scheme and some kind of checks that indicate that someone has a track record around targeting and targeting at risk.

Ms KEALY — "At risk" rather than 'vulnerable'? You would endorse retention of the exclusion scheme in addition to a check - a Working with At Risk Clients Check?

Ms HOWE — Yes. We believe that there does need to be checks and there does need to be records of history for workers and we believe an exclusion - a legislated exclusion scheme is important.

Ms COUZENS — Thanks for coming along today. I just want to clarify, you talked about the Royal Commission into Family Violence, did your organisation make a submission?

Ms HOWE — We did and appeared at the hearing.

Ms COUZENS — I missed that bit. I wasn't quite sure.

Ms HOWE — We might not have said that.

Ms COUZENS — In your submission you suggest that it's dangerous for workers to be working alone. I just wonder if you could expand on that a little bit, as to why you would suggest that.

Ms HOWE — Obviously it is dangerous for workers to be working alone with people who are at risk and not easily - who are isolated so it is important that we have open systems and that we have people who are well educated as people with disabilities about their rights, about places to go and that we have a culture of workers being respectful and knowing that there are repercussions if their behaviour is inappropriate in any way.

Ms COUZENS — So you would suggest there needs to be at least two workers?

Ms HOWE — I think it has got to be looked at as an issue. If it is dangerous we need to consider it. I'm not saying - I don't think we are saying there should never be one-on-one, but that we need to be aware that there are the right kinds of safeguards in place. I think it is - if we know that it is more likely to be male workers - not all male workers obviously target people with disabilities - I think we need to be much more careful about the situations in which male workers are alone, certainly in bathrooms and places where it's just not appropriate for male workers to be working with female women with disabilities.

Ms COUZENS — We have heard a lot about the casualisation of the disability sector, would you agree that that adds extra risk for people with disabilities?

Ms HOWE — I think it does. I understand why it happens but I think casualisation means that it is very hard if you don't have the same opportunities for induction; for challenges to what are community attitudes and community myths about people with disabilities; if you're not well versed in human rights and respectful ways of working with people with disabilities.

The CHAIR — Thank you. The hearing will now go in camera. Can we please clear the public gallery?