

CHAMPIONING PEOPLE'S RIGHT TO LIVE FREE FROM ABUSE AND NEGLECT IN VICTORIAN DISABILITY SERVICES

Anthony Kolmus

As a community, there is much we can do to ensure that people with an intellectual disability lead meaningful lives as respected and contributing members of our community.

One way is by resolving complaints and promoting the right of people with a disability to be free from abuse. This is our role at the Victorian Disability Services Commissioner.

As the only office of our kind nationally, we give Victorians with a disability, their family, friends and support workers a dedicated mechanism for obtaining advice and assistance about resolving complaints about Victorian disability services.

Quick stats from 2016-17

- 1,213** Enquirers and complaints we handled
- 44%** Family members who contacted us to make a complaint or enquiry
- 38%** Complaints raised to us about services provided to people with an intellectual disability
- 25%** In-scope complaints relating to allegations of physical and sexual abuse
- 16** Investigations finalised

Our work is vital in preventing and responding to abuse and neglect. The Victorian Inquiry into abuse in disability services found that abuse can take many forms and occur in a range of settings ([https://www.parliament.vic.gov.au/file_uploads/FCDC - Inquiry into abuse in disability services_HtW37zgf.pdf](https://www.parliament.vic.gov.au/file_uploads/FCDC_-_Inquiry_into_abuse_in_disability_services_HtW37zgf.pdf)). In addition to there being an increased risk of abuse for some cohorts, the Inquiry found links between neglect and unexplained deaths, and highlighted the normalisation of abuse in the sector.

Our own experience supports the Inquiry's findings. Last financial year 25 % of our 254 in-scope complaints related to allegations of physical and sexual abuse, an increase of 19 % since 2013-14. We also finalised 16 investigations relating to abuse and neglect, of which 13 were justified. We have investigated cases where families notice issues of concern such as signs of bruising or changes in behaviour in family members who have limited communication.

Our work also highlights the critical role that staff and support workers have in this space. Last year, 22 % of complaints about allegations of physical and sexual assault were made by support workers. Stemming from the Inquiry, amendments have been made to the Disability Act 2006 (the Act) to expand our powers. These changes aim to help us respond more effectively to abuse in the sector, and to improve the safety and wellbeing of Victorians with a disability.

How our powers have expanded to respond to abuse and neglect

Historically we might have conducted an investigation into a Victorian disability service provider if we directly received a complaint. Since August 2017, we can now also conduct investigations if:

- We receive concerning information about a Victorian disability service provider (even if a complaint hasn't been lodged directly with us).
- The Minister for Housing, Disability and Ageing (the Minister) has asked us to investigate a matter.

At the Minister's request we are now investigating deaths in disability services to better understand how the provision of Victorian disability services can be improved in the future. We can also investigate any incident reports relating to assault, injury or poor quality of care that we feel warrant additional investigation.

The Act's changes have also given us the power to inspect the premises of Victorian disability services without notifying the provider in advance. Our Authorised Officers have conducted three inspections to date.

Case study: How our Authorised Officers helped Robert

Robert contacted us to tell us that staff from his disability service regularly lock him in his bedroom during the afternoon and evenings. He also told us that he has to sleep on a mattress on the floor. Robert told us that he attends a day service full-time and has been living in his group home for a number of years.

Given the nature of the issues raised in Robert's complaint, which related to his personal safety and wellbeing, we referred the matter to investigation.

To ensure a timely response we sent two Authorised Officers to Robert's group home soon after we received his complaint. This was so that we could assess whether Robert was being properly supported.

Upon arrival at the group home, our Authorised Officers informed the disability service that they were there to conduct an unannounced site inspection. They also shared the reason for the visit.

Upon entering the home, our Authorised Officers gathered information and evidence, including taking photos of the locks on Robert's bedroom door and of his mattress – which was on the floor.

We met with the disability service to discuss the information and evidence we had gathered. We issued the service with a Notice to Take Action. This included requiring them to get Robert a proper bed and to take the lock off his door. We also required that the disability service provider report back to us on what they had done.

During our investigation we also referred the matter to the Senior Practitioner – Disability so that further work could be done to ensure that Robert was supported well.

At the end of our investigation, Robert told us that he felt more comfortable about living in his home.

In circumstances where we cannot respond to a matter ourselves, we still provide support to those who need it.

Case study: an example of how we help respond to abuse and neglect

Debra contacted us about Amy, a 19-year-old woman with an intellectual disability who lives at home with her family and no paid supports. Debra called us because she was worried that restrictive practices were being used to manage Amy's behaviours of concern, including Amy being held down and tied up.

Although Debra's complaint was out-of-scope as it was not about supports provided by a disability service provider, we gave her information on how she could proceed. With her consent, we also referred her concerns directly to the Department of Health and Human Services to ensure that reporting and follow-up actions were being undertaken. Debra later advised that as a result of our referral, Amy was being supported by an advocate, she had received a medical and funding review, and her application for shared supported accommodation was given priority status.

By speaking up and raising her concerns, Debra was able to start making changes in Amy's life that improved her safety and wellbeing.

What more can we do as a sector?

There is more we can do as a sector to reduce the risk of abuse or neglect in the disability services sector. This includes:

- More thorough assessment of risks faced by people with limited communication and intellectual disability.
- Listening to the person with a disability, and ensuring that a person's verbal and non-verbal communication is understood.
- Better collection of data and investment in prevention as well as response.
- Improved response from all services (e.g. health, disability, family violence and justice) in supporting victims of assault who have a disability.

Anyone who may have a concern or complaint about abuse and neglect in a Victorian disability service is encouraged to contact us on **1800 677 342** or visit www.odsc.vic.gov.au



Anthony Kolmus

Acting Deputy Commissioner,
Disability Services
Commissioner
Anthony.kolmus@odsc.vic.
gov.au

Looking to the future: NDIS Quality and Safeguards Commission

As the NDIS rolls out across Victoria, our work will transition to the newly established NDIS Quality and Safeguards Commission.

The NDIS Commissioner is expected to commence operations in each state and territory by July 2020.