**Proposal for a National Disability Insurance Scheme**

**Quality and Safeguarding Framework**

**CASA Forum Submission**

The Victorian Centres Against Sexual Assault provide a 24-hour service to victim/survivors of sexual assault. Some of the services provided by the CASAs include crisis response, ongoing counselling and advocacy, community education, and systemic advocacy.

From 2012-2014 the CASA Forum (peak body for the Victorian Centres Against Sexual Assault) via pilot site South Eastern Centre Against Sexual Assault collaborated with Springvale Monash Legal Service and the Federation of Community Legal Centres on the Making Rights Reality Pilot Project.

The purpose of the project was to increase access to the criminal justice system, counselling and the Victims of Crime Assistance Tribunal by providing additional support, resources and advocacy to assist people with cognitive disabilities and complex communication needs.

Over the course of the project 102 people with cognitive disabilities and/or complex communication needs accessed SECASA’s service.

The evaluation found that in 75% of cases over the pilot project the offender was known to the victim, consistent with what is known about sexual offending generally. Dr. Patsie Frawley wrote in her evaluation of the project that “In at least 16% of cases the alleged offender is in contact with the client in a place or relationship associated with the person having a disability (carer, disability support worker, fellow resident/student)” (Frawley, 2014, p. 17). In 40% of cases the sexual assault occurred in the person’s home.

Dr. Frawley found that, “Importantly the MRR data highlights that people with cognitive impairment do need safer living environments and safer relationships. It also shines a light on the private nature of abuse of people with cognitive impairments, in particular the private domain of families and the caring relationship… “(Frawley, p.18). In the context of the NDIS Quality and Safeguarding Framework, this data highlights the importance of addressing risks relating to perpetrators who target people with disabilities whilst providing services to them, or in the context of service provision.

Various researchers have made suggestions about reducing risk.

Andrea Hollomotz, in her book “Learning Difficulties and Sexual Vulnerability” (2011) found that “positive risk taking should be part of everyone’s life”. The aim of her book was to “point to the abilities of people with intellectual disabilities and to disabling social processes that impact upon risk” (p.152). Hollomotz emphasises the importance of self-determination, community inclusion through reduced segregation, and the importance of knowledge about sexuality in reducing risk.

Collier, Mcghie-Richmond, Odette and Pyne (2006) talk about reducing the risk of sexual abuse for people who use Augmentative and Alternative Communication. Recommendations arising from their three year project include: People with communication disability being given clear “information about healthy sexuality and abuse” and “the means and opportunity to communicate” (Collier et al, 2006, p.70), about these issues. This includes a variety of accessible resources which address issues specific to people with disabilities. Other recommendations include: sexual assault “counsellors who would understand the context of their abuse experiences; to sexual health clinics that would be able to provide accessible services to males and females with disabilities of all ages, and to health professionals who would take the time to support their communication and other needs” (p.71). The importance of consumers being able to have access to policies and procedures relating to services being provided to them in an appropriate format was emphasised, and this included avenues for consumers to be able to contribute to these policies.

Broader systemic issues such as those highlighted in the Victorian Equal Opportunity and Human Rights Commission’s report “Beyond Doubt: The experiences of people with disabilities reporting crime- research findings” (2014) contribute to reinforcing rates of offending against people with disabilities. Lack of equal access to our criminal justice system increases risk for people with disabilities.

In addition, the intersectionality of gender and disability and the resulting higher levels of targeting for sexual assault and family violence of women with disabilities highlight the need for a gender-based approach in developing the framework.

CASA Forum recommends that the NDIA consider the above issues in developing its Quality and Safeguarding Framework.

It is essential that those participants who are self-managing their own plans are able to have choice and control, but that there are screening and regulatory mechanisms in place for providers, and access to complaints processes where there are problems.

Responses to individual questions are outlined below.

**Part 1 p. 19**

**Are there additional ways of building natural safeguards that the NDIS should be considering?**

It is essential that consumers receive services in a way that minimises segregation from the broader community, in order to ensure there is opportunity for building networks and relationships in a range of environments.

A focus on self-determination and opportunity to for healthy risk-taking is essential in order to ensure all consumers develop skills and confidence in all areas of life, including sexuality.

Access to information about healthy sexuality and abuse is essential to ensure people are aware of their rights and can make informed decisions in their sexual lives.

Collaboration with community groups in relation to effective ways to disseminate information would be useful. For example, the CASAs can provide information sessions through outreach to residential settings or day program settings, or collaboration with other agencies to run programs such as the Living Safer Sexual Lives program or Women with Disabilities Victoria Right to Respect workshops.

Training on gender and disability for disability service providers, for example through a program such as the Human Rights and Quality Services: What’s Gender Got to Do With It? Workforce Development Program developed and piloted by Women with Disabilities Victoria in 2014-2015, is essential in tackling the intersectionality of gender discrimination and disability discrimination which increases risk, in particular for women with disabilities.

**What can be done to support people with limited number of family and friends?**

Provision of opportunities to participate in community activities and networks, including self-advocacy groups. Promotion of these opportunities through NDIS networks.

**Part 1 p. 21**

**What kind of support would providers need to deliver high-quality supports?**

Clear processes for managing recruitment, including vetting of potential employees.

A separate body for undertaking these checks- Police, WWC, Working with Vulnerable Persons, etc.- would enable a consistent approach (ie. rather than individual providers undertaking these checks).

Training for staff in areas such as gender and violence, as mentioned above.

**Part 1. P.26**

**Should there be an independent oversight body for the NDIS?**

Yes

**What functions and powers should an oversight body have?**

Capacity to investigate complaints, identify systemic concerns, and provide an educative role. The oversight body should also have capacity to provide advice to the NDIA in relation to providers who breach conditions of registration. Market oversight functions are also important to ensure consumer protections are adhered to.

Serious incidents should be able to be reported to an oversight body.

**Part 2 p. 42**

**Should the approach to registration depend on the nature of the service?**

Findings from the Royal Commission into Institutional Child Sexual Abuse together with CASA’s own Making Rights Reality Project indicate that perpetrators of sexual violence may have contact with their victims in any number of ways, and this may involve personal or attendant care, or it may be working on the grounds of a service or in providing transport, or attending the same service as a consumer.

Thus, it is CASA Forum’s view that minimum registration requirements should be consistent and met by all service providers.

**How can the right balance be reached between providing assurance and letting people make their own choices?**

Strong registration requirements provide a clear message to providers about the importance of good practice, and enable participants to choose providers with some confidence about screening and complaints processes.

Part 2. p.55

**How important is it to have an NDIS complaints system that is independent from providers of supports?**

This is very important.

**Should an NDIS complaints system apply only to disability-related supports funded by the NDIS, to all funded supports, or to all disability services regardless of whether they are funded by the NDIS?**

It is important for a consistency that all disability services have access to one complaints service. This would ensure gaps/differences between schemes are accounted for. For example, in Victoria the Office of the Public Advocate Community Visitors Scheme cannot provide a service to TAC clients.

**What powers should a complaints body have?**

**Should there be community visitor schemes in the NDIS, and if so, what should their role be?**

Community visitor schemes can provide an important role in limiting risk through reducing segregation, and by providing an additional layer of oversight of services. Their inclusion in the NDIS is something CASA Forum supports.

Part 2. P. 66

**Who should make the decision about whether employees are safe to work with people with a disability?**

This decision should be made through a nationally consistent centralised system, rather than by individual employers.

**How much information about a person’s history is required to ensure that they are safe to work with people with disability?**

References, WWCC (where relevant), Barred Person’s List, Police Check

**Of the options described above, which option, or combination of options, do you prefer?**

CASA Forum supports proposed Option 3: Working with Vulnerable People Clearances, with the addition of a nationally consistent Barred Person’s list. This list should include an expanded list of services (ie. day programs, attendant care etc.) not just residential services, as is currently the case with the newly introduced Disability Worker Exclusion Scheme in Victoria.

**Part 2. P. 74**

**Should people who manage their own plans be able to choose unregistered providers of support on an “at your own risk” basis (Option 1) or does the NDIS have a duty of care to ensure that all providers are safe and competent?**

It is important that participants have access to supports to assist them in managing their own plans, as self-determination is in itself an important factor in reducing risk. Information and practical support is essential to ensure this can occur.

There also need to be structures in place to ensure providers are safe and competent. Screening and registration of providers in a way that is nationally consistent but does not create undue administrative obstacles for participants appears essential.

**What kind of assistance would be most valuable for people wanting to manage their own supports?**

Information in a variety of formats to ensure participants have access to all they need to know to manage their own supports effectively. This may include practical and one-on-one supports at times.

**Reducing and Eliminating Restrictive Practices in NDIS funded supports**

Given the high rates of sexual assault and assault experienced by people with disabilities, and generally higher rates of exposure to trauma by people with disabilities, it is essential that any assessment of use of restrictive practices for challenging behaviours incorporates consideration of a history of trauma and where appropriate makes appropriate referrals. Where there is a history of sexual assault the option of referral to or consultation with a CASA is important.

**References:**

Collier, B. Mcghie-Richmond, D., Odette, F., and Pyne (2006) *Reducing the risk of sexual abuse for people who use augmentative and alternative communication,* [Augmentative Alternative Communication.](http://www.ncbi.nlm.nih.gov/pubmed/17114159) 2006 Mar 22(1):62-75.

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