

The Chairperson
Royal Commission
Via email: DRCEenquiries@royalcommission.gov.au

Dear Chairperson,

The Office of the Public Guardian welcomes the opportunity to contribute to the Violence in the Home Issues Paper released by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. Established under the *Guardianship of Adults Act 2016* (NT) the Office of the Public Guardian is an independent office committed to safeguarding and promoting the human rights of people with impaired decision-making capacity by providing adult guardianship services, information and advocacy that is responsive to the needs of the Northern Territory community and reflects contemporary, best practice guardianship principles within a human rights framework.

There are currently 1,056 persons under a guardianship order in the Northern Territory. The Office of the Public Guardian is responsible for providing guardianship services to approximately 606 of these persons. The Northern Territory's context is unique and poses challenges for service delivery to a small population spread across vast distances. The sparse population, harsh climate and rough terrain mean health and other supports and services in many parts of the Territory are limited. Additionally, the Northern Territory's transient population impacts the retention of a skilled workforce as capable individuals have many alternate options elsewhere in Australia.

Although small, the Northern Territory population is comprised of many culturally and linguistically diverse groups. Approximately 78 percent of people involved with the Office of the Public Guardian identify as Aboriginal¹. Many speak English as a second or third language with a significant number living in remote communities. The Office of the Public

¹ The term Aboriginal is used throughout this document to refer to all people of Aboriginal and Torres Strait Islander descent who are living in the Northern Territory. The use of this term reflects the wishes of Aboriginal people in the Northern Territory. Department of the Attorney-General and Justice (2019). *Draft Northern Territory Aboriginal Justice Agreement 2019-2025*.

Guardian has observed a disconnect from country and culture, with a high level of represented persons that identify as Aboriginal experiencing significant difficulties in receiving appropriate support services, including health care, allied services and behaviour support in remote communities.

The Northern Territory's unique context of a transient workforce, language and communication barriers, the limited delivery of support services in remote and very remote communities and a disconnect from country for Aboriginal people with disability are all factors that contribute to the abuse and violence of people with disability in supported accommodation² in the Northern Territory.

The Office of the Public Guardian is deeply concerned by the violence and abuse of people with disability in the sanctity of their homes. It is particularly concerning when this violence and abuse is perpetrated by paid support staff or by co-residents who are not sufficiently supported to prevent the occurrence of violence and abuse. It is the experience of the Office of the Public Guardian that there is still limited understanding within the disability workforce of the rights of people with disability and what may amount to violence and abuse. There is also anecdotal evidence that suggests that violence and abuse of people with disability in supported accommodation is still largely unidentified, unreported and not recognized by the wider community as warranting a formal report or complaint. In other instances where violence or abuse is identified there is a lack of knowledge and awareness of relevant complaints processes within a service provider or external to the service provider.

Many of the submissions of the Office of the Public Guardian to the Royal Commission³ have detailed the experiences of people with disability of violence and abuse in supported accommodation and identified factors that increase the risk of being subject to violence and abuse in this setting. They have also identified strategies and initiatives to minimize and eliminate the violence and abuse of people with disability in supported accommodation. These experiences, contributing factors and identified strategies and initiatives are summarized below.

² The experiences of people involved with the Office of the Public Guardian in relation to violence and abuse in their home primarily relate to supported accommodation. Therefore this submission will focus on violence and abuse that occurs within supported accommodation.

³ See the Office of the Public Guardian's submission to the Royal Commission's Emergency Planning and Response Issues Papers, July 2020; Office of the Public Guardian's submission to the Royal Commission's Restrictive Practices Issues Papers, September 2020; Office of the Public Guardian's submission to the Royal Commission's First Nations People with Disability Issues Paper, October 2020; Office of the Public Guardian's submission to the Royal Commission's Emergency Safeguards and Quality Issues Papers, February 2021.

The Office of the Public Guardian also endorses the content and recommendations of the Office of the Public Advocate – Violence in Group Homes Research Report 2019 *I'm too scared to come out of my room* that was submitted to the Disability Royal Commission in response to the Group Homes Issues Paper.

Experiences of people with disability of violence and abuse in supported accommodation

People with disability involved with the Office of the Public Guardian experience violence and abuse in supported accommodation in the following ways:-

- Physical, emotional and sexual abuse by support staff and co-residents.
- The unauthorized and unregulated use of restrictive practices, including off the shelf use of medication to modify a person's behavior and for the convenience of support staff and co-residents, the restriction of a person with disability to common areas within the home, including living spaces and outdoor areas, the restriction of a person with disability to every day items including fridges and cupboards, the use of furniture and devices to restrict the free movement of a person with a disability including the use of lap belts and bean bags.
- The provision of culturally unsafe accommodation and support that does not meet the cultural, emotional and spiritual needs of the person with disability.
- During the covid-19 pandemic experiences of limited access to electronic aids and internet service, insufficient or low priority access to food and medical provisions, reduced community access and visitor restrictions additional to official public health recommendations.
- Poor or limited access to communication aids, including interpreters to facilitate the person's engagement in decision-making and every day activities.
- Inadequate or inappropriate level of support because although funded through the person's NDIS plan, the support is unrealized due to the lack of preferred or recommended housing options.

Factors that increase the risk of people with disability being subject to violence and abuse in supported accommodation

Factors that increase the risk of people with disability being subject to violence and abuse in supported accommodation include the following:-

- The need for Aboriginal people to move away from country and family support and networks to access health and disability support in regional locations.
- Limited scope of the *NDIS Authorisations Act 2019* (NT) to only NDIS service providers using restrictive practices for NDIS participants.
- Insufficient appropriate and preferred accommodation options in the Northern Territory that support real choice and control for people with disability regarding

where and with who they live. Times of emergency and natural disaster, including the covid-19 pandemic when many formal and informal supports may be removed or diverted to other priorities and there is scarcity of resources, including food and medical supplies.

- No or limited community visitor services. The scope of the Northern Territory Community Visitor Program is very limited and is only mandated to protect the rights of people receiving treatment from mental health services or disability secure care. It does not extend to other disability accommodation providers including NDIS funded providers.
- Limited community engagement of people with disability with mainstream services and organisations, creating an overreliance upon the accommodation service provider to meet a person's physical, cultural and emotional needs.
- Insufficiently trained and unskilled workers who lack the skills and expertise to support people to meet their physical, cultural and emotional needs and to respond appropriately to any behaviours of concern arising from unmet need.
- Insufficient or poor internal policies and procedures in relation to complaints and review processes and safeguarding the rights of people with disability.
- Poor knowledge, understanding and practical application of the NDIS Code of Conduct and limited funding for providers to invest in essential training in this area.
- Barriers to accessing support and justice from mainstream services, including police, family and domestic violence services and short term shelters after a person with disability has experienced violence and abuse in supported accommodation. These barriers include communication barriers, inappropriate or inadequate support and perceptions re credibility.

Strategies and initiatives to minimize and eliminate the violence and abuse of people with disability in supported accommodation

Preventing violence and abuse in supported accommodation and responding to violence and abuse in supported accommodation includes quality services, the promotion, education and skill development of the whole community about human rights and the strengthening of laws, policies and procedures to guarantee quality disability and mainstream services and to ensure the human rights of people with disability are upheld. It involves strong and appropriate safeguarding laws, policies and procedures to prevent abuse and violence in supported accommodation and having appropriate complaints processes.

Specific strategies and initiatives to minimize and eliminate the violence and abuse of people with disability in supported accommodation include:-

- Embedding supported decision-making across all facets of a person's life through legislation, policies and procedures that recognise the rights of people with disability and their right to be appropriately supported when they are exercising their decision-making authority.
- All participants within the NDIS should be funded to develop a person centred Emergency Plan. The Emergency Plan should detail the required modifications to the persons' support to meet their physical, emotional and cultural needs during an emergency. It should be shared with relevant decision makers and service providers so that in an emergency there is an agreed understanding of expectations and responsibilities and wherever possible, the person does not become reliant upon a single service provider.
- All participants within the NDIS should be funded to develop a person centred Safety Plan that includes individualised safety and safeguarding strategies for the person, including skill development to enable the person to enact their safety plan and in related areas such as healthy relationships, sexual safety, saying 'no' in uncomfortable situations, self advocacy skills and how to raise concerns and make complaints.
- Increased funding of formal advocacy services across all areas of the lives of people with disability and increased awareness of these advocacy services and how they can be accessed.
- Community visitor services should be funded through the NDIS or under the existing Northern Territory Community Visitor program to provide independent oversight and monitoring of all disability accommodation providers, including NDIS providers.
- Increase informal safeguards for people with disability through their engagement with mainstream services and organisations and building and strengthening their community participation.
- The development of further legislation in the Northern Territory to provide a regulatory framework for the authorisation and monitoring of the use of restrictive practices for people with disability across all service sectors.
- Complaints and reporting processes within organisations and within the justice system that are accessible and transparent and that support people with disability to make complaints free of prejudice and ramification and confident that any response will be appropriate, transparent and result in either or both a personal or systemic outcome.
- Development of strategies and funding models to support the growth of supported accommodation options in the Northern Territory to offer real choice and control for people with disability in sourcing accommodation.
- The development of initiatives to stimulate the supply of different housing options in the Northern Territory that meet the needs of all potential residents, including people

with disability or increased government funding of purpose built accommodation options for people with disability.

- Culturally safe accommodation options where support for Aboriginal people with disability is developed in consultation with the person, their family and community networks and wherever possible is provided on the person's country.

Homelessness in the Northern Territory

The Office of the Public Guardian shares national concern regarding the level of homelessness in the Northern Territory. At the last Australian Census in 2016, 1% of Australia's population resided in the Northern Territory, however the Northern Territory accounted for 12% of Australia's homeless population⁴. Eighty-eight percent of the Northern Territory's homeless population is Aboriginal⁵ and people with a disability are represented at 2.6 times the national average in this cohort⁶. It is the experience of the Office of the Public Guardian that people with disability, including Aboriginal people with disability are subject to violence and abuse during periods of homelessness and the trauma of this violence and abuse impacts the person's future accommodation, including their ability to reside with co-residents, especially co-residents of the opposite gender or be supported by staff of the opposite gender. The Office of the Public Guardian advocates for increased funded initiatives and strategies to address the rates of homelessness in the Northern Territory, especially for people with a disability and Aboriginal people with a disability who experience double disadvantage.

Existing mainstream services that respond to issues associated with homelessness, including short term shelters, domestic and family violence services, sexual assault clinics and the police, do not have sufficient funding, capacity or expertise to provide appropriate access and support to people with disability. Barriers to access that exist across many mainstream services also exist within mainstream homelessness services, including communication barriers, appropriate support to be engaged in relevant processes, services and decision-making and an inability to accommodate the specific support and cultural needs of people with disability.

⁴ Department of Local Government, Housing and Community Development (2020), Northern Territory submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into Homelessness in Australia.

⁵ Ibid, p3.

⁶ Ibid, p14

Concluding submissions

Addressing violence and abuse of people with disability in supported accommodation demands the provision of quality, culturally safe accommodation, person centred support that develops the person's self advocacy and personal safety skills, safeguarding frameworks that encompass formal and informal supports, community wide recognition of the human rights of people with disability, appropriate accommodation options and laws, policies and practices to enable and ensure the achievement of these requirements. The Office of the Public Guardian is committed to strategies and initiatives to eliminate violence and abuse of people with disability across all aspects of their lives, including in their home and for appropriate and accessible mainstream and specialist supports for people with disability if they do experience violence and abuse.

Yours sincerely



Beth Walker
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