



Advocates Discuss: Service providers – Investigating and responding to violence and neglect

From June to October 2022, Disability Advocacy Network Australia ran the “*Advocates Discuss*” series of fortnightly hour-long discussions via Microsoft Teams - creating an opportunity for interested advocates to take a closer look at and speak about a number of key topics emerging in the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission or DRC) and its examination of abuse, violence, exploitation and neglect. Participants were encouraged to share their insights, observations, stories and case studies, and the discussion questions each week included opportunities to share perspectives on what recommendations advocates would like to see being made by the DRC, in relation to the topic in focus.

Identifying details have been removed from the edited transcript below. Participants in each session are identified as advocates from their state or territory, and are also numbered, where multiple advocates from that jurisdiction took part. Participants were informed that sessions would be recorded to capture their insights and observations. Care has been taken but errors may exist in the transcription.

DANA would like to acknowledge the Traditional Owners of the various lands around Australia from which advocates participated in these virtual meetings and pay our respects to Aboriginal and Torres Strait Islander Elders, past, present, and emerging.

DANA would also like to acknowledge the time and generosity of participating advocates from a diverse range of advocacy organisations around Australia, and the funding of the Australian Government Department of Social Services for DANA to provide DRC systemic advocacy support. Visit www.dss.gov.au for more information.

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Transcript from discussion – 11 October 2022

Siobhan Clair:

Welcome, everyone. Thanks for joining today.

First of all, I'd like to formally acknowledge the traditional custodians of the land on which we are meeting today. I'm here on the lands of the Wurundjeri people in Melbourne but we're joining from different lands, which we would like to acknowledge the traditional ownership of Aboriginal people and Aboriginal elders past, present and emerging who are joining us, and acknowledge that their sovereignty was never ceded. Welcome, all.

The topic today is one of the big topics that they will be examining in [February] hearing that they're having about service providers. This will be a big topic.

Obviously, this is a really important topic examining service providers, things that they've learnt through some of the case study hearings that they've done looking at different instances, sometimes focusing in on for instance, early last year they did one focused on South Australia and some of the State-run providers and some of the regulatory failures in different jurisdictions. They've also focused in on some of the day programs and [service providers]. They were focusing in on some of the different group homes and responding to both violence and abuse perpetrated by particular support workers or some of the violence, lateral violence, between people in group homes who have been placed together, and we have sort of talked a lot about this [in] the series that DANA has done about these big quality and safeguarding issues; around how often there needs to be better external oversight and reporting and monitoring.

But often ...advocates talk about that it's quite problematic when service providers ... are investigating themselves and, therefore, are not independent of the situation and that there's an expectation that they will be able to escalate issues, whereas often this is not what happens because... organisations have... often have a vested interest in not bringing attention to problematic incidents that have happened in disability services that they're running, so today we would like today to delve into... advocates' experiences on the ground when they've seen problems come up in organisations, where there is an allegation or report, something happening within a service.

We know that complaints mechanisms are maybe not always the best mechanism because people with disability are often unable to make complaints, or hesitant to



make complaints about problems in disability services for a range of reasons, and we have heard from advocates around... a lot of great insights as to why that is.

However, it would be good to delve into, more deeply, the problems that come up when service providers initially become aware of something in a service, how the problems... where they are not escalated when it should be to an external oversight body, but also any examples of where organisations are able to respond in a good practice way to actually take on board how they can prevent this happening in the future. ...I'll throw it out to the group as to what you would like to discuss in terms of how the service providers could better investigate and respond to violence and neglect, and then also maybe that larger picture of external oversight and how ...often this is not something we can rely on service providers to do in the best way.

Mary Mallett:

I can see that [NSW Advocate 1] is putting in a comment in the chat about supported decision making and advocates are saying that service providers are proactively recommending guardianship orders. I am working out of the [NSW advocacy organisation] office today because we've had a catch up with a small number of advocacy organisations in New South Wales with a couple joined online.

There were some relevant things that came out of that, and I'm interested to hear what the view is of the other people that are in this group today. One of them was that the service provider landscape has got more complicated, and one of the longstanding advocates pointed out that in the past her and her organisation, sort of knew the service providers that they generally dealt with. Now, there's new service providers cropping up and new SIL [Supported Independent Living] providers, they don't have the same - an advocate doesn't have the same overview of where people are and what services they're in or with. And one of them provided an example of a specific issue about alleged sexual abuse where there didn't seem to be anybody in that service provider that you could tell, that their internal system didn't seem to exist, so I'm interested in knowing whether people see that that's - is it now more problematic because the service provider sector is itself bigger and broader and more complex? And can you see, or have you seen, that the service providers are maintaining the internal systems they used to have or are they dropping them off? Does anyone want to comment on what's happening in your area? [NSW Advocate 1], you can actually speak, so feel free.

[NSW Advocate 1]:

Sorry Mary. I was just saying, this was anecdotal because I was talking generally, and received some concern from people who work in other areas to do with tenancy and housing - that they've noticed some of the more problematic providers of service in



that space moving into the NDIS space I don't know how, but I have no direct experience of that, but it was an interesting comment to be made that because it is seen as being... lucrative... for some individuals, perhaps some motives for going across are not the best-- I don't know whether or not advocates are seeing new players that are coming in with very different perspectives and different understanding of the space. That was something I was quite keen to find out more about.

Mary Mallett:

Thanks, [NSW Advocate 1]. If anybody else can provide any commentary on that, let us know. [QLD Advocate 1]?

[QLD Advocate 1]:

Yeah. I think what's just been raised is probably one of the most serious issues and one that sort of prompts a whole diverse range of potential responses. First of all, you know, it's obvious we shouldn't be investigating ourselves when there's a complaint internally. That goes without saying. But the matter of the huge array of service providers that not only have sprung up in recent years, but seem to day-to-day, really reflects that each of these service providers have a different capacity and a different perspective and different, though sometimes similar, vested interests in how they may choose to, if they respond at all to any concerns that might be raised, whether they may be concerns or formal complaints.

To that end, you know, we're really talking about a very, very unknown quantity and if I was a participant, it's quite possible that I would have no idea, let alone have any reason to have any faith in how my complaint might be dealt with. Because of that I'm going to be a little bit controversial and probably suggest what I think the vast majority of Australians think, especially when we see what happened with the Aged Care Royal Commission, and that is that Australians generally believe that vulnerable people need to be given the highest level of response when it comes to any sniff of violence or abuse or neglect or exploitation or anything of a negative nature in terms of merely the quality of services. So, to that point, I think that there should be a complete black-and-white 'no correspondence will be entered into' process that every provider has to follow regardless of their capacity, regardless of their historical competence, regardless of anything. It just leaves it too open, even to have, "Oh, well, registered providers do this, and unregistered providers do that". ... I think it's got to become so black and white that it's incontrovertible as to how a matter proceeds.

Mary Mallett:

Thanks. I'm interested to hear if people see registered and unregistered providers behaving differently in this way in regard to serious issues or does it make a difference if [an...] organisation, if it is a registered provider?



[WA Advocate 1]:

I'm joining from [regional WA]. And I think from what we have seen with clients, there's a greater confidence in engaging with a registered provider, like, that safeguarding is there, so we...definitely, anecdotally again, see that there's a greater confidence that there's those processes behind a registered provider, so there's a preference with that and a certain lack of oversight for unregistered providers is a concern for a lot of people.

Mary Mallett:

Is there a way of making things safer for people who are using unregistered providers? Can I ask something that's prompted by something that you said, [QLD Advocate 1], and it came up earlier when talking to the New South Wales advocates here.

Again, it was a longstanding advocate reflecting on the fact that she in the past, in an earlier era, felt that she was better connected in with the service providers that operated in her area, so she knew people in there when there was something that was going wrong, they were more likely - she already had a relationship with them - and they were more likely to reach out to the advocate, and she felt that [now] that was much more complicated to do.

Generally, speaking collectively, [should] we as the advocacy sector, be trying to reach in more to service providers to develop connections and explain to them about advocacy and what it is and what it does? Have any of you been doing any of that lately? Have you got time to do it, [or] you just haven't got a hope of doing it because you can't fit it in on top of your existing advocacy clients? Would anybody like to make any comment about that?

[QLD Advocate 1]:

I'll say something more. I think it's a really important thing for the advocacy sector per se to communicate more directly with service provider peaks, and representative bodies. On the ground in our own respective geographic areas that we serve or communities I think that would be great too, but I think every advocacy organisation that I have connection with are so deeply under the pump that that would be just a luxury to be able to do that, and it can happen with our own means and ways of practicing when there is a service provider involved in a matter that we're providing advocacy for just in terms of the way in which we present ourselves, the way we conduct ourselves, and, you know, the processes we use to pursue the issue on behalf of the participants or the clients, but, yeah, that bigger picture engagement, I think it's way beyond the capacity of any of us to do very much about.



At a bigger-picture level with, for instance, NDS [National Disability Services] and the other Alliance 20,¹ the other big providers, to start discussions with them about - and then see how that could flow further out and down to what happens on the ground. That doesn't deal with the unregistered providers at all.

Mary Mallett:

[WA Advocate 1], I can see your comment that feedback from a client that they were discouraged from raising concerns with the Quality and Safeguards Commission because the provider's registration will be at risk and that, of course, is the problem, the same people are the - the potential people who can help someone get to an advocate or help someone raise a complaint is the same people... depends on them gate keeping and stopping complaints.

Now, what it is the Royal Commission - Siobhan has put in a chat there - what it is that the - one of the reasons we're trying to discuss these topics and tease them out a bit is to say what should the advocacy sector be saying to the Royal Commission about what we want to see in the future.

If we can all see there's lots of things not working now, what can the Royal Commission recommend to be put in place that's going to improve things from now on or, you know, once they do their final report. [QLD Advocate 1], is that the legacy hand--

[QLD Advocate 1]:

I'm really sorry, everybody. I don't want to dominate in conversation, but this is the real reason why I'm here at this topic.

Mary Mallett:

No, and anybody who wants to speak can put their hand up and dive in.

[QLD Advocate 1]:

There's lots of individual things that we can tell the commission, but the point I want to make at this juncture in this event is to make it really, really, critical that each of the various jurisdictions, so each State, Territory, in Australia, and the bodies that have a responsibility in some way shape or form, whether it be a public advocate or a guardianship authority, police or whoever, wherever there is a report of abuse or neglect, where that particular body is not the appropriate one to pursue that, they should know who it is within their jurisdiction who has that responsibility rather than each individual who has got a concern or their formal or informal carers, pursuing this, being pushed from pillar to post... 'that's not my responsibility'.

¹ An alliance of disability service providers collectively focused on NDIS issues: [Alliance20 | A better NDIS](#)



I'm not really sure who it is these days that has to be coordinated to the ninth degree because all we're doing is perpetrating more abuse by not having our act together as a society to take these complaints and concerns seriously enough to put seamless processes in place - clear, black and white, seamless processes, where everybody says 'no wrong door, I know it's not us, but please let me help you get in touch with the right person and, in fact, can I help you do that, because I know someone who works at that agency.' That's what we should be doing.

Mary Mallett:

Yes, thank you. [QLD Advocate 2]?

[QLD Advocate 2]:

I work on intake here at [Advocacy organisation] so we get calls and emails from service providers saying 'there's been this report from this person, can you help?', and I just kind of echo what [QLD Advocate 1] is saying and also Mary, how you said the vulnerable people need to be - needs to be at the top of our list of priorities...

But then when capacity comes into things, it just kind of - it's really difficult for us as a small service to ... step in every time when we don't have those resources and it's just kind of sad and I just really kind of agree with what you're saying, that as a society, the way that we've ... set things up, and I find as well on intake I'm giving a lot of information to service providers and support coordinators... they call and they say, "This person has told me that this is happening. What do I do?".

Like, the service providers themselves don't even know how to respond to these things and so it's kind of providing that information, but then in the back of my head, wondering what's actually going to happen.

So that's why I'm here too because I'll constantly [be] getting calls and then sometimes it feels like it's just becoming a check box for some service providers, like, okay, I've got a report of abuse, put it in an email, flick it to all advocacy orgs and I've covered myself here that I've let the advocacy [organisation] know, but then all the advocacy places are at capacity, so it's like what do you do....?

Mary Mallett:

It doesn't mean that any organisation is going to be able to pick that person up, yeah.

[QLD Advocate 2]:

Yeah, exactly.



Mary Mallett:

We get the same thing coming to DANA as well and people copied DANA, Human Rights Commission, a couple of the national peaks. I think they think if they've told enough people, somebody will do something, but that's not always the case. Thanks. [VIC Advocate 1].

[VIC Advocate 1]:

[*audio issues*]... with our organisation because as everybody is saying, it is really difficult and people are at capacity. With the recent changeover of the DHHS [Department of Health and Human Services] houses, the accommodation service that's picked up our region has actually paid for three days' worth of advocacy service per week, so that means if anything happens in the house, it's getting rid of the old culture within the group homes, but it means that they can get instant support straight away if there's a report written up and provided to the accommodation service, and then there's points where the advocates who have gone back in around auditing of staff and having them stood down, so it's working well in our area.

Mary Mallett:

Which provider is it?

[VIC Advocate 1]:

It's [Victorian disability service provider].

Mary Mallett:

That's really interesting that a provider sees the value of it and is prepared to pay for it. They've contracted your organisation, basically.

[VIC Advocate 1]:

They certainly have, and it keeps their staff out of the mix, so there's none of that in-house fighting, 'he said, she said'. It keeps the manager out of the situation because it's an independent person coming in and speaking with the client one-on-one.

Mary Mallett:

Yeah. I think DANA will seek a meeting with NDS around this and it would be useful to get your organisation plus the provider... to speak to other providers.

The other person who touched on this, just had a quick conversation with me a little while ago, and I need to pursue it further, [CEO... from NDIS platform] and he had a notion that maybe there could be something set up where providers, not exactly do that exact contracting of advocacy, but they contribute to something, a fund or a foundation or something, that then funds advocacy, but he could see that - in other



industries and sectors, and the disabled sector, to be honest, in the terms of a market, is a big industry these days, and in other - the telcos, there are industry sectors where there are complaints mechanisms and I think all have to contribute and they get charged according to how many complaints there are about them.

That happens where... [Telco] and everybody else ...you couldn't have that model for the service providers because, of course, they would want to hide the complaints if they were going to be charged per complaint or something, but there are probably some models that could be explored.

The reason that we need to understand how as a provider organisation dealing with this stuff internally, is if they haven't got somebody internally whose job it is to deal - well, either they have everybody properly trained or some staff whose job it is to internally get these complaints, who know how to deal with ... know that an advocate should be brought in, know how to make a complaint to the NDIS Commission or the various channels, and if that's not known in the organisation, it won't get out to the right people-- I think that's what we [need] - evidence to understand better.

There is a need for a big properly run coordinated campaign about advocacy. We have known for some time that there's a gap. The DSS fund it a bit in terms of Royal Commission advocacy, but for ordinary every day on-the-ground advocacy, there needs to be something that's designed and funded quite well, but it needs to be delivered on the ground by the advocacy organisations, the local organisation.

You all need to be able to then, get the materials, whatever the campaign materials, the information, the posters, the brochures, whatever it is, and then you need to be funded to go and take them to the group homes and the ADEs and the other places and somehow divide up regions to make sure that it's all covered, but it's not about just having a national campaign where there's a few things posted to every provider.

It has to create the connections on the ground. So, any examples that you know about, that would be useful to know.

[QLD Advocate 1]:

I know that your topic today is focusing on service providers, but I think it's important to not overlook that there are other— [Audio issues] I think it's important to not overlook the fact that there are other entities or cohorts who are also perpetrators of violence and abuse, et cetera. One such group being family members often who are never discovered and the people who might inadvertently discover that sort of behaviour occurring could be service providers, so service providers aren't only going to be perpetrators, they could actually be people who discover very, very well covered up



abuse and neglect, and I think we need to equip service providers. The vast majority of whom are great ethical people and [organisations]. We need to equip them with a means to report onwards where it is not about them. So that's another perspective that I'd really like to ensure is factored in, not to the campaign, but to what gets reported to the commission.

Mary Mallett:

Yes, and you've reminded me of something that one of the advocates pointed out to me at one stage, which was there's lots of reasons why a person shouldn't have all services from one provider, but this is a reason why, that if there are two providers, the providers get to see the workers from one provider get to see evidence of what the other provider is doing and it is absolutely, you're right, a way that they can observe inappropriate things happening, and they are far more likely to do in another provider than they are to do the same for somebody who works for their own organisation.

[QLD Advocate 1]:

Absolutely. There's a policing.

Mary Mallett:

That terminology you use about equipping them so that they all know what to do is a useful way to think about it.

[QLD Advocate 2]:

I just wanted to add in there something that I've noticed, that there are providers out there who really care about the people they're working with and really want to help, and something I've noticed a few times, that's become a barrier to people responding to these allegations is the step being the public guardian, so contacting a community visitor or a public guardian and just the response that I've heard from some service providers when I explain that process and provide that information is often people get really worried and really scared of what's actually going to happen to the people they work with if that's the step that they take, so I think that's something to be - how that becomes a barrier in itself to providers taking action, I guess.

Mary Mallett:

People who haven't spoken yet, feel free. You can put stuff in the chat or put your hand up and tell us anything you want to tell us about what your organisation or you as an advocate... are seeing about service providers, and whether you're seeing good oversight or very little oversight by external - people like the NDIS Commission or in your State. There are disability service commissions. There's the one in New South Wales and there is one in Victoria, and it would be useful to know whether they play a



role that's parallel to and supportive of what the (NDIS) Commission does or are they working together or not? That's the thing that would be of interest to know.

Siobhan Clair:

Some of the comments are making me think of this topic in new ways like...obviously, we know that there's a lot of potential to equip organisations to be both more receptive to and encouraging of complaints but also ensuring that people with disability, that their clients know that they can access advocacy.

Obviously, the standards... so, organisations that are meeting, or registered providers that are meeting the national standards on disability services are sort of required to - there's probably a lot of capacity building we could do in that area of making sure that when people do make complaints that they do have access to an independent advocate, but, obviously, we also know that often people don't know how to make a complaint, or don't know they have the right to, or need an advocate or some kind of independent support to help them articulate or make that complaint in the first place. So I think that's maybe something that the Royal Commission needs to look at in terms of broadening out that awareness of advocacy, but the right to advocacy not just being something that is triggered by the existence of a complaint, but that it's ...very much a positive obligation.

I think we know that the good practice... service providers are seeing the value both in complaints and in terms of systemic improvements and in ensuring that people with disability, their clients, have access to independent advocacy.

Mary Mallett:

Thanks, Siobhan. I was just looking at [NSW Advocate 2] point in the chat there about seeing very little oversight and the power imbalance is significant, especially if a person with disability have family or informal support to look out for them. [NSW Advocate 1] said a number of clients can't afford to make a complaint.

I'm assuming you mean they're going to risk having no service at all if a provider dumps them because they turn out to be troublesome.

[NSW Advocate 1]:

Advocacy should be a given, yes, thanks.

Mary Mallett:

Siobhan and an external consultant, we are working on a submission to the Royal Commission. This topic touches on quite a lot of things that we're thinking about, so we put draft recommendations in. Some would have participated in that a while ago.



We are trying to think through in some detail about what it is to recommend to get around the things that we see are happening, which is continued abuse and neglect of people, plus the things that are not happening, which includes the appropriate connections to advocates and referrals to advocates.

One of the notions that we've got is that this feels as if there is a cohort of people with disability who are particularly at risk and are vulnerable and who don't have family or anybody else looking out for them, really. And that it might be possible to develop some mechanism where they get allocated to an advocacy organisation or the other way around, an advocacy organisation is allocated a certain number of people in their region, and that they are funded to visit them and pay attention to what's happening in that person's life in some way. Do you have a view about that, would it work, how would it work, is it a good idea, are there people who you know would fit into that category?

[NSW Advocate 3]:

I'm [NSW Advocate 3] from [Advocacy organisation]. Wouldn't it be great to embed that process as something that's ongoing? Coordinators of support, not everyone has them, so that's an issue, but I thought wouldn't it be great if a coordinator of support had that so they're regularly saying, how are you going, how are the providers going and screening for those risks on an ongoing basis because lots of coordinators refer to us if they have risks with clients and [their] provider.

It would be great for us to be funded as advocates to be able to continually engage on a regular basis and meet with people face-to-face because sometimes you don't know what's going on until you go there personally and physically, so more outreach is needed for sure.

Mary Mallett:

Thanks. That's an interesting point as to whether... what we were trying to write our submission about is about from the perspective of the advocacy sector, but, yes, you make a good point, of course, there are other players in the whole system who could take on other roles. I'm wary of making the boundary between coordinators of support and advocates messier. It is worth interrogating what all of the roles that people play, what they could do and what are the additional sort of safeguarding roles they could play. [VIC Advocate 1]?

[VIC Advocate 1]:

I've found in the accommodation service that we were talking about before, being able to go in as an independent person you can view the interactions in the house between



residents and staff, but also because you're a familiar face, when there is something that goes wrong, the clients are more encouraged and prepared to talk to you because initially when you go in and there's a burgeoning issue, they're worried that they're going to get into trouble, but if they know who you are, you've got that familiar face, you build that rapport, life becomes better and they're more open to talking about their concerns and knowing that there will be no retribution to them.

Mary Mallett:

Yeah, thanks, [VIC Advocate 1] -- there's an issue.

Anyone else?

[QLD Advocate 1]:

Just a couple of extra comments. In my experience, I've found there's probably two ends of the spectrum in my engagement with support coordinators. The vast majority yet again are wonderful, very accommodating, mostly understand the role of advocacy, and certainly welcome my involvement where that is the case and usually that's in a very time limited capacity to deal with an issue.

However, at the other end of the spectrum there are some support coordinators, probably those who are a little less confident and, perhaps, experienced, who have a real fear of being exposed as being inadequate, and that in itself, is really, really sad.

Oftentimes they are pretty good, but they've just got this concern that they're going to lose their job or something like that, or really at the end of billable hours now, and what happens if I've got to spend time because there's advocates involved? You know, you just don't really know where people are going with that.

But the other comment I wanted to make was going back to the beginning of the conversation, somebody mentioned about the role of supported decision making. I don't think that that's being understood. It's certainly not embraced in service provision universally within the NDIS.

I think it should be again just a given, and people are not supported by their employers. Support workers aren't generally given much training at all, quite frankly, but they're not supported to understand the absolute criticality of helping people to make their own decisions, and that guardianship application should not be the knee-jerk reaction. If we treat people with dignity and respect and expectation and understanding that sometimes, you know, it's going to be a bit of a haul to help people make their own decisions. That whole approach can eliminate the need for advocacy in the first place because the person becomes more competent, they become more of an equal with those who are around them, and I think there's much more respect that's provided to



participants - participants or people with disabilities who have any decision support, if that confidence is built up.

I think where that is not happening it just screams out as 'pick me, pick me', I'm a great target for abuse and neglect. If people are not heard and listened to and supported to have their decisions respected, no matter how trivial or significant they might be, they will always be far more vulnerable than others who are accorded that right.

So, I think it's a massive, massive part of the whole picture puzzle. We need to elevate, escalate, and make supported decision making a really important part of how we go about our day-to-day business.

Mary Mallett:

[...] The NDIS are working on their new supported decision-making policy, but what is going to be most interesting is what do they fund out of it, not so much that they have a pretty policy, but what do people get from it. I need to understand that better myself, what are they currently paying for, because when we're talking about supported decision making, I think generally advocates are talking about major decisions in their lives, but they have to learn about making decisions, and then have control over some of the big decisions about where they live.

[QLD Advocate 1] is making the point and I think that I'm sure it reflects citizen advocacy perspective, but it is true, it shouldn't be something that is outsourced but an everyday practice that everybody engages in. [VIC Advocate 2] makes the point citizens advocates ... are you saying they're being kept at bay, really, just because it's easier to do it without them?

[VIC Advocate 2]:

Not always kept at bay, but not even considered sometimes. They don't even always think about citizen advocates being involved.

If the planner or the local area coordinator has - yeah, they don't always have it documented in their system that there is someone and the participant might not know or think about saying can my person come, but sometimes it's been at a meeting where the advocate was there the year before, why weren't they invited the next year? Is it deliberately? Have they forgotten since the last year. I'm not saying it's deliberate, but it's not even thought of. It's not like they're asked, 'do you want a support person there?' 'Yes, I've got an advocate'. Like [it] was talked about before, it's not a given that everyone gets one, it is not a given that when a meeting is arranged they're asked who could be there to support they will to help make decisions.



Mary Mallett:

Yeah, absolutely. The NDIA are bringing in, they're moving over from their old IT system ... They're trialling it in Tasmania over the next few months...the system will be able to record around... have it available for all the relevant players to understand if the person has an advocate, because they haven't been - it's been hidden in the system up until now - that's the thing with making sure [the system] gets tested in this initial phase - [WA Advocate 1] making the comment in chat ... this is huge, really, and we're going across a lot of issues here. We only have five minutes left.

[VIC Advocate 2]:

I just have one thing. I don't know if anyone else was at the meeting when Bill Shorten joined a group online to talk about the NDIS. He gave a briefing. He was talking about the unregistered service providers as being cowboys² and I think-- that's dangerous because it means the focus isn't on the registered service providers who are often larger and, therefore, able to cover up things if they're trying to, and as we had said earlier in the chat, that most service providers are good people and do pick up on things that are bad, so it's got to have more of a focus maybe not on registration, but more on how can they be accountable.

Just because they're registered [that] doesn't provide a good accountability process, and unregistered providers could also be made to be more accountable without being registered. Smaller providers can't afford the registration, because the system is prohibitive, but if we label one group is bad, but the other group might be neglected.

Mary Mallett:

Thanks. That's really useful for you to say that. We're not sure where the influence is coming on Bill Shorten about this. We think it is from the big providers and possibly from the unions and I think we all have to try and resist it. [VIC Advocate 3]?

[VIC Advocate 3]:

My issue is just in regard to the time frame when it comes to Quality and Safeguards [Commission] actually acting on complaints. I've had to go through the Commission as a systemic issue and they wouldn't look at it because I couldn't give - I could give NDIS numbers, but they didn't focus on systemic. It was just simply a one client [approach], so I had to go to the human services regulator as well as the fraud department to the quality Safeguards Commission so they could all work together to try and finally act on this one service provider's neglect and abuse in a group home and still waiting and it's been eight months...

² [AN ALBANESE LABOR GOVERNMENT WILL DEFEND AND FIX THE NDIS \(billshorten.com.au\)](http://billshorten.com.au)

"...whilst there are many good service providers, we will crack down on the fringe-dwelling unregistered cowboys ripping people off."



Mary Mallett:

I might get you to maybe let us know about that particular one in writing. The NDIS, some of you will know about, but the NDIS Quality and Safeguards Commission will run an advocacy forum on 27 October- [Invites] will have probably come to the CEO of your organisation... I think other people can join in online on the day and DANA is adding half day forum the day before, just because there will be advocates from around the country coming to Melbourne for that event, the commission event.

We're adding something on Wednesday, 26 October in Melbourne from 12.30 to 4.30, the afternoon before, so hoping that people can, if they're flying in, they can fly in on that Wednesday morning and attend ours as well.

As I said, if you haven't heard about it, it is likely that it's gone to your CEO or somebody else in your organisation, so keep an eye out for that and double-check because you may be able to join in the commission one online, but I think there's a lot of stuff that was talked about today that the NDIS Commission ... they need to hear what is happening, from advocates, and that kind of complaint that you mentioned, [VIC Advocate 3], they have to have the process, how can the systemic issue be raised and who is going to pay attention and surely to have it take eight months and still not be dealt with properly is ridiculous.

There will be that opportunity on 27th to raise some of those issues with the commission. We have come to the end of the time. We always rub out of time for these things. Thanks. [...] I think we will wind it up for today. At any point, feel free to send - if you've got an example of something that you see that's happening you think it is inappropriate and you're trying to get resolution to it and you're not getting anywhere, do send it into myself or Siobhan. We can help feed it into the Royal Commission as well as help to get the [NDIS] Commission to pay more attention to these things as well.

Thanks, everyone, for joining in today. We will catch you some other time. All right.

END OF MEETING



Comments In Chat

[NSW Advocate 1]

The issue of supported decision making is really problematic in this space. A number of advocates have indicated that Service Providers are proactively recommending guardianship orders.

[NSW Advocate 1]

This is anecdotal but I was given a "heads up" that some of the problematic service providers in other spaces (housing/tenancy) are moving into the more lucrative NDIA space. I have no experience of this and don't know how true it is but would be keen to hear more.

[NSW Advocate 3]

In response to [NSW Advocate 1]'s comment, I have seen on more than one occasion, clients 'influenced' to move out of current SIL to a new one (even a SIL not yet built). There were conflicts of interest at play of course too.

[QLD Advocate 1]

Registered providers have "more to lose" if they don't follow expected processes

No time!

[WA Advocate 1]:

A client feedback was that they were discouraged from raising concerns with NDIS Q&S as the providers' registration would be at risk.

Siobhan Clair:

"Advocates... investigate allegations of abuse and can instigate protective measures to either relocate the person away from harmful situations and to advocate for improved supports, services, housing options. However, this can only occur when the person with disability themselves can be contacted and give consent and authority for the advocate to act or a family member who has guardianship or recognised authority.

Advocates can be hampered when an allegation of abuse or exploitation or restriction and control is reported if the person either does not have capacity to give consent for the advocate to act or is in a situation where the advocate cannot gain access to speak with the person. It would be an improvement if advocates could call on more proactive investigative entities to determine the accuracy of the allegations."



DANA's 2020 Advocacy and Abuse Prevention survey, Response from QLD Advocate

"...in terms of what we found, just getting access to the justice system can be frustrated by, particularly in closed environments such as group homes, a particular mechanism of internal investigations. If the perpetrator of the violence or abuse is a group home staff, there is a lot of, 'we investigated ourselves and found nothing wrong'. Often without external support, which can be physical in terms of having access to a phone to report, or going to a police station, they can't further escalate to the justice system and the support providers are unlikely to provide support to do themselves in."

SA Advocate, "Advocates Zoom In On... Criminalisation" October 2020 Zoom discussion

"I don't think the service themselves should be investigating this, it would remove some of that component of bullying, removes the ability for staff to do some of that. We saw what happened with Yooralla - other staff members were silenced, victims were silenced. It is still happening. There has to be a better way for some have systems and safeguards in place, but I don't necessarily believe that they are working effectively. And when they start work it is when untold horror has unfolded against multiple people.

I would have thought that after the [VIC service provider] issues in Victoria, that this would be addressed and people would pay attention. But, two years later, this is still happening... So what they do is they've moved the person with disability away from the house, away from the family, from one side of Melbourne to the other side of Melbourne, because they said his behaviour was unacceptable. His behaviour is unacceptable because he is in house where he feels unsafe. And the cause of that feeling is still there.

That house, anyone associated with that house or that service, must not do the initial investigation. I think that is a good starting point. I don't know what other things. I think we need some answers to this, and if we see good practices, it would be great to hear about them."

VIC Advocate, "Advocates Zoom In On... Safeguarding rights and wellbeing", December 2020 Zoom discussion

[NSW Advocate 1]

In terms of the "knowledge" of advocacy services - it's hard for advocates to get a foot in the door with some providers. [NSW advocacy organisation] has been providing



education sessions as a way of having engagement with providers in areas and this appears to have worked well.

They have been doing this in conjunction with legal services, such as legal aid, community legal services, welfare rights etc and providing education and awareness services for service provider staff.

The benefit has been that the service provider will sometimes proactively contact advocates to link them with clients where there is an issue.

[QLD Advocate 1]:

Yes, it's a cop out, but sometimes a SP [service provider] might genuinely not be able to do much more than that

WOW!!!

[NSW Advocate 1]

That sounds amazing.

[WA Advocate 1]

Great to hear of things working well!

[QLD Advocate 1]

Perhaps this could be further checked out with a view to seeing whether this is a response that could be duplicated elsewhere??

That sounds good - and yes, it is something that MANY other industries do.

[NSW Advocate 1]

Advocates have a huge value add in a lot of areas - a good [example]: a number of service providers are not aware of other supports or services outside theirs. They are often well meaning but the impact of not being aware of other supports (or focused on them) means that when service providers assist clients with NDIS appeals - they focus only on the supports the service provider offers. The advocates focus on the individual and discuss further needs and other services. Without this broader overview, the client will not get the services and supports they need to their client's long term detriment. It is not malicious - but can be a detrimental impact of having all services from one provider.

[QLD Advocate 1]

yes, definitely, there are many, many great providers!



[NSW Advocate 2]

Seeing very little oversight of services and services seem to have a power imbalance particularly if the person with a disability doesn't have family or informal support to look out for them.

[NSW Advocate 1]

A number of clients do not want to make a complaint as they are completely dependent on the service providers (particularly if there are limited services in an area). The fact that a complaint is referred back first to the provider can be terrifying for some clients.

[VIC Advocate 2]

I fully support what Siobhan is saying

[QLD Advocate 1]

I really like that Siobhan. Advocacy should be something that Participants/Clients should expect to have, just like they should expect to have good safe and hygienic environments - it should be a "given" and a standard part of service delivery

[NSW Advocate 1]

Yes

It is particularly problematic where your housing provider and SIL [Supported Independent Living] and other service providers are the same. You complain about one provider and risk losing your home and supports all in one go.

[VIC Advocate 2]

Having a skills shortage and a lack of available providers makes the clients feel like they can't complain because they will have no service. We need to be better funded overall.

[WA Advocate 1]

Client feedback to our agency suggested that the framing of engaging with Q&S [Quality and Safeguards] as an "escalation point" is a barrier. They perceive it as exactly that- an escalation point and found it intimidating/overwhelming as opposed to at the initial stages- a support mechanism/somewhere to receive additional information about their rights.

[NSW Advocate 2]

a much needed support to have an independent advocate for those without informal support



Siobhan Clair

Anyone else have similar or different experiences with coordinators of supports or related roles?

[NSW Advocate 3]:

absolutely... very much so

[NSW Advocate 1]:

Any client's with communication issues and no informal supports are dependent on other services (such as OTs [occupational therapists], speech therapists etc) to pick up on issues with service providers . This would only work if they were in fact being linked with allied health providers. This is really problematic if co-ordinator of support is with the same service provider for other services who is the problem.

[NSW Advocate 2]:

CS [Coordination of supports] only are given a certain amount of funded hours and what was proposed could be seen as out of their scope and they may not have enough client funded hours to take on further responsibility

Siobhan Clair:

According to DRC Overview, some of the responses to the Safeguards and quality issues papers "*spoke of the need for services to see complaints as part of a virtuous cycle of improvement and that they should welcome, rather than suppress this opportunity when it occurs. Autism Aspergers Advocacy Australia said, 'Complaints need to be acknowledged and responded to, not defended and dismissed or ignored (as is current practice).'* People with Disability Australia expressed concern that complaints bodies treat serious cases of violence, abuse, neglect and exploitation as regulatory breaches, rather than criminal matters to be referred to police, where appropriate."

[VIC Advocate 2]:

Our Citizen Advocates are not always invited to NDIS planning/review meetings.

[QLD Advocate 1]:

But it shouldn't be something that's outsourced - it should be an ordinary, everyday practice that everyone engages in

[NSW Advocate 1]:

<https://www.ndis.gov.au/community/have-your-say/support-decision-making-consultation>



[QLD Advocate 1]:

It needs to filter down to routine practice.

Totally agree [VIC Advocate 2]!

[WA Advocate 1]:

Some service providers appear to defer to independent advocates to support people with decision-making with the rationale that it is not appropriate for them to do this with their clients

Siobhan Clair:

It's often also that participants may not know their rights to have advocacy or a support person to help them express their perspectives and preferences

[QLD Advocate 1]

Sorry!

Oh no! That's very unfair.

Totally agree, [VIC Advocate 2], thanks for saying this.

Siobhan Clair:

That language has come up a few times and we agree it's often been misleading, and a bit concerning

[QLD Advocate 1]:

It diverts away from the real issues, too.

[WA Advocate 1]:

Great point!!

[QLD Advocate 2]:

So true [VIC Advocate 2]! It's not about registered or not, it's about making sure there is a clear, easy and accessible process and support for people.

[NSW Advocate 2]:

The NDIS commission try to mediate and help resolve an issue but I don't think they actually have power to suspend a registration or take action on serious abuse

[NSW Advocate 1]:

Unregistered providers can often provide effective choice and control for clients. Often unregistered due to fees.



ADVOCATES DISCUSS



[QLD Advocate 1]:

Yes, that's what I was raising before - it should be in place already that they all coordinate with each other.

[NSW Advocate 1]:

Have to go - this has been great thank you.

[QLD Advocate 1]

[...] Thanks very much for holding this discussion.

Siobhan Clair

ceo@dana.org.au and policy@dana.org.au

[QLD Advocate 2]

Thanks

[NSW Advocate 3]

Thank you everyone. Thank you DANA