

WWILD / CLA Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission)

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Working alongside people with Intellectual and Learning Disabilities



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Acknowledgements

We wish to acknowledge the survivors and their loved ones who bravely agreed to participate and contribute their experiences, knowledge and expertise. We vow to continue to pursue a just, safe and fair society that values the contributions of all its members.

We also wish to acknowledge the strength and resilience of the family and carers we met with who bravely shared their stories with us. Finally, we wish to recognise the work of the staff members who participated for their commitment and passion in advocating for the rights of the people they work with to a life free from violence, abuse and discrimination.

It has been a real privilege and honour to have been part of this submission process thank you.

The Project Team

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Background to the Submission

As two key service providers to people with intellectual and cognitive disabilities, WWILD and CLA commissioned a submission to capture the experiences of the people they work with to present to the Royal Commission into Violence, Abuse, Neglect and Exploitation (the Royal Commission). Capturing the voices of people living with an intellectual disability is essential to inform the work of the Royal Commission, as are the voices of their families/carers and the professional staff that work alongside them. Furthermore, due to the substantial experiences of discrimination, abuse and exploitation of this group of people, it was essential to find ways to capture their voices in a way that did not further perpetrator harm or trauma. A considered approach was used to seek feedback from all key stakeholders regarding experiences of abuse, neglect and exploitation to develop this submission. Drawing on the existing supportive groups and relationships WWILD and CLA have with their service users and their families, along with the substantial expertise and wisdom of the workers, the project team focused on being as inclusive as possible, while also being mindful of not causing any further harm for service users, family members/carers and staff. We were inspired by the support and connections that were observed and facilitated between service users and between family members, along with workers.

We want to acknowledge that because we are discussing the experiences of people with a disability and their families and supporters of violence, abuse, neglect and exploitation, we by necessity will be talking about things that contribute to people's vulnerability to experiencing this violence. However, we want to make the point that it is not the person themselves who is inherently vulnerable. The people we meet are survivors and have an immeasurable resilience and strength that they should never have had to draw upon. We honour your power and your voices and your willingness to contribute to changing the future for other people with disabilities.

Organisational background

WWILD

WWILD was established because of the high rates of sexual assault that people with intellectual disability were disclosing to CLA staff. WWILD supports people with intellectual disabilities who are survivors of crime by providing free counselling and support groups to women and men with intellectual disabilities who have been victims of crime or exploitation. WWILD provides training for professionals, families, carers and people with intellectual disabilities, with the goal of building knowledge and skills in our community in order to prevent violence, help people recover and assist

people to have access to justice if that is their wish. WWILD also creates resources which are available free of charge. WWILD has two programs: Sexual Violence Prevention Service and Victims of Crime – Disability Training Program. WWILD strives to achieve social justice and systemic change that will uphold the rights of people with intellectual and learning disabilities to live free from violence. WWILD’s vision is of a society that values people with intellectual difference and acknowledges their abilities.

Community Living Association

Community Living Program (CLP) was established in 1987 as part of the Commonwealth Rehabilitation Service to support young people with an intellectual/learning disability towards independence. On 20 January 1995, CLP changed its name to Community Living Association Inc. (CLA) when it began to sponsor a range of other projects. It moved to its current premises at Nundah in 1998.

CLA manages a range of programs that provide support, create opportunities and promote independence for people with disability or young people at risk, people with mental health issues and people with cognitive disabilities. Specific services include:

Community Living Program (CLP):

Generalist disability support team that provides core and capacity building supports. Services include individual and group supports, counselling and assessments, conducted by qualified social workers.

ARROS

ARROS provides pro-active outreach to young people who are at risk of homelessness. ARROS works with young people aged 15-25 who are transitioning from out of home care and also from Youth Justice. The client group includes people living with intellectual or cognitive disabilities; Autism Spectrum Disorder; young people who may not have a diagnosis or identify as having a disability but who experience or demonstrate high support needs as result of complex trauma and attachment issues or undiagnosed cognitive impairment. Their services include specialised art therapy and counselling.

Brisbane Emergency Response Outreach Service (BEROS)

BEROS is a consortium service between Community Living Association (lead organisation) and Micah Projects and is funded by Department of Communities Child Safety and Disability Services (Brisbane Region). BEROS works with young people aged 12-18 years old who are in the care of Child Safety and are self-placing and are often sleeping rough and couch surfing. BEROS also often engage with young people who are still connected to a placement but are regularly absent from placement working alongside the young person's Child Safety officer and placement to keep them connected to their placement and support them to safely return.

Submission methodology and process

The Submission was developed between August to November 2019 and involved the following methodology and process:

- Development of questions for each stakeholder group
- Organising meetings with each stakeholder group/s
- Hosting group or individual discussions
- Writing up of discussion information presented
- Thematic analysis
- Presenting findings to stakeholders to seek any further input
- Finalising of submission

The project team involved:

- Leona Berrie Manager WWILD Sexual Violence Prevention Association
- Maurice O'Connor Director CLA
- Jane Barrett WWILD Victim of Crime Worker
- Jessica Fox Social Work Student
- Fotina Hardy Consultant

Stakeholder groups

The views of the following stakeholders were gathered

WWILD Sexual Violence Prevention Association –7 staff and social work students participated	20/8/2019
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CLP Community Living Program – 7 staff participated	29/8/2019
WWILD Parents/Carers/Family – 5 participants	29/8/2019
WWILD service users – 8 participants (all identifying as female)	12/9/2019
ARROS – 3 staff	17/9/2019
BEROS Brisbane Emergency Response Outreach Service – 4 staff	20/9/2019
Individual consultations with¹	
Female service user	3/9/2019
Female service user	18/9/2016
Male service user	20/9/2019
Male service user	25/9/2019
Female parent	26/9/2019
Female service user	8/10/2019
Scammers Group CLA 3 constituents, 2 CLA staff and 2 facilitators	10/10/2019

Questions asked were based on the Terms of Reference and covered the following areas [See Appendix 1]:

- Types of violence, abuse, violence, neglect or exploitation experienced.
- Reporting processes regarding identification of abuse, violence, neglect or exploitation. We were interested to understand the internal reporting and external processes and experiences of these.
- Thoughts about prevention strategies, including what organisations and individuals are currently using and ways to further prevent violence.
- Identification of how systemic level issues have contributed to experiences of service users and ways to address these.

¹ Some of the service users were also parents of children with a disability.

Findings are presented under these four areas and include the experiences of service users, workers, and parents/carers.²All information has been deidentified, however wherever possible we have used the words of stakeholders to be able to value and honour their experiences.

Definitions

Definitions for 'intellectual disability' vary, which results in inconsistency in how intellectual or cognitive disabilities are conceptualised. The Australian Institute of Health and Welfare (AIHW) have explained intellectual disability as involving "*significant impairment in intellectual functioning; difficulties in adaptive behaviour; and manifestation in the developmental period* (Luckasson et al. 1992, 2002)" (AIHW, 2008, p.5).

The *Queensland Disability Act 2006* defines disability as:

- (1) A disability is a person's condition that—
 - (a) is attributable to—
 - (i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or
 - (ii) a combination of impairments mentioned in subparagraph (i); and
 - (b) results in—
 - (i) a substantial reduction of the person's capacity for communication, social interaction, learning, mobility or self-care or management; and
 - (ii) the person needing support.
- (2) For subsection (1), the impairment may result from an acquired brain injury.
- (3) The disability must be permanent or likely to be permanent.
- (4) The disability may be, but need not be, of a chronic episodic nature³ (Part 1, Division 3, Section 11).

We draw on the United Nations Convention of Persons Disabilities (UNCRPD) definition of disability as including:

those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

² Service user represents clients and constituents from all services, for ease we use the term family to represent the inclusion of parent/sibling/other family member.

³ <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2006-012#sec.11>.

Cognitive impairment tends to refer to a broader range of impairments than encompassed by definitions of intellectual disability, and typically include impairments that arise during adulthood. It is often the case that people with a cognitive impairment have experienced a more diverse range of lived experiences than people with an intellectual disability (Law Reform Committee, 2013). The Project Team recognises the diversity of disabilities that include cognitive impairment, developmental delay, learning disabilities and intellectual disability, and the causes of this, which include but are not limited to Acquired Brain Injury and Foetal Alcohol Spectrum Disease. For the purposes of this submission we refer to the term *intellectual disability* to encompass the broad range of disabilities that impact on the individual in terms of impairment at the organic level; disability in terms of whole person functioning; and 'participation' which reflects the result of the interaction between disability and environmental factors (AIHW, 2008).

Findings

What we heard about the types of violence, abuse, neglect and exploitation that people living with an intellectual or cognitive disability experienced

Types of violence⁴ identified are varied and include violence at individual, organisational, professional, community and systemic level. The overwhelming theme emerging from all stakeholders was that a person with an intellectual or cognitive disability was/is considered 'less than' people without a disability and systematically discriminated against, leading to being 'othered' and marginalised. Experiences indicated that they have been dehumanised in term of being silenced and having rights routinely denied or removed. There was an implicit belief that people with an intellectual disability do not have any feelings or opinions, and that if violence is perpetrated against the person there would be no lasting impact. Further evidence of this is the common experience by service users, their family and staff that when violence is identified the person with the disability is not believed or treated seriously. This is not new, previous research, inquiries and literature have raised this, as has this consultation process, reflecting the insidious and ingrained influence of ableism and associated discrimination (Nario-Redmond, Kemerling & Silverman, 2019; UNCRPD, 2006).

What was particularly powerful were the stories of service users who named the breadth of violence perpetrated against them. Each stakeholder provided an important lens into the effects of the violence on their lives, providing invaluable insight to inform this submission. The family members who participated included mothers, and siblings of the individuals who had experienced sexual and other forms of violence. In some group and individual consultations, people were both parents and service users. Their stories further indicated the breadth of the type of violence their family members have experienced, the significant impact on wellbeing of their loved ones and on the family, and the significant challenges they experienced in being able to address this, particularly at an organisational / systems level. Workers across all four organisations further highlighted the extent of the violence and were further able to identify systemic level issues.

The following demonstrates the sheer breadth and depth of the types of violence experienced by people with intellectual or cognitive disabilities.

⁴ For the purposes of this submission the word violence will be used to encompass neglect, abuse and exploitation as this captures the fact that these are all forms of violence towards the individual.

Discrimination because of your disability

People living with an intellectual or cognitive disability shared the following experiences clearly naming these as discrimination based on their disability. What stands out was not only the actual discrimination and violence but the fact that this happens so openly, reinforcing myths and beliefs about capacity and not being 'deserving' of having fundamental human rights upheld. A further key theme that arose was of being 'silenced', either through not being believed, not having the opportunity to share their story or being shut down. Service users identified the following experiences of violence:

- People making fun of you because of your disability.
- People being judgemental about you because of the disability and then taking advantage and control of you, with one woman saying that experiencing this *"hurts emotionally, and no one listens when you try to explain"*.
- Being treated differently based on having an 'intellectual' disability as opposed to a physical disability. One woman shared her experience of having been in hospital for medical reasons unrelated to her disability, when she was given the discharge summary from hospital the medical staff had written in capital letters *INTELLECTUAL DISABILITY* at the top of the form. This was not relevant to the actual medical condition and it had clearly impacted on her as she explained, *'they think you're silly'*. Another issue was when *'they don't talk to you but others around you'*. This woman identified the frustration, pain, humiliation and the unfairness involved.
- Women spoke of being treated like they have a mental health condition just because they have an intellectual disability and being treated as having no capacity to make decisions.
- Women talked about being taken advantage of by family members and at times being told very explicitly this will happen because they have an intellectual disability and that then when they speak out, *'no one believes you'*.
- Service users generally spoke of employers not paying entitlements or what is owed, being treated differently to other employees, being unfairly treated. The women identified that it was clearly obvious that they were not being treated the same as others.

One individual expressed how discrimination and exclusion because of his disability has an emotional impact providing the following examples:

"Pushing me to the back because I have a hearing problem"

"I often feel like people don't want to talk to me"

"Not inviting people with a disability to parties"

"People treat us like we are in a different world"

"I think people who have a disability are treated differently. People are afraid of them"

"People don't even try to understand them"

"People talk to me but not with me"

"I once went driving with friends on a road trip. They wouldn't let me drive. I have a license".

Another person shared his experiences in his workplace of discrimination:

"I was talking to a customer and the boss told me I wasn't allowed to talk to customers. He thought I didn't know what I was talking about"

"In lunch meetings the boss asked everyone for suggestions, he told me not to say anything"

"He (the boss) had me cutting tyres every day. It was hard and boring. I thought I could have done more but he wouldn't let me"

"I didn't feel comfortable with the boss. He should have tried harder to be more understanding"

Exploitation

For service users, being taken advantage of and exploited was a common theme. This included:

- People stealing things from them like money. *'People in our lives that we have relationships with taking control of our money'.*
- One woman talked about her experiences of *'falling in love and then giving so much to the person who then takes advantage of you and no one listens to you when you try and explain what has happened'.*

Workers identified exploitation from the point of view of people taking advantage of the individual and their property, explaining that people with a disability report feeling pressured to invite people into their home who then take advantage of them. A common reason is that the person with the disability is lonely and want the connection, making them more vulnerable to targeted exploitation.

Examples of exploitation included:

- 'Mate crime' was highlighted and included a range of exploitative practices including:
 - Neighbours stealing electricity from the individual by running power cords from their power points and not paying for this.
 - 'Mates' pressuring the individual to take out Centrelink loans and then taking the money for themselves.

- 'Mates' moving into the person's house without permission; taking advantage of the person by overstaying their welcome; freeloading, not contributing to any of the daily costs while they live there; taking over the house, not letting the individual sit on their own furniture or using the property to hide stolen goods and thereby implicating them in crime.
- Coercing people with an intellectual disability to commit crimes, once again, this is quite often based on the person's want or need to feel connected because of loneliness and need for a sense of belonging.
- Perpetrators of violence threatening their partner with a disability that because of their disability they will lose access to their child unless they give them something in return. The fear then traps the person with the disability in an exploitative relationship.
- Private community services not supporting or giving their client the right to make decisions, which reflects an insidious form of violence.
- Perpetrators creating dependency by positioning themselves as a person's carer and then taking advantage of the person.
- Financial exploitation includes people moving in with the person with the disability and not paying rent, 'borrowing' money and not repaying it, and being quick to position oneself as a 'carer' and entitled to the 'carer's payment'. Workers identified that this was particularly powerful when the person with the disability sees it as a way to maintain a relationship or connection because they are isolated or lonely. In this way, the exploitation really targets their vulnerability which is due to the disability.
- Opportunistic exploitation which is compounded by barriers to accessing support for the individual who may not recognise the full extent of the exploitation, or their rights, or fear of not being believed.
- Technology-based exploitation was identified as a common issue with for example, dating sites, social media that then exploit the individual. Examples included forming relationships on-line, where the perpetrator has identified that the person has a disability and then asks for money, or sexual or emotional exploitation.
- Employers not giving the person with the disability the same rights as a person without a disability e.g. not providing counselling after a critical incident; not paying appropriately.

The example was given of a woman living with a disability who formed an on-line relationship with an older woman who became somewhat of a maternal figure to her. The older woman had identified that the younger woman had an NDIS package and tried to convince her to visit her and to pay for their travel overseas using the NDIS funds to do so.

Scamming

Exploitation through scamming was described as including charities, a range of retail providers, and on-line scamming. The experiences of people with an intellectual disability who were involved with a Scammers Group at CLA identified that they would not generally report to the Police because they don't see scamming as a crime, or a lesser crime with one person saying "*if someone tricks you into giving them your money, then it is less of a crime*". There was also fear that "*they may not be helpful*". Rather they would advise trusted people such as their CLA workers, family and friends. Others identified they would go to a Financial Counsellor, the belief being it is their fault.

Service users involved in a "Scammers Group" identified the following experiences of exploitation that highlighted some of the increased vulnerability due to their cognitive or intellectual disability.

- Scammers who visit door to door pretending to represent legitimate organisations and pressuring people to sign up on the spot.
- Email scams from people pretending to be from government agencies such as the Australian Taxation Office trying to access information about bank accounts etc.
- Phone scammers who ring up and pretend to be from organisations such as Police, Telstra and others.
- Financial scamming that includes financial institutions that prey on the individual or exploit their vulnerability and sign them up to loans or other financial products without due consideration to decision making processes.

The following example highlights how significant the impact of exploitation can be, and the importance of having strong advocacy and support.

A CLA constituent had received a 20-thousand-dollar bank loan after filling out an application online. This person was on the DSP and could not afford the loan re-payments. The bank made it difficult for the person to get out of the loan contract, despite requests and advocacy by CLA.

CLA took the matter to their local Federal Member for Parliament (Wayne Swan), which resulted in a good outcome, but illustrates how far the CLA team often must go in order to advocate for people.

Overwhelmingly the stakeholders reported that people need support to confront scammers, and due to the very nature of the types of scamming that they are subjected to, it can be difficult to explain their concerns, *"didn't know how to word it"*. Stakeholders also raised the issue of people who are not verbal *"What about people who are non-verbal, they can't explain"*, and overall that they needed support to be able to confront and then deal with scammers, as the impact of these can be quite significant.

People living with an intellectual or cognitive disability also highlighted the predatory nature of sales approaches that are incentive driven, identifying how these take advantage of them, pressuring them to purchase unwanted or expensive goods; charities on the streets pressuring them to sign up on the spot; being pressured to sign up on personal loans or credit cards that they cannot fully understand or need; entering telephone contracts that they do not fully understand and then cannot terminate; being provided with insufficient information before signing legal contracts such as rental contracts. These examples underscored how an aggressive sales approach can exploit and take advantage of people with intellectual disabilities who may not have the resources or capacity to refuse or negotiate, making them 'easier targets'. Individuals with disabilities highlighted that they require more time and accessible language to understand the implications of legal contracts and that this is often denied them, resulting being taken advantage of. Lack of protective measures will continue to place people with intellectual disabilities and other more 'vulnerable' groups at risk.

These experiences of exploitation are possible because of judgemental attitudes that are discriminatory and ableist and due to compounding issues of poverty and disadvantage. Stakeholders identified the difficulties the person with the disability has in being able to express their experiences and feelings and in having their voices heard and believed. Often the complexity and the number of systems interacting contributes to keeping the person in a violent or exploitative situation.

Sexual abuse

Sexual abuse was raised by service users, family and workers, including rape, sexual assault and exploitation. Sexual abuse was a common form of abuse for the women who participated in this

discussion, with all being linked with WWILD as a result. One woman eloquently explained that *'People think they can use your body because you are more vulnerable and they use that'*. As concerning are the experiences of systems abuse that the women experienced in seeking justice which is discussed separately.

- Workers identified that sexual abuse included the person with the disability being coerced to have sex in return for housing, food, cigarettes or other items they needed. Workers highlighted the significance of the intersection of disability, poverty and homelessness/ precarious housing that resulted in women being placed in situations of increased vulnerability; with the expectation that they have sex with the person whose house it is, and in some cases, their friends. People with an intellectual or cognitive disability were also described as being at increased risk of engaging in risky or not fully consensual relationships because of the need for connection and ongoing experience of loneliness.
- Workers identified that sexual violence occurs within familial and intimate relationships and organisational settings, where they have seen targeted grooming and coercion of people with intellectual disabilities. Workers identified perpetrators taking advantage of people's lack of understanding and described a series of escalating acts of violence and other grooming behaviour that progressively push boundaries until abuse is normalized and the individual just accepts this.
- Opportunistic sexual violence was identified being perpetrated by for example by taxi drivers, neighbours, nurses, playing on the person's vulnerability.
- Workers identified that they have seen greater prevalence of women with disabilities being more vulnerable to sexual assault and abuse. Further, that men with disabilities are more likely to have experienced historical or family abuse. An element of lateral violence has also been identified in terms of men with disabilities perpetrating violence against women with disabilities. One can argue that without addressing the trauma from violence and associated discrimination and marginalisation experienced by the person, this can perpetuate a cycle of ongoing trauma and normalisation.
- Workers identified the impact of organisational contexts of care that can encourage and perpetuate the violence through limited organisational acknowledgement of power dynamics between carers and the people they support and a focus on risk aversion that does not act to prevent the violence. This was supported by family members. An example was given of a woman who did not want a male support worker however had to take her request to upper management and eventually a stakeholder meeting with her public guardian before anyone with the power to do so respected her wishes.

- Sexual harassment by other services users in supported employment or other group settings was highlighted. Exacerbating this is the experience of not being supported by the service when they make allegations or complaints, meaning that the individual is forced to continue to work alongside the perpetrator. For many people in these settings whether as an employee or as a participant in a recreational activity, this may be one of the only opportunities the person has to seek out friendships, relationships and intimate partners. It is not surprising or unreasonable that people seek these relationships out, but with this comes the challenges of negotiating these relationships and responding to conflict, unwanted attention, harassment, and violence. There is often a distinct lack of policy, procedures or frameworks related to how organisations and their employees will manage these issues or respond to allegations/disclosures of violence. This raises the importance of education for the person with the disability, organisations and the community about respectful relationships.

Emotional abuse

Service users highlighted emotional abuse in terms of employment and workplace settings with women expressing being "scared" to even look 'for a job for fear of being knocked back because of their disability'; of experiences in the workplace of not being allowed to speak or express themselves, not being listened to and not knowing their rights. Service users were able to attribute this to their disability, recognising others were treated differently, again highlighting the issue of being 'othered' and treated 'less than' and as having no real capacity for thought or feeling.

Service users identified being abused verbally in a wide range of settings, including being called names. One woman eloquently provided the following example and the impact of this on her (this has been paraphrased):

People who matter to you like support workers, not understanding or acknowledging the disability and the implications of this, like that they may do things differently or slower like in how I express myself, but they ignore and don't adjust to accommodate this. Carers/support workers need more education about this so that they do give you more time to express yourself, without judging you.

This is an important issue that some service users raised in terms of the fact that they may think things through slower or need clearer instructions or information to make a decision or follow through; with their experiences being that their communication needs are not recognised or ignored.

Family members and workers also identified the following types of emotional abuse perpetrated by people in the lives of the individual with the disability, including partners, family members and carers:

- Purposeful emotional abuse that results in triggering behaviours in the person.
- Threats against the family, i.e. 'I will kill or hurt your mum if you don't do ...'.
- Verbal threats.
- Gaslighting of the individual which can then result in undermining the person's confidence in their ability, their decision making etc. Gaslighting has been identified as a form of psychological abuse or manipulation that involves the abuser making the person doubt their own memory, perception, understanding or experience of reality so they doubt themselves and plays into creating doubt, insecurity, and also the worth of the individual.
- Verbal abuse that includes publicly making fun of or mocking the person with the disability.

Perpetrators inviting others to join into the abuse of the person. Key to these examples is how insidious or under the radar this kind of abuse can be, as it chips away at the person's confidence and sense of worth and reality.

Neglect

Workers and family members highlighted the issue of neglect in terms of duty of care to report or address issues affecting the wellbeing of the person with the disability, perpetrated by familial relationships, along with the systems and services who are tasked with supporting the individual. Other forms of neglect have been captured elsewhere in this submission, highlighting neglect at an individual and systemic level in denying the person with a disability access to their rights.

Domestic and family violence

Family members and services identified the following types of domestic and family violence which again underscored the depth and breadth involved:

Physical abuse which includes, strangulation and asphyxiation and Grievous Bodily Harm (GBH). One service specifically reported the concerning increased number of referrals for women affected by strangulation and GBH.

- Family members talked about violence being perpetrated by service provider carers, other clients, family members and partners. One parent talked about the significant violence that was

perpetrated by a carer of her child that included strangulation, torture, assault causing grievous bodily harm and deprivation of liberty. Yet when reported this was not believed.

- Coercion and controlling behaviour were identified that included:
 - o Intimidation
 - o Threats against family members - 'If you don't do this, I'll hurt x'
 - o Deliberate harm to the person's health.

Under this category verbal and emotional abuse along with deprivation of liberty were also raised.

Examples included coercing the person to eat unhealthy food to put on weight so that they would become “unattractive” resulting in decreased self-esteem and so becoming more reliant on the perpetrator for support, which increased the control the person had on them. This involved the perpetrator only buying unhealthy food, so choice was denied, encouraging/forcing them to eat more.

A perpetrator placed knives around the home so there was always a knife in sight, creating a sense of fear that he will attack or can do so at any time, creating ongoing fear for the woman, this was described as a form of torture.

The example was provided of a partner of an individual with a disability administering medication inappropriately which included forcing the person to take illicit drugs, giving his medication to her to ‘see what would happen’, withholding medication or selling it.

An example was provided of the perpetrator using the stigma of disability against the woman to coerce her, threatening to take her to family court or call child safety if she did not do what he said, convincing her she would lose all rights to the children.

Inquiries into violence and international research have identified the increased risks for women with a disability in experiencing domestic and family violence (Dyson, Frawley & Robinson, 2017; Queensland Government, 2015; Shah & Bradbury-Jones, 2018). The Queensland Taskforce into Domestic and Family Violence highlighted the lack of “*integrated and under-resourced services mean that the focus is often on a woman’s disability rather than the domestic and family violence she may be experiencing*” (Queensland Government, 2015, p. 131). Added to this, the lack of integrated service delivery, gaps to services and lack of understanding by workers further compounds the abuse experienced and ability to seek support.

Case study Mary

Mary is 34 year old women who has an intellectual disability and has been living in her Department of Housing home for 10 years. Mary receives a disability support pension and has very little formal support in her life. Mary's familial relationships often conflictual and she often goes long periods of time without speaking to her family. Mary has a history of sexual abuse and has experienced domestic violence.

Mary met Ben through mutual friend and the two entered into an intimate relationship. Ben also had an intellectual disability and had been sleeping rough for a number of months. Ben is an Ice user and abuses alcohol. Ben moved into Mary's home not long after they met as he had nowhere safe to live. He became violent not long after he moved into Mary's home. The violence Mary experienced included: verbal, psychological, financial and physical abuse. As their relationship continued the violence escalated. Mary experienced: stalking, sexual abuse and strangulation, threats to kill and deprivation of liberty during this period.

Ben would often invite his friends to Mary's home without her permission. On one occasion Ben invited a couple over to Mary's house for a party. The couple were also homeless, involved in a high risk domestic violence relationship and were not receiving any support from services, friends or family. The couple continued to stay in Mary's home, stating that they had nowhere else to go. Mary felt pressured to let them stay, she was also fearful of how Ben would react were she to ask them to leave.

One night the police were called to attend Mary's house. Mary told police that she had been strangled with a belt. Ben was arrested that night and was removed from the home. Ben was let out on bail the next day. Mary contacted DV Connect and was moved into a hotel the next day, she was then moved to a homelessness shelter, where she stayed for the next couple of months as it was not safe to return to her home.

During Mary's stay at the homelessness shelter, Ben's friends continued to stay in Mary's home. Mary was unable to move back into her home as she was fearful that the couple would invite Ben back to the property. They were not on the lease and had not been contributing to the rent for the entirety of their stay in her home. Mary was told by police that they were unable to move the couple on as they had been contributing to the weekly groceries and had squatters' rights. On one occasion, Mary asked for police to attend her home in order to pick up a few belongings, including her Dog. She was told by police that they were unable to ask the couple to leave.

The Department of Housing were unable to intervene as Mary had invited the couple into her home; therefore, it was her responsibility to remove them from the property. The Department of Housing suggested that Mary relinquish her home to the Department; they would then be able to apply for a

warrant to have the couple removed from the house. It was unclear as to whether Mary would be able to continue her lease at the property once this had occurred.

Systems abuse

A key form of abuse identified by all stakeholders was systems abuse; the extent of this was again broad with significant implications for the service user. Systems abuse covers a number of specific organisational systems but also at a more macro level in terms of policies that perpetuate this. The following were identified by service users, families and staff, what is notable is the extent of systems abuse that all stakeholders identified, highlighting the importance of systems level change.

System: Mental health

The intersection of mental health and intellectual disability was highlighted by service users and family as creating additional harm to them. Experiences of treatment in mental health facilities were shared and the devastating impact of this which included:

- For women who have experienced sexual and physical assault or abuse and who have been admitted to a mental health ward, they expressed feeling vulnerable because they were placed in a mixed gender ward, with the lack of consideration of past trauma and potential triggers creating issues of safety. Service users talked about experiences of being attacked or threatened by male patients in the ward and having no protection. One woman shared her experience of being in a ward where a man came up to her at night with the intent to harm her, having experienced sexual assault in the past, she was so terrified that she became paralysed and it was only due to another woman in the ward who told the man to get out. This kind of experience resulted in her seeing mental health wards as not being safe and secure locations.
- Service users shared their experiences of not believed, being silenced and feeling vulnerable because of the combination of mental health issue and disability. One example was '*Feeling afraid to speak out because you will be judged as 'mental''*.

The inadequacies of acute mental health services have been highlighted elsewhere with people living with mental health issues identifying systemic level gaps in terms of access to and the quality of support, and the level of discrimination towards mental health (AASW, 2019; AMA, 2019; Queensland Alliance for Mental Health, 2019). The experiences of the service users in terms of the intersection of their disability, gender and mental health issues highlighted the complexity involved,

resulting in heightened vulnerability, coupled with feelings of helplessness that is perpetrated by the very systems that are meant to support them.

Workers also highlighted the lack of responsiveness of mental health systems to the needs of people with combined intellectual or cognitive disabilities and mental health issues. Workers highlighted experiences of mental health providers denying people services, or not being able to respond appropriately, not listening but rather actively silencing, not believing the individual, denying their rights, use of intrusive practices, loss of dignity and inappropriately referring to community organisations who do not have the resources to provide ongoing crisis responses to meet the needs of the person. Workers have identified their experiences of mental health professionals who have a strong tendency to view the mental health symptoms as a function of the person's disability, not their mental illness. They reported a distinct lack of mental health professionals who identify as working with people who experience both intellectual disability and mental illness and when workers try to refer clients with a disability to mainstream mental health services, they are regularly told that they 'don't do disability'. Consequently, people with mental health illness and an intellectual disability struggle to have their mental health needs met due to this unhelpful and ill-informed perspective. This situation constitutes systemic level abuse.

Case Study Jane

Jane is a 23 year old woman with an intellectual disability. Jane experienced sexual assault by her father as a child and more recently as an adult by her now ex-boyfriend. She was also bullied at school. As a young adolescent Jane experienced severe depression and was medicated. Jane's mother Margaret reports Jane "came out" of this depression during the past couple of years, before meeting her ex-boyfriend. There is a history of mental illness in Jane's family and her brother was shot and killed by police during a psychotic episode. Jane has been working with a WWILD worker, Eleanor.

Eleanor called Jane's mobile one day but there was not answer. She then called Margaret who reported that Jane was in hospital.

Jane had gone to stay with a girlfriend and go late-night shopping. Margaret noticed Jane was not being herself before she left and decided to call Jane's friend to check on her. Jane's friend said Jane had told her she was going to a Christmas party and had left in a taxi. Margaret and Jane's older sister Leanne tried calling Jane on her phone, but she didn't answer.

Jane likes to go to the ocean if she needs space and Leanne found Jane later that night at Redcliffe beach. She was sitting under a tree, wearing a hat and sunglasses. Margaret and Leanne took Jane home. Later, Jane came out of her room wearing a hat and sunglasses and said she'd called an ambulance for herself.

The ambulance came and took Jane to Caboolture Hospital where a mental health assessment was performed. Jane doesn't like Caboolture Hospital and she demanded to go to Nambour Hospital. She refused to stay at Caboolture Hospital and was discharged. For Jane, being discharged was a form of rejection. She had identified she was unwell, called an ambulance and gone to hospital, been assessed as not going to kill herself, and was discharged. Critically, they did not listen to her request to go to a hospital where she felt she would be heard, rather they assessed that she not going at risk of killing herself and discharged her.

Leanne and her partner Peter were not convinced Jane was safe and made the decision to drive Jane to Nambour Hospital. On the drive to Nambour Hospital, Jane began saying that she was Royal and that Leanne and Peter were going to harm her. When they arrived at Nambour Hospital, the staff said they wouldn't assess Jane as her behaviour was "too erratic" and Jane was "not being co-operative". Leanne didn't want to drive Jane home back down the highway and pleaded with hospital staff to admit Jane as she was a risk to herself and others. When this did not happen, Leanne and Peter drove back down the highway.

On the drive back Jane began screaming again that they were trying to kill her. She opened the door while the car was moving at 100kmh and tried to jump out. Peter pulled Jane back into the car and pulled over. Jane jumped out of the car and ran into the forest. Leanne called an ambulance and they searched for her in the forest where they found her naked and covered in mud. Jane was transported back to Nambour Hospital in the ambulance, where they admitted her.

The staff at Nambour Hospital said they were worried that because of her disability Jane would 'copy' other patients and referred to Jane having autism (which she does not) which would make it difficult for them to assess her. Margaret says the staff had no understanding of dual intellectual disability and mental health conditions.

Jane was later transferred to Caboolture hospital. Eleanor visited Jane in Caboolture hospital. Jane wanted to talk about the sexual assault by her ex-boyfriend but there was no psychologist doing rounds. The Sexual Assault Recovery Team nurse only work with people once they have been discharged.

Jane was very confused about what was going on, how long she would be in hospital, when she could leave, what medication she was taking. She would see the doctor and then she had to wait until he did his rounds again. This was a real source of anxiety for Jane.

Margaret was kept in the loop by the hospital more than Jane. Jane says she was not informed about her treatment and she was not able to tell the doctor about her medication. It is recognised that Jane's memory may have been affected and she may have been included in discussions but couldn't remember.

Jane told Eleanor she felt really anxious in hospital but had no one to talk to about this.

Jane was discharged from hospital one month later. She was not referred to community mental health as she was assessed as not experiencing complex mental illness. Margaret shared with Eleanor that she was concerned about the lack of community support for Jane.

Jane was readmitted to hospital a month later.

System: Child protection system

Understanding the complexity and need for support

Stakeholders identified the complexity of the issues experienced by service users who are involved in the child protection system, which often included D&FV, drug and alcohol, homelessness or precarious housing, mental health, trauma and disability. Workers universally identified significant issues with systems abuse resulting from the child protection system in relation to parents and young people with an intellectual disability either in care or transitioning from care, consistent with research in this area (Collings, Spencer, Dew. & Dowse 2018; Tarleton, 2008).

An issue consistently highlighted for parents with a disability involved in the child protection system was the lack of support that took into consideration the impact of the disability and associated need for additional and targeted support. Stakeholders highlighted that often the individual '*needs support to engage in the support*' requirements specified in the case plan, and that without access to support they are set up to fail. This includes recognition of the impact of the disability on for example, how the person understands the concept of time, which is important to meeting appointments; the need for clear, simple and often consistent and repeated information to facilitate the person's understanding; navigating public transport systems to make appointments such as contact visits; managing case plan requirements that involves working with multiple services; and managing multiple stressors that can include housing and mental health illness concurrently, while also meeting child protection case plan requirements. Managing multiple stressors and requirements is difficult for any parent in the child protection system, for someone with an intellectual disability this is magnified.

Service users who are parents identified feeling judged and discriminated against by the child protection system. One parent stated that the system takes "*advantage of you because of your disability and judging you unfairly*". Feeling judged was further compounded when there was also the presence of mental health issues alongside the intellectual disability, which constructs the parent as incapable and unwilling.

Workers identified systems abuse in terms of lack of effective communication and engagement strategies with parents with a disability, including the lack of 'accessible' information for parents in terms of how things are written out and how they are explained to take into consideration the cognitive impairment. As a result, workers described parents not understanding what has happened, what is of concern to the statutory child protection system and what is required of them. Without this understanding, the parent is denied their rights and opportunities.

Stakeholders experiences indicated limited understanding by some child protection workers of the complexity of the person's experiences and abilities which resulted in the parent being judged as 'non-compliant' or 'not willing' when things were not done, resulting in what were often 'punitive' responses towards the parent.

The following exemplifies this:

A parent with a disability whose child was in care was given a Go Card to support them with attending contact visits. The parent forgot to "tap off" once following a contact visit and their Go Card amassed a huge bill. The parent was treated as abusing the funds provided, rather than workers understanding it was a genuine mistake, highlighting lack of understanding of the person's cognitive capacity, especially coupled with the stress of having one's child removed.

A more nuanced approach is required that remains focused on the best interests of the child but also seeks to recognise the capabilities and limitations of the parent with the disability, and the value in cultivating the loving relationship between the parent and child where deemed safe to do so, rather than taking a one size fits all approach. Parents with an intellectual disability require additional and ongoing support, yet the current system does not seem to support this (Collings et al., 2018; Featherstone, Fraser, Ashley & Ledward, 2011; Tarleton, 2015).

Judgemental attitudes

Workers identified discriminatory and judgemental attitudes and practices by child protection workers in relation to young people who have been in care and who subsequently become parents themselves. The default assumption for this group appears to be that they are not capable of being a parent who can safely care for their child, resulting in being denied opportunities for support, or insufficient support necessary given their disability, often resulting in children being removed at birth. This is consistent with research in this area (Collings et al., 2018; Tarleton, 2008).

Workers experiences were that when a child was removed, the goal of reunification was not genuine, and that child protection staff often provided limited engagement and support because an assessment has been made that the parent has no capacity, denying the parent with the disability opportunities from the outset. Anecdotally workers identified that children are more often placed on long term orders as a result, with limited consideration of shared care or co caring options, along with limited supports to enable parents to maintain a meaningful role in their child's lives.

Skilled workforce: Understanding intellectual disability

A key issue identified is that the child protection system as a whole lacks sufficient understanding, knowledge and skills in working with parents who have an intellectual disability. The system was described as risk averse, rather than supportive and responsive to the unique needs of parents with an intellectual disability. This has been supported by research in this area, which has found parents with intellectual disability are at higher risk of coming to the attention of child protection authorities and of having their children permanently removed (Collings et al., 2018, p.1; McGuire, 2013). A further study by Collings, Dew, Gordon, Spencer and Dowse (2017) found that Aboriginal parents who have an intellectual disability are at higher risk of entering the child protection system than non-Aboriginal parents.

A key message from stakeholders was that they are not universally offered the necessary level of support, rather this is dependent on individual workers in the system who may provide greater access and opportunities for support. While admirable this is not enough, nor equitable. Missing is a broader understanding of the needs of parents and providing necessary services and resources to better support them. As Collings and colleagues (2018, p. 3) highlighted, Article 12 paragraph 3 of the CRPD requires that "*appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity*". Furthermore Article 13 requires for the "*provision of procedural accommodations to ensure that people with disability have access to justice*

'on an equal basis with others'". Yet the experiences of the parents and other stakeholders involved in the consultation is that this is not provided.

The following examples were provided by stakeholders.

The experience of a mother with an intellectual disability whose third child was removed directly at birth from hospital, she had two other children on long term orders and the assumption was automatically made that this child would not be safe with her, yet there had been limited work with the mother. The mother had experienced trauma and limited support while being in care and so distrusted of the system. In such examples what is missing is the attempt to work with the parent to build capacity or recognise what capacity there is to enhance this.

A further example of child safety putting in cursory support for mothers with an intellectual disability included the situation where a Child Health Nurse (CHN) was organised to visit the mother but this was only time limited and there was no understanding that having an intellectual disability requires ongoing support. This included understanding that each session required the CHN to repeat and go over requirements and expectations in a simple and understandable way and for child protection staff to go over the case plan regularly and the of the parent. Without this the expectation on the parent is held at the same level as a parent without an intellectual disability, which is not only inequitable but also sets the parent up to fail.

Intersection between NDIS and child protection systems

Workers identified a gap in service provision to support parents with an intellectual disability who are part of the child protection system, where the support is related to their disability and therefore falls under the umbrella of NDIS. Workers shared that NDIS does not support individuals in their parenting role, yet this is part of who they are, and their disability can create significant barriers, resulting in parents not having access to required support. Workers reported only one NDIS item exists that people can access to support them as parents however this is not commonly known, it is not printed in the price guide, resulting in accessibility issues. ARROS as an organisation identified having to advocate very hard to get any funding through to provide access to these parents.

The experiences of young people in the care of the statutory child protection system

For workers who supported young people in the care of the child protection system, the following types of systems abuse were identified:

- Workers identified discrimination based on the intersection of age, child protection history (trauma) resulting in a lack of recognition of the capabilities of the young person with an expectation that they would be able to function and respond in the same way as someone who is older and without a disability.
- Lack of flexibility and creativity to support the young person with a disability who must fit with a one size fits all model of service delivery rather than recognising their unique abilities and challenges. Workers highlighted the importance of building relationships with the young people for without these, there is no understanding of their unique needs as a result of the intersection of disability and trauma. This has led to judgemental attitudes that construct young people as manipulative rather than in need of support.

Workers provided the following examples of systems abuse of young people in care with an intellectual disability:

An Aboriginal young person aged 16 with no formal diagnosis of disability yet displayed signs of cognitive disabilities including Foetal Alcohol Syndrome (FASD). The young person has been in care since infancy and has experienced significant and complex trauma as a result of abuse and domestic and family violence in her home and subsequent DFV in her subsequent relationships. The young person experiences difficulty understanding and when she cannot understand she becomes heightened, which has resulted in her behaviour escalating to a point where she is aggressive. The young person was in a D&FV relationship herself, and became pregnant, after giving birth, the baby remained in hospital and she was discharged. The young person was contacted by the statutory child protection service and told her they would be removing her baby from hospital, she had no knowledge that this was ever the plan, there was no transparency and there had been no engagement to work towards how she would support herself and her child. Child protection services had reported they were afraid of her because of her behaviour when she 'escalated'. Consequently, no relationship was built with her and thus limited understanding of her complex trauma and likely disability. The young person then transitioned from being a young person who was in need of protection to having their own child in need of protection from her, yet there had been no active or meaningful engagement with her, nor understanding of her unique needs. Significant advocacy was undertaken by her workers, however a lack of any relationship with her by the services who were supposed to be responsible for protecting and supporting her meant that this was not successful. As a result, the very system meant to protect her ended up causing more harm to her as her child was then removed and she was retraumatised.

A young Aboriginal person with a disability was in out of care, he displayed signs of FASD and had mental health issues. Due to his disability the young person was not able to articulate his needs or wants and because he could not do so he was considered to 'not be engaging'. Judgements were made that the young person 'chose' not to go into a placement and engage with services, yet no additional support was provided to him to facilitate this, which was needed. In residential care the young person was reportedly triggered by workers who did not work from a trauma informed or disability informed framework, which resulted in property damage and subsequent criminalisation of him. The young person self-placed with his mother who had an Acquired Brain Injury (ABI), she had another younger child in her care and was involved with Child Safety. This was a different office to that managing the young person. The younger sibling's Child Safety Officer stated that the young person had to leave the home, or the younger sibling would be removed, placing the mother in a difficult situation and making the young person homeless with no support despite his vulnerability.

These examples highlight the complexity involved for persons with an intellectual disability and the need for an holistic trauma informed and culturally sensitive framework, that understands the impact of intellectual or cognitive disabilities to foster meaningful relationships and engagement.

The following example identified how systems abuse occurred through a lack of understanding and knowledge of the combination of having an intellectual disability plus significant trauma as a result of abuse. Workers told of a young person with a cognitive disability who had absconded from the residential care facility where he had been placed as he had experienced some issues, and his behaviour when escalated became aggressive. The workers provided the following information based on what the young person had told them.

The residential care workers called the young person and asked him to come back to the facility so they could 'give him a feed and clean up' which he agreed to. He agreed and when he returned the residential care team called the police who attended, they handcuffed him and put him the police car. The young person asked if he could at least put on a shirt (as he was not wearing one) and was denied. In the police car the young person was told to sit upright, and he replied that he could not because his hands were cuffed behind his back. The police officer allegedly then forcibly pushed him back into his hand cuffs and the young person retaliated by head butting the police officer. The Police officers then allegedly proceeded to beat him up in the back seat.

Missing in this example was a trauma informed understanding of the needs of this young person who also had a cognitive disability. The alleged aggressive treatment by police is concerning, yet not uncommon, again reinforcing the important need for greater understanding of the intersection of trauma and disability.

Constructing the young person with a disability as “uncommunicative, non-compliant, non-engaging”

Two further examples were provided that highlighted how a young person with a disability can become labelled as ‘non-compliant’ or a ‘trouble-maker’, which then influences the level of surveillance and attitudes towards them.

A young Aboriginal young man who has been in out of home care, has a cognitive disability and complex trauma, resulting in his being unable to regulate his emotions, or communicate his wishes and feelings. The worker reported that this young person has been labelled as ‘non-compliant’ and ‘not engaging’, and that he is known to police who constantly stop him in the street or shopping centres. The level of surveillance and subsequent criminalisation of this young person was evident; missing was any understanding of the complexity of the intersection of culture, abuse, trauma and disability, and the lack of meaningful engagement with him to understand his needs, as occurred through this worker and service. What this young person needed was truly person centred, trauma informed support from the systems meant to support and protect him.

A young person with suspected FASD and who was ‘couch surfing’, having left his out of home care placement was not regularly attending school. His Child Safety worker offered him the incentive of having a free meal through the tuck shop if he attended school. His \$50 Coles voucher for food was cut to \$30 per week because of his non-attendance at school and not being in placement. Workers highlighted how this strategy did not recognise the reasons why he was not able to attend school, his motivation, how his disability and the complex trauma affected him and the current state of his precarious housing stability. There was also no understanding that he would be expected to contribute to the food or expenses where he was living. Workers highlighted how the young person was being further punished and disadvantaged without any real understanding about what was happening and why, including the impact of his cognitive ability.

Workers highlighted how the physical and emotional integrity of young people with a disability and trauma are compromised when the young person cannot communicate or articulate their feelings

and wishes in a socially acceptable way. They highlighted that these young people are then constructed as uncommunicative, non-compliant, non-engaging and hence less deserving than someone that can communicate in a more acceptable manner. The result is that such young people are treated differently by services including not being offered the same level of support, reflecting the lack of a strong trauma and disability informed framework by staff. Understanding of the complex interplay of disability, abuse and trauma by key service providers such as child safety, police, youth justice and health services, in the experiences of these workers, was low. The example was given of the need to understand that concepts of time and space, as these can be difficult and understood differently for a person with a disability and will impact on their ability to turn up to appointments on time or navigate how to get to an unfamiliar location. The result is that when they are late or do not attend appointments they are labelled as non-compliant; yet what is needed is detailed support to enable them to meet appointments. Without recognition and support, the person with a disability will continue to be labelled as non-compliant, resistant, and uncaring, which increases the risk of being marginalised and, as has occurred in worse case situations, criminalised.

Summary

These examples demonstrate real life stories where there is limited understanding of the intersection of disability, complex trauma, attachment issues, and culture. Workers highlighted examples where the lack of knowledge and understanding of the complexity involved for these young people has resulted in workers inadvertently escalating or failing to de-escalate a young person, which can result in the criminalisation of that person. Workers also highlighted their experiences of the number of young people they work with who had never been diagnosed or recognised as having an intellectual or cognitive disability, including FASD, until their involvement, despite having been in the child protection system for many years. This begs the question of why the system has failed these young people; particularly given that the children have been part of multiple systems as a result of being in care. The lack of understanding of their disability has created additional barriers and disadvantages for them which, as discussed already, has resulted in criminalising and pathologizing the young person, rather than recognising that they have complex needs that have not been met.

Without a robust trauma informed practice framework that recognises the additional impact of disability, stakeholders have identified that young people experience further harm, and their rights are neglected by the systems meant to protect them. With more children and young people in out of home care and the complex intersection of trauma, abuse, disability and culture, poverty and

marginalisation, a trained, experienced and knowledgeable workforce that can support them appropriately at every level is crucial (Cleaver & Nicholson, 2008). Findings from Collings and colleagues research with parents with intellectual disabilities supported the findings from our consultations, highlighting key themes of parents feeling powerless, which included feeling *"bewildered, not heard, assumptions of incompetence and double victimisation"* due to their own experiences of domestic or family violence or trauma (2018, p. 10). They also identified the level of trauma that parents dealt with as a result of grief of having their child removed and despair and lack of inadequate informal support (Collings et al., 2018, p. 10). Research highlights the importance of specialist disability advocacy services to support parents, which was echoed by the stakeholders involved in this consultation, yet these remain limited and inadequate (Collings et al., 2018; Featherstone, et al., 2011; Tarleton, 2015).

System: Formal support systems

A key theme that emerged throughout the consultation process was the impact of systems and the violence and exploitation perpetrated by the very system established to safeguard and support individuals. Organisational workers identified multiple levels of systems abuse towards people with disabilities that echoed the experiences of participants living with a disability. The key themes emerging from the multiple and troubling examples is the systematic silencing and devaluing of the individual with the disability which in turn leads to privileging organisational priorities and workers over the individual, along with the lack of transparency and accountability measures. Throughout the consultations, systems level abuse was highlighted as an insidious form of violence and exploitation that permeated every level and created ongoing stress, trauma, harm and frustration for all concerned, often resulting from organisations taking a risk averse approach to dealing with the issue or because of lack of understanding or resources.

The following examples of systems abuse, neglect and exploitation were shared:

- A parent described significant violence towards her son who had multiple disabilities by his carers in a residential setting and failure by the organisation to do anything about. Despite repeated attempts to have the organisation address the issues, she felt silenced and ignored and the stress of leaving her child in this environment was enormous. The parent made the decision to have her son come home as she could not trust the system designed to care for him, to keep him safe. She had to quit her job to look after her son full time. The subsequent impact on her emotional, psychological and physical wellbeing along with her financial situation was significant.

- Workers identified that the women's refuge system does not adequately cater for the needs of women with intellectual disabilities and this creates a gap. The example was provided of a young woman with an intellectual disability who would not be placed in a refuge because of the fear she could not maintain confidentiality of the refuge location, having breached this in the past. While recognising the importance of this, the result is either homelessness or returning to an abusive relationship. We need more options to be able to protect women with a disability in such situations, particularly given the number of women with disabilities who experience violence.

Systems abuse by accommodation providers

Workers and family members highlighted examples of the abuse and exploitation that occurs from hostels, residential care homes and supported accommodation, including:

- Accommodation providers such as Hostels abusing the rights of the individual by providing sub-standard care and facilities, having rigid rules and a bullying culture, e.g. breakfast is only served at 6.00 am therefore if the person is not up by then they have no access to food till lunch time, with no right of reply. Other examples include being bullied by co-tenants but having no recourse as this is acceptable.
- Abuse of authority with the example provided of a Hostel Manager requiring the tenants to call her 'mum', playing on their vulnerability to create attachments with them but then using power and control by threatening them with abandonment if they did not do what she wanted of them.
- A cycle of systems neglect was identified which was evident with individuals who required independent living support due to, for example the combination of intellectual disability and mental health that involved hoarding behaviours. The example was provided of an individual whose accommodation reached an unsafe level of hygiene due to the amount of hoarding and lack of cleanliness, yet no early intervention had been provided to support that individual address these issues, despite the individual having services linked to them. The situation reached crisis point and the systems response was to take an authoritative approach, taking 'control of the situation' without any consultation with the individual resulting in the person being required to move into another accommodation site without any discussion or thought about their support networks or the person's wishes. The rights of the individual were removed, and he was treated as incapable, which is highly problematic. Had a more preventative and person centred approach been taken, the removal of the person's decision making capacity and dignity could have been avoided.

- People being forced to live with others they have no choice about following deinstitutionalisation. A lack of appropriate matching of the needs of the individual has resulted in those with complex needs and/or high degree of vulnerability, for example being placed inappropriately resulting in increased risk by other residents, or the needs of the person with complex needs prioritised over others.
- Secure residential facilities where there are few 'eyes' on what happens, with workers identifying cases of bullying by staff, which are not addressed when reported. This was a common theme by workers and family members, where the organisation supports their workers over the individual service user and e.g. transfers them rather than acting and ensuring the safety of service users, which just moves the problematic behaviour to another site.
- Normalisation of acceptance of substandard care within particular settings including hostel accommodation or boarding houses, where individuals experience subsequent exploitation, neglect and bullying. The lack of oversight allows such organisations to continue to operate, perpetuating substandard care that removes individuals rights, with workers highlighting that it then relies on the 'exceptional worker' who must take initiative and responsibility to advocate on behalf of the person as the system itself has let them down. It is recognised that this is a broader issue that also impacts people living with mental health issues.
- Staff identified systems abuse within residential care facilities and services that provided in home support that included examples of threatening to withhold services such as threatening not to wash someone or withholding medication for someone with epilepsy, or care / support staff selling their medication e.g. Ritalin. Other examples included isolating the individual and not allowing them to access other services, family or friends.
- Being excluded from residential care because of their complex needs, resulting in the person becoming homeless or living in unsuitable accommodation. The example was provided of young people remaining in detention and/or wanting to return to detention because of the lack of available housing for them due to their complex needs.

Systemic violation of human rights

Systemic violation of human rights occurring through:

- Service providers denying legal capacity of the individual at any level that results in lack of services or choice.
- Withholding services because of what is seen as "challenging behaviour".

- Service users not taken seriously unless a worker is available to advocate for them as they are constructed as “not deserving” or “unreliable”.
- Not being paid the same amount as other staff or given the same rights.
- Not acting when violence occurs in supported employment or accommodation.

System: NDIS

Workers identified barriers resulting in systems neglect with the NDIS funding model. The example was provided a person with an intellectual disability who required assistance with shopping and attending appointments. NDIS did not fund the transportation element of service, yet this was fundamental to enabling the person to access food or appointments due to their disability. The cost involved is expected to be covered by the organisations, who is not funded to provide this necessary service, creating additional barriers and discrimination.

Workers described the NDIS system being about ‘bang for buck’ which means organisations often employing the lowest paid workers to do the majority of the work with the service user. This results in staff not having the qualifications, experience or expertise to support service users with complex needs which can result in further neglect of the person’s needs because of a lack of understanding and skill to appropriately respond. Fundamentally this relates to a lack of an appropriate framework of service delivery that is rights based, informed by disability knowledge and research.

Summary: Systems abuse

The experiences of persons living with an intellectual disability, the family members and workers we spoke highlighted the extent and breadth of the violence and exploitation experienced, perpetrated at an individual level through to the very systems that are meant to support and safeguard people. The intersection of trauma and complex trauma for many of the people involved with the four services represented in this consultation process is important to note as this adds to the complexity of the experiences and implications on the wellbeing and safety of the person with the disability. Experiences of not being listened to, believed, valued or being afforded the same rights as people without disabilities are clearly evident. Linked to this is the lack of accountability and transparency that positions ‘professional services’ as powerful. A significant cultural shift is required in terms of the discourse of disability and ableism which underpins these experiences for without this violence, abuse, neglect and exploitation will continue to be perpetrated and sanctioned at a systemic level towards this group of people.

Internal reporting processes

The consultation explored the existing internal reporting processes for each of the participating organisations when abuse, neglect or exploitation have been identified. Ensuring that there is a robust framework that is transparent and effective for responding to allegations of violence is crucial. Not having a clear framework can perpetuate the violence and re-traumatise the individual, as has been identified by stakeholders throughout the consultation process.

What has become clear from the services involved in the consultations is the existence of clear processes, that are rights based, and aligned with values of the organisation that are inherently rights and social justice focused. All staff involved in the consultation process were clear about the process to support service users and staff in responding to disclosure of abuse. Core to the process was a shared responsibility framework that was truly person-centred, to support the service user and the staff members.

Common components of an effective internal framework for reporting of disclosures of violence included:

- A clear framework and process that staff are aware of, including who information is shared with and the decision-making process; which involves discussion with the team leader and/or manager and decisions about actions are informed by what the individual service user wants. A collaborative approach that involves the team and team leader/manager to discuss the issues and best options, taking into consideration legislative and ethical responsibilities.
- A rights-based framework that focuses on the rights of the individual, which includes being inclusive and providing as much information as possible.
- Person-centred, the individual's needs are placed at the centre, which means working with the individual inclusively.
- A process of identifying most appropriate options, considering risks and how to minimise risk, considering likely outcomes and sharing this information with the service user.
- Due consideration of duty of care issues e.g. child protection, without being risk averse. The process involves working with the service user, being transparent about the need to report and discussing how this could be done, encouraging the service user to be involved in whatever way is comfortable. Workers identified that the only time they would not disclose an intention to report to an outside agency, for example child safety, is where the service user's safety or that of another person is of concern and in such situations it is the team

leader or senior management that makes the notification not the workers, so that the relationship can be maintained between the service user and key workers.

- Attention to ensuring the documentation of the incident/disclosure is accurate and reflects the person's story.

Workers identified that the organisational philosophy and values are inherent in the response to disclosure, which is treated with respect and seriously. Evident was the lack of a risk averse approach, but rather one that was focused on the best interests of the individual and upheld their rights. Stakeholders reported that their respective frameworks were effective and supported them in their roles to support the service users and ultimately had the best interests and wellbeing of the service user at its core. From the examples provided it is evident that the workers in these organisations strongly advocated for the needs and rights of the service users, yet this is not always the case. We recognise the uniqueness of the participating stakeholders and their explicit adherence to a rights based and person-centred framework of practice, underpinned by a number of the United Conventions. By contrast stakeholders identified a range of challenges when they reported situations of abuse to other organisations, these are now discussed.

Experiences of reporting abuse to external services

All stakeholders were asked about who they have reported incidence of abuse to and their experiences in doing so. A range of key and common services were identified and what follows are the themes that have emerged.

Service: Police

Experiences and challenges: Sexual abuse and access to 93A Interviews

Workers explained that for a person with an intellectual or cognitive disability who has experienced assault, Police in Queensland are able to use an interview under the Evidence Act 1977, section 93A, which is used for Child Witnesses. This involves Police Officers with specialised training known as ICARE which is "*designed to minimise further trauma to the child and to collect credible evidence that meets ... QPS legislative and procedural requirements. ICARE interviews conducted with the QPS*

should be recorded by the QPS by way of tape recording or written form, which constitutes a 93A criminal statement pursuant to the Evidence Act 1977, section 93A"⁵.

93A gives the person access to a support person, a small special room that is comfortable, the interview is videotaped so the person does not have to repeat their story multiple times, and this can be used in court. Even though this exists, individuals with an intellectual disability, workers, and family expressed a range of challenges when they have reported sexual violence in being able to access this important process.

Women, families and workers identified the inconsistency in being offered a 93A interview, saying that not all Police are aware of the rights of the woman to have a 93A interview and/or the lack of access to appropriate ICARE trained Police Officers in all locations but particularly in regional and rural locations. One woman shared her experience of living in a country town where she was assaulted and was subsequently interviewed by police officers who had no ICARE training. She expressed how hard this was because they accused her of changing her story without recognising that she was not able to remember everything and that the way they interviewed her did not consider her disability. Another woman shared her story of having a delay in being able to give evidence to an ICARE trained Police Officer, creating a great deal of stress and anxiety. Importantly this then has the potential to compromise the integrity or reliability of evidence which adds a further barrier to the woman accessing justice.

Workers also reported experiencing great difficulty when requesting a 93A pre-recorded interview for a service user who has experienced sexual violence, finding that Police are often unwilling to facilitate the 93A process without significant worker advocacy. For people without access to such support the risk is that they are not afforded the same rights, creating further barriers.

Women service users generally talked about how the interview with police was intimidating, particularly when they were not given access to a 93A interview as they reported they needed more time and more simple questions to be able to respond. Women shared being expected to provide a written statement without any recognition of the difficulties of doing so due to their disability.

⁵ <https://www.communities.qld.gov.au/resources/childsafety/practice-manual/practice-resource-joint-investigation.pdf>.

One woman shared her experience that even though she had a support person, the person had to sit behind her and she could not see them and they could not help/support her she identified that it would be more supportive if she could see the support person to give her comfort throughout this difficult process. This raises the tension that comes from recognising the additional needs of someone who has an intellectual disability coupled with the trauma of sexual assault and the importance of having robust mechanisms for the gathering of evidence. If justice is to be achieved for people with a disability, finding greater ways for survivors of assault to access appropriate support in providing evidence is needed.

Parents talked about the differences in reporting when the survivor is an adult versus a child with children having access to specialist detectives, which is not automatically the case for adults with an intellectual disability. Workers highlighted that it is often difficult for detectives to identify an adult with an intellectual disability identifying the importance of advocacy to access the specialised 93A interview. This raises an important systemic gap where the person with the disability is not able to access their workers or has anyone to advocate for them when they are talking to Police.

All stakeholders identified the process of questioning the person who has been assaulted as creating automatic barriers that could be avoided. This includes expectations of being able to remember specific details, yet not providing trained and skilled officers who understand and can respond to the unique needs of the person with the disability. Instead, interviews have been described as confusing for the individual, resulting in the person being deemed to be unreliable as witnesses rather than the actual process and this can result in cases not proceeding and trauma and stress for the individual and the family.

Several women who had experienced violence/assault more than once and experienced having a 93A interview highlighted the stark contrast in how they were made to feel, treated and believed. Where the person was able to access a 93A interview, women talked about feeling they were being taken more seriously and being listened to, along with benefit of not having to repeat their story multiple times.

"[They] didn't want to listen to me or treat me with respect"

More generally, a key theme identified by women, family and workers was that they were given the message that their experiences of assault would be 'too hard' to prove, and that they were either not believed, that the person's word was not good enough and that it was too hard, and they were

treated disrespectfully was consistent, resulting in the denial of the individual's right to justice. Women also expressed fearing the Police and process as a result. The following are some comments by women survivors:

"[Police] made me feel that it wasn't worth reporting; they said it would be too hard; made me feel scared."

"Police told my mum and her friend that because it was sexual assault it would be hard to prove because it was just my word."

"[they] didn't want to listen to me or treat me with respect" not being given access to 'my rights'

"I reported to police it was scary, but they didn't really want to help me."

One woman talked about being interviewed in the middle of the police station following domestic violence incident, with multiple police officers around, no privacy was offered to her; she expressed her distress and discomfort. She also she talked about feeling like she was not being taken seriously, even though tried to give a 'good' statement, so she would be believed. This highlights the level of insight that she had into how she was being perceived which in itself creates a further layer of abuse and inequitable barriers.

A concerning issue raised was the minimisation of the violence or attitudes of blaming the victim by Police which appeared to be due to a combination of the person's disability and their gender. One woman was reportedly told by a Police Officer *'you were strangled because you went back to him'*. Another person was accused of being *'high'* when she reported being strangled. A further issue with how the system responded was the lack of sensitivity when they were interviewed by a male Police officer. These experiences are highly troubling as they go to the very gendered attitudes and beliefs about violence towards women that continue to exist despite countless inquiries, research and reports.

Families and workers identified a lack of consistency in Police responses and that it is dependent on who the officers are, the location, the relationship that exists already and whether they have had any training. Comments were made that it was a *"luck of the draw"* and being *"hit and miss"*, and therefore required a great deal of advocacy on their part. It appears that some Police are resistant to using the 93A when it is raised by workers, and workers identified that some Police often have individual biases about disabilities, making assumptions about a person's impairment or lack

thereof based on the person's appearance or initial "*presentation*" at the station. This raises the key issue of education and training about intellectual and cognitive disabilities.

Service users, families and workers expressed feeling intimidated by Police with family members expressing the need to do what they are told for fear the case will be dropped or ignored. Families, service users and workers identified the lack of sharing of information about what is happening with a report, the length of time the process can take and experiences of putting up with ongoing invasive questioning as part of the investigation because of feelings of powerlessness and a desire to see justice done. Police hold significant power and even workers felt powerless in their advocacy for the needs of the service user, identifying that they need to 'judge how far to push' for the rights of the woman for fear of retribution by Police on the individual.

Stakeholders reported examples of the use of intimidation tactics used by some Police on service users with a disability, reflecting an abuse of power and concerning attitudes.

The example was provided of a young male with an intellectual disability and history of child protection trauma. Six police reportedly approached him and said they wanted to have a chat and he needed to attend the police station about breaching a DVO, which it eventuated he did not understand when it was made. The young person attended but reportedly did not understand why and what was happening, when he was in the police station, he was told that he needed to go to the watch house and that he would be going to court. The young person was later released with no charges, however had experienced intimidation and an abuse of power by police.

All stakeholders identified experiences of some Police being patronising and dismissive when the incident involved a person with an intellectual disability with responses of "*thanks for raising it, but we are not taking it further*". Workers identified that the lack of understanding of the disability and in particular, where there are intersecting issues of known mental health this has resulted in the service user's needs not being heard, rights are removed about choices or decisions as assumptions are made about the person's capacity, rights to privacy and confidentiality are denied as is access to assistance of a support worker during police interviews.

Workers identified that they need to provide significant scaffolding to the individual with the disability to even report the incident to police, as well as throughout the subsequent process. This

was highlighted by examples of Police assuming someone is intoxicated or high, without recognising that they have a disability, and then acting on this assumption.

One service user, Suellen identified the following when she reported to Police about her experiences of abuse:

"They didn't listen to me. They made me feel uneasy"
"I felt like they didn't want to listen because of my disability".
"I feel like they didn't take it seriously"
"I have a speech impediment, so I feel uneasy when I speak to police"
"They don't talk to me about my disability, they have never spoken to me about 93a. I am the one who has to ask for it".
"I never go without a support worker. I don't understand the process, not all the time. They don't really explain it"

Suellen eloquently describes the barriers and challenges to her accessing her rights to justice and support, which reflects the degree of power Police have in terms of her access to this. She identified the following as examples of how they could have supported her better to access her rights.

"They need to offer more services. If they want to interview you or talk to you, they need to do it between 9-5, when there are services open who can help and support you. There is no one around at night". *"People with a disability sometimes need support, so we can understand them and they can understand us".* [This referred to police attending her home at night to ask her questions]
"I have felt that I am the criminal when talking to police when I am the one who is the victim".

Constructing the individual as being an 'unreliable witness' because of their disability, was identified in terms of the flow on effect on all aspects of the investigation including: how evidence was gathered if at all, timeliness including how the matter was dealt with, and how the key stakeholders were treated. One parent talked about how difficult it was to keep going despite all the "roadblocks" put in their way. One carer talked about having to wait two weeks from the time of the incident before the Police even interviewed the victim, and only did so after the carer called the Police to follow up; the delay impacted on recall.

Workers identified an issue when Police did not believe that the person has a disability and therefore do not offer any specialised support. The experience was described as harrowing for

individual involved with a temptation to just withdraw due to the stress and feelings of futility. A further issue is the burden of proof that is placed on the victim of the violence, and associated justice system process that does not appropriately recognise the unique needs of people with intellectual disabilities and so added complexities.

A key message was the need for an alternative process that recognises the needs of people with intellectual disabilities in terms of ways of gathering evidence, prosecuting the case and a judicial process that does not retraumatise them through intimidation and inappropriate practices because it lacks awareness of disability. This includes when an individual goes to court and the very processes involved for example, sitting around all day waiting to give evidence but not being called, not being able to have support people with them. For someone with an intellectual disability having additional support is imperative if they are to be able to access due justice.

Good practice from Police:

Stakeholders identified some good practice experiences with individual detectives who have engaged in a way that was respectful and transparent. WWILD also reported that they have partnered with the Police Academy and provide training for detectives on working with people with intellectual disabilities who have experienced sexual or domestic violence. This provides opportunities to influence the attitudes and belief systems and practices of police, however, does need to be scaffolded with additional training, for example, ICARE training.

Summary: Experiences of reporting and Police

Similar themes identified here have been identified for women generally, however when intersected with an intellectual or cognitive disability, this exacerbates the potential for further harm and re-traumatisation and barriers to accessing justice and support. The overwhelming feelings and experiences were of people with intellectual disabilities feeling disrespected, dismissed, and discriminated against. The lack of a consistent trauma informed framework further compounds the experiences. The themes identified by stakeholders are consistent with the themes identified by the Australian Human Rights Commission (2013)⁶ along with other Inquiries⁷ (see for example Goodfellow & Camilleri, 2003; Victorian Law Reform Commission 2013) which found:

⁶ The Australian Human Rights Commission. (2014). <https://www.humanrights.gov.au/our-work/3-police-courts-and-corrections-issues#fn39>.

⁷ See for example Goodfellow, J. & Camilleri, M. (2003). Beyond belief, beyond justice: The difficulties for victim/survivors with disabilities when reporting sexual assault and seeking justice, disability discrimination

- Inability to access effective justice compounds disadvantages experienced by people with disabilities.
- Many people with disabilities are left without protection and at risk of ongoing violence.
- There is widespread difficulty identifying disability and responding to it appropriately.
- Necessary supports and adjustments are not provided because the need is not recognised.
- When a person's disability is identified, necessary modifications and supports are frequently not provided.
- People with disabilities are not being heard because of perceptions they are unreliable, not credible or incapable of being witnesses.
- Erroneous assessments are being made about the legal competence of people with disabilities.
- Styles of communication and questioning techniques used by police, lawyers, courts and custodial officers can confuse a person with disability.

As per previous reports and Inquiries, it is important that system level cultural change in how disability is understood and responded to when it comes to people seeking justice.

Service: NDIS

Workers and family members identified challenges when approaching NDIS about reports of abuse and exploitation. A key issue was that NDIS is primarily concerned with whether the harm or exploitation has been perpetrated by a service provider not how the service responded or is delivering services. Stakeholders reported that the very structure of NDIS as a business model of service delivery has created challenges as NDIS funded organisations are focused on profitability to survive. They identified their experiences with a number of providers where this has resulted in employing staff with minimal qualifications, inadequate vetting in terms of references, lack of training or upskilling and an overall lack of valuing of the staff. Within a context of competition, it also becomes difficult for one service provider to raise concerns about abuse, negligence or exploitation about another as this is seen as being a conflict of interest. This system essentially silences service providers who practice with integrity and creates barriers to provision of support. The lack of State or Federal legislative requirements around practice standards was identified as an important gap that requires attention.

Legal Service, Melbourne; Queensland Advocacy Incorporated, (2001). *Justice for all: People with an intellectual disability and the criminal justice system*. QAI Incorporated, Brisbane.

Service: Disability service providers

Following on from the issues raised above, workers and families identified their experiences of service providers being highly risk averse when it comes to allegations of abuse with the focus being on protecting the agency, rather than taking a *"rights based approach"* to support the rights of the individual.

Family members and workers identified a range of concerns including:

- Delays in action to address the abuse perpetrated by another service user or paid staff member. One parent talked about the organisational response to abuse was to medicate their child who had been allegedly assaulted as a way of dealing with the issue. Another parent talked about the difficulties when the individual is not able to verbalise the abuse resulting in them not being believed. Some family members shared experiences of incident reports being changed to protect the workers and organisation. Rather than taking appropriate action towards a perpetrator of harm who is a staff member, families reported experiences of the staff being moved to another facility or being demoted. Stakeholders highlighted their concern with this practice and a culture in some organisations of tolerating harmful behaviour by staff or residents and things being pushed under the carpet rather than addressed. Family members talked about being labelled as 'troublesome' when they did report and even experiencing bullying. This raises significant ethical issues about the safety of other individuals using the service.
- Not believing the victim and pathologizing them by identifying it was 'their behaviour' that caused the abuse, that is blaming the victim. Stakeholders reported how this devalues the person and family when concerns are raised.
- Fear of retribution towards their loved one by carers/staff and feeling powerless especially where their loved one was dependent on the service, e.g. in residential care.
- Whistle-blowers are not believed, *"you walk away because you are burnt out"* feeling *"helpless and hopeless"*.
- Where internal investigations have occurred, family described this as often lacking transparency, not being informed about what was happening following the disclosure and there being a tension between providing justice for the victim versus the rights of the employee. Similarly, workers identified a lack of transparency around sharing policies/procedures around responding to disclosures/ critical incidents and also of sharing findings of internal investigations. While privacy concerns are recognised, this does result in

those involved in the incident not being given information to instil confidence about future safety and practice.

- There is a pressure on families to 'correct' the behaviour of the individual when it becomes challenging rather than services trying to understand the cause of this. This once again pathologises the person without considering the impact of their disability and need to provide appropriate support.
- Losing trust in the system and having to become "*vigilant*" to protect their children, as a result they themselves are experiencing abuse by the system that is supposed to be protecting and caring for their loved ones. Family members described feeling drained and overwhelmed by the processes of trying to protect their loved ones, with some feeling like they were "*smashed to the ground*" "*shoved through the system*" and questioning themselves "*why even bother?*".

Stakeholders experiences indicate systemic level issues in terms of the qualifications, skill level and experience of paid support workers/carers due to low pay rates; lack of supervision; lack of reflective skills and insight to recognise the impact of their own values on their practice and the highly stressful and intense nature of the work. The funding model perpetuates this and has created a system that is focused on outputs rather than quality outcomes for a number of services. One area highlighted was the lack of focus on training to identify and respond appropriately to disclosure of sexual assault or other types of violence. A consequence is the vicarious trauma that a lack of a responsive, rights based, person centred and just process creates for family members and workers who reported feeling hopeless and helpless and the lack of justice.

Service: Health services

Stakeholders identified a number of challenges when reporting to or interacting with the health system as a result of abuse. Fundamental to this has been the lack of understanding and knowledge about intellectual disability, and especially where this is coupled with complex trauma, resulting in an inability to effectively respond to meet the needs of the individual. As with Police, this includes a lack of responsiveness and skills to effectively work with the person to meet their needs, taking into account unique communication and cognitive abilities. This is reflected in the example of stakeholder experiences of medical staff discriminating against the individual with the disability when they find out that they have an intellectual disability, which consists of making decisions about capacity and directing conversation to the worker, ignoring the individual.

The complexity of navigating hospitals during times of crisis was identified as problematic. One person explained she had a communication card on her with all her personal and contact details which made it easier for her to manage the process. Women talked about their experiences of being taken to the Emergency Department and the impact on them of being in a busy ward, with lots of people, particularly men, and being afraid and overwhelmed by the doctors including all the trainees standing around and watching. The lack of privacy and understanding that the environment would be overwhelming because of both the disability and having experienced assault by a male was not considered. One service user identified the need for a separate place for people with disabilities to alleviate the stress involved.

A number of the women talked about their experiences of being in a mental health ward/ED and the complexities involved for them particularly in terms of feeling unsafe and overwhelmed. The issues included:

- Being in Emergency Department and waiting up to 8 hours plus and then not even admitted despite experiencing an acute mental health situation, with little recognition about the impact / influence of the disability.
- Service users identified the stress and fear of being admitted or 'locked up' with other patients who are violent which was triggering for those with PTSD.

One woman highlighted the importance of people taking the time to make sure that someone with an intellectual disability understands and can share their story. She recommended that health care staff need to recognise and understand that she would need extra time to understand what they are saying to her or what they are asking of her because it takes her longer to think about things and express herself, resulting in not being able to share everything she wants to, not being able to express herself fully in an unfamiliar environment and not feeling well anyway contributes to feeling overwhelmed and shut down.

Key themes included the increased vulnerability and the fear and sense of being overwhelmed and feeling helpless when in mental health, lack of recognition of a dual diagnosis of mental health and intellectual disability and a lack of dignity and respect. This latter was highlighted by a woman who was placed in a shared gender ward and wanted to have a shower. She was not allowed to close the door of the shower for fear she may harm herself or incapable, she was not sure, and she faced the indignity of having to shower where the male patient was able to see her. Stakeholders also highlighted some of the barriers to accessing complaints processes for people with an intellectual

disability; one example was of a service user given a form to fill out, describing it as 'not disability friendly' and with no support to allow them to complete this.

Workers identified a more positive experience for Aboriginal or Torres Strait Islander clients who have accessed Indigenous Health services, described as more responsive to needs of the individual because of connection.

The case study of Katie and Sharon provides a powerful story of how a range of systems failed to support her Katie who had experienced sexual assault.

Case study Katie and Sharon – systems level failures

Katie is a young women woman in her 20's who has an intellectual disability and uses nonverbal communication. Katie uses a combination of Auslan and her own signs to communicate. Katie lives with her mother, father and two siblings. Katie attends a disability support service during the week and has been attending the service for a couple of years, enjoying her time there. Katie disclosed to her mother that she had been sexually assaulted by one of the support workers after she was dropped home from the service. Katie's mother, Sharon immediately called the family doctor to see if she could make an appointment for a health check. At this point Sharon was hoping for some guidance as to how she should proceed.

Sharon called six different general practitioners, including the usual family doctor, all indicated that they were unable to see Katie as she has experienced sexual assault. Sharon was finally able to make an appointment with a male doctor; this was the first time Sharon and Katie had met him. He encouraged them to attend a hospital for a forensic examination. However, he did not share which hospital has the facilities to do a forensic examination. Sharon and her daughter went to three hospitals before they attended the Royal Brisbane Women's hospital.

During her time at the hospital Sharon was asked to talk to three different sets of police officers from different units. She was asked to explain exactly what had happened to her daughter. Sharon found this very distressing and frustrating as it was clear that information was not being recorded and handed to the appropriate unit. Sharon felt extremely retraumatized by this experience.

The first officer she spoke to at the hospital was, in Sharon's view, incredibly dismissive. At this point he had only heard the version of events from Sharon, he had not taken a statement from Katie and said "*I don't think there is anything in this. I want this finished as I am on days off*".

Katie was later interviewed via 93a statement. However, no support person was offered. She required an Auslan interpreter, which was granted. However, Katie had never met this person; as Katie used a combination of Auslan and her own interpretation a lot of her signs were not picked up by the interpreter.

Katie was extremely distressed during the interview. She asked the officer for a jumper and a drink whilst in the interview and then changed her mind. The officer shared with Sharon that he thought she was "babbling" and was not going to make a credible witness. He made comments about her mental capacity. The detective assumed her behaviour was due to her disability rather than the trauma she had just experienced. Sharon felt that if she had been consulted during the interview she could have shared that this was not a normal presentation of her daughter or her disability; the behaviours were symptoms of trauma.

After the interview Sharon was told that police had spoken to the perpetrator on his front door step. During this discussion, the perpetrator reportedly told police that Katie had her period that is why she had stated that she was sore when she disclosed to her mother. Sharon was later called by police and asked why she had not shared this information. Katie did not have her period at the time, this can be verified by the doctor who performed a forensic examination on the night the abuse was disclosed. The officer then told Sharon that there would be no further action as she had received a "good vibe" from him.

Sharon later discussed this with her WWILD worker asking "Why is he (the perpetrator) more credible than her. It's because she has a disability".

Katie returned to the service, as Sharon was assured by management that the perpetrator had been moved to administration duties at another service while the police investigation took place. However, Katie was telling Sharon daily that she was seeing the perpetrator at the service.

Sharon went to the service to find out what was going on, to find the perpetrator alone with a service user. No other staff could be seen. At this point Sharon removed Katie from the service as she was fearful for her daughter's safety.

Sharon feels that the service provider "had a vested interest to be less than transparent" as the perpetrator was an employee of the service. After the disclosure the service provider did not send Disability Services Queensland a critical incident report in the time period stated in the Department's policy.

Sharon made a complaint to the Queensland Police Service. It took another two years before Katie was offered another police interview with an interpreter, she knew at a location she felt safe in. After the interview, the detective told Sharon that there were a number of things that she intended to follow up as part of the investigation. Including, viewing Katie's first police interview.

Sharon had a lot of difficulty contacting the detective after the interview. Sharon was hoping for more information as to how the investigation was proceeding. Sharon had no further contact with that officer as her calls continued to be unanswered.

Sharon made a complaint with DSQ regarding the service providers handling of the sexual assault disclosure. Sharon describes the complaints process as "convoluted" and "designed to be overwhelming". She found that there were a lot of "inconsistencies as different people would tell you different things". Overall, Sharon did not find any satisfaction or procedural justice through this process. The employee who was responsible for handling Sharon's complaints named her as being "vindictive" when she asked that the service provider participate in an external investigation of the service, as was agreed upon by all parties including Disability Services in a stakeholder meeting two years prior.

Sharon later told a WWILD worker:

"Systemic failures are just as traumatic as they make you re-live it over and over again. It is a violation of her (Katie's) rights. She is treated like a second class person because of her disability. You get your hopes up for a bit of justice, then the injustice is just palpable".

Service: Department of Communities Child Safety, Youth and Women (DCSYW) - Child Safety

Stakeholders identified a number of key issues when working with Child Safety Services (DCSYW) in relation to service users who have experienced violence. These included the following experiences:

- Workers identified experiences of Child Safety Services staff not believing the stories of the individual or responding defensively when issues are highlighted, minimising and reducing people's issues to their choice of relationships, thereby essentially victim blaming. This reflects a consistent workforce issue identified throughout this consultation process of a lack of appropriate knowledge and skills in understanding and working with people with an intellectual disability. The following example was highlighted as one where when a complaint was made to the Complaints Department, nothing was done until the family escalated this to the Minister, highlighting a risk averse, defensive and not believing attitude. Yet the complaint led to positive outcomes to prevent such an occurrence happening again.

The situation involved a young woman with an intellectual disability whose children were in care of the Department of Child Safety Services. She had escaped a violent partner and was having individual contact visit with her children. Her partner had contacted the service centre and managed to find out when and where the contact visit was to occur. When the young woman left the contact visit her kidnapped her and kept her captive for a few days, during which time he assaulted her including strangulation. When the matter was taken to the Complaints Department it met with road-blocks until the family escalated their complaint to the Minister. Following this escalation, the Director General became involved and has since implemented domestic and family violence training for administrative staff.

Service: Education

The following is the experience of one family in relation to their daughter who experienced rape while at school and subsequent experiences with the key systems involved. This case exemplifies practice that was risk averse, dismissive of the person with an intellectual disability, procedurally focused and judgemental. It also provides examples of responsive practice. Importantly it highlights the far reaching consequences for this young woman and her family who had to leave their home to achieve a level of safety because of the lack of belief and inaction of services.

Case study: Julie and Lesley and the Education system

The mother, Julie was called into the office at her daughter's school. She was advised that there had been an incident at the school with another student who also had an intellectual disability. The school told Julie that her daughter, Lesley and another student had had a consensual sexual interaction.

Following the incident Julie noticed her daughter was displaying worrying behaviours such as: faeces painting, bed wetting and "picking at herself", a form of self-harm.

Julie was aware that something else had happened, however her daughter was unable to make any disclosures at that time. Julie took her daughter to the hospital and she saw a developmental specialist. Her daughter shared that she had been sexually assaulted by the boy at the school.

Julie made another appointment to see the Principal who still argued that the interaction was consensual. The Principal read out the report that was written after the incident. It had a lot of information in it that was never shared with Julie. Including that her daughter was found at the time to have her "blouse down". Julie was told by a teacher's aide that they had seen the incident

while on duty, and they said that it definitely was not consensual. The teacher's aide told Julie that they had spoken to the teacher about what they saw.

Julie was never allowed to access this report. She found out the school was aware that this boy had assaulted someone else in the past. No support was offered to the daughter or the mother.

Julie reported that she demanded that her daughter be moved away from this boy's class. The school put her in the class of this boy's sister. This caused by problems for her daughter.

Julie told the Principal she wanted an external organization to come to the school and talk to the children and parents about: 'saying no, keeping safe, your body is your body'.

A service did come to the school however, they spoke about things that were not related such as hormones and menstruating. During this meeting, the principal sat next to Julie which made her feel quite intimidated. Julie felt that the Principal was waiting for her to "*say something about what had happened*".

Julie and her family relocated, and Lesley is now going to a new school. Julie spoke of feeling:

- That she had been lied to, she had been silenced, she had been intimidated
- That the school was "negligent".

Department of Education:

Julie called the department looking for options and advice. After she shared her experiences she was told:

- There were no options available as the department had received the report from the school which stated that the interaction was consensual
- She was not offered any information about complaint pathways
- She was not offered any support
- Julie felt that they "didn't want to know about it".

New School:

Julie tried to talk to teacher from the new school about what had happened previously. She thought they if they knew about her daughter's trauma symptoms, they would be able better respond and support her. Julie felt that they were not interested at all.

Police: First interaction

Julie went to the local police station for advice. She explained to the person at the front desk she needed to speak to an officer. Once an officer came out, she asked them if it was possible for them to speak privately. The officer said no; Julie ended up sharing her experience in the waiting room. The officer told her that there was nothing that could be done as they had received a report from the school that stated it was consensual.

Police: Second Interaction:

After Julie second meeting with the Principal she demanded that they contact the police. They “begrudgingly” called the police. An officer called Julie and they made a time for her daughter to attend the station to give a statement. Julie was told she could not go into the room. After the statement the officer told Julie that from what her daughter had said it was clear it was not consensual. However, as *“she doesn’t have the capacity to deal with this in a court of law, they were not going to go any further with this”*.

Julie was also told that she was unable to apply for Victim Assist Queensland financial assistance as there was not conviction. (This is not the case as you do not need a conviction in QLD to apply for financial assistance from VAQ if the crime occurred after 2009)

Julie felt:

- They didn’t care, she was being silenced once again
- Angry for not receiving the right information (Her daughter did apply and was granted financial assistance down the track with the support of WWILD)
- Confused by the officers’ assumptions about “legal capacity”

Hospital – Developmental specialist

Julie felt that this woman was incredibly responsive. She was the only worker who offered Julie and Lesley any support or resources. The specialist gave Julie information about WWILD.

Department of Housing

Julie contacted the department to apply for a housing transfer. She explained why she required a transfer *“my daughter was too scared to go out in the community as she was fearful that she would run into the perpetrator”*. Julie felt that the Department were sympathetic and responded in a timely manner. Her transfer application was approved, and the family relocated to a new area.

A further example from an adult service user highlights the consequences when systems do not effectively and safely support children and young people who disclose abuse. This is her story that reflects systemic failures, perpetuating intergenerational trauma.

“I reported to the school when I was young that I was being abused and they calls [sic] DOCS. They spoke to my step mum and told her what I had said. I was flogged when I got home”.

“I blame DOCS and the school for what happened to me. I feel like they closed the case straight away and left me there. They should have removed me straight away. Abuse was happening every day”

“I was then abused in foster homes. I feel like they don’t do very good checks on people. They need to check their history and talk to other kids in their care. Anyone can get a blue card”.

"When DOCS were talking to me about my kids, they made me feel like I was like my mum because she lost all her kids so I should lose mine".

Service: Department of Public Prosecutor (DPP)

Family members of service users from WWILD who have had experiences with the DPP shared the following issues when going through the judicial process reflecting areas for improvement to address issues of equity to justice.

- Lack of collaborative or transparent processes including withholding or not sharing information during the legal process.
- Inconsistent legal representation which impacts on the ability of the person with the disability in being appropriately represented. Family explained that for someone with a disability, having to repeat their story just prior to court with someone they have not met before, who has limited understanding of their situation and needs, and who they have no relationship with, creates additional complexities. This is a difficult situation for any survivor of violence, however when overlaid with the disability it creates yet more barriers.

Summary experiences of reporting to services

Key themes identified in this consultation related to structural issues that perpetrate harm to individuals with intellectual disabilities as a result of lack of:

- Appropriate social policy and necessary resources such as safe and affordable housing; appropriate domestic violence shelters; appropriate and safe out of home care options for children and young people and shared care or co-parenting options for parents with an intellectual disability with children in out of home care.
- Socio economic disadvantage which includes intergenerational poverty for many. Poverty disproportionately affects people with disabilities which places them in more vulnerable situations in terms of abuse, neglect, violence and exploitation.
- Intergenerational trauma has been a consistent theme for many of the stakeholders, which exacerbates experiences of disability.
- Discrimination and associated stigma for people with an intellectual disability that creates a cultural identity that is devalued. All stakeholders identified that even when someone speaks out, they are not believed or the complaint is not dealt with, nothing happens; the belief and experience is that this is because the individual at the centre of the has an

intellectual disability. This then goes to the heart of the need for prevention programs in terms of education to achieve a cultural shift in our national discourse.

- A further issue associated with systemic discrimination and a discourse of ableism is that perpetrating harm against a person with an intellectual disability will have no lasting impact, which reflects the dangers of dehumanising someone on the basis of ability and a total lack of understanding.
- Workforce issues have been consistently highlighted regarding some significant gaps to an appropriately educated, qualified and skilled workforce that understands intellectual disability and complexity of the multiple issues experienced by the individuals this submission has talked about. Therefore, services have been identified as not being equipped to meet the needs of the person because of inadequate holistic and trauma informed frameworks, resulting in people with disability not having the same access to support, services and justice.

Prevention of abuse, violence, neglect and exploitation

Stakeholders were asked their views about prevention of abuse and asked to share what could be done to prevent and protect people with a disability from harm and what strategies services and families have used or could use.

Service users' views on prevention

Service users identified the following strategies to prevent abuse from occurring:

There was a strong theme of both universal and targeted psycho education for everyone including people with disabilities about:

- Understanding intellectual disability and the impact and influence and diversity of this. One service user commented "*People need to know more about disability. There needs to be more of an awareness of people with a disability and their needs. It could start with teaching your kids that we are all the same and you should respect everyone.*"
- What safe and respectful relationships look like, including knowledge of what abusive behaviours consist of.
- Information about where to go if you need help, service users talked about having cards with information on supports and other key information that are readily available in community settings, and information about services such as WWILD so that they know where to access specialised support.

- Increasing the level of support available for people to be able to access, not knowing where to go for help was identified as an issue.
- Having more intellectual disability specific services such as WWILD or CLP with stakeholders universally identifying these as positive and helpful in that they valued them, provided support and built their confidence to address the issues and know that they were worth it.
- Service users identified it was really important for services to give them opportunities to express themselves when they are telling their story, or even in sharing information about any of the above. This involves recognising the influence of the intellectual disability and does not silence them.
- Community based education that addresses the discrimination in attitude about what a disability looks like, service users talked about people not believing they had a disability; being treated as invisible or stupid.
- Educating the community about the importance of acting when they see abuse occurring, which is consistent with the increasing emphasis on bystander responsibility.

The following comments and ideas from service users eloquently reflect the points raised:

"I think police need to work harder to keep people safe. I called the police one night because I thought someone was in my yard. They came over and had a look but then left straight away. I still felt scared. They need to tell people who they can call if they feel scared"

"There needs to be more 24hour support services open for people who have a disability"

"I think people need help to get things like a change of lock or security cameras. There are services that do it but it takes a really long time to get the things you need. It should be quicker"

"People need to help people with a disability understand how to keep safe. I worked with a worker around domestic violence. We talked about the cycle (DV Cycle) she showed by using pictures. This really helped me. Now I feel like I know a lot about it"

"I also worked with a counselor from WWILD. We talked about parenting and keeping safe. She helped me understand and listen to my body. If I am feeling funny in my tummy, that's when I know I am not feeling safe. Having a good relationship with the counselors helps. She really took her time. We were working together for 4 years. She shared things about herself, this made me trust her. I always had trouble trusting counselors before I worked with her"

"People need to know how to ask for help. I have learnt how to ask for help"

"Talk to people, understand them and try to get to know them, then they will come to you when they have a problem. Then you can talk about how to get help or defend yourself"

"It's really important to feel comfortable with your worker, then you can ask for help"

"Explain information in a way people can understand"

"Help them understand where to go when they need help"

"Having a good worker can help you feel safe"

"You need to build the relationship, have a cup of tea with people. This made me feel more confident"

"Help people with a disability feel confident. People who have a disability might have low confidence"

"If people have confidence they can have peace of mind. They then know what to do and they can do it"

"I didn't ask people for help before. Now I can ask for help".

"People need more understanding about disability. People who have a disability sometimes need more help. People have no respect"

Key points highlighted in these comments include the importance of access to supports, supports that understand the needs of someone with an intellectual disability, and the criticality of having relationships with service users based on trust and respect. This was highlighted in their discussions about WWILD as women described the following experiences:

They [WWILD] listen and make us feel comfortable

Support, helping, giving information about our rights, helpful staff

Take the time to listen

Awesome

The need for more specialised and disability specific services was again highlighted with service users identifying their wish to have access to after-hours numbers to access to specialised support for people with an intellectual disability and services like WWILD being open beyond business hours.

While some of the women stakeholders were able to identify who they could call if they experienced abuse or exploitation, they identified the following challenges:

- It can be hard to speak on the phone because the person on the other end can find it difficult to understand them
- If you don't have a phone or internet you can't access the support*

- Not knowing where to go for help was raised by some women who suggested that there should be signs in toilets and shopping centres and group homes, libraries, schools, accessible and every day locations, *“about where you can go to for help that is easy to read, dot point and has pictures – that also highlight your rights if you are being treated badly or exploited”*.

In terms of those who have experienced exploitation through scamming the following prevention measures were identified:

- Longer cooling off period – 3-day period is not long enough
- Either making it more difficult to enter contracts or easier to get out of them
- Business and salespeople taking responsibility for predatory practices
- More advocacy and support for people with disabilities who have been scammed
- Increase community education through opportunities to tell peoples’ stories; forums and workshops that help people recognise scams and sharing information with people in the community.

Family stakeholders’ views on prevention

Family members identified the following strategies that they have used to prevent further harm of their loved one which have been broken down to the different systemic levels:

Prevention at the micro level

- Going to a smaller agency because their experiences have been that larger agencies have a culture of abuse
- Building trusting relationships with workers and strongly vetting support workers
- Providing support to increase their self-esteem, *“Believing them and believing in them”* to have the best quality of life and teaching the person what is acceptable in relationships.

Prevention at the organisations level

- Using stricter vetting measures when placing people in accommodation
- Mandatory recording when a resident has perpetrated violence
- Putting greater accountability measures in place including placing cameras in supported accommodation
- Documenting incidents and accusations of abuse on a worker’s record

- Seeking feedback from service users, giving them the opportunity to add their version of an incident to accompany a staff incident report
- Accommodating for communication preference of service users which is important to be able to hear their voices.
- Opportunities for service users to make choices and have preferences around how their care is delivered
- Information sharing between staff to prevent further trauma
- Cultural shift in organisations towards a rights-based framework; people with intellectual disabilities have the right to be believed and not be questioned.

Case study Julie and Lesley

For Julie, whose story we heard earlier she suggested the following in terms of what the school could have done to better protect and prevent the abuse from occurring:

- *Teachers need to take more time to get to know each child. They should have been aware that the behaviour that my daughter was displaying indicated that something had happened to her.*
- *Make sure children who need to be supervised are being supervised.*
- *Principal/teachers need to be more transparent*
- *School needs to have more resources to offer support or they should know where they could refer people.*

In terms of what Julie as a parent does to protect and prevent violence from occurring, she identified:

- Education and repetition. This is important for people who have an intellectual disability
- Reassurance
- Talking to others about what has happened. Sharing information/ knowledge increases awareness.

Julie provided the following insights:

"It's not just the victim who experiences an impact from the abuse. It can extend to the whole family.

We have relocated to a new area. It is difficult for me without the support of family and friends"

"People in these positions need to stop and take the time to listen"

"I feel like screaming at them [Principal] 'Why didn't you listen when I begged?' Why is this person in a position of authority?"

"Why isn't the Department [of Education] interested in this Principal?"

"Blue cards are a joke. They are not worth the paper they are printed on".

"I feel really angry when I think about it"

"We need more services like WWILD".

Prevention at the systems level

- Access to respite for family members as this continues to remain limited which increases family stress, burnout and fatigue. This includes support groups for family, with research showing that families and carers are under stress and have poorer outcomes in terms of wellbeing (Cummins, Hughes, Tomy, Gibson, Woerner & Lai, 2007; Price Waterhouse Coopers, 2011).
- Providing opportunities within the community that support and facilitate people with intellectual disabilities to 'practice' relationship skills. Helping people have healthy relationships.
- Appropriate staffing levels in terms of education, qualification, paying them appropriately and number of staff especially where the individual has complex needs and so needs more individual support.
- Education that 'breaks down the barriers' is required that includes:
 - Different mediums to access the education/knowledge around safe relationships
 - Education needs to be tailored to meet people's needs, rather than a one size fits all approach
 - Education programs that offer sexual education in special schools
 - Appropriate staffing in schools for more one on one time to better individually support a child or young person.
- Greater research into how education can provide tailored support to people with intellectual disabilities to learn about relationships and sexuality, to inform practice.

Prevention: Enhancing Reporting Processes

Family identified some strategies to improve the reporting process which again relate to education and resourcing.

- Greater Police education/training around intellectual disabilities.
- Cultural shift in Police attitudes about behaviour and its relationship to a person's impairment.
- Victims registry system that can find the balance between safety and privacy.

- Greater access to legal defence.
- Advocacy program within the Police and DPP.

Family identified the contrast in the experience when they felt listened to and were working with professionals who understood the impact of intellectual disability and impact of trauma. Unfortunately, this was not a common experience.

Parents identified the importance of more mandatory training offered to disability support workers, particularly those who work with clients with very high needs. This training should include information about indicators of sexual assault and how to talk to people if there is a change in their behaviour, and what is acceptable behaviour by staff to ensure awareness of the implications of confusing service users' boundaries around their bodies.

Other prevention includes education for families and carers to assist them to understand, recognise and support their loved ones. This includes indicators of abuse and where to get support which is *"Most important for parents of people who have a disability who are unable to advocate for themselves"*.

Workers views on prevention

Prevention: Appropriately qualified, experienced, trained and educated workforce

Workers engaged with young people with disabilities and part of the child protection system identified the need for appropriately qualified and experienced people working with young people with disabilities who have experienced trauma and abuse. The workers identified the lack of trauma informed practice, identifying that while the new *Hope and Healing Framework* introduced by the Queensland Government is being rolled out, issues continue to exist in relation to high levels of risk aversion, and the lack of skills and knowledge, along with the lack of support of workers who themselves need assistance to deal with their own emotions, values, to be able to manage their reactions and importantly to understand good practice. The need for professional and reflective supervision of staff was highlighted a number of times as a way to support staff, educate and ensure transparency and accountability.

More generally, workers identified the need for a workforce community that consists of appropriately supported, safe, skilled and educated staff to support people with a disability. Essential to this is an underpinning rights-based framework, informed by a trauma informed model

of practice given the degree of trauma identified. Workers highlighted the importance of understanding the complexity involved using a framework of intersectionality that recognises the intersection of intellectual disability, age, gender, sexuality, culture and trauma.

Increasing the checks and balances in place of organisations that employ or work with people with intellectual disabilities is crucial to achieve a higher level of accountability and transparency.

Prevention: Psychosocial education

Training and education that focused on universal and targeted education to dispel and demystify myths about intellectual or cognitive disability. This includes universal education at a community level, to raise awareness and increase understanding about intellectual disability together with a more targeted level of training and education for staff and volunteers employed in services that work with people with a disability understand. A community building framework can foster stronger relationships and trust and can also challenge constructions of disability as inherently lesser than able bodied people.

Greater need for robust psychosocial education of young people with workers highlighting the limited amount of frank discussions with young people with intellectual disabilities in care about sex, healthy relationships, drugs. Workers identified that health services, child safety services and some residential care services are not permitted to give out condoms to young people. For young people with a disability this is problematic as sex is seen as 'naughty' and results in the person having to suppress their emerging sexual identity. By not being given access to sufficient information about sex or drugs or relationships, the young person is placed at greater risk.

More generally, workers identified the importance of helping people understand violence and the cycles of this, involving providing accessible education to them and their families so they can understand what is happening for and to them. Some workers identified the importance of ongoing safety planning with service users that involves education about safe relationships, including having difficult conversations with about relationships that may be exploitative or unsafe and role modelling what safe relationships look like.

Workers described their strategy of 'purposefully' looking for opportunities to have the discussion to provide psycho education and doing so at the person's pace using accessible language, this involved building relationships and using a range of different tools, e.g. safety cards.

Prevention: Access to support services

- As identified, access to support including respite care, as also identified by service users and families.
- Workers identified that there also needs to be recognition that service users may need a support worker to enable them to access support groups, providing emotional and practical support.
- Access to safe accommodation was a key area identified that would prevent abuse for people living with intellectual disabilities. The example was provided of a young person living in a boarding house being so afraid to leave his room for fear of being attacked, that he defecated in his room. He got into trouble by management and was evicted, CLA consequently subsidised his rent for two years to allow him a safe space to live with dignity.
- Workers identified the importance of more holistic, and inclusive support at schools, as this is currently lacking.

Prevention: the case for a cultural shift

Australia is a signatory to the United Nations Convention on the Rights of Persons with Disabilities; Article 5 refers to Equality and Non Discrimination (United Nations, 2006), yet, in 2017, the Australian Human Rights Commission reported that discrimination on the basis of disability is the most common concern or issue raised. Research has identified the overall poor outcomes of persons living with a disability generally and their carers (Price Waterhouse Coopers, 2011). Addressing this requires a significant cultural shift into how society constructs intellectual disability and associated legislative and social policy development and resourcing. Constructing people as being lesser than and devalued requires systemic level change and only once we value all people, with a shared responsibility for the wellbeing of all people can we achieve this much needed cultural shift.

Workers identified that the expectations of people with disabilities are low, we need to raise the bar higher as without this we create systemic level cycles of poverty, education, employment and aspirations. This involves moving away from being overly protective of young people with disabilities through not wanting them to 'fail' or be disappointed, therefore, not giving them choices and options. Expecting less of a young person with a disability risks becoming a self-fulfilling prophecy and this needs to change. Without changing the narrative, we maintain systemic level abuse through a society that less because they are seen as less than and given less than. From this can stem greater access to services, supports and opportunities and the other social determinants

of health. Without this people with disabilities are denied the opportunity to shift outside cycles of poverty and disadvantage that further perpetuate vulnerability to abuse and exploitation.

Opening up opportunities within the community for inclusion and connection is vital, moving beyond tokenistic to meaningful roles and opportunities that enhance wellbeing.

Without a focus on equity rather than just equality, our systems will continue to perpetuate inherent barriers and oppressive practices. This recognises that the playing field is not level, not everyone starts at a common point, doing this then requires appropriate scaffolding of supports as essential if we are to ensure the rights of people with disabilities are met (QAI, 2017).

A rights-based framework requires Human Rights legislation, currently Victoria and the ACT have a human rights act or charter, and Queensland's Human Rights Bill will be in force in January 2020. As QAI commented the "lack of comprehensive legislative protection of basic human rights is also problematic...[with] a lack of legal protection of equality", particularly coupled with what has been described as "weak and ineffective" anti-discrimination laws (2017, p.3). We argue that a robust legislative framework is necessary for any effective cultural shift to occur. Cultural shift requires the concomitant investment to make sure there is equitable access to services.

Examples of existing prevention strategies used by stakeholders

CLA

- Service delivery underpinned by community development and rights-based framework
- Engaging in community education wherever possible
- Having an organisational understanding of what abuse looks like

BEROS

Services working with young people in care highlighted the following:

- Harm-minimisation model that strives for least restrictive practice possible, "Try to wrap as much safety around the person as we can" and knowing when to back off and respect the dignity of the young person, "If they tell you to fuck off, then fuck off". But by developing a relationship and being there for them, they send a clear message that they are there to provide support and are safe.

- Promoting a culture of support for workers which includes offering supportive supervision, debriefing, reflexive practice, seeking constant feedback and education.
- Adopting standard practice around communication that is person centred and facilitates hearing the voices of the young person, in whatever form this takes. This includes trying to engage in least restrictive practice that means no assumptions or judgements and using Gillick Competence to assess the individual's decision making ability. Underpinning this is a belief that intellectual disability does not remove capacity but rather the need to understand what level of capacity the individual has and advocating for this.
- Being future focused that focuses on the persons journey ahead of them not judging or making assumptions based on people's past
- Supported decision-making that involves adapting practice to focus on clarifying people's understanding, an emphasis is on fostering informed consent and being truly person centred.
- Psychoeducation of the young people that involves helping them understand themselves and their triggers.
- Community education with staff consistently providing education to other workers and organisations through presentation at conferences, workshops, information sharing and through research. This includes both workers and recruiting young people to also share their stories.
- Role modelling with other workers about what informed decision making and inclusive trauma informed practice looks like.
- Given the interrelationship between trauma and the young people being supported, the service operates from a trauma informed care model of practice that also recognizes the complexity associated with the disability. The framework incorporates: valuing all people, human rights perspective; unconditional positive regard; valuing diversity and really trying to understand why and what is happening for any individual.
- A focus on relationship over risk that incorporates understanding of 'dignity of risk' and building trust. By developing strong relationships, honest and difficult conversations can be had with the young person, while also providing a safe and non-judgemental space. The example was given of a young person who was engaging in transactional sex to have a bed to sleep in, the service worked on developing trust and then wrapping enough support around the person so when they were ready to leave the relationship they knew where they could go.

Discussion

In formulating recommendations for this report, the Project Team have considered a range of existing reports from Inquiries and their recommendations, which has highlighted that despite multiple Inquiries and research, there has been a fundamental lack of commitment to meaningfully addressing the issues.

People with an intellectual disability or cognitive impairment are one of the most exploited group of people, as we have argued and seen. They are also widely diverse in terms of their abilities and needs. Consequently, there is no one way to respond which adds to the complexity of how we as a society proactively work towards addressing violence and abuse. Recognising this is important in developing strategies to eliminate violence, abuse, neglect and exploitation. Flexibility in how we develop prevention, early intervention and targeted intervention strategies is key. Fundamental to this is working towards greater understanding and knowledge of intellectual disability among the public and service providers.

The Australian Human Rights Commission Issues paper in 2013 (pp. 4-5) identified a range of barriers to justice for people with disability which have been reflected in the experiences of stakeholders. It is concerning that these barriers continue to exist, and that limited action has been taken to redress these systemic barriers. These included:

BARRIER 1: Community support, programs and assistance to prevent violence and disadvantage and address a range of health and social risk factors may not be available to some people with disability. This means that people with disability are left without protection and face ongoing violence or have repeated contact with the criminal justice system because appropriate programs and community support are not available. The point was also raised that many people with a disability do not identify as having a disability which further disadvantages these individuals as we have seen in the experiences of stakeholders throughout this consultation.

BARRIER 2: People with disability do not receive the support, adjustments or aids they need to access protections, to begin or defend criminal matters, or to participate in criminal justice processes.

BARRIER 3: Negative attitudes and assumptions about people with disability often result in people with disability being viewed as unreliable, not credible or not capable of giving evidence, making legal decisions or participating in legal proceedings.

BARRIER 4: Specialist support, accommodation and programs may not be provided to people with disability when they are considered unable to understand or respond to criminal charges made against them ('unfit to plead'). Instead, they are often indefinitely detained in prisons or psychiatric facilities without being convicted of a crime. This situation mainly happens to people with intellectual disability, cognitive impairment and people with psychosocial disability.

BARRIER 5: Support, adjustments and aids may not be provided to prisoners with disability so that they can meet basic human needs and participate in prison life. They often face inhuman and degrading treatment, torture and harmful prison management practices.

There are a range of systems that need to become more 'disability oriented'; justice, policing, health, education, violence prevention/response to recognise the numbers of diagnosed and undiagnosed people with a disability interacting with their systems. One way to achieve this is by striking a balance between increased knowledge and skills across a workforce/community generally, but importantly coupled with positions and teams or organisations that develop and provide specialist knowledge and practice. WWILD is an example of this.

We truly hope that this Royal Commission will result in meaningful systemic level change for without this, the negative, distressing and hurtful experiences of the stakeholders who generously participated in this consultation process will continue; it is time for change. Therefore, where recommendations have been adopted from previous Inquiries these are cited.

Recommendations

Capturing accurate data

As recommended by Women with Disabilities Victoria in their submission to the *Inquiry into Domestic Violence in Australia in 2014* and the *Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA)* (Recommendation 12.2) and the Victorian Law Reform Committee in 2013:

Recommendation 1: The Australian Bureau of Statistics adopt appropriate methodologies to achieve a representative sample of:

- a. Children and women with disabilities in the Personal Safety Survey.
- b. Australian Government and state and territory governments should prioritise enhancements to the Child Protection National Minimum Data Set to include data identifying children with disability, children from culturally and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander children

- c. Collect statistics on people with an intellectual disability or cognitive impairment who have come into contact with the justice system. The database could include information on:
 - i. the number of offences involving people with an intellectual disability or cognitive impairment, either as victims or offenders;
 - ii. police reports and prosecution rates for such offences; and
 - iii. prosecution outcomes

Recommendation: That statutory child protection services accurately collect statistics on people with an intellectual disability or cognitive impairment who have come into contact with the system. This includes children who have a disability, and where the parent/s has/have a disability.

Accessible and responsive services

The lack of appropriate responses by service providers to reports of sexual abuse identified in this submission echo the experiences of others as highlighted in the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA)- with the report stating:

Information presented by the expert panel in our Disability service providers case study, indicated that some disability service providers had a poor understanding of how the child protection system worked and were reluctant to accept shared responsibility for child protection matters.²³⁶ We heard that children with disability and their families had particular difficulty making complaints following incidences of abuse and could be 'brutalised by the system'. We heard they felt disempowered, were not well informed about their rights and were not familiar with the complaints process.²³⁷ We also heard that children with high communication and behaviour support needs were especially dependent on systems, institutions and community vigilance for their safety. Meeting their particular needs should be 'core business' for all service providers.²³ (Commonwealth of Australia, 2017a, p. 172)

The RCIRCSA made the following recommendation which is applicable here:

Recommendation 6.6: Institutions should be guided by the following core components when implementing the Child Safe Standards:

Standard 4: Equity is upheld and diverse needs are taken into account

- a. *The institution actively anticipates children's diverse circumstances and responds effectively to those with additional vulnerabilities.*
- b. *All children have access to information, support and complaints processes.*

- c. *The institution pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds* (Commonwealth of Australia, 2017a, p. 7).

Recommendation 2: The Royal Commission considers the development of national standards similar to the recommendation 6.6 of the RCIRCSA for all organisations and institutions working with people with a disability to provide accountability and greater robust safeguarding.

It is important to note that intimate partner violence, mate crime and abuse that occurs within a familial context can be between people with cognitive disabilities. Due to poverty, own experiences of trauma and other complicating factors, the perpetrators themselves are often in as much need for support. This is not to excuse the behaviour. It should be noted that initiatives like men's behaviour change programs rarely as far as the stakeholders are aware, if ever, are accessible to men with an intellectual disability or diverse learning needs. Stakeholders reported that it is near impossible to access the support on an individual basis.

Recommendation: Development of a range of accessible group and individual options for people with an intellectual or cognitive disability who use violence (whether that be physical or sexual or other).

Domestic and Family Violence

As recommended by ANROWS in 2017, in their report *Whatever it takes*, the Australian Government needs to promote access and accessibility to services for women and men with a disability who have experienced domestic and family violence. This includes that domestic and family violence services should review their understanding of "disability" and "access" drawing on the evidence from this research and the work of Levesque et al., (2013) to ensure that services are accessible.

Recommendation: Domestic and family violence services are resourced and equipped to provide services that are:

- a. Approachable and accessible, to make sure women with disabilities know they exist and feel comfortable with approaching them.
- b. That domestic and family violence refuges are resourced to provide 'disability' accessible services for women with an intellectual, cognitive or physical disability.
- c. That domestic and family violence funded services have designated positions of appropriately qualified and skilled personnel to work with people who have a disability.

Accessible and responsive services: Police

Recommendations from the Victorian Law Reform Committee (2013) have been considered and found to be relevant in formulating this recommendation.

Recommendation: That State and Territory Police services make available to police officers regular training and revision training on issues surrounding interaction with people with an intellectual disability or cognitive impairment. Training could encompass:

- techniques to improve identification of people with an intellectual disability or cognitive impairment;
- techniques to encourage effective communication with people with an intellectual disability or cognitive impairment;
- a component to raise awareness of challenges experienced by people with an intellectual disability or cognitive impairment when they become involved in the justice system;
- a component outlining the services available to people who have an intellectual disability or cognitive impairment;
- a component outlining existing operational procedures that aim to provide support to people with an intellectual disability or cognitive impairment during police interviews, such as the Independent Third Persons program;
- understanding of the rights of the individual to specialised investigation options such as the 93A interview in Queensland;
- development of resource information to be included in Police Manuals for guidance on mental illness, intellectual disability, and cognitive impairment respectively, and define appropriate responses for each impairment.

Drawing on the Victorian Law Reform Committee Recommendation 13 (2013):

Recommendation: That State and Territory Police establish a Disability Liaison Officer position across major metropolitan and major regional police service areas to provide expertise in identifying and appropriately interacting with people with an intellectual disability or cognitive impairment.

Recommendation: The RCIRCSA (2017a, p. 96) reported specifically on Police responses to reports of child sexual abuse made by people with disability identifying the following recommendation (recommendation 13) which we endorse:

Each Australian government should ensure that its policing agency responds to victims and survivors with disability, or their representatives, who report or seek to report child sexual abuse, including institutional child sexual abuse, to police in accordance with the following principles:

- a. Police who have initial contact with the victim or survivor should be non-judgmental and should not make any adverse assessment of the victim or survivor's credibility, reliability or ability to make a report or participate in a police investigation or prosecution because of their disability.
- b. Police who assess or provide an investigative response to allegations made by victims and survivors with disability should focus on the credibility of the complaint or allegation rather than focusing only on the credibility of the complainant, and they should not make any adverse assessment of the victim or survivor's credibility or reliability because of their disability.

We would add a further element to this, which includes ensuring the training, education and support of Police to be able to enact this.

The RCIRCSA (2017b) findings about the credibility of children as witnesses needs to be considered more broadly to adults living with an intellectual disability, as we have seen even adults with disabilities are not regarded as credible witnesses. The RCIRCSA reported:

In this case study we also heard about children with disability not being seen as reliable witnesses due to their impairments and their perceived inability to face cross-examination.²³⁴ One of the systemic issues that arose from this case study was the role of police and community services in responding to allegations and incidents of child sexual abuse against children with disability²³⁵ (Commonwealth of Australia, 2017b, p. 172).

Recommendation 9 highlighted the importance of all police who provide an investigative response to child sexual abuse receive at least basic training about child sexual abuse and interviewing techniques (2017a, pp. 93-94).

Recommendation : That the Royal Commission endorse Recommendation 9 from the RCIRCSA and expand this to include children and adults with an intellectual disability or cognitive impairment.

Accessible and responsive services: Child protection system

Recommendation: Specialised services/positions/teams to develop practice and knowledge around the support of parents with an intellectual disability to parent to the best of their ability.

Recommendation: That a robust trauma informed framework for practice is adopted across the continuum of child and family support that has as a core component understanding the

complexities of intellectual disabilities and cognitive impairment to provide greater support for parents with a disability and children and young people in care with a disability.

Recommendation: That research be undertaken to explore the benefits and effectiveness of shared parenting strategies and programs to ensure more inclusive support to parents with an intellectual disability and their children.

Recommendation: That governments at all levels invest in therapeutic family support services that are specialised in working with parents with an intellectual disability to support their children both as primary carers and shared carers.

Accessible and responsive services: Housing

When abusive or exploitative people move into the person's home it can be near impossible to get people to leave. This is most often due to a deep lack of options for housing generally.

Recommendation: Housing strategies are developed for people with disabilities that consider a range of emergency accommodation options for both typically understood "victims" and "perpetrators" to allow people to leave a bad/violent/ exploitative situation.

Following on from this

Recommendation: Changes to legislation to be considered to make it easier for people not on the lease of a rental property to be removed from government or community housing in the instances of violence, abuse, neglect or exploitation.

Accessible and responsive services: Mental health

Recommendation: That training of mental health services staff includes developing understanding of knowledge and skills in working with people with a dual diagnosis of mental health and intellectual disability, underpinned by a recovery and trauma informed framework.

Recommendation: That mental health services and disability services provide ongoing training and support of workers in developing their understanding of the intersection of disability and mental health as core ongoing professional development.

Recommendation: That hospital mental health inpatient services develop stronger safeguarding measures to support women who have been admitted with a dual diagnosis and where there is complex trauma due to past violence or abuse.

Accessible and responsive services: An appropriately trained and experienced workforce

Recommendation: Work is undertaken at a systemic level with key service providers including NDIS, service providers and other systems to embed a framework of trauma informed practice when working with people with disabilities.

The RCIRCSA Recommendation 15.6 specifically highlighted the importance of training, which supports the findings of this consultation.

Recommendation: That the Royal Commission endorses Recommendation 15.6 of the RCIRCSA, with the added inclusion that all staff should receive appropriate training on the needs and experiences of children and adults with disability, mental health problems, and alcohol or other drug problems, and children from culturally and linguistically diverse backgrounds that highlights the barriers these people may face in disclosing abuse, violence, neglect or exploitation.

Recommendation: That organisations such as telecommunications, credit and banking agencies, insurance agencies employ specialised staff in their complaints departments to better support consumers with an intellectual disability.

Supported decision making

Drawing on the work of QAI (2017, p. 3), who found that *Importantly, we note that Australia has yet to embrace a supported decision-making approach and that laws, policies and practices remain situated within a substituted decision-making, best interests paradigm. We agree that there has been insufficient work on dismantling negative stereotypes and assumptions about people with disability*".

Recommendation: That the Royal Commission progresses research and strategies to develop and implement supported decision making frameworks to support people with an intellectual disability or cognitive impairment.

Prevention

Prevention strategies are clearly required, and have been identified by other inquiries including the RCIRCSA which identified that *"Some children with disability miss out on sexual abuse prevention*

*education at school because they are in segregated classes, or because they do not have the necessary communication supports to understand the information being presented.*²¹⁷ *Although a policy of providing prevention education may be in place and regularly implemented, children with certain types of disability may not be able to benefit unless attention is given to inclusive and individually appropriate delivery of the program”* (Commonwealth of Australia 2017, p.170). The RCIRSA also highlighted the gaps in accessing sexual abuse prevention education for children in out of home care. We would extend this to include education about all forms of respectful relationships to incorporate domestic and family violence relationships. We therefore also endorse Recommendation 12.9 (Commonwealth of Australia, 2017, p. 37).

Recommendation: All state and territory governments should collaborate in the development of a sexual abuse prevention education strategy, including online safety, for children in out-of-home care that includes:

- a. input from children in out-of-home care and care-leavers
- b. comprehensive, age-appropriate and culture-appropriate education about sexuality and healthy relationships that is tailored to the needs of children in out-of-home care
- c. resources tailored for children in care, for foster and kinship/relative carers, for residential care staff and for caseworkers
- d. resources that can be adapted to the individual needs of children with disability and their carers

Recommendation: Education prevention programs are developed and universally provided to **all** children, paying particular attention to children with an intellectual disability or cognitive impairment to ensure accessibility and understanding. That such programs are revisited regularly to promote understanding.

Accountability

Greater accountability measures are required of services to safeguard and protect the needs of people with a disability. Our consultation has found that often services lack transparency in how they respond to reports of violence with no standardised approaches that prioritise the needs of the person who has experienced the harm. The RCIRCSA made a recommendation about reportable conduct schemes (Recommendations 7.9-7.12) which we argue is important to addressing the systemic failures identified in this and other consultations.

Recommendation: That State and Territory governments establish nationally consistent legislative schemes (reportable conduct schemes) which oblige heads of institutions to notify an oversight body of any reportable allegations, conduct or conviction involving any of the institution's employees.

- a. That reports of investigations where there have been allegations of neglect, abuse, violence or exploitation are made available to an oversight body to be determined (for example, the Human Rights Commissioner, Disability Rights Commissioner).

Recommendation: That organisations providing services to people with a disability have explicit policies, procedures and frameworks for recognising, supporting, managing and addressing violence or conflict between service users, service users and staff which are accessible to service users and carers.

- a. That all staff are provided with initial and ongoing training and education about recognising, managing and addressing relationships where there is violence, conflict or exploitation.

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry highlighted practices that took advantage of and improper conduct that targeted people with a disability among other groups (Commonwealth of Australia, 2019a). Recommendations included greater safeguards regarding obligations to assess unsuitability (Recommendation 1.1); hawking of superannuation and insurance products be prohibited (Recommendations 3.4 and 4.1) (Commonwealth of Australia, 2019b). Our consultation found that people with intellectual disabilities are at risk of being taken advantage of by unscrupulous and unregulated systems including banks. The systems need to be strengthened in terms of ethical behaviour and in particular, 'cooling off' periods and clauses that allow a person to terminate any agreement that has been gained through unscrupulous or exploitative behaviour.

Recommendation: That the Royal Commission considers the recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services and develops recommendations that support:

- a. Duty of services providing goods to provide easily accessible, full and frank information to potential consumers
- b. Robust "Cooling off" periods that allow a person with an intellectual disability to withdraw from a contract without financial or other penalty

- c. Mechanisms to allow a person with an intellectual disability to withdraw from a contract that extends beyond the cooling off period where it has been identified that the person with the disability did not fully understand the terms of the contract.

Meeting the needs of people with a disability who have experienced abuse, violence, neglect or exploitation

Recommendation: That the Royal Commission endorses Recommendation 9.3 from the RCICSA that "*The Australian Government and state and territory governments should fund support services for people with disability who have experienced sexual abuse in childhood as an ongoing, integral part of advocacy and support and therapeutic treatment service system responses for victims and survivors of child sexual abuse*" (Commonwealth of Australia, 2017a, p. 30).

Recommendation: That the Royal Commission endorses Recommendation 12.21 from the RCICSA that:

Each state and territory government should ensure:

- a. *the adequate assessment of all children with disability entering out-of-home care*
- b. *the availability and provision of therapeutic support*
- c. *support for disability-related needs*
- d. *the development and implementation of care plans that identify specific risk-management and safety strategies for individual children, including the identification of trusted and safe adults in the child's life* (Commonwealth of Australia, 2017a, p. 41).

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