

Submission  
No 41

**INQUIRY INTO SERVICES PROVIDED OR FUNDED BY  
THE DEPARTMENT OF AGEING, DISABILITY AND  
HOME CARE**

**Organisation:** Official Community Visitors Scheme  
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**Position:** Consultation Committee Representative  
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The President  
NSW Standing Committee on Social Issues  
Legislative Council  
NSW Parliament

## **RE: Inquiry into Department Ageing Disability & Home Care**

Dear Mr West

On behalf of the Consultation Group of the NSW Official Community Official Community Official Community Visitors I submit this written submission in respect of the above inquiry and request to appear before the Senate Committee public hearings in order to exemplify statements made in this submission.

### **General Information**

The Official Community Visitor Scheme was established in 1995 pursuant to the Community Services (Complaints, Reviews and Monitoring) Act 1993 (CS\_CRAMA) and regulation. The Minister for Disability Services and the Minister for Community Services appoint Official Community Official Community Official Community Visitors on the recommendation of the NSW Ombudsman for up to six years. Notwithstanding the process of the appointment Official Community Official Community Official Community Visitors are independent of the Ombudsman and are not employees of DoCs or ADHC. Official Community Official Community Official Community Visitors include people with and without an identified disability. Official Community Official Community Official Community Visitors visit accommodation services for children and young people and people with a disability that are operated, funded or licensed by the DoCs or ADHC where residents are in full time care. In respect of ADHC funded, provided or licensed services visited the following statistics are relevant to this inquiry.

- As at 30<sup>th</sup> June 2009 there were 61 services accommodating children and young children people with disabilities and Official Community Official Community Official Community Visitors made 191 visits to these services in the previous 12 months. Of the 322 issues reported the majority were about individual planning, environment & facilities, behaviour management and exit and entry. Only 51% of the total was resolved.
- At the end of June 2009 there were 1,053 visitable disability services accommodating 5,359 adults with disabilities and Official Community Official Community Official Community Visitors made 2,301 visits to these services during the 12 months up to that date. Out of these visits Official Community Official Community Official Community Visitors identified 3,362 issues of which 55% were resolved. The majority of these issues were about individual planning, environment & facilities & nutrition & health.
- ADHC also license 49 boarding houses accommodating 810 adults with a disability. During the 2008-2009 year Official Community Official Community Official Community Visitors made 312 visits to these services when 281 issues were noted and reported. Of these only 51% were resolved. Issues predominantly covered entry & exit, privacy & respect and nutrition, health & hygiene issues.

## Submission Detail

This submission examines issues of concern that Official Community Visitors have identified during their visits to visitable services. For the purpose of delivery, this submission is made using the terms of reference of the inquiry as headings. Under the heading of each reference term information will be supplied for three areas these being:

- Licensed Boarding Houses,
- ADHC provided services (NGO's)
- ADHC funded services.

### **(A) The historical and current level of funding and extent of unmet need.**

#### ***Licensed Boarding Houses***

NSW Official Community Visitors have identified that people with a disability living in Licensed Boarding Houses do not have the same access to support services that their peers living in group homes do. This is in part because of the fact that the providers receive no direct funding because they are for profit services but also because much of the legislation providing for boarding houses is ill equipped to address the needs of people with disabilities. The *Youth and Community Services Act 1973* (the 'Act') pertains more to the physical structure of the boarding house than to aspects of resident care.

Sadly, the near forty-year history of this Act is replete with proposals for change yet bereft of any meaningful reform. The Act has arguably failed the very people it was to have provided for given that there is no requirement for proprietors of licensed boarding houses to provide planning for or the delivery of individually targeted activities, community integration and proactive health care that would deliver an improve quality of life.

In the Regulatory Impact Statement to the *Youth and Community Services Regulation 2010*, the NSW Government's Interdepartmental Committee (IDC) on the Reform of the Shared Private Residential Services Sector is developing a whole of government approach to the boarding house sector. This is indeed welcome. The IDC is considering further reform, or even repeal, of the Act. The Act should be repealed, and in its stead, new legislation must be implemented that equitably addresses concerns over all shared accommodation arrangements for people with disabilities.

#### ***Non Government Organisations (NGOs)***

Official Community Visitors express concern over the processes by which NGO's are funded to provide services to people with a disability i.e. Where general group funding models are used rather than the specific needs of the individual being taken into account. Official Community Visitors also express concern about the prequalification process which may mean that funding for an individual's accommodation support may be provided to an NGO on the basis of their prequalification status and not necessarily because they have the infrastructure and experience to support the needs of the particular individual.

The use of a funding model based on numbers of people rather than the needs of the individual to meet resource constraints is of a concern. It has been observed that the likelihood of incompatibility in group homes increases in correlation with the number of people residing in the house. Of concern therefore is that ADHC policy and practice now appears to be adopting as a norm, group homes that accommodate a minimum of five residents. Indeed a number of group homes that previously accommodated 4 residents and were functioning well, have been recently rebuilt or renovated to accommodate at least 5 residents. This has resulted in an escalating level of resident to resident assault and in spite of numerous requests to ADHC to consider a policy shift and consider in some instances, reducing the number of residents, this request has been ignored. The Official Community Visitors were recently advised that ADHC has no plans to change the current model of accommodating up to 6 people in a group home.

### ***ADHC provided services.***

Official Community Visitors visit large residential centres such as Stockton & Marsden and regularly note the lack of opportunity people living in these centres receive to access the larger community. It would appear from responses received to our inquiries that this is because of lack of funding. It seems that unless a resident can afford a user pays service his/her only opportunity to have a one on one community access visit is only once every two or three months.

### **(B) Variations in service delivery, waiting lists and program quality between services provided or funded by ADHC & ADHC Regional Areas.**

### ***Boarding Houses.***

The proprietors of licensed boarding houses although not funded by ADHC are licensed and monitored by ADHC but they are not required to meet legislated DSA standards for their residents who have a disability and previous and following comments under other terms of reference should be noted.

We would also like to note our concerns over what has been termed 'unlicensed boarding houses'. Such 'boarding', or 'rooming', houses abound in metropolitan areas. Whilst some may be 'registered' by a local council, it is likely a number should be 'licensed' by the department.

The YACS Act here requires a premise to be licensed if accommodating two or more 'handicapped' persons who require 'supervision' or 'social habilitation'. It is quite conceivable that many unlicensed boarding houses accommodate '2 or more handicapped persons' and should be declared Licensed Residential Centres under the provision at section 3A(1) of the Act. Indeed, Official Community Visitors are aware of referral practices by hospitals and homeless person's hostels that place people with a disability in unlicensed boarding houses. This situation should not be seen as an opportunity to breathe new life into the Act, but rather confirmation of its ailing health. Official Community Visitors believe that the power invested in section 25(d) of the Act for an officer of ADHC to 'enter and inspect' premises to ascertain whether a 'breach of the regulations is being committed should be regularly used to visit all premises to effect better provision of care for people with a disability.

## **NGO's**

Official Community Visitors have noted that sometimes when a resident's needs change their increased support requirements often means other residents do not get the services they require because staff support has to be directed to the person with higher support needs while the NGO goes through the process of seeking additional funds. A request for additional funds from an NGO to meet a person's increasing needs is likely to mean they are required to go through the process of viability assessments which can be quite lengthy and not always successful. Official Community Visitors believe that changes to funding model to meet individual needs should be made to allow NGO's to provide a more flexible service to people in their services.

## **ADHC provides services**

The support services provided to people living in large residential centres are not equal to those provided by ADHC in the community and in some cases do not meet DSA standards for example where residents share bedrooms.

Official Community Official Community Visitors have also noted differences when it comes to client holidays. Some NGOs allow group home staff to support clients on holiday to reduce the cost of external support that may have prohibited their clients having a holiday. This is not the case with ADHC. ADHC have a holiday policy that states clients must be supported by other than group home staff and there are no strategies to support residents who cannot pay external providers to take them on holiday or for residents who have complex needs and are not eligible for externally provided holidays. As a result of this 'policy' numerous residents have not had a holiday from their accommodation environment for sometime, may be never in the history of their institutionalised life which may be over 50 years.

## **(C) Flexibility in client funding arrangements and client focused service delivery**

### **All services visited**

Previous comments about funding models and changing needs apply here also.

With regard to client focused service delivery Official Community Visitors report that often individual planning goals are more about meeting service objectives rather than focusing on individual support needs. This occurs in both ADHC funded and ADHC provided services although it is more prevalent in ADHC Large Residential Centres.

## **(D) Compliance with Disability Service Standards**

### **All services.**

Official Community Visitors express concerns that they see little evidence of ADHC monitoring role across the range of visitable services.

### **Boarding Houses.**

Licensed under the YACS Act these services are privately owned and for profit services. Proprietors are not required to meet legislated Disability Service Standards. This results in a large number of people (close to 1000) with a disability being marginalised receiving a lesser service than their peers which may not, in some cases, even meet UN statements of human rights.

## **NGOs**

Based on the examples given in the ADD, and still current, Standards in Action Practice Requirements and Guidelines for Services Funded under the Act, Official Community Visitors still report instances where service supports do not meet DSA requirements. Some common areas include Individual Planning, Privacy, Dignity and Confidentiality, Respect & Valued Status, Dignity of Risk and Areas of financial management. Official Community Visitors believe that these issues are in most cases due to lack of policies, oversight, lack of supervision of poorly trained staff and staff attitude.

## **ADHC services.**

Previous comments about Large Residential Centres not meeting standards should be taken into account. In addition there have been some concerns when a person living in a large residential centre does not have a Guardian or Person Responsible the Medical Officer is empowered to give consent to health care and minor medical and dental treatment. OCVs wonder about the propriety of this given the MO's are employees of the service provider.

In regards to regional community based services compliance with standards in respect of written policies mostly meets Official Community Visitor inquiries. Implementation of these policies however, suffers from similar issues within the NGO sector.

## **(E) Adequacy of complaint handling, grievance mechanisms and ADHC funded advocacy services.**

### **All services visited**

Where an Official Community Visitor notes an inadequate response to a complaint they will seek additional information and or action from the service provider. If this is not forthcoming they will refer the matter to the NSW Ombudsman's office or directly to the Minister.

In respect of advocacy services one of the concerns for Official Community Visitors is that ADHC funded advocacy services will only act as an advocate for a person if they (the person) gives consent to their action. OCVs are concerned about what happens in the case of a person with a disability who cannot communicate consent. In this instance there seems to be no alternative but a Guardianship Application however this is a highly restrictive action. OCVs suggest that ADHC fund a service that will provide independent IP partners for people with a disability living in an accommodation service where they have no close family or other independent support person willing to be involved.

## **(F) Internal and external program evaluation including program auditing and achievement of program performance indicators.**

### **Boarding Houses.**

There have been a number of external reports and audits of the licensing situation under the YACS act that have recommended changes to ensure that people with a disability who live in a boarding house are not disadvantaged in respect of entitlements to a quality service because of the boarding

house service model. From an Official Community Visitors point of view there has not been done enough in response to these evaluations and external agency findings.

### ***ADHC & NGO Services.***

Official Community Visitors believe that if these services were actively monitored to ensure that funding contracts were met and service delivery policies that met the DSA implemented, people with a disability living in or using these services would have an improved quality of life.

### **(G) Other matters.**

#### ***Services for children and young people with a disability.***

Official Community Visitors often experience a lack of agency co-ordination when it comes to providing services to children with a disability. There is a view that protocols between agencies, i.e. DoCs and ADHC should be strengthened and that the Office of the Children's Guardian would be well placed to increase monitoring of these service protocols to ensure that this very vulnerable group receive the best possible support.

#### ***Vacancy Management***

Previously made statements concerning funding of support for people with a disability are also relevant here. Of concern to Official Community Visitors is what appears to be a lack of information sharing and transfer between services about people with a disability seeking a placement in an accommodation service, including licensed boarding houses where the screening tool remains non specific despite recent changes. Official Community Visitors are aware of privacy legislation that impacts on this situation but views the occasions where a new accommodation service does not receive pertinent information about the person they are to provide service to as an indication of the lack of understanding of the needs of service provision or in other cases laziness on the part of case managers. Official Community Visitors would like to see clear protocols, including type of information required, developed and implemented about the exchange of information in this context. Official Community Visitors also believe the process of Home Care RAC conducting the screenings for entry into Licensed Boarding Houses represents a conflict of interest on the part of ADHC and an independent agency should be used.

#### ***Service Transition issues.***

One of the activities that occurs in both state provided and state funded visible services, including those for children, is the movement of a person with a disability from one accommodation service to another or from one group home to another within a service. The view of Official Community Visitors is that this activity is mostly focused on the needs of the service provider rather than the person with a disability. People with a disability are often moved across or within services to meet funding and resource needs and the policies and procedures that guide this process are either nonexistent, vague and/or poorly implemented. Community visitors would like to see a set of policies and guidelines developed for use by all visible services that put the person first and as a starting point are the question why is this person being moved to another location and will the move meet the stated needs and what are going to be the outcomes of this move that meets that will improve the quality of life for this person.

Of special concern is the process as it applies to the transition of young people from the care of various NSW Children's service to those provided by ADHC this includes.

- Few ADHC resources (e.g. allocation of staff) go into this planning. Communication from ADHC ,unless the OOHC service provider continually follows up with ADHC and the OCV keeps asking what's happening is inadequate and untimely.
- The process does not start early enough. ADHC often advise that this strategy is used so that residents don't get too agitated about their move and therefore display challenging behaviours
- Official Community Visitors believe that this process should be initiated from age 16 to ensure programming in living skills is appropriately commenced.
- When there is no forward planning the young person is often moved to wherever there is a vacancy with little or no consideration given as to the compatibility of the client group.
- Independent advocates for the young person are very rarely used and Community Visitors believe that this often results in inappropriate assessment of needs, funding and placement

### ***The right to Age in Place***

Previous comments in respect of funding should be taken into account here.

Official Community Visitors believe that lip service is paid to this important social justice philosophy by all visitable services. ADHC policies are vague and NGO's are often nonexistent. Official Community Visitors believe that people with a have a right to know, upon accepting an accommodation service what will be the agency's response to their increasing support needs as they age. Official Community Visitors believe that ADHC need to develop clear policies and guidelines both for their own services and funded services about this issue. This need should also be addressed in funding contracts.

### **Attendance at Public Hearings**

Non identifying examples of issues addressed in this submission can be made be discussed with the committee should Official Community Visitors be invited to attend Public Hearings.

Yours sincerely

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On Behalf of Community Official Community Consultation Group  
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