

**Submission
No 44**

**INQUIRY INTO STUDENTS WITH A DISABILITY OR
SPECIAL NEEDS IN NEW SOUTH WALES SCHOOLS**

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Inquiry into the provision of education to students with a disability or special needs in government and non-government schools in New South Wales.

That General Purpose Standing Committee No. 3 inquire into and report on the provision of education to students with a disability or special needs in government and non-government schools in New South Wales, and in particular:

- a) equitable access to resources for students with a disability or special needs in regional and metropolitan areas**
- b) the impact of the Government's 'Every Student Every School' policy on the provision of education to students with a disability or special needs in New South Wales public schools**
- c) developments since the 2010 Upper House inquiry into the provision of education to students with a disability or special needs and the implementation of its recommendations**
- d) complaint and review mechanisms within the school systems in New South Wales for parents and carers, and**
- e) any other related matters.**

Karen Burgess

January 26, 2017

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1. BACKGROUND

My name is Karen Burgess and I am the ex-Service Leader at the Heatherton site in Melbourne Victoria for Autism Spectrum Australia. Autism Spectrum Australia is the not-for-profit private company who owns and runs Aspect Services in Victoria. Autism Spectrum Australia is responsible and manages a number of Special Development Schools for many children across Australia, including in New South Wales.

I have documented a number of events in previous Parliamentary Hearing both at a State and Federal level. Further information regarding a number of events which occurred while working at Autism Spectrum Australia, can be found in the Victorian Parliament Inquiry into Autism Services, (Victoria) and the Report Chapter 5, Reporting and Investigating for the Inquiry into Violence, Abuse and Neglect for People with a Disability, (Commonwealth).

Burgess, K. (2016) *A System of Abuse for People with Autism. Autism Spectrum Australia.* Available at:
http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/58th/Autism/Submissions/S058_Karen_Burgess.pdf (Accessed: 15 October 2016).

Burgess, K. (2016) *Supplement Submission.* Available at:
http://www.parliament.vic.gov.au/images/stories/committees/fcdc/inquiries/58th/Autism/Submissions/S058A_Karen_Burgess_-_supplementary_submission.pdf (Accessed: 15 October 2016).

Radcliffe, J. (2016) *Chapter 5 – parliament of Australia.* Available at:
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report/c05 (Accessed: 15 October 2016).

Please accept my submission into the NSW Hearing into Special Schools because the same Executive Management who manages Autism Spectrum Special Schools in New South Wales, manage adult and residential services in Victoria. For this submission, I want to highlight how the disability industry system supports abuse and reflect on how these services are operating to offer such poor quality servicing and support. I will discuss how this system is funded by Governments.

2. OVERVIEW OF THE SECTOR AND HOW ORGANISATIONS OPERATE

In the past 18 months what I have discovered is: the abuse in the disability sector has a structure and a support system, which ensures the ongoing and long-term abuse of adults and children from within these services. This abuse system is occurring in disability adult services, residential services and in special schools. This system of abuse has a structure. There is a strong hierarchy, in place of people and support systems, which protect abusers and the system of abuse. This structure is well paid for by Governments and philanthropic fund raising.

State and Federal Governments are acutely aware of this abuse and corruption within the Disability system. The Victorian State Government is responsible for overseeing and managing the reporting system in Victoria. Staff are reporting serious Incidents' about abuse, corruption, fraud and poor quality care. Parents are reporting this abuse, corruption, fraud and poor quality of care. Incident Reports of abuse are being submitted to the overseeing reporting body, otherwise known as the Department of Health and Human Services. Complaints of abuse are going to the Disability Services Commissioner to be investigated.

The State Government is also responsible for the Registration of these services and has the powers to revoke organisations Registrations and put limits on these services especially when they under perform. For Organisations to be compliant with the Registration Standards they need to demonstrate a commitment in providing support and abuse prevention systems within these services. Abuse prevention systems are part of the Registration organisations need to demonstrate as a business and as part of their quality assurances. I strongly question how and why, when these Incident reports and complaints are being submitted about these services, how are these Organisations Registrations not being affected? In fact, instead of having limits and overseeing measures put in place by the registering body who have the power to do so, often many of these abusive Organisations are provided with additional support and funding. I believe this helps to send a message that abusive practices are endorsed.

By the Government turning a blind eye, over decades, it has created a disability system whereby this abuse is accepted and normalised. The State Government appears powerless to do or want to do anything about it. I do not believe Governments are able to oversee the Registration of these services along with managing and overseeing the Incident Reporting and complaints system. I questions why information from these complaints have not been used for protecting and addressing the rights of people with a disability and children who attend these services.

The State Government has the responsibility to protect people with a disability and their families, and they are failing. The unwillingness of Government Departments to address this abuse is a critical point to how this abuse is able to continue. The reporting body is getting the reports of abuse from the staff and then fails to take action. This lack of action by these Departments sends a message, which then flows to the Executive Team, to Middle Management and then the staff

teams within these Organisations. These staff teams are aware of the extent of the abuse and the people who are abusing. In some cases the environments are so abusive new workers don't understand this is not the standard practice. In disability services, new and usually unqualified staff quickly learn; this abuse is normal practice. Abuse as a regular part of working in these Disability services. It is just a constant feature. Staff as a result, don't question this abuse and just follow the pack.

Workers see staff victimised, bullied, fired and black-banned from the Industry for speaking up about abuse and poor quality care. People who raise abuse issues are victimised. Reporting is part the staff role and is in their job description. Workplace inductions and orientation in these services have clear reporting processes, right? It is in the Organisations policy and procedures manual after all and reporting is part of the job. The bravado between what these organisations say they do and what they are actually doing needs to be dealt with. The reality is people who complaint are victimised, targeted, bullied and harassed for doing so. These organisations don't really want workers to complain. My history of raising internally the issues from within the organisation is comprehensively documented. It was may responsibility as the Manager of the site to do so.

The message is loud and clear for many staff and that is 'speak up at your own peril.' If you provide poor quality care and abuse clients, you keep your job. When I spoke with staff about the abuse coming from the worksite, the feedback I got was 'no one ever said it was wrong', 'you're the first person to have said anything,' 'I didn't know it was abuse', 'If I can't restrain these people, I don't know how to work them.' The attitudes were utterly appalling.

The complaints process is internally and externally complicated. I found getting help near impossible. The complaints system is cumbersome. When reporting abuse there are often other issues, which include: Corruption, Fraud, Work Matters, Workplace Entitlements, Bullying, Work Health, and Corporation Law etc. The way this complaints system is designed, I feel it is a deliberate strategy to ensure abuse complaints are not suitability and comprehensively dealt with. Departments both internally and externally ensure that the issue is always for someone else to deal with and not their department. These complaints are never comprehensively dealt with. It is a complaints maze.

The complaints system is so cumbersome victims give up. Workers who complain are threatened with unemployment if they complain. Whistleblowers are black banned or leave the industry entirely. Before I spoke publically about what was happening in the workplace, I was threatened in a number of ways. This included: threatened with additional legal action, I was told there was a police investigation into my alleged criminal conduct when there was no such investigation occurring at all, I was referred to as a criminal, I was threaten with violence, especially if I did not comply with the status quo of the workplace, I was stalked, monitored and harassed. All of this did not intimidate me, however for many it does. I was not the only one making complaints

about abuse from this worksite. There was another worker. She was also fired. This is how they ensure complaints stop. They get rid of the complainants.

What then happens when you get rid of the people who are acting protectively is; the abusers get to stay and work in this system and within these services. This system then supports the abusers maintain their employment. These abusers are promoted. They continued to work in these Disability environments. In short the Organisation are then never held to account for this abuse, the abusers continue working and the cycle of abuse continues. It is a simple transaction the gets repeated in many large and established organisations.

Organisations misinform the public about events that have occurred especially about abuse occurring from within these services. They rely on this misinformation in an attempt to protect the organisations reputation. This misinformation acts to protect the public image of the company. Further to this, on 8 September 2016 in a Statement from the Chair of the Aspect Board in response to recent media coverage (7:30 Report by Louise Milligan 16 August 2016) a number of comments made in this letter are false. It is marketing. I question how a company is able to release such misinformation about the events occurring around the instance of the discovery of the coffin and then the following actions taken post reporting of this box at the Heatherton site.

I question, how and why I have not been involved in these apparent ‘investigations’? I don’t believe proper investigations into the conduct of this workplace have actually taken place. But in reality, this is how the system works. Through a series of lack luster investigating processes, which don’t even include the people who made the complaints in the first place and these Departments taking the position of the organisation. I now believe nothing changes because too many people have to protect their reputations over the rights of people with a disability. So what is happening in this case is what I expect to happen. No one will be made to account and this issue will be forgotten at some point as “old news”. This is a direct quote by the CEO of Autism Spectrum and as reported by Louise Milligan. Turing this story into old news is exactly what I believe this organisation is hoping for. In reality, that is what happens across these Disability services. The reports die down and people forget.

3. COMPLAINT AND REVIEW MECHANISMS

The internal organisation complaints system for reporting abuse isn’t working. Asking organisations to regulate their own abuse complaint system is ridiculous; it is a conflict of interest. These Organisations are invested in protecting their reputation and their image rather than the welfare of clients and families. It isn’t working because these large disability organisations are using Government funds raised to fight workers and parents with teams of experienced lawyers. When did a society leave the fight of abused children to the single mothers? When was it the workers responsibility to access justice for their clients? When was it

up to the workers to change the system? There is clearly something wrong when the fight of abuse disability adults and children is left to those who can least afford it.

The Legal system isn't working for people with a disability and their families. It isn't working because there is a lack of legal expertise that relates to disability specific matters. Moving ahead with legal advice comes with a huge price tag. Along with other financial burdens can family and unemployed workers afford this? Accessing information and finding people who will help is impossible. It isn't working because families and individuals do not have the time or the funds to fight and these fights and nor should it be left to families and workers to do so. It is very emotional and too stressful for the victims. To tell and retell these abuse stories is traumatizing for works and families. To constantly be put in a state of deflecting the number of lies, misinformation and disinformation, which is generated in order to protect the organisations reputation, it is exhausting.

4. OTHER MATTERS

This Disability Industry needs to commit to addressing Fraud and Corruption. There needs to be better protections and safe guards to fight against fraud and corruption. Without considering these aspects of abuse, in line with other criminal activity such as fraud and corruption this system will fall down. Corruption and fraud go hand in had with each other disability abuses.



People's lives need to matter. What underpin all of this abuse are basic Human Rights. I have even seen Industry Specialists

ultimately justify the abuse of people with a disability because their behaviours premeditated that instance of abuse. The continued justifications that people with disabilities deserve these restraints and abuse treatment needs to stop. Specialists who work in the Disability sector need a greater understanding of Institutional abuse and ableism and how this effects decisions making when forming care, support and treatment plans. People need to understand that creating environments where these restraints are being used on a regular basis is creating trauma and providing the perfect storm for continued, increasing and lasting aggressive behaviour patterns.

5. CRITISIM

These Organisations take large amounts of Government funding to provide services to people with a disability and their families. These services need an accreditation system where the quality is measured against a national standard and then again measured and rated against other disability organisations. A rating, which helps consumers identify high quality services, is essential. Quality outcomes then need to be attributed to funding levels. Regular and poor quality services need their funding cut and these services need to be shut down.

In America there is a system where an independent organisation is able to investigate claims and compensations can be awarded especially in the event organisations have falsely accused or affected a complainant/s. Addressing abuse, corruption, fraud, and other criminal activity from within these services is not left for individuals to peruse. It is taken over and paid for by a separate complaints and investigation department. This organisation will fight for restitution on behalf of the individuals or groups. Large amounts of compensation can be awarded to Whistleblowers who have been affected as a result of reporting wrongdoing. As system like this, would be my preferred system for addressing wrongdoing in the Disability Services Sector as it rewards those who complaint and encourages a system of addressing wrongdoing. The fact Australia is nowhere near a system like this, is utterly shameful.

There needs to be better checks and balances in place to monitor the quality of these services. Without this, corruption and fraud is running wild. I believe both State and Federal Governments are aware of this in the Disability sector. The corruption in disability services is unsophisticated and blatant. It's embarrassing because in spite of this it appears the Police and other Investigating bodies are unable to detect this corruption and fraud and therefore are not appropriately responding to it. I feel this, again show how devalued the disability sector is when compared to other industries because in spite of blatant and unsophisticated corruption, investigating bodies are still unwilling to appropriately respond.

Post event abuse training does nothing to address abuse from within these organisation and is a ridiculous response from Governments and organisations in order to prove changes in the sector are occurring. This post event training should not substitute managing people and teams who abuse in the Sector. The whole sector needs to be overhauled which includes having a clear strategy for managing abusing Staff, Management and Executives teams. I agree with pre-industry abuse training for staff entering the disability sector - that is appropriate. However post event abuse training to target instances of organizational abuse in teams is useless because it is not address the core reality of the abusing people and teams. Abusing people and teams need a strong management strategy.

6. RECOMMENDATIONS

1. It needs to be considered a crime under The Crimes Act for failing to report abuse and other disability hate crimes. It needs to be considered a crime not reporting these crimes.
2. Abuse and mandatory reporting need to include adults and children with a disability. It needs to broaden the range of professions who can be mandatory reporters. All forms of abuse need to be included, financial, neglect, emotional, social, isolation and the use of unapproved and unauthorised restraints. Mandatory reporting laws in Australia need to be Federal Law and not governed by states.
3. If as a disability worker should be allowed to file a complaint and have the same powers as if the person with the disability had filed the complaint. If I see a client assaulted and the client is unable to talk for him or herself, I should be allowed to make a complaint on behalf of the client who was assaulted. The police would not take my original report because they said I was a witness to the incident and I was not the victim. In the event clients are non-verbal, I should be able to make a statement on behalf of clients about what I saw.
4. Legislate for a False Claims Act so organisations that make blatant false claims and misinform the public can be sued. Individuals can bring about a claim however they are not the ones who pay for this process. It is managed by an organisations set up to support individuals. This creates a balance of power as organisations traditionally in Australia hold all the resources to fight these battles. This ensures justice is service rather than the one who just has the biggest amount of fund wins. The False Claims Act is set on getting restitution and can protect individuals who have been defamed and slandered.
5. Under the False Claim Act whistleblowers that have had adverse action are compensated. Until whistleblowers are rewarded significantly for raising the issues of wrongdoing, this culture of abuse won't change. These large organisations know this.
6. An Independent Organisation needs to be able investigate abuse and all the associated matters that relate to this abuse. For example: if a workers comes forward and their employment is effected and their work entitlements are effected for making legal complaints then the ability to investigate these matters along with the employment and abuse matters needs to occur and not separated.
7. Two separate Organisations need to be established - one, which is responsible for regulating, auditing and overseeing the registration of these services and another organisation, is responsible for overseeing the Incident Reporting System. These organisations need to be independent of each other however also need to be able to work together for the welfare and protections of people with a disability and their families.
8. Funding needs to be allocated based on the quality of the services and timelines need to be given to poor quality services to make their improvements. Services who under perform they need to be shut down.

9. A National Accreditation system like in Children Services needs to be created to monitor the quality of the Disability services.
10. A national professional registration of disability professionals needs to oversee disability professionals and disability workers need to hold a license to operate.
11. Professional membership needs to be set at a quality and high standard. I do not accept that people need to get used to a system. The standard needs to be set from the start.

7. CONCLUSION

It is time, for quality disability services. It is time to deal and effectively manage this abuse externally from these services. It is time to shut down Organisations who regularly under perform. It is time for families to have access to a legal system that understand their needs. We need to deal with the Human Rights of People with a Disability in this country. I want to see better protections in place for victims, better supports and restitutions for whistleblowers. Time has come for the protection of children with disabilities and special needs in NSW schools. But this needs to be a whole industry and national approach and cannot be left to the states to do this.

Karen Burgess