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The Commissioners
Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
GPO Box 1422
BRISBANE, QLD 4001

Via email: DRCenquiries@royalcommission.gov.au

Dear Commissioner Sackville

SUBMISSION OF THE NORTHERN TERRITORY COMMUNITY VISITOR PROGRAM

I refer to the letter dated 18 November 2020, requesting submissions to address the Royal Commission into the Violence, Abuse, Neglect and Exploitation of people with Disability, Safeguards and Quality Issues Paper.

The CVP provided the first signpost submission to the Royal Commission into the Violence, Abuse, Neglect and Exploitation of people with Disability, December 2019. We committed to provide a more detailed submission regarding the work of the CVP.

I am pleased to provide the attached supplement Submission to the Royal Commission from the NT Community Visitor Program (CVP) associated to the Safeguards and Quality Issues Paper.

The CVP is an independent statutory advocacy, complaints and inspection service, established under two pieces of NT legislation. The CVP has an important place in the legislative framework that protects the human rights of vulnerable people in the Northern Territory.

The independent nature of the CVP, its established presence and professional experience is an effective model for official visiting services. I can provide further information on the work of the CVP as requested by the Royal Commission.

Yours sincerely

Sally Sievers
Principal Community Visitor

29 April 2021

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CVP

NT Community Visitor Program

Thinking and Worrying

CVP are helping people who are worried for:
Wrong way treatment
Family
Country
Medication worries

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PUBLIC CVP SUBMISSION TO THE ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND EXPLOITATION OF PEOPLE WITH DISABILITY

Introduction

The Community Visitor Program (CVP) provides this submission as a supplement to the initial CVP signpost submission of 16 December 2019. The CVP functions have been detailed in the previous submission and should be read in conjunction with this paper.

This submission seeks to address the Royal Commission's Safeguards and Quality Issues paper and will focus on the protective and preventative functions of the NT CVP model.

This submission applies a human rights approach that holds that all people with disabilities have the right to enjoy equality of opportunity and to effectively participate in and be fully included in society.

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[1]All CVP Artwork graphics were developed in 2013 to assist the CVP in the Forensic Disability, in explaining the CVP role using social stories diagrams. All PWD in receipt of Forensic Disability Services are Aboriginal.

In writing this submission, the CVP is guided by the following conventions and legislation that promote and protect the human rights of people with mental illness and/or disability:

- The United Nations Convention on the Rights of Persons with Disabilities (2006) (CRPD);
- The United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care;
- The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT);
- *Mental Health and Related Services Act 1998* (NT) *MHRSA*;
- *Disability Services Act 1993* (NT) *DSA*

A strong, contemporary disability system is grounded in a human rights approach. It is a system that is person-centred, with care and supports tailored to the person's life circumstances, personal aspirations and preferences. It supports people to live the life they want and receive services they need in the least restrictive way possible. It establishes systems of care and treatment that safeguard and prevent violence, abuse, neglect and exploitation of People with a Disability (PWD).

In the Northern Territory, there is considerable work to be done to improve the systems of care that safeguard people with disabilities. There are significant gaps in services. There are significant gaps in the frameworks that prevent abuse, neglect and exploitation. This is particularly the case for certain identified groups of people.

While there are examples of innovative and professional care, programs and services, it is the inadequate frameworks and the service gaps that are the focus of this submission to the Royal Commission. The CVP welcomes the Royal Commission's inquiry and anticipated recommendations to address these underlying issues that create risks for certain people with disability.

The CVP looks forward to changes that will create a disability system that is 'fit for purpose'; that addresses issues at the lowest level before more serious issues arise; and that empowers people with disability to be able to meet their individual goals and to have their best life.

The submission has the following structure:

- CVP recommendations
- Achievements of NT CVP in line with the Royal Commission Safeguards and Quality paper questions
- Proposed CVP model for PWD in the NT in Disability
- Appendices

CVP Recommendations

1. Recognise and endorse the preventative role of official visitors as part of Australia's Quality & Safeguarding framework.

    a. That each State and Territory official visitor program be provided and adequately funded by State and Territory governments to assist people who are primarily detained in a closed environment, potentially vulnerable to violence, abuse and neglect, and where treatment involves restrictive practices to:

        i. safeguard people's rights and the quality of mental health and diability services provided; and

        ii. provide for and strengthen both individual and systemic advocacy for people with disability and their carers receiving disability services.

2. Empower People with a Disability in the Northern Territory by providing for the Community Visitor Program to support people to raise and resolve issues 'at the lowest level' in a preventative model.

3. Ensure State & Territory Adult/Child Protective legislation has independent oversight that is clear and consistent with PWD Human rights.

4. Invest in national support for State and Territory official visitors to share best practice, develop resources and build capacity in the exercise of their functions.

5. Improve the quality of disability services for those living in 'closed environments' by strengthening accountability and independent advocacy measures.

6. Improve the quality of services in the Northern Territory by recognising the unique characteristics of the region and investing in the provision of culturally safe services.

7. Address the significant workforce development issues impacting on the quality of services provided to people with disability.

8. Address the risks inherent in 'thin markets', such as in the Northern Territory, that work against the fundamental principle of participant choice and control.

9. Link the NDIS Quality & Safety Commission functions with worker screening functions to ensure adequate screening measures for disability workers.

10. Address the gap in oversight for forensic participants with a disability in the NDIS quality and safeguarding systems.

11. Improve the communication, coordination and integration of services throughout the disability sector and mainstream services.

12. Address the lack of accountability through improved strategic service planning, independent advocates and visitors, public reporting, monitoring and evaluation.

Northern Territory Context

There are unique challenges in the delivery of disability services in the NT. The CVP draws attention to the disproportionate impact of mental health[2] and disability[3] for Aboriginal[4] people that affect services in the NT. The NT has the highest rate of public guardianship in the country per population. Delivery of services is affected by the vast geographic land mass, the small population, and the level of disadvantage and trauma experienced by a large number of Aboriginal Territorians.

The NT has very underdeveloped markets for disability services ('thin markets'), and significant challenges with workforce development issues. The high workforce turnover and limited development opportunities, combined with cultural values that affect the ways in which matters can be raised in a culturally safe manner, leads to a lack of understanding of and safeguards against human rights abuses.

Background to the NT CVP

The NT Community Visitor Program was created and operates under two pieces of legislation, the *Mental Health and Related Services Act 1998* and the *Disability Services Act 1993.*

The CVP in the NT was established in 2001 in the mental health field and has operated continuously since this time. In 2013, the role extended to specialist disability facilities (Secure Care) and places operated by the NT Government.

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[2]Department of Health (2016) *Primary Health Networks Mental Health and Suicide Prevention Needs Assessment* Northern Territory PHN, accessible at http://www.ntmhc.org.au/wp-content/uploads/2016/09/2016-NT-PHN-Needs-Assessment-Mental-Health-and-Suicide-Prevention.pdf

[3]Australian Institute of Health and Welfare (2019) *Disability Support for Indigenous Australians*, accessible at: https://www.aihw.gov.au/reports/australias-welfare/disability-support-for-indigenous-australians. This noted that Indigenous Australians were 1.8 times as likely to have a disability, and 2 times as likely to use disability support services.

[4]Aboriginal is the term used by the CVP for 'First Nations' people in line with the NT Govt style guide and is used throughout the CVP public reporting

The CVP is currently the only legislative mechanism in the NT which protects the legal and human rights of people receiving public mental health treatment and disability services in the Northern Territory.

Achievements of NT CVP

Value of CVP for Safeguarding

The CVP performs a vital specialist role that works to safeguard the rights, interests and quality of services of people with disabilities as a statutory complaint resolution and advocacy service.

There will always be the need for feedback from PWD who receive services and oversight from an independent body like the CVP. This helps ensure that services work well for the PWD. The work of the CVP gives the community confidence that people are being supported and their rights respected. The relationship with rights protection and complaints management directly relates to safeguarding PWD.

The importance of this role was acknowledged in the Council of Australian Governments' decision to complete a national review of the schemes as these relate to disability safeguarding. The 'National Community Visitor Schemes Review' (December 2018) report for the Disability Reform Council found that statutory visiting programs such as the CVP provide local, independent support to people with disability by:

- Upholding an individual's human rights and ensuring service provision is appropriate in order to prevent violence, abuse and exploitation,
- Supporting appropriate decision making that reflect the wishes of the indivdual,
- Facilitating local capacity building to achieve resolution of issues in the services at the earliest and lowest possible resolution,
- Adding to regulatory intelligence on services and systemic issues to the state and territories and other appropriate services.[5]

The CVP model provides both informal and formal safeguarding mechanisms across the range of developmental, preventative and corrective measure domains.[6]

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[5]The Community Visitor Schemes Review, December 2018 Report for Department of Social Services for the Disability Reform Council, Council of Australian Governments, WestWood Spice, Page 11.

[6]Australian Senate Community Affairs Reference Committee, Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Islander people with disability, and culturally and linguistically diverse people with disability, November 2015, https://www.aph.gov/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report

Royal Commission Safeguards and Quality Issues questions:[7]

1. ***What are the best ways to safeguard people with a disability who maybe at risk of violence, abuse, neglect and exploitation both when they use services and in other areas of their lives ?***

2. ***How can quality services help to prevent violence, abuse, neglect and exploitation of people with disability ? What are the features of those quality services ?***

4. ***What can be done to uphold independence, choice and control for people with disability when implementing safeguards against violence, abuse, neglect and exploitation ?***

CVP Key Safeguarding Achievements

Individual Complaints, Enquiries, Support and Advocacy

The CVP is a specialist service with 20 years experience (refer appendix 2 & 3 for more information).

Over this time the CVP has dealt with over 3380 matters in both mental health and specialist disability with an approximate 55% resolution rate.

PWD raise their matters directly with the CVP 75% of the time. This demonstrates that the visiting function provides PWD an accessible service that is tailored one-to-one support to the PWD. The process facilitates improved knowledge and skills for the PWD about their rights and how to exercise those rights.

The CVP has observed that sometimes a PWD believes that their issues of significance are not receiving adequate attention from the service provider. Worrying about issues or concerns with service providers may have considerable impact on health, quality of life, care and overall satisfaction with service delivery particularly within a facility or residential facilities.

The CVP visiting function enables CV to build a relationship of trust with the PWD. Approaches that support the PWD own self-efficacy are explored and actions taken are

[7] Royal Commission Safeguards and Quality Issues Question, refer complete questions, appendix 4, page 25

made in consultation with the PWD. CVs encourage the PWD to develop independence, confidence and establish their own self-advocacy skills. The CVP contends that this approach of 'low level resolution' with the service provider is both protective and preventative. The CVP views these statutory independent functions as extremely important in facilitating the PWD's wills and preferences.

Over the past 10 years, rights, quality of service provision and advocacy were the priority areas identified by PWD (see appendix 2).

One of the key aims of the CV is to resolve issues in a manner which supports the development of a therapeutic relationship between the PWD and service. This in turn supports the overall aim of providing the best possible person-centred, and therapeutic service.

The CVP has a statutory obligation to provide an accessible service that ensures contact with the person raising a matter on the next working day. The CVP has achieved this measure approximately 90% of the time for the past 10 years.

The CVP values and practices are embedded within the principles of person-centred care and empowerment.[8] The CVP has expertise and skills in proactively engaging with PWD through visits and personal engagement with people. In this way the CVP is able to build relationships and better understand issues raised by the PWD and other stakeholders.

In line with a human rights approach, empowering people with a disability to know what their human and legal rights are and how to facilitate those rights is fundamental.

Actively involving PWD, carers and key stakeholders in their care and treatment requires improvements and ongoing focus. Like all services, at the core of all good work is the building of strong relationships between PWD and staff. This means taking time to hear, listen deeply, and act in a way that shows no person is more powerful than the other. This shows respect for the PWD and that humans rights are being observed.

The CVP considers that this is one of the most effective informal individual strategies to safeguard against violence, abuse, neglect and exploitation and has been shown to offer good practice.[9]

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[8] **CVP Values:** 1. Respect: We value the voice and opinion of our client group, staff and service providers by respecting knowledge and expertise, ...being inclusive and ensuring cultural safety.
2. Empowerment: We walk alongside our clients, seeing the situation from their perspective, appreciating that all points of view are valid, striving to understand their journey and maintaining hope at all times.

[9] The Community Visitors Schemes Review, December 2018 Report for Department of Social Services for the Disability Reform Council, Council of Australian Governments, WestWood Spice

Systemic Advocacy

The CVP role within the mental health field is well established and effective. The CVP considers that the Panel functions made up of multi-disciplinary teams[10] (similar to OPCAT functions) enhances the preventative and corrective action roles.

This function is unique to the NT CVP and not present in other community visitor program in Australia.

The CVP annual reports evidence systemic issues in the NT over the past 20 years. Over the past 10 years, the CVP's focus has been for those PWD subject to involuntary orders, in 'closed like environments.' To remove someone's right to live freely in the community, and require the PWD to remain somewhere for their own health or the safety of others, is a very serious infringement on their human rights.

Systemic issues for PWD in public mental health and disability services area are reviewed by CV's and CVP expert panels through their inspection roles. These visits and associated complaints and enquiries anaylsis inform public advocacy that provides a voice for PWD.

Analysis of open recommendations in both Mental Health and Forensic Disability demonstrate the most significant issues handled by the CVP since 2013 have been quality of service provision, cultural safety, rights and advocacy needs. Interestingly similar needs are found in both individual and systemic matters.

It should be noted that many issues handled by the CVP require ongoing monitoring or are revisited after successful resolution.

The CVP independence and transparency to PWD and the NT community has achieved significant outcomes. (see appendix 2 & 3) Some achievements for the CVP have been driven through formal open recommendations;

- Reporting compliance with Rights of PWD.
- NT wide restrictive practices strategy in mental health in place.
- Quality & Safety Framework for Forensic Disability Services.
- Children & young person's mental health ward and model (2015).
- NT New infrastructure of Darwin mental health ward to address safety concerns of HDU (2020)
- A focus on cultural safety, interpreter use.

The CVP has identified gaps in community based services that impact on PWD and the capacity for services to be provided in the 'least restrictive environment'. In many cases a lack of services results in an absence for the NT of important prevention and early intervention services. This is evident as shown in the gaps for Child & Youth services in

[10] CVP Multidiciplinary: team: Doctor, Lawyer, Community Representative

remote regions, specialist services for youth in detention and significant gaps in Forensic mental health and disability services across the NT.[11] Due to the absence of services many PWD with complex needs invariably end up in crisis, either in the inpatient setting or criminal justice system.

Restrictive Practices

Restrictive practices significantly infringe upon a person's human rights and from the CVP experience there must be stringent legislative regulation including independent statutory monitoring, as these are known areas where violence and abuse take place.

Reducing and eliminating the use of restrictive practices has been a focus for the CVP for many years. The CVP has reported annually about the incidents and issues around seclusion in mental health approved treatment facilities and in 2017, the CVP provided the only public reporting of restrictive practices in Disability.

The focus and dedication of the CVP in reporting on the most restrictive interventions aims to improve Mental Health services and Forensic Disability performance in this area. Initiatives such as 'SafeWards' has reduced rates of seclusion in the NT. This work is never static and requires ongoing attention.

The CVP believes that this is a critical mechanism to prevent, reduce and respond to violence, abuse, neglect and exploitation.

Case Study – Mental Health
An Aboriginal woman contacted the CVP reporting that she was left 'traumatised after being physically restrained and secluded by male staff members in the Joan Ridley Unit'. The individual reported that she was left feeling 'totally humiliated and degraded' by her treatment during the seclusion event. She said the event had a 'devastating impact' on her emotional and mental health. The woman was upset that her cultural needs were not considered or respected. The CVP provided support to the woman and assisted her to lodge a complaint with the service. A response was provided from the mental health service that addressed the concerns raised. The service provided the complainant with an opportunity to review the CCTV footage of the event in an effort to allay concerns about her treatment in seclusion. C/2020/00024

Currently in the NT there is no statutory CVP for PWD (outside of the Forensic Disability setting) who may be vulnerable to abuse and neglect. This is a significant gap in safeguards for people with disability in the NT,[12] particularly for PWD who reside in 'closed like environments' receiving support from paid staff and have very limited support network.

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[11] McGrath David Consulting, Report on the Review of Forensic Mental Health and Disability Services within the NT, 2019.
[12] The *Disability Services Act* 1993 has no provision for oversight of PWD who does not have a forensic supervision order or are otherwise not in a facility run by NT government staff.

CVP Recommendation 1
Recognise and endorse the preventative role of official visitors as part of Australia's Quality & Safeguarding framework.

a. **That each State and Territory official visitor program be provided and adequately funded by State and Territory governments to assist people who are primarily detained in a closed environment, potentially vulnerable to violence, abuse and neglect, and where treatment involves restrictive practices to:**

   i. **safeguard people's rights and the quality of mental health and diability services provided; and**

   ii. **provide for and strengthen both individual and systemic advocacy for people with disability and their carers receiving disability services.**

3. ***How could safeguarding laws, practices, or policy frameworks (including the NDIS Quality and Safeguarding Framework) be improved to better prevent, reduce and respond to violence, abuse, neglect and exploitation of people with a disability ? We are particularly interested in Australian and international examples of good practice.***

4. ***What role does, or should, independent monitoring and oversight play in safeguarding the right of people with disability to live free from violence, abuse, neglect and exploitation ? Should the NDIS Quality & Safeguards Commission be taking a more active role in ensuring service providers are adhering to the appropriate standards, particularly during the pandemic crisis?***

The CVP maintains that support provided in community based environments is in line with the principle of 'least restrictive alternative', contemporary practice frameworks and are informed by the preferences of PWD. However despite reforms intended to enhance PWD autonomy and reduction of restrictive practices including involuntary orders there is limited meaningful evidence of this. There appears to be little empirical verification of the incidents and effects, alongside analysis of the compliance of governments efforts associated to Australia's CRPD obligations.

Australian Best Practice Example

The CVP contends that well designed frameworks that capture quality data allow services and policy makers to better prevent and respond to factors contributing to violence,

abuse, neglect and exploitation and assists in informing best practice. The CVP raises that the Office of Public Advocate in Victoria Community Visitor Program reports using clear data about violence, abuse, neglect and exploitation. The Office of Public Advocate (Victoria) have developed with other stakeholders a guideline for identifying and addressing Violence, Neglect and Abuse (IGUANA)[13] that is used by the CVP as a guide.

The CVP considers this type of tool and explicit reporting informs about the prevalence of violence, abuse, neglect and exploitation. Identifying and measuring more accurately whether goals embodied in the humans rights framework of the CRPD are met requires the system of reporting to be more explicit and accurate of the PWD experiences.

CVP Recommendations 4
Invest in national support for State and Territory official visitors to share best practice, develop resources and build capacity in the exercise of their functions.

Legislation

The CVP raises the inconsistency in a range of NT Adult/child protective legislation related to PWD human rights, which need to be clarified and resolved to ensure that laws are not contradictory. Both mental health and disability legislation in the NT are currently under review.

The CVP contends that legislation must better reflect the PWD human rights, ensuring person centred, least restrictive and supported decision making principles that guide practice. The CVP sees limited evidence of supported decision making for PWD in both Mental Health and Forensic Disability Services. To this end it is important that safeguarding mechanisms such as the CVP are maintained in mental health and expanded in the *Disability Services Act* 1993 NT(as proposed on page 17).

The relationship between legislation and quality and safety frameworks are intertwined, however the CVP experience is that policy to operationalise the legislation and enliven PWD human rights are not sufficiently met. The CVP raises the need for clear accountability when government have clear and ongoing breaches of legislation regarding PWD human rights.[14]

Currently, it is not transparent as to the scope and interface between the NDIS Quality & Safety Commission with the public mental health system and Forensic Disability Services.

Some examples;

- Seclusion of children under 18 is not permitted under the NDIS Restrictive Practice Act NT, however is permitted when detained under the *MHRSA.,*

[13] Sourced 27/04/21
https://www.publicadvocate.vic.gov.au/opa-s-work/our-organisation/policies-plans-and-protocols/interagency-guideline-for-addressing-violence-neglect-and-abuse-iguana
[14] CVP Annual Report 2019 – 2020, Independent Review of Plans with Restrictive Practices, Pg 51

- There is a definintion for chemical restraint in the *DSA* however the *MHRSA* is silent regarding chemical restraint,
- Forensic disability participants who are in receipt of NDIS services are not eligible for NDIS restrictive practice review through the NDIS Quality & Safety Commission,
- Anomalies of clinical responsibilities and transitioning to NDIS providers when for Forensic disability participants,
- Worker screening does not encompasses Forensic Disability services.

Inconsistencies such as these do not support holistic care. They encourage silo treatment in which PWD experience different safeguards and care dependant on which environment they are in. Inconsistencies between the NDIS safeguarding legislation and other services which provide accommodation for people with disabilities such as child protection and detention are also apparent.

These issues have emerged, in part, due to changes in the Disability sector with the introduction of the NDIS Quality & Safety Commission and the NT Restrictive Practices legislation. For consistency, explicit reference in each Act should clarify the relationship between each set of legislation and define which framework has primacy.

The relationship and pathway between the NT *Mental Health & Related Services Act* 1998 and *Disability Service Act* 1993 reflect these challenges on an operational level. The CVP has observed that some PWD with both comorbidities and complex cognitive impairment remain for too long on mental health inpatient units because there are blockages with access to NDIA and/or no 'provider of last resort.'

Due to the different areas of expertise (mental health & disability) required, the CVP has observed mental health inpatient units struggle to provide adequate treatment and care for this cohort of PWD (disability). The mental health facility environment is generally more restrictive and there is a lack of staff knowldege and skills regarding positive behaviour support. These factors create an environment on mental health wards, that does not support the needs of PWD.

Currently the *MHRSA* review is underway. These laws govern the assessment and treatment of people with mental health conditions. The CVP recommends that the statutory CVP role continue in the public mental health system with improved linkages to other legislations so protections for vulnerable PWD are strengthened.

CVP Recommendations 3
Ensure State & Territory Adult/Child Protective legislation has independent oversight that is clear and consistent with PWD Human rights.

CVP Recommendations 10
Address the gap in oversight for forensic participants with a disability in the NDIS quality and safeguarding systems.

Quality & Safety Improvements

Strengthening the quality and safety frameworks mechanisms in both the existing state Disability and Mental Health Legislation and the NDIS Quality & Safety Framework will improve and assist safeguarding objectives. The CVP acknowledges that a multi-pronged approach of legislative, quality & safety development that are focussed on faciltating the PWD voices is key to influencing and creating a human rights-based service culture.The CVP has demonstrated experience in safeguarding and implementing strategies to address power imbalances and facilitate the voice of the PWD. Key processes of the CVP are regular reports and recommendations to promote safe, quality services.

Further, the CVP considers that strengthening the capacity and roles of the NDIS Quality & Safety Commission, peak disability organisations and NT Government agencies to identify gaps and work together to inform Disability action plans in each jurisdiction will have a positive effect. To this end the CVP supports the NDIS Quality and Safety Commission reporting publically on strategic issues and gaps annually.

CVP Recommendations 11
Improve the communication, coordination and integration of services throughout the disability sector and mainstream services.

CVP Recommendations 12
Address the lack of accountability through improved strategic service planning, independent advocates and visitors, public reporting, monitoring and evaluation.

Thin Markets

The CVP raises that the above stakeholders need to address and reduce the risks inherent in 'thin markets', such as in the Northern Territory. By their nature 'thin markets' work against the fundamental principles of participant choice and control.

CVP Recommendations 8
Address the risks inherent in 'thin markets', such as in the Northern Territory, that work against the fundamental principle of participant choice and control.

Workforce Development

Another gap requiring strengthening is improved information, education and training to the disability sector and community. There will always be a need for ongoing support to build the needs of a skilled workforce in the sector. There needs to be improved and nuanced understanding of what constitutes abuse, neglect and exploitation.

Implementating strategies to address these issues requires the sector and workforce to reconceptualise what abuse, neglect and exploitation means on a practical, everday level.

The CVP acknowledges work already done in the sector by peak bodies and service providers to promote a 'zero tolerance' attitude. Key to this has been the empowerment of PWD through the provision of information and skills in this area. Equally important has been the efforts to promote the 'zero tolerance' message in the sector and wider community.[15] Despite these great initiatives, there is still a signifcant way to go before a truly person-centred integrated service system is achieved in the NT.

Addressing the significant workforce development issues impacting the quality of service provided to PWD will equip services and staff to prevent and reduce violence, abuse neglect and exploitation.

It is the CVP experience that a 'low level resolution' rights approach using the service providers own feedback and complaints process is preventative and protective for PWD.

Worker Screening

At present, all NDIS providers must ensure workers complete the mandatory NDIS Commission orientation module ('Safety, Quality and You'). Additionally services must ensure incidents related to abuse or neglect are reported to the NDIS Commission. Currently in the NT, however, Forensic Disability remain outside the NDIS quality and safeguards framework meaning these people are not protected by the safeguarding framework.

It is well documented that the NT disability support market is very thin. There are a high number of support workers working for two or more employers. If for instance an incident were to occur within the FDU service, there would be no obligation for it to be reported to the NDIS Commission. This lack of reporting compromises the effectiveness of the worker screening processes and places PWD at risk.

The CVP considers it would be appropriate to implement reporting to the NDIS Quality and Safety Commission for the FDU. In order to do so, this would need to be included as an addition to the NT Government employment contract or its contract with recruitment agencies.

CVP Recommendations 9
Link the NDIS Quality & Safety Commission functions with worker screening functions to ensure adequate screening measures for disability workers.

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[15]https//agedcare.health.gov.au/support-services/review-of-the-community-visitors-scheme-final-report
National Disability Services Northern Territory, Zero Tolerance Evaluation (Unpublished), October 2017

5. ***What challenges are presented by the different safeguarding approaches used across Australian jurisdictions and across different types of services.***

The CVP has developed an operational model unique to the Northen Territory context.

The WestWood Spice report found that CVP's should play a role in safeguarding vulnerable NDIS participants.[16] Because existing programs are administered through their state and territory governments[17] this would involve amending state and territory legislation. Changes required include detailing statutory relationships, discrete functions, linkages and the reporting that should occur with the NDIS Quality and Safety Commission.

The CVP does not support a 'one size fit all' community visitor program model using a volunteer model as proposed by the Office of the Public Advocate (Victoria).[18] This approach does not consider the different, unique factors and demographics of each region. There is a known lack of capacity within the volunteer cohort in the NT. Permanent remunerated CVP staff enable a consistent review of quality of care issues more broadly. These staff are able to build relationships with PWD, family and key stakeholders to ensure their voices are heard.

The CVP believes the volunteer CVP proposal would not support the required level of expertise that is needed to support PWD and ensure the high level of quality and safety obligations are met in these environments.

The CVP is proposing a model that complements the NDIS Quality & Safety framework. Exisiting complaints mechanism established with the NDIS Quality and Safety Commission will not be duplicated (see page 17). This proposed model recognises the existing CVP strong relationships and expertise and seeks to strengthen existing safeguarding and protection mechamisns.

6. ***What safeguards are required for people who may need additional support, such as people who do not have informal supports like families or other advocates, people who face communication barriers, and people with high support needs?***

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[16] The Community Visitor Schemes Review, December 2018 Report for Department of Social Services for the Disability Reform Council, Council of Australian Governments, WestWood Spice, Page 37.

[17] The Community Visitor Schemes Review, December 2018 Report for Department of Social Services for the Disability Reform Council, Council of Australian Governments, WestWood Spice, Page 11.

[18] Decision Time 'Activitating the rights of adults with cognitive disability, February 2021, page viii, Recommendation 2.1 OPA recommends that the Australian Government fund a volunteer program that would allow isolated NDIS participants to receive support with their NDIS-related decision making.

7. ***How can informal safeguards be strengthened to prevent or reduce violence, abuse, neglect and exploitation of people with disability ? What are the ways in which people with disability develop personal capacity to safeguard at different stages of their lives and as circumstances change ? Are there systems in place to support this capacity development ?***

Proposed CVP Model for PWD in the NT

The current NT CVP oversight of Disability services is limited to PWD subject to supervison orders recieving services in the secure care setting. The CVP current legislative services are provided to 14 residents in the NT spread across both the Top End and Central Australia. The CVP considers this limitation places some PWD at risk of violence, abuse, neglect and exploitation because they do not receive an independent community safeguarding service.

There is a need for more holistic approaches to the safeguarding of 'at risk' adults. Aproaches need to balance the dignity and autonomy entitled to PWD with protections for the most vulnerable who are isolated. The CVP's proposed model is for a longer term – Adult protection lens. The complexity in this level of safeguarding relates to the intersection with other systems such as health, aged care, mental health and the criminal justice sytem. The CVP aknowedges not all persons with a disability require the full CVP service. The CVP model supports a 'no wrong door approach' to making enquiries and lodging complains.

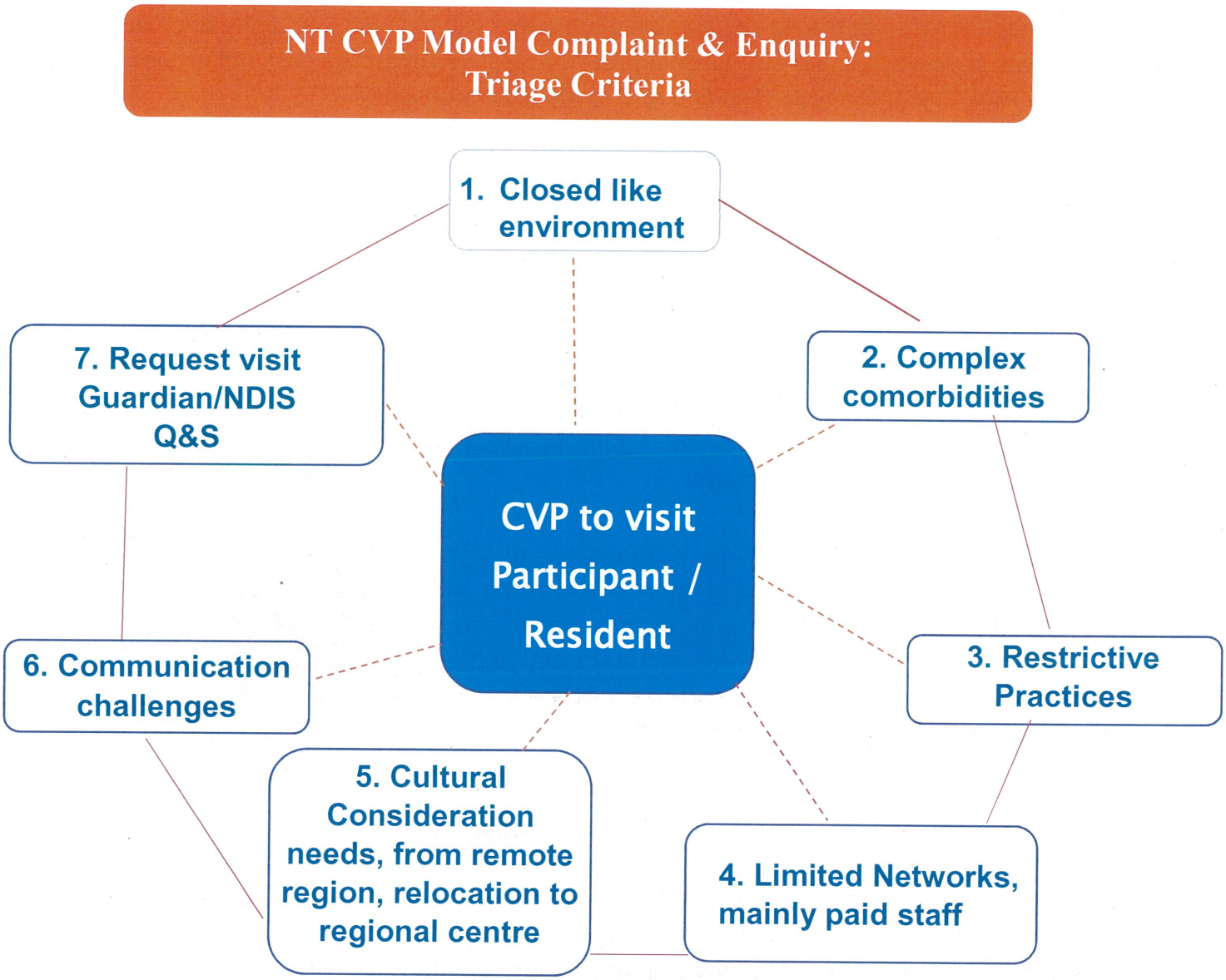
The eligiblity for CVP assistance is shown in the flow chart on page 17. The CV will assist PWD to access the service providers feedback/complaints process in the first instance, if appropriate. Supporting these processes enhances a 'low level resolution' of matters and reduces complaint process duplication.

Statutory visiting functions;

- Rights promotion, enquiry and complaint resolution service, advocacy support, nuanced violence, abuse, neglect and exploitation information, reporting and monitoring,
- CV's assist PWD using 'low level resolution of enquiry matters as a protective an prevention function,
- Ability to advocate for PWD and/or link to external advocates/support persons as directed and as appropriate,

- Support PWD to use existing internal complaints process and make comment on effectiveness of internal complaints processes,
- Powers to access, talk to, request and review material. Staff must co-operate/provide information (independence),
- Email issues/report to service of matters where appropriate and/or communication to NDIS Quality & Safety Commission periodically,
- If needed, refer Complaints to NDIS Quality & Safety Commission and/or other complaints body and/or other relevant external agencies – Police/Territory Families.

CVP Recommendation 5
Improve the quality of disability services for those living in 'closed environments' by strengthening accountability and independent advocacy measures.



9. ***What barriers do people with disability face when making a complaint and what will help address these barriers ? We are interested in hearing about complaints processes across a range of services and areas of life.***

Making Complaints

The CVP considers there is significant under-reporting of violence, abuse, neglect and exploitation in the NT. Addressing complaints is an important part of the CVP role. Complaints are, however, a corrective action and a blunt instrument as events have already taken place. Any safeguarding system needs to understand and respond to the various factors as to why under reporting occurs including;

- A self reliance or stoicism of PWD,
- Lack of knowledge of rights information,
- Limited to no advocacy support,
- Lack of trust that the issues/complaints matters will be dealt with fairly and could even make things worse (including fear of punitive repercussions and/or loss of service due to the lack of choice and range of services in NT),
- Negative experiences with conflict/complaint process,
- Trauma in continuing to think and relive the issue,
- Being targeted or perceived as a trouble maker,
- Communication challenges,
- Lack of knowledge of how to access and navigate complaints process,
- Shame,
- Service culture that sees feedback and complaints as not valued to inform service development,
- A lack of sophistication regarding understanding of how enquiries and complaints relate to violence, abuse, neglect and exploitation.
-

From the CVP experience, PWD may not want to deal with matters as complaints for a range of the above reasons. It is important, therefore, that other avenues and supports should be in place to assist PWD to provide feedback and address concerns. This is reflected in the CVP data where the term enquiries is used for the majority of matters the CVP have dealt with.

The CVP also considers dealing with issues/feedback/enquiries using a 'low level resolution' is the most effective preventative measure as it better supports the empowerment of PWD, facilitates skill development and prompt implementation of corrective actions. The personal and engaging nature of CV visits also enables intelligence gathering of service provision and emerging trends.

CVP Recommendation 2
Empower People with a Disability in the Northern Territory by providing for the Community Visitor Program to support people to raise and resolve issues 'at the lowest level' in a preventative model.

10. How can safeguards and complaints processes be improved to better meet the needs of First Nations people, woman, culturally and linguistically diverse people, LGBTIQ+ people, and/or children and young people with disability?

Cultural Safety

A signifcant proportion of PWD who receive services in both Mental Health and Forensic Disability Services in the Northern Territory are Aboriginal Territorians. A key aspect of CVP work is the review and assessment of how services facilitate cultural safety and how core elements of culture inform and enrich service for Aboriginal PWD. These core elements of cultural safety include connection to family, language, country, cultural practices and protocols.

Case Study – Interpreters

"They twist things around. They talk this way and that way and I don't understand what they are saying...I get angry when I don't understand." C/2015/565

"I want a interpreter because I feel like I can speak more freely." C/2015/512

"(In ward round) it gets too much, we can't follow what they're saying." C/2016/375

The CVP has seen, heard and read many difficult stories from Aboriginal PWD who struggle to communicate their situation and needs, and have problems understanding fully the details of their treatment and care. The predominantly non-Aboriginal composition of the workforce further complicates the delivery of a culturally safe service.

In the public mental health service there is evidence of culturally safe initiatives. These initiatives are informed by many years of operating experience. Inititaives such as access to traditional healers, Aboriginal positions embedded in inpatient multi-disciplinary teams and the welcoming of family boarders to stay with PWD in the inpatient units are positive steps however there is still along way to go.

Case Study
In 2020, the CVP received an anonymous complaint regarding aspects of the care and treatment of a resident. One aspect of the complaint related to cultural safety, specifically that personal care arrangements for the resident involved a staff member of the opposite gender being present on some occasions, to provide direction. The CVP investigated the matter, and found that the practice was culturally unsafe and compromised the dignity of the resident. The service was ultimately receptive to these concerns and undertook to immediately discontinue the practice. The CVP considers this to be an example of a lack of cultural safety, albeit unintentional, that would have been less likely to occur had insight and expertise of Aboriginal staff been available.
C/2020/00128

One of the most significant challenges is ensuring that PWD who predominantly speak languages other than English are able to communicate effectively with the people and services that support them. The CVP continues to raise that access and use of interpreters for PWD falls well below what is acceptable.

Two way communication needs are obvious in that both the PWD and services rely on listening deeply and talking effectively.

The CVP operational practice is that interpreters are used when visiting PWD and that services must have in place processes that identify and access interpreters. The strategy has been in place for many years.

The following case study highlights the CV involvement in promoting issues of cultural safety and the voice of Aboriginal PWD.

Case Study
In 2018, the CVP received an enquiry from a resident asking to be relocated to their home community. The CVP advocated for the resident on this issue, and kept the enquiry open to ensure it was followed up. Over time, the CVP expressed concerns as to whether the service was progressing and prioritising the transition plan in a timely way. In mid 2020, the outcome was achieved. The resident is pleased to be finally relocating back to country.
C/2018/00007

CVP Recommendation 6
Improve the quality of services in the Northern Territory by recognising the unique characteristics of the region and investing in the provision of culturally safe services.

Conclusion:

The CVP welcomes the the Royal Commission's (Disability) work in eliminating violence, abuse, neglect and exploitation for PWD. It is anticipated that the findings and recommendations of the Royal Commission will effect 'a generational shift.'

The CVP is pleased the Royal Commission recognises the need for improved safeguarding and quality, particularly the focus on unique needs of PWD in rural and remote regions. A focus on culturally appropriate interventions and services; person centred practice using 'least restrictive' and supported decision making principles is a necessary objective.

The CVP also expects that there will be increased accountability with improved reporting, monitoring and evaluation.

The CVP cautions using a 'one size fits all' approach and fears this approach may inadvertedly disadvantage the NT. The CVP has some concerns that the the Royal Commission (Disability) will not fully capture the disproportionate burden of mental health/disability in the NT or respond adequately to these unique factors or needs in the breadth of strategies required.

In closing, the CVP commends the current legislative framework of the NT CVP in Mental Health and the new proposed NT Model for NDIS participants to the Royal Commission (Disability), as an advocacy and oversight model that offers much needed protection for vulnerable PWD.

Appendix 1:

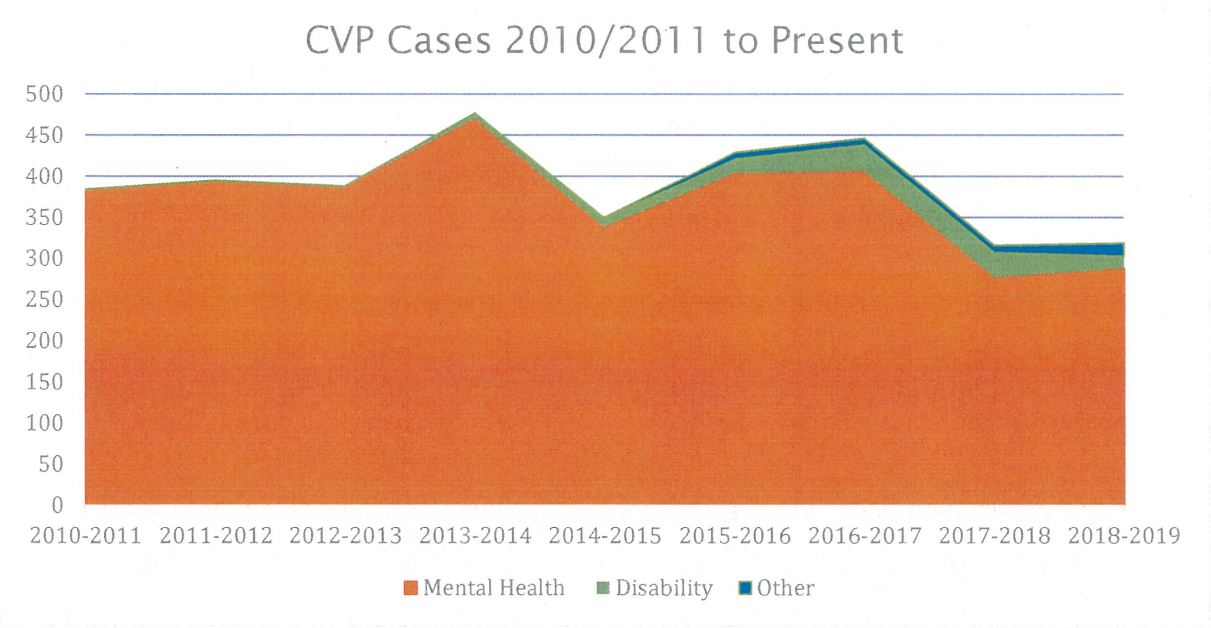
The CVP is a professional service,[19] operating according to established values, procedures and protocols between the services being monitored. The CVP ensures that its service is provided by skilled professionals, who are culturally safe and focused on the needs of clients.

More information regarding the program and how it is provided is at www.cvp.nt.gov.au

CVP Annual Reports

Reports are available at https://cvp.nt.gov.au/resources/publications

Individual Complaints and Inquiries data



[19] **CVP Community Visitors and Panels, Qualifications, skills, experience statement**

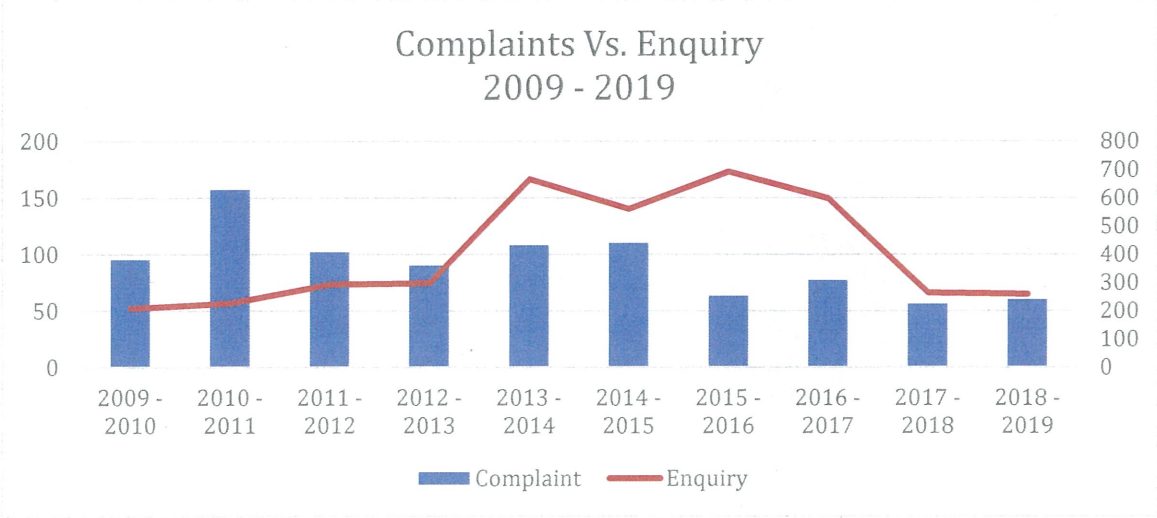
- 3. 75 staff including Principal Community Visitor
- 7 panel members
- 10 current sessional Community Visitors **Total: 21 members**

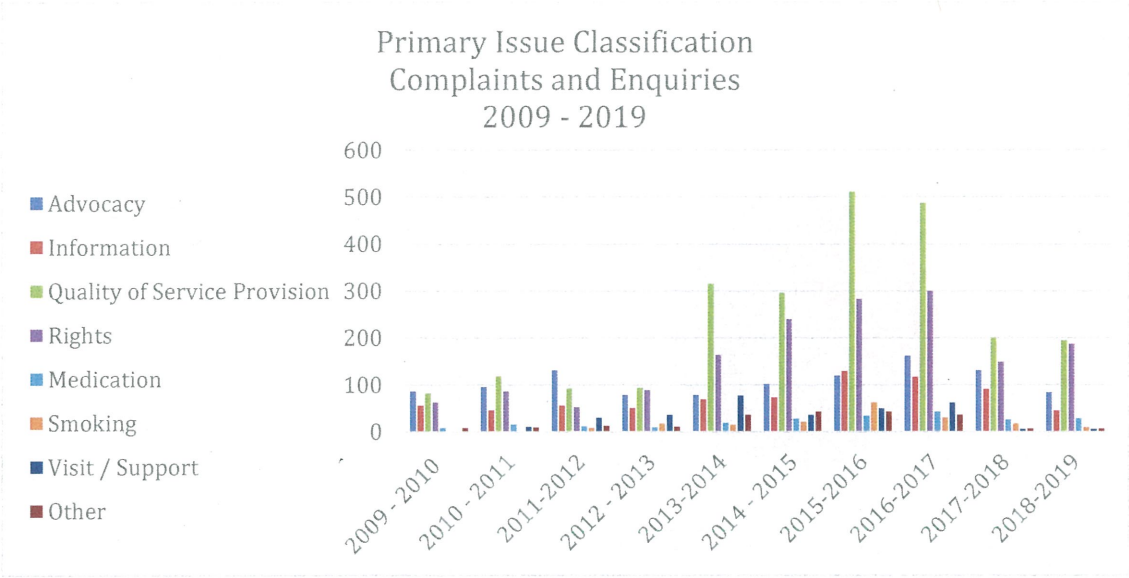
Expertise & Knowledge, Skill set – Diversity audit

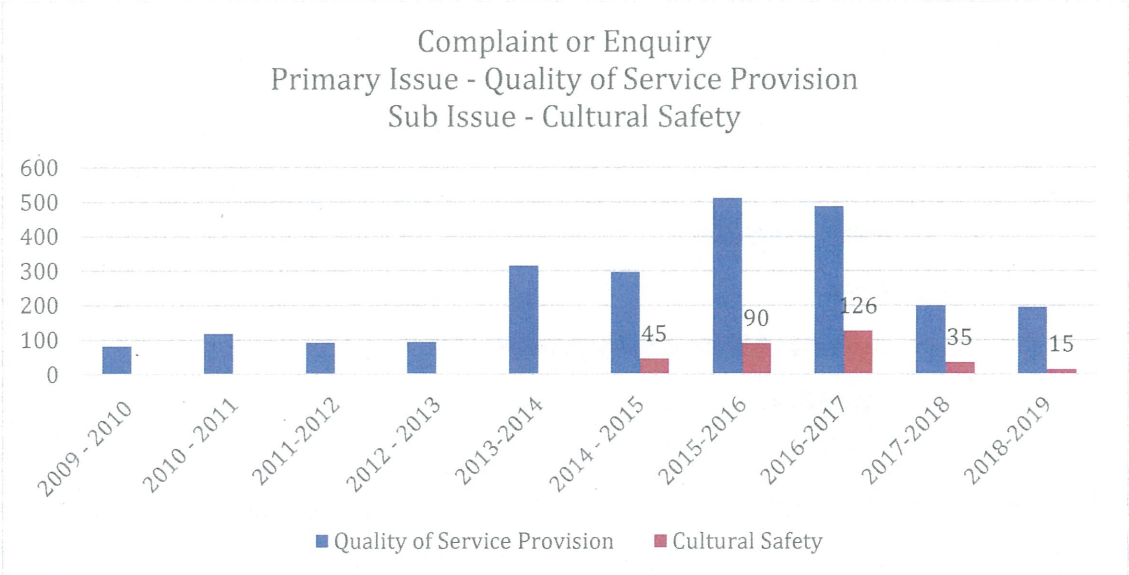
- 3 Aboriginal people
- 6 lived experience (2x consumers & 4 Carers)

Professional Background & Qualifications with high level retention rate of CV's
4 x social worker / 2 x nurses / 5 x lawyers / 2 x social science degrees / 2 x community development expertise
1 x Master Management / 1 x Master of Government Law / 2 x NDIS Behaviour Clinician / 1 x Master of Counselling
2 x Doctor / Associate Professor / 5 x accredited mediators /

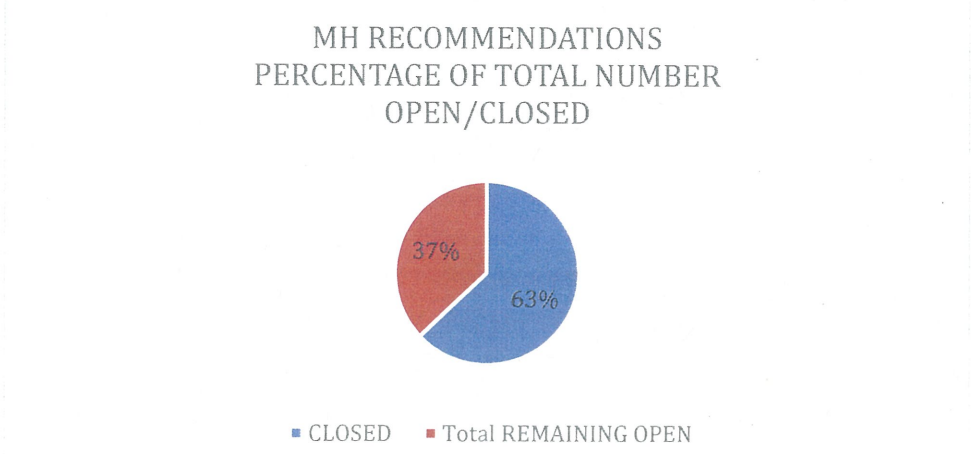
Appendix 2: **Continued Analysis of 10 years Complaints and Enquiry Data**

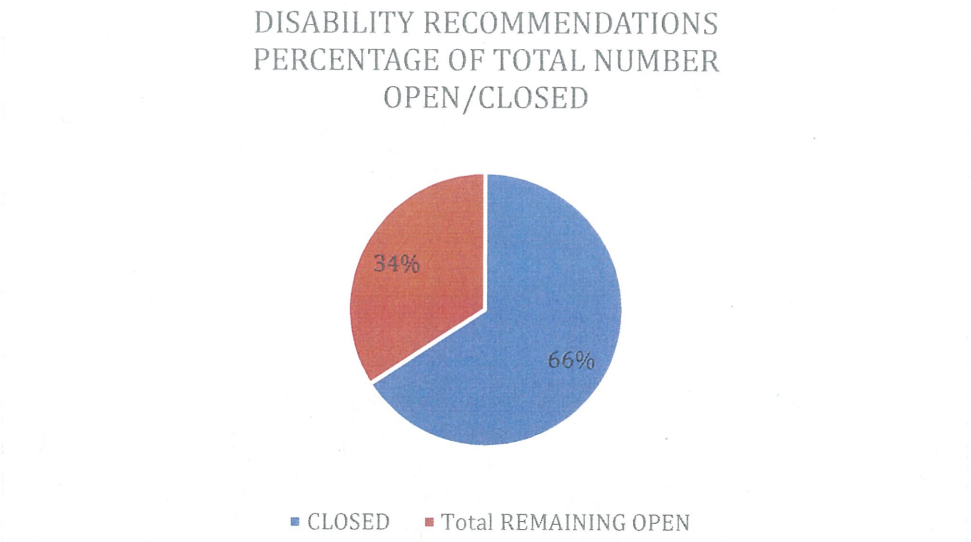


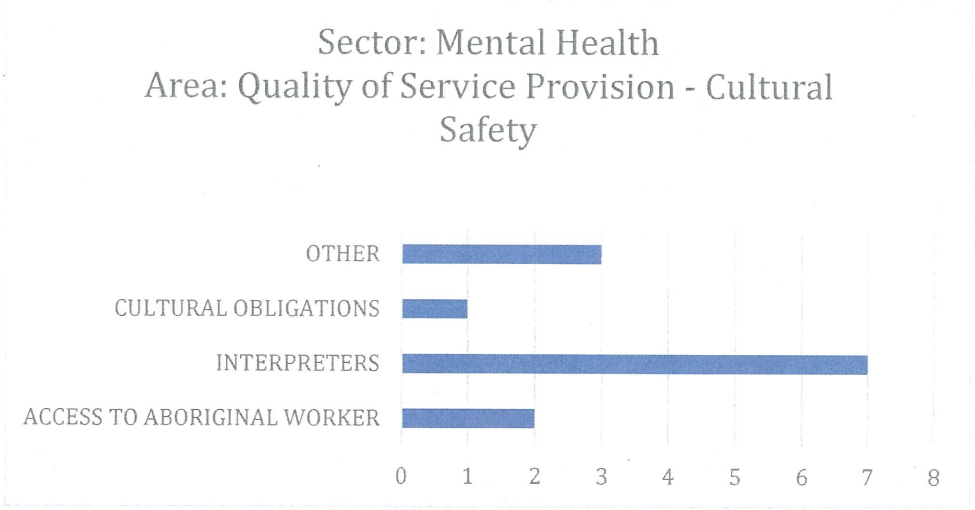




Appendix 3: **Analysis of 10 years Open Recommendations in Mental Health & Forensic Disability**







Appendix 4: **Royal Commission Safeguards and Quality Issues paper questions:**

1. *What are the best ways to safeguard people with a disability who maybe at risk of violence, abuse, neglect and exploitation both when they use services and in other areas of their lives?*

2. *How can quality services help to prevent violence, abuse, neglect and exploitation of people with disability ? What are the features of those quality services ?*

3. *How could safeguarding laws, practices, or policy frameworks (including the NDIS Quality and Safeguarding Framework) be improved to better prevent, reduce and respond to violence, abuse, neglect and exploitation of people with a disability ? We are particularly interested in Australian and international examples of good practice.*

4. *What can be done to uphold independence, choice and control for people with disability when implementing safeguards against violence, abuse, neglect and exploitation ?*

5. *What challenges are presented by the different safeguarding approaches used across Australian jurisdictions and across different types of services?*

6. *What role does, or should, independent monitoring and oversight play in safeguarding the right of people with disability to live free from violence, abuse, neglect and exploitation ? Should the NDIS Quality & Safeguards Commission be taking a more active role in ensuring service providers are adhering to the appropriate standards, particularly during the pandemic crisis.*

7. *What safeguards are required for people who may need additional support, such as people who do not have informal supports like families or other advoactes, people who face communication barriers, and people with high support needs?*

8. *How can informal safeguards be strengthened to prevent or reduce violence, abuse, neglect and exploitation of people with disability ? What are the ways in which people with disability develop personal capacity to safeguard at different stages of their lives and as circumstances change ? Are there systems in place to support this capacity development?*

9. *What barriers do people with disability face when making a complaint and what will help address these barriers ? We are interested in hearing about complaints processes across a range of services and areas of life.*

10. *How can safeguards and complaints processes be improved to better meet the needs of First Nations people, woman, culturally and linguistically diverse people, LGBTIQ+ people, and/or children and young people with disability?*

11. *What else should we know ?*