

Reducing the exploitation of people living with a disability

1. Every person has basic and fundamental rights, alongside key common needs. Basic human rights include the right to be treated with dignity and respect, and common human needs include the need for appropriate shelter, safety, nutrition, clothing, sleep, positive health and well-being.
2. Although many people living with a disability across Australia experience social inclusion and have appropriate access to relevant supports, far too many don't. There are key social determinants of disability; the impacts of disability are determined by how we, as a society, include or exclude people living with disability.
3. People living with a psychosocial disability, in particular, experience significant barriers to social inclusion, including barriers to having their basic human rights and needs recognised and addressed.
4. There seems to be a lack of a specific clear duty of care to ensure people living with a disability have their fundamental human rights and basic human needs met.
5. The marketplace for disability supports is designed to work for people living with disabilities that have strong advocates and supportive families, with the capacity to navigate a complex system to identify and utilise effective supports. It is also built on trust that Australian businesses are run ethically and appropriately regulated.
6. There is significant evidence to show that many vulnerable people living with a disability have fallen through the cracks of the system.
7. There is a lack of effective oversight and monitoring of NDIS and supported accommodation services provided to people living with a psychosocial disability.
8. People with complex, multiple needs and limited family/social supports have become a target; they have become a high valuable and disposable commodity.
9. People living with psychosocial disability with other factors of social disadvantage are particularly vulnerable to predatory, exploitative and coercive practices.
10. 'Choice and control' for people living with psychosocial disabilities in congregate care environments is only theoretical. The current system enables, and in many cases facilitates and financially rewards, exploitative and coercive practices. These practices include limiting access to supports, neglect, emotional manipulation, bribery, financial abuse and kidnapping.
11. People living with disabilities, particularly psychosocial disability are being accommodated in environments that foster institutional domestic abuse. Without increasing standards, expectations, safeguarding and sanctions we are paying businesses to perpetrate acts that we have collectively agreed are unacceptable.
12. Many people living with disability in SRSs do not have their basic personal needs, let alone their preferences met, despite annual spending of more than \$200 million in NDIS funding and more than \$110 million of DSP/Aged Pension in Victorian SRSs alone. This does not include the any other subsidies, funding, the cost of regulation and the costs of emergency responses required due to lack of effectively delivered health and wellbeing care.
13. There has become a strong profit motive to work with people living with disability without the necessary regulation to ensure protection from predatory business practices.
14. It must be made more difficult to exploit and coerce people living with disability and there must be greater repercussions for these predatory and abusive behaviours.

Company practices

15. There is a lack of consistent regulation of companies, allowing limited and incomplete information on the ASIC database. This is particularly prevalent when exploring relationships between companies and hidden names of Directors and Shareholders.
16. There are multiple examples of evidence of collusion between particular companies, accommodation services and NDIS providers at various locations.
17. There is significant conflict of interest that is currently being exploited. Businesses can own both accommodation services and NDIS services. This relationship is often hidden with only partially completed details with ASIC, including parent companies and discretionary trusts registered with multiple different businesses.
18. There are 'acceptably' vague and opaque financial records and services kept by some providers allowing predatory businesses practices to flourish.
19. In addition to rorting NDIS with illegitimate invoices, evidence has been provided of vaguely worded invoices that utilise Aged Care packages to bump up income revenue for accommodation providers.
20. State Trustees pay invoices on behalf of their clients without interrogating whether the charge is appropriate. This allows businesses to access funds as an income stream with very little oversight.
21. There are clear examples on ASIC of various family members owning various companies and delivering services, appearing on relevant registrations as though separate entities.
22. There is a growing trend of predatory companies utilising Supported Independent Living (SIL) resources to increase their income revenue. Currently companies can collect residents, take them to undisclosed locations and syphon the funding from their packages. The average SIL package in Victoria, as at Dec 2022 is \$400,100 per person.
23. SILs are not regulated or registered, without immediate oversight, legislative codes of practice and a strong regulatory framework, there is significant risk of harm created for people living with disability.

Private Congregate Care

24. Private congregate care is privately run accommodation for people that require supported accommodation. In Victoria these are Supported Residential Services (SRSs).
25. Approximately 4000 people live in the 115 Victorian SRSs. The NDIA estimates about 1600 NDIS participants live in Victorian SRSs. The majority of these participants (60%) have a psychosocial disability.
26. The average NDIS plan budgets for these participants is between \$103-\$198k and the total value of these participants plans is more than \$200 million.
27. The majority of people living in SRSs have a psychosocial disability including mental illness, ABIs, intellectual disability and are disproportionately classified as 'low or moderate functioning'.
28. The accommodation costs of a pension-level SRS are charged at between 85-95% of a person's Disability Support Pension. Above-pension SRSs set higher accommodation charges.

29. SRSs act as closed-door environments and proprietors decide who is and isn't allowed to enter. Entry by external support and health workers must be approved by the management.
30. An SRS can utilise a preferred GP to attend the premises and bulkbill for multiple residents without effective clinical governance to ensure quality of healthcare or appropriate use of Medicare funds. We have seen examples of this rorting practice.
31. An SRS can have all of its residents sign up to the same NDIS provider. This cannot be in the interest of every individual's person-centred support needs. We have seen many examples of this – reports into NDIS Q&S Commission have been entirely ineffective.
32. SRSs that are also providing NDIS supports through their own company provides opportunities for proprietors to 'double-dip' for accommodation and services/supports.
33. Some SRSs require residents to approve weekly NDIS invoices as a condition of their tenancy. Many people living with a disability inside SRSs are not benefitting from their packages, however some companies are making a lot of money.
34. The standards and safeguards expected and accepted for accommodating people living with disability in SRSs is lower than the standards and safeguards and conditions for accommodating prisoners.
35. There are a range of unqualified, low-skilled workers on insecure contracts working in very low staff to person ratios working with some of our most vulnerable and high needs community members.
36. First responders such as police, firefighters and ambulances attend properties that house people in that they can clearly observe are substandard accommodation conditions however it is unclear how and whether they have a duty to report these conditions.

NDIS providers

37. The NDIS system assumes that everyone wants to do the right thing and there is a resultant lack of clear regulation and oversight to protect people from predatory business practices.
38. Appropriate high-quality person-centred planning is a cornerstone of NDIS philosophy however, in practice, this is hampered and prevented by predatory businesspeople.
39. The NDIS provider register shows companies generating hundreds of invoices at multiple bogus locations.
40. Profit motive, poor safeguards and lack of effective regulatory oversight has created opportunities for unscrupulous business practices that steal money from the NDIS and leave the people most in need of supports without their basic rights and needs met.
41. People living with psychosocial disability may have challenges regulating their behaviour and making positive decisions, the impacts of which can make it difficult for families to provide supports.
42. The system as it stands does not take care of people who are without people.
43. Residents are being provided poor quality or non-existent supports and invoices are approved and submitted. The system, and all of us, are paying for people to be neglected and exploited.
44. There are concerns that there is no visible monitoring related to the rate of use of high needs NDIS packages. This allows packages to be drained quickly by predatory businesses.

45. There is a clear lack of quality assurance requirements for services provided.
46. Another common experience of NDIS participants in SRSs is being only offered weekend supports so they are charged at a higher rate e.g., visiting a shopping mall all day, every Sunday, sitting with a worker on Sundays watching tv for 6 hours, charged as counselling, etc.
47. Support coordinators do not have to be qualified and registered. High support needs participants therefore have a lack of safeguards over their package use.
48. Capacity-building funding can be utilised by providers without the skills or expertise to provide capacity-building supports for people with psychosocial disability.
49. NDIS allows support coordinators to be changed easily, which encourages predatory business practices. Invoicing practices without in-built oversight enable packages to be invoiced without appropriate safeguards.
50. There are both registered and unregistered NDIS providers that are draining vulnerable NDIS participants packages. There are insufficient safeguards, we have evidence of blind people 'signing forms' and illiterate people 'composing and sending emails'.
51. Complaints to the NDIS Quality & Safeguards Commission are not actioned, at least in a timely and responsive manner. Red flags have been highlighted a multitude of practitioners across many different services. Urgent concerns have been raised with NDIS Q&S and months and years later no response has been provided and predatory, exploitative and fraudulent practices of concern continue unchecked.
52. The complaints system is broken and leaves high-risk concerns and practices to continue impacting on the rights of people living with a disability.
53. The enforcement actions are too soft; significant criminal charges for deliberately exploiting people living with a disability could provide more of a disincentive.

People living in Supported Residential Services

54. People living in SRSs have limited choice and control over a range of everyday experiences including eating, drinking, washing and doing laundry.
55. Lack of choice and control in simple things like whether you can have a cup of tea outside of mealtimes or whether you can have eggs for breakfast makes it challenging to expect choice and control over bigger things, like what support worker suits your needs, or how your funding should be used.
56. Many people living in SRSs are living in poverty, with access to tiny amounts of money, and despite having funding allocated to them through both their DSP and NDIS package, are living socially excluded lives in substandard conditions.
57. There appears to be a lack of responsibility to ensure that people living with disability without active family supports are okay and safe from harm and domestic violence.
58. There are at least 14 regulators in some way responsible for some level of oversight or jurisdiction related to the needs and accommodation of people living with a disability, yet people are housed in ways that not only breach their rights and neglect their needs but would not be acceptable if they were an animal.
59. With so many regulatory authorities there is no clear accountability for the conditions that people living with psychosocial disability are subjected to.

60. The accommodation at SRSs is not monitored to ensure all rooms that have physically disabled residents are accessible. We have reports of wheelchair users being left in rooms that cannot accommodate their chair restricting all freedom of movement, including exiting their room.
61. The standards and codes of practice applied to congregate care are simply too low. We are allowing businesses to breach the human rights of people living with a disability.
62. People living with disability have reported to us that they accepted staying in places that are unfit for human dwelling, based on their feeling that they have no choice. People living with psychosocial disability are commonly seen as the problem and aren't considered reliable complainants.
63. There is a very long history of community health workers, support coordinators and advocates making complaints on behalf of people living with a disability about the standards of the conditions of some supported accommodation providers. There is a lack of enforcement and very little remedial action or appropriate repercussions for housing people in poor conditions.
64. Substandard conditions include physical conditions including lack of heating, overcrowding, control of lights, windows, doors, lack of access to privacy, lack of hygiene or maintenance of cleanliness, and conditions which restrict access to visitors and workers, provide a lack of care, leave support needs unaddressed and neglect physical and mental health needs.
65. People living with disability within SRSs are vulnerable to tactics considered in other settings to be family violence. This is domestic violence. People are subjected to financial and emotional manipulation and abuse by unscrupulous business practices that are perpetrated by businesspeople.
66. People living with disability have a right to be safe from domestic violence including exploitation, coercion, manipulative practices and financial abuse.
67. There are very few protective safeguards for people living in SRSs. Even when their rights are breached and they are subjected to neglect, abuse, exploitative and coercive practices there are very few repercussions.
68. The RSPCA has prosecuted 426 cases in the last year to ensure that people who mistreat animals face repercussions - there seems to be far less appetite to enforce minimum standards for the treatment of human beings.
69. When the existing requirements for care or quality for services for vulnerable people living with disability are not met, there are no real repercussions. There is a lack of sanctions for breaching people's human rights.
70. Residents with high value packages, due to poor safeguards, have become highly vulnerable to being taken to an unregistered address, housed in a four-bedroom house. Their SIL and support funding is drained and then they are returned, often in a poor condition, back to the doorstep of an SRS.
71. It has been necessary to take out guardianship on behalf of some particularly vulnerable residents to protect them from kidnap but this is fraught with difficulties as a system-wide protection or response to risk.
72. People living with psychosocial disability are often placed into an SRS, where the staff ratio is 1 to 30, without an appropriate mental health care plan or access to the supports required to enable positive mental health.
73. People living with psychosocial and other disabilities in congregate care are disproportionately unlikely to have either their physical and mental health care needs met.

74. People living with psychosocial disability have the right to appropriate mental health care and well-being supports, however in practice, within SRSs have limited access to appropriate medications to manage their mental health.
75. Residents of SRSs often need a range of supports to attend medical appointments, these are supports are funded however there are many examples of residents health deteriorating, unaddressed until requiring emergency hospital admission.
76. Some residents in SRS have complex needs alongside behavioural issues, however there is no requirement for staff to have the skills and qualifications to manage their care and support needs.
77. People living with a disability in SRSs have limited opportunity to access external supports. If someone is living within a predatory service, they are under their supervision 24 hours a day. This provides plenty of time for unsupervised harassment and exploitative practices. Participants are then unable to exercise their choice or control.
78. There has been some limited use of Intervention Orders (IVOs) to restrict access to some vulnerable clients from specific predatory businesses however they are easily breached and compromised through use of associates rather than named person of concern.
79. People living with psychosocial disability are often considered to lack capacity to make decisions. Supported decision-making has been neglected and replaced at best with 'best interest' decision-making on behalf of a person or all too commonly manipulating people into make decisions against their own interest.
80. People living with a psychosocial disability may have varying levels of decision-making capacity and may be vulnerable to predatory business practices however this shouldn't be confused with having no decision-making capacity. Independently accredited effective supported decision-making should be provided for each participant to ensure and increase capacity to make decisions.
81. Some residents arrive into SRSs directly from prisons and mental health units, to prevent homelessness. This places a range of people living with a disability into group living arrangements without appropriately qualified and skilled practitioners to manage their effective transition back into living in the community. This creates an enduring set of revolving institutional doors for many residents.

Examples of daily life - Lived Experiences

82. Residents have reported being scared to sleep in their room at night.
83. Some rooms are divided by hanging a sheet. Residents do not have choices over who is roomed or housed with them.
84. Residents are threatened with having their 'privileges' stopped to ensure compliance.
85. Access to clean clothing is an issue for residents in some SRSs.
86. There are many residents in SRSs with nothing to do and nowhere to go all day.
87. Some SRSs lock their residents in at night, 'for safety', without consideration of the risks and hazards this creates.
88. Food in SRSs is often of very poor nutritional value; low quality and low-cost food is encouraged due to the business model.

89. Food has become a way to bribe residents. Residents are coaxed into changing accommodation and disability support providers through offers of fast-food 'treats' like KFC and McDonalds.
90. Reported practices such as offering residents small amounts of money or a packet of cigarettes, as a 'rental discount' are employed to trap people into feeling like they have colluded with overcharging for services in return making it much harder to raise a complaint.
91. The costs of cigarettes has had a significant impact on residents, who are disproportionately likely due to trauma, institutionalisation and poverty to be smokers. Cigarettes are now too expensive for residents to purchase for themselves and access to them and 'chop-chop' are commonly used coercively as both a reward for positive behaviour and as a restriction for noncompliance.
92. Some residents have their ATM cards held by the accommodation service which 'protects' them from financial exploitation, except by the service itself. We have reports of funds being withdrawn unauthorised from resident accounts.
93. People living with a psychosocial disability have reported being returned by police to an SRS they were trying to leave.
94. People living with a disability have reported being coerced to approve hours which allows services to charge without supports being provided.
95. People living with psychosocial disability are often threatened with eviction as the only alternative to unsuitable accommodation.
96. Some practices are very challenging to gather evidence about. When people, including regulators and community visitors, visit residents to check in with them, managers insist on being present. Whilst this is presented as safeguarding, it makes it impossible to safely discuss with residents any issues of concern that involve the accommodation.

Key Solutions

97. There should be clear accountability for ensuring the rights of people living with a disability are upheld and that their rights are appropriately protected and safeguarded to enable equality of opportunity to positive health and wellbeing, just like other Australians.
98. Independent community health workers should be allocated responsibilities to ensure all residents of supported accommodation models have access to external health and mental health supports.
99. All types of supported accommodation business models for people living with a disability should include accreditation, rigorous face-to-face auditing and significant penalties for deliberate breaches should be initiated and prosecuted.
100. There needs to be an overriding safeguarding authority responsible for responding to urgent concerns related to the safety and wellbeing of people living with disability.
101. The safeguarding authority must provide public accountability for responding to and resolving concerns related to coercive practices of people living with disability. Public quarterly reporting of complaints and actions should form key KPIs.
102. The complaints system needs to be overhauled and made clear, responsive and able to be simply navigated by people living with a disability, carers, workers and advocates.

103. There needs to be an increase in number and quality of skilled guardians that understand supported decision-making and capacity-building capable of working with people living with disability to increase their opportunities for choice and control.
104. There needs to be education, support and training for workers, guardians and participants to recognise coercive and predatory practices as forms of domestic abuse. Training and supports in this area should replicate best practice approaches in the areas of family violence and seek to provide effective supports for institutional domestic abuse survivors.
105. For businesses to be eligible to provide SILs and claim SIL funding there needs to be immediate review, oversight, legislative codes of practice and a strong regulatory framework created to reduce the risk of harm to people living with psychosocial disability.