Nature and extent of gender-based violence in individualised disability support & aged care services in Victoria

Scoping Study Report for Worksafe Victoria

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Executive Summary

This scoping study, conducted for WorkSafe Victoria, reports on available evidence on the nature and extent of gender-based violence in individualised disability support and aged care services in Victoria. The study also explores what is known about the circumstances in which working conditions may provide a context for gender-based violence.

WorkSafe Victoria has identified work-related gendered violence as 'any behaviour, directed at any person, or that affects a person, because of their sex, gender or sexual orientation, or because they do not adhere to socially prescribed gender roles, that creates a risk to health and safety'.[1] In disability support and aged care services, a gender-based violence perspective is particularly useful as the majority of the frontline workforce are women and much of the work undertaken in this sector is profoundly undervalued as it is assumed to be women's work and thus 'unskilled'. Where work is undertaken in private domestic settings, workers' vulnerability is likely to be heightened.

Violence and abuse experienced by both service users and workers in home-based and community care and support services for the aged and people with disability is not a new phenomenon. Historically such violence and abuse has been significantly under-reported and its nature and prevalence under-researched. Worker health and safety (WHS) risks identified in this study include:

- isolation and blurring of relationships where clients' homes are workplaces;
- inadequate communication, supervision and training;
- violence being seen as 'part of the job'; and
- poor pay and conditions of work and limited career paths.

There is some evidence that the extent of violence and abuse in home-based and community care and support services is growing. A number of factors may be contributing to this increase. These factors include:

- rapid shifts in the location of aged care and disability support service provision away from institutional to home and community-based settings;
- package and pricing models used in individualised support and consumer directed care that place constraints on services' capacity to provide worker training and to assess and respond to risks to workers and clients; and
- changes in the organisation of work and in forms of employment due to the individualisation and marketisation of services.

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[1] WorkSafe Victoria (2020) *Work-related Gendered Violence Including Sexual Harassment: A guide for Employers*, March 2020, Geelong: WorkSafe Victoria, p. 1.

In the recently implemented systems of individualised and marketised home care and disability support there is less regulatory oversight of both service providers and workers. Inadequate regulatory oversight has exacerbated existing WHS risks for workers and introduced new risk factors including:

- increased job insecurity and shift uncertainty;
- increased transactional basis for the work and not enough time or resources to provide good quality care;
- reduced education, training and supervision; and
- increased direct employment,[2] self-employed contracting and gig work.

Focusing on gender-based violence, this study explores recent Australian evidence about the potential of these structural changes to exacerbate existing worker health and safety risks and further contribute to challenges faced by regulators and workers in services located outside institutional settings. The scoping study did not involve a systemic review of scholarly literature and international publications.

Meeting these challenges will require further research and collaboration in the development of creative and effective WHS prevention and response strategies. Several key regulatory implications and possible actions for WorkSafe Victoria are identified in this report. Abuse and violence in what are often invisible workplaces in home care and disability support is of direct concern to WHS regulators. However government oversight and organisational processes to enable the reporting and investigation of violence and abuse against clients are often inadequate. This makes the reporting of incidents of violence and abuse against workers even more difficult for the workers concerned, with clear implications for effective WHS protections.

Recognition of the physical and musculoskeletal health and safety risks in these non-institutional workplaces by Australian WHS authorities is long-standing. The potential for violence and abuse against workers in home care and disability support has also been recognised as a WHS risk. However, further work needs to be undertaken in respect to gender-based violence to build worker and sector capacity in developing safe work cultures and practice.

Potential action for Worksafe Victoria to consider includes:

1. Creating greater community understanding and awareness of gender-based violence in home care and disability support services;
2. Education to increase sector awareness and accountability for WHS risks of gender-based violence;
3. Development of systemic and preventative strategies in partnership with the sector to address the quality and safety of work and ensure the safety and quality of care provided to vulnerable service users;
4. Strategic compliance & enforcement with attention to specific features of home care and disability support work outside institutional workplaces.

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[2] Direct employment is where the service user is the employer.

1. The Scoping Study

This study was conducted for WorkSafe Victoria. It:

- identifies and reports on available evidence on the nature and extent of gender-based violence in individualised disability support and aged care services in Victoria, including exploring what is known from recent Australian research and public inquiries about where and how working conditions may provide a context for gender-based violence; and
- identifies key regulatory implications of the study findings for WorkSafe Victoria.

Background to study

The background to this scoping study lies in growing community concern about violence in both aged care and disability support services, reflected in the current *Royal Commission into Aged Care Quality and Safety* and the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*. Understandably, most of the focus leading up to both Royal Commissions has been on violence towards service users, particularly in institutions. Indeed, over the last decade the key focus of the many public inquiries in the aged care and disability support sectors has been on violence experienced by service users, with few references to workers' safety. Most attention has been paid to residential and group home environments, with limited acknowledgement of the potential for violence and abuse in home and community-based care and support.

However, recent policy and funding shifts have seen growth in individualised aged care and disability support services provided in private homes and in non-institutional community settings outside traditional workplaces. Publicly-funded aged care and disability support services have been individualised through the introduction of individual plans or packages provided through markets to enable greater consumer choice. In Victoria, individualised disability support services are funded under the National Disability Insurance Scheme (NDIS). In aged care individualised services are mainly funded via the federally-funded Home Care Packages Program.

While some home and community-based care continues to be provided by long-standing homecare service providers, the creation of new markets for disability support and aged care homecare means there is a much larger number and greater diversity of service providers/employers, including (in disability support) unregistered providers. There is also a requirement for greater flexibility in service provision as providers respond to consumer demands. Both growth and increased flexibility are likely to fuel growth in sub-contracting and use of agency and labour hire arrangements. There has been rapid and significant growth in the care workforce and growth in workers who are in insecure employment and have short hours' work arrangements. The support and care workforce now includes self-employed contractors and, in disability support, workers who are directly employed by individual consumers. The growing proportion of NDIS participants who self-manage or use a plan manager are able to purchase their supports from service providers who are not regulated under the NDIS, other than having to comply with the new NDIS Code of Conduct.

In 2009 an investigation of the occupational health and safety of contracted out home care workers in Adelaide and the Barossa identified that a key gap in relevant research, including on worker health and safety, was the lack of evidence about gender effects of both outsourcing and home-based work.[3] In the decade since then, growth in both the disability support and home care workforces and changes in the ways in which work is organised have been significant. This study explores recent available Australian evidence about the potential of these structural changes to exacerbate existing worker health and safety risks—focusing on gender-based violence—and further contribute to challenges faced by regulators, providers and workers in aged care and disability support outside residential settings.

Individualised aged care & disability support workforce

Precise data is not available on the numbers of workers employed in individualised disability support and aged care services in Victoria. This is due, in part, to inadequacies in the main Australian Bureau of Statistics occupational classifications that cover these workers.[4] People working as 'personal care assistants' are covered by the ANZSCO occupation group 423313. This group of workers is inadequately described as people who provide 'routine personal care services' to people in a range of health care facilities or in a person's home. People working as home care workers and as disability support workers providing services to clients in their own homes are aggregated, in the main, in ANZSCO occupation group 423111, 'aged and disabled carers'. This classification is described as workers who provide 'general household assistance, emotional support, care and companionship for aged or disabled people in their own homes'. However, in the ANZSCO classifications, there is no clarity about the different aged care and disability support sectors in which these workers are located or the extent to which disability support workers providing community-based services are counted as 'aged and disabled carers' or as 'personal care assistants'.

The 2016 National Aged Care Workforce Census and Survey found that the directly employed home care workforce in Victoria is growing more rapidly than in other states. In 2016, around 26% of the Australian home care workforce was located in Victoria. This suggests that there were almost Victorian 19,000 home care employees.[5] In Victoria there were an estimated 19,550-23,900 full time equivalent (FTE) workers engaged in providing support to people with disability under the NDIS. This number was expected to grow by the end of 2018-19 to a total of 42,000 FTE. Given the high rate of part-time employment, the actual number of workers employed under the NDIS will be much greater than this FTE estimate.[6]

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[3] Bohle P, Finn J, Quinlan M and Rawlings-Way O (2009) *The Occupational Health and Safety of Home Care Contract Workers in Adelaide and the Barossa Region*, A Report Prepared for the Office of Employee Ombudsman, October p 5.

[4] Australian Bureau of Statistics (2006) *Australian and New Zealand Standard Classification of Occupations*, First Edition, Cat. No. 1220.0, pp. 494-496.

[5] Mavromaras K, Knight G, Isherwood L, Crettenden A, Flavel J, Karmel T, Moskos M, Smith L, Walton H and Wei Z (2017) *The Aged Care Workforce 2016*, Canberra: Department of Health.

[6] National Disability Insurance Agency (2016) *Market Position Statement* Victoria, NDIA.

Method

This scoping study examined available evidence in relation to gendered violence and the discriminatory attitudes and structural and systemic issues that give rise to it in individualised aged care and disability support services through:

1. A review of major public inquiries and Royal Commissions that have addressed the issue of violence and abuse in aged care and disability support services. The list of these investigations and their reports is set out in the reference list.
2. Identification and synthesis of other relevant Australian studies and grey literature including submissions and reports on worker health and safety issues in home-based and individualised care services.

Relevant studies were identified through searching submissions and references in inquiries and through searches of other public policy sources. Some reports were identified through discussions with officers of WorkSafe Victoria and officials in relevant unions. The purpose of this study was to identify and bring together evidence pertaining to the current Australian circumstances. As such the Scoping Study did not involve a systemic review of scholarly literature. We also note that in some cases, such as in submissions made by stakeholders, the evidence provided may be somewhat anecdotal in nature.

The study draws explicitly on a gender-based violence perspective. WorkSafe Victoria has identified work-related gendered violence as 'any behaviour, directed at any person, or that affects a person, because of their sex, gender or sexual orientation, or because they do not adhere to socially prescribed gender roles, that creates a risk to health and safety'.[7] In aged care and disability support, a gender-based violence perspective is particularly useful as the majority of the frontline workforce are women and much of the work undertaken in this sector is profoundly undervalued as it is assumed to be women's work and thus 'unskilled'. A gender perspective also takes into account that women with disabilities and older women are more vulnerable to violence than men.

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[7] WorkSafe Victoria (2020) *Work-Related Gendered Violence Including Sexual Harassment: A Guide for Employers*, March 2020, Geelong: WorkSafe Victoria, p. 1.

2. Abuse & Violence in Aged Care & Disability Support Services

Longstanding concerns in aged care and disability support services

Concern about abuse and violence experienced by people accessing aged care and disability support services is not new in Australia or in Victoria. This concern has been consistently raised over many years, mainly in residential and group home environments. There has been relatively little attention paid to violence in non-institutional services in people's homes or in the community. There is little hard data on the prevalence of violence in aged care and disability support services. However, the underreporting of abuse and violence in these services has been consistently noted as a problem. Concern about losing access to care services may prevent or make it difficult for service users to report abuse or violence as well as fear, shame, language barriers and social isolation.[8]

Several underlying factors have been identified as linked with abuse and violence in care services. These include societal disrespect of older people and those with disability and the fact that women are more likely to experience violence and abuse. It is also recognised that, within services, violence against both service users and workers is frequently minimised or normalised. The links between the safety of aged care and disability support service users and the safety of workers have also been identified in a number of recent public inquiries. Evidence pertaining to each of these issues is outlined below.

Disrespect

Service user advocates have consistently pointed to the negative attitudes, stereotyping and discrimination experienced by the elderly and people with a disability. What might be termed a 'culture of disrespect' has been found to underpin abuse and violence against older people. The Australian Human Rights Commission (AHRC) found that widespread negative stereotypes or misconceptions about older people impact directly on perceptions of the capabilities of older people, fostering disrespect and ageism.[9] Submissions to the Australian Law Reform Commission's (ALRC) 2016 *Inquiry into Elder Abuse* also highlighted the way in which ageism contributes to elder abuse,[10] with Senior Rights Victoria's submission stating that ageism was the 'principal driver' and 'underlying condition of elder abuse'.[11]

A 2015 Senate *Inquiry into Violence, Abuse and Neglect against People with Disability* also found that 'a root cause of violence, abuse and neglect of people with disability begins with the de-valuing of people with disability' and further that '[t]his devaluing permeates the

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[8] United Voice (2016) Submission to Australian Law Reform Commission Elder Abuse Issues Paper, Submission 145, August, p. 7; University of Melbourne and the Multicultural Centre for Women's Health (2016) Submission to the Australian Law Reform Commission Inquiry on Elder Abuse, Submission 129, August.

[9] Australian Human Rights Commission (2013) *Fact or Fiction? Stereotypes of Older Australians*, AHRC.

[10] Australian Law Reform Commission (2017) *Elder Abuse— A National Legal Response* – Final Report. Report 131, p. 76

[11] Seniors Rights Victoria, Submission 383 to Australian Law Reform Commission Inquiry into Elder Abuse.

attitudes of individual disability workers, service delivery organisations and most disturbingly, government systems designed to protect the rights of individuals'.[12]

The experience of violence also differs according to gender and race, making older women and service users from immigrant, refugee and Aboriginal and Torres Strait Islander communities more vulnerable. A submission to the ALRC *Inquiry into Elder Abuse* cited research that suggests that 'poor English language skills, social isolation and dependency on family members, an unwillingness to disclose abuse because of concerns about stigma and shame, and cross-generational factors that result in differing expectations of care and support' can make older migrants more vulnerable to abuse.[13]

Gendered violence

Advocates for older people and people with disability point to key indicators of the gendered nature of violence. In their submission to the ALRC *Inquiry into Elder Abuse*, the Victorian-based Multicultural Centre for Women's Health, together with University of Melbourne researchers, cited studies that have shown older women are over-represented among victims of elder abuse, particularly in relation to physical and sexual abuse.[14] In its 2016 *Inquiry into Abuse in Disability Services*, the Victorian Family and Community Development Committee reported that a range of stakeholders had emphasised the need for disability services to address the increased risk of abuse faced by women with disability, and implement strategies that draw on existing approaches to preventing violence against women; and further that 'a key element of prevention is the effort to change community attitudes about women with disability, as part of a broader move to uphold the human rights of people with disability'.[15]

Minimisation of violence

The use of language that disguises abuse and violence experienced by service users has been seen as problematic in both sectors. For example, some advocates for service user groups suggest that the use of the term 'incident' conflates very different problems and directs focus to work systems and procedures. This has the effect of minimising attention paid to the violence experienced. The 2016 Victorian Family and Community Development Committee *Inquiry into Abuse in Disability Services* reported that abuse is frequently normalised by the Department of Human Services and that the language that is used to refer to abuse is often

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[12] Community Affairs References Committee (The Senate) (2015) *Inquiry into 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 Strait Islander People with Disability, and Culturally and Linguistically Diverse People with Disability*, p. xxvi.

[13] University of Melbourne and the Multicultural Centre for Women's Health (2016) Submission to the Australian Law Reform Commission Inquiry on Elder Abuse, Submission 129, p. 4.

[14] University of Melbourne and the Multicultural Centre for Women's Health (2016) Submission to the Australian Law Reform Commission Inquiry on Elder Abuse, Submission 129, p. 4. See also Older Women's Network NSW (2016) Submission to Australian Law Reform Commission of Inquiry into Elder Abuse, Submission 136.

[15] Family and Community Development Committee (Parliament of Victoria) (2016) *Inquiry into Abuse in Disability Serv*ices, Final Report, May, PP No. 167, Session 2014-16, p. 155.

euphemistic, including the words 'incident', 'critical incident' and 'adverse event'.[16] The Committee cited Dr Jessica Cadwallader in this regard. She suggested that the use of the term 'incidents' tends 'to detoxify what is actually happening in these [abusive] situations and it lends itself to a service understanding these crimes as incidents that simply need to be responded to in-house'.[17]

Links between service user and worker safety

The links between service user and worker safety have been highlighted in a number of inquiries and reports.[18] For example, service providers' submissions to the 2015 Senate *Inquiry into Violence, Abuse and Neglect against People with Disability in Institutional and Residential Settings*, stressed the importance of understanding the needs of service users and of specialised worker training and support to ensure workers are able to work with service users safely.[19] The ALRC *Inquiry into Elder Abuse* found that a 'safe, qualified aged care workforce in sufficient numbers is an essential safeguard against elder abuse in aged care', and stressed the importance of staffing numbers and appropriate models of care in safeguarding against elder abuse and neglect.[20]

Violence and abuse against workers in home and community care settings

Whilst there have been few Australian inquiries or studies specifically canvassing the extent and nature of violence experienced by home care and support workers, there is some evidence that violence has been a significant problem for more than a decade. A 2009 report prepared for the South Australian Office of the Employee Ombudsman states that, despite the requirements of OHS regulation, 'homecare agencies rarely carried out objective evaluations of OHS risks or assessments of the probability of harm for contractors. Consequently, carers reported they were often exposed to volatile and dangerous work environments'.[21] Further, over the last decade a number of OHS regulators have prepared industry guidance which

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[16] Family and Community Development Committee (Parliament of Victoria) (2016) *Inquiry into Abuse in Disability Services*, Final Report, May, PP No. 167, Session 2014-16, p. 23; Department of Social Services (2016) *NDIS Quality and Safeguarding Framework*, December, p. 50.

[17] Family and Community Development Committee (Parliament of Victoria) (2016) *Inquiry into Abuse in Disability Services*, Final Report, May, PP No. 167, Session 2014-16, p. 67.

[18] Community Affairs References Committee (The Senate) (2015) *Inquiry into Violence, Abuse and Neglect against People with Disability in Institutional and Residential Settings, including the Gender and Age Related Dimensions, andthe Particular Situation of Aboriginal and Torres Strait Islander People with Disability, and Culturally and Linguistically Diverse People with Disability*, Nov., pp. 215 and 239; Older Women's Network NSW (2016) Submission to Australian Law Reform Commission of Inquiry into Elder Abuse, Submission 136.; United Voice (2016) Submission to Australian Law Reform Commission Elder Abuse Issues Paper, Submission 145, p. 6; Royal Commission into Aged Care Quality and Safety (2019) *Interim Report: Neglect*, Vol 1, p. 232.

[19] Community Affairs References Committee (The Senate) (2015) *Inquiry into Violence, Abuse and Neglect aainst People with Disability in Institutional and Residential Settings, including the Gender and Age Related Dimensions, and the Particular Situation of Aboriginal and Torres Strait Islander People with Disability, and Culturally and Linguistically Diverse People with Disability*, Nov, p. 229.

[20] Australian Law Reform Commission (2017) *Elder Abuse— A National Legal Response* – Final Report. Report 1311, p. 127.

[21] Bohle P, Finn J, Quinlan M and Rawlings-Way O (2009) *The Occupational Health and Safety of Home Care Contract Workers in Adelaide and the Barossa Region*, A Report Prepared for the Office of Employee Ombudsman, October, p. 8.

recognises violence in home care and disability support as a workplace hazard (See Table 1 Section 5).

Gendered violence against workers

There has been little research on the gendered nature of violence experienced by care workers. However, gender becomes evident as a key factor in the accounts of workers. A 2017 study of Australian home care workers' psychosocial health and safety contains several graphic accounts from workers:

> 'Many home care workers had experienced violent or abusive behaviour from aggressive clients or their family members, with particular risk stemming from high proportions of home care workers being female and facing the threat of violence from physically stronger men. Some recounted having sustained permanent physical injuries from clients or described experiencing stress on seeing clients behaving violently towards their co-workers and/or primary carers. A worker who had received a debilitating injury from a client described how witnessing the impact of the violent behaviour on others was more distressing than experiencing the violence herself'.[22]

In this study, one home care worker described violent behaviour by a client who had seriously assaulted four of her colleagues. The worker spoke of the uncontrolled environment, feeling out of her depth, and believing that the stressful and dangerous work carried out by home care workers was not recognised or valued:

> 'I felt like we were "just those girls that go in and shower that man and we don't know what we're doing really". … I just felt like we were at the frontline and it didn't really matter if we got hit or not. … there was a behavioural specialist. He was there one day when he watched the carer (care worker) be grabbed while they were giving him (the client) a shower. He actually watched the carer get pushed onto the ground and then kicked. The man (client) was very strong. He (behavioural specialist) just, like, shrugged his shoulders and didn't really do much about it'.[23]

There has also been some concern about race-based violence and harassment in frontline aged care work with reports that staff from Asian and African backgrounds experience racial discrimination from care recipients.[24] There have also been concerns expressed that migrant home care workers may be exposed to 'ethnic' comments as well as sexual comments.[25]

Worker health and safety risk factors in home & community care services

Provision of care in private homes creates some unique risks for the safety of clients and workers, which are explored below. Some of these risks are recognised in several

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[22] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, August, p. 48.

[23] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, August, p. 51.

[24] Adamson E, Cortis N, Brennan D and Charlesworth S (2017) Social care and migration policy in Australia: Emerging intersections? *Australian Journal Social Issues* 52, pp. 78-94.

[25] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*. Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety p. 78.

jurisdictions across Australia [26] and violence and abuse in these settings have been noted in WHS guides in various state jurisdictions.[27] Several key risk factors in home and community-based care services have been identified in several inquiries and reports over the last decade and include:

- isolation and blurring of relationships where client's homes are workplaces;
- inadequate communication, supervision and training;
- violence being seen as 'part of the job'; and
- poor pay and conditions of work and limited career paths.

Homes as workplaces: isolation and blurring of relationships

Where services are provided in private homes, a number of features can increase the vulnerability of both workers and service users to violence and abuse. In its 2011 report on disability care and support, the Productivity Commission found that vulnerability to physical or emotional abuse and to theft or other crimes 'reflects the fact that services … are not easily observed by other parties, may involve personally intimate care (such as bathing or dressing), and may involve people with a limited capacity to tell others what has happened to them'.[28] Several inquiries in both disability and aged care services as well as surveys of workers suggest that isolation creates risks for both those receiving and those providing care or support.[29] Counsel assisting the *Royal Commission into Aged Care Quality and Safety* also highlighted evidence of risks in workers attending people's homes in unfamiliar and uncertain situations, in particular safety issues at night where areas were not properly lit.[30]

Where private homes are the site of care and support work there can be a blurring of relationships with workers sometimes being seen as 'friends'. A recent study of the psychosocial health and safety of home care workers, involving interviews with homecare workers in New South Wales, found that the *nature* of home care work, which involves establishing a relationship between worker and client, can place workers at risk. This is because in getting to know the client workers are often 'required to share something of themselves, and in doing so they risk crossing or blurring boundaries between what they are

[26] South Australian Government (2014) *Occupational Health, Safety and Welfare Guidelines for Community Workers*, Safe Work SA; Office of Industrial Relations (2018) *A Guide to Working Safely in People's Homes*. Workplace Health and Safety Queensland; Victorian State Government (ND) *Disability Services – Occupational Health and Safety Compliance Kit.*

[27] South Australian Government (2014) *Occupational Health, Safety and Welfare Guidelines for Community Workers*. Safe Work SA; Office of Industrial Relations (2018) *A Guide to Working Safely in People's Homes*. Workplace Health and Safety Queensland; Victorian State Government (ND) *Disability Services – Occupational Health and Safety Compliance Kit*.

[28] Productivity Commission (2011) *Disability Care and Support*, Productivity Commission Inquiry Report No 54, Vol 1, p. 722.

[29] Cortis, N and van Toorn, G (2020) *Working in New Disability Markets: A Survey of Australia's Disability Workforce*, Social Policy Research Centre, UNSW Sydney. See also Kayess R, Valentine K, Thompson D, Meltzer A and Fisher K (2013) *Research on the Need for Two Care Workers in a Community Setting*, Final Report for Ageing, Disability and Home Care, Department of Family and Community Services NSW, p. 10, SPRC Report 5/13, Sydney, University of New South Wales.

[30] Royal Commission into Aged Care Quality and Safety (2019) Transcript from Adelaide Hearing, 22 March, p. 1114.

paid to do for the client, and what they actually do for the client, often unpaid'.[31] This blurring of the professional client-worker relationship in home care has been a long standing issue in home care. A 2009 study home care workers in Adelaide and the Barossa Valley found that this blurring, including between what constitutes 'work' and 'non-work', can lead to workers undertaking unpaid work for clients.[32] Further, the presence of family members, who may or may not be providing informal care, also creates another set of relationships for the worker, family members and client to navigate. A recent study of disability support workers in the NDIS found both that 'service users' families were sometimes an additional source of workplace stress and risk' and that 'workers felt there was little that they could do if people were acting inappropriately in their own homes'.[33]

Inadequate communication, supervision and training

The risks associated with the isolation of home care and disability support work are exacerbated where there is lack of communication, information and/or supervision. The 2019 UWU report of the survey of home care workers in aged care described situations in which workers' stress in working with some clients who may have challenging behaviours such as self-harm and violence because of dementia and mental health problems was exacerbated by 'poor communication with management, insufficient information, and not receiving support for problems or questions are a substantial source of difficulties and stress for Home Care workers'.[34]

Lack of training to assist in the management of challenging behaviours also puts workers and clients at risk, in what can be an escalating and unsafe dynamic. The 2015 Senate *Inquiry into Violence, Abuse and Neglect against People with Disability in Institutional and Residential Settings*, reported that Inquiry evidence indicated a key cause of abuse and neglect was a lack of training provided to workers.[35]

Violence as 'part of the job'

There is some evidence that the nature and extent of violence experienced by workers is disguised or coded as 'challenging behaviours' and that there is an acceptance of violence as 'part of the job'. A 2013 report for the NSW government on community-based work documents that previous research suggests workers failed to report violence and abuse both because they regarded them 'as a normal part of the working day' and because there was

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[31] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, p. 53.

[32] Bohle P, Finn J, Quinlan M and Rawlings-Way O (2009) *The Occupational Health and Safety of Home Care Contract Workers in Adelaide and the Barossa Region*, A Report Prepared for the Office of Employee Ombudsman, p. 18.

[33] Baines D, Macdonald F, Stanford J and Moore, J (2019) *Precarity and Job Instability in NDIS Support Work*, Canberra, The Centre for Future Work at the Australia Institute, p. 22.

[34] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*, Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety p 7-8.

[35] Community Affairs References Committee (The Senate) (2015) *Inquiry into 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 Strait Islander people with disability, and culturally and linguistically diverse people with disability*, Nov, p. 227.

inadequate staff safety training for community mental-health settings. [36] The acceptance of violence as 'part of the job' may also be because care workers feel responsibility for and prioritise the needs of clients over their own safety. It may also be because home care work is not seen as a 'real' job, with the consequence that some managers may also downplay the seriousness of violence and abuse experienced by workers and fail to address it.[37]

Conditions of work

Persistent issues of low pay, poor conditions of work and limited career paths in aged care and disability support have been frequently raised in inquiries and reports over the last decade.[38] Despite a growing demand for workers, low pay in particular is seen as a major constraint on the retention and attraction of skilled and experienced workers.[39] Low pay both reflects and reinforces the undervaluing of care and support work and devaluing of workers.[40] Links have also been made between job security and preparedness to report abuse and violence. In a United Voice (now the United Workers Union [UWU]) 2019 survey of home care workers, respondents reported that having more certainty of hours and rosters would provide more security and make it easier to report poor behaviour and abuse.[41] The 2017 study of the psychosocial health and safety of home care workers found that 'despite … inherent WHS risk factors, workers reported feeling unable to refuse unsafe shifts for fear of losing paid hours of work'.[42]

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[36] Kayess R, Valentine K, Thompson D, Meltzer A and Fisher K (2013) *Research on the Need for Two Care Workers in a Community Setting*, Final Report for Ageing, Disability and Home Care, Department of Family and Community Services NSW, May SPRC Report 5/13, p. 11.

[37] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, August, p. 71. See also Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*. Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety.

[38] For example, Productivity Commission (2011) *Caring for Older Australians, Productivity Commission Inquiry Report*, No 53, Vol 2 p 359, p 365ff; and Productivity Commission (2011) *Disability Care and Support*, *Productivity Commission Inquiry Report* no. 54, Vol 2 p. 699ff.

[39] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care* Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety p. 12. See also Australian Law Reform Commission (2017) *Elder Abuse—A National Legal Response* – Final Report. Report 131, p. 179, Productivity Commission (2011) Disability Care and Support, Productivity Commission Inquiry Report, Overview and Recommendations, No 54, July, Vol 2, pp. 702-703, p. 716; Royal Commission into Aged Care Quality and Safety (2019) *Interim Report: Neglect*, Vol 1, p. 253.

[40] Department of Health (2018) *A Matter of Care. Australia's Aged Care Workforce Strategy*. Canberra: Commonwealth of Australia.

[41] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*, Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety p. 11.

[42] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, August, p. 55. See also Family and Community Development Committee (Parliament of Victoria) (2016) *Inquiry into Abuse in Disability Services*, Final Report, PP No. 167, Session 2014-16, p. 140.

3. Marketisation & Individualisation: Risks for Workers

Overview

Over recent years, there have been shifts to greater reliance on market mechanisms (marketisation) and to individualisation of care in both the aged care and disability sectors, with an emphasis on consumer choice as a means of self-determination. The key implications of these changes for the where, how and who of care provision include:

- an expansion in care located in private homes, including for people with more complex needs;
- an increased number and diversity of service providers/employers, including unregistered service providers and client-employers; and
- a larger, more diverse and more unstable care workforce in insecure employment arrangements.

Overall, in these systems, there is less regulatory oversight of both service providers and workers.

This section explores available evidence on long-standing and newer risks to workers' safety and the safety of those receiving care and support arising from the increased marketisation and individualisation of care and support.

The reports of several recent inquiries recognise the significance of trends to individualised care and support models and home-based care, the consequential growth of employment in home and community-based care and support work and the increased risks of a less regulated sector. In its 2019 Interim Report, the current *Royal Commission into Aged Care Quality & Safety* noted the Productivity Commission's 2011 prediction that, as the numbers of older people wanting to be cared for at home increased, the regulation of this form of care would become increasingly important and challenging for the government,[43] while also noting that the regulation of home care is seen as 'less developed' than that in residential care.[44]

To date, the focus on risks in individualised care has largely been on the need to address risks to the safety of service users and to the quality of care. In the development and implementation of these systems there were only glancing references to the need to ensure the safety of workers. Indeed, questions of compliance and staff training have often been framed as a cost and burden, particularly in the context of the marketisation of these sectors. This view was most notably highlighted in the report of the 2011 Productivity Commission Inquiry into Disability Care and Support:

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[43] Productivity Commission (2011a) *Caring for Older Australians*, Productivity Commission Inquiry Report, Overview, No 53, Vol 1.

[44] Royal Commission into Aged Care Quality and Safety (2019*) Interim Report: Neglect*, Vol 1. p. 64.

In many instances, self-directed funding would involve no superannuation, tax withholding or OH&S obligations which may well suit some of the flexible arrangements people might adopt.[45]

Reducing compliance burdens for people with disabilities using self-directed funding has the likely added advantage that it will lower administrative costs of the NDIS.[46]

Risks to service users

In the case of aged care home care clients, the 'choice' in consumer directed care is a choice of provider. With the growth in homecare and requirements for increased flexibility there is now concern about the increasing subcontracting of care work with a consequential break down of the traditional employee–employer relationship. In its 2016 submission to the ALRC *Inquiry into Elder Abuse*, Older Women's Network NSW expressed concern about the potential impact of consumer-directed care (CDC) on care workers. The Network argued that changes need to be monitored 'to ensure the introduction of CDC does not erode the employment and working conditions of care workers and their ability to respect the rights of older people and provide good quality, flexible, individualized and relationship based care'.[47]

There is evidence that, under the NDIS, some service providers are responding to the competitive market conditions and to financial pressures of the NDIS pricing model in ways that present safety and quality risks to service users in all service settings. As detailed further below, workers and employers have reported reduced worker supervision and reduced or no paid work time for training and team meetings, as well as increased reliance on inexperienced and less skilled casual employees. Disability support workers report that these issues and time-related pressures affect client safety.[48] In a national survey of over 2,300 disability workers in early 2020, almost half of the respondents reported that they were aware of harm to a client in the last 12 months. While harm from another client was reported by 45% of respondents, 24% of disability workers reported being aware of harm perpetrated by another worker.[49]

In disability care and support, client choice moves beyond a choice of provider as service users can choose to employ their preferred support workers directly. This is possible in self-managed and plan-managed arrangements where service providers are not regulated by the NDIS Quality and Safeguarding Commission. A direct employment model has been long argued by many disability advocates to be important for individual empowerment.[50] To date

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[45] Productivity Commission (2011) *Disability Care and Support*, Productivity Commission Inquiry Report, Overview and Recommendations, No 54, Vol 1, July, pp. 378-79.

[46] Productivity Commission (2011) *Disability Care and Support*, Productivity Commission Inquiry Report, Overview and Recommendations, No 54, Vol 1, July, p. 384.

[47] Older Women's Network NSW (2016) Submission to Australian Law Reform Commission of Inquiry into Elder Abuse, Submission 136, p. 12.

[48] Cortis, N & van Toorn, G (2020) *Working in new disability markets: A survey of Australia's Disability Workforce*, Social Policy Research Centre, UNSW, Sydney.

[49] Cortis, N and van Toorn, G (2020) *Working in New Disability Markets: A Survey of Australia's Disability Workforce*, Social Policy Research Centre, UNSW, Sydney.

[50] See for example Youth Disability Advocacy Service cited in Productivity Commission (2011) *Disability Care and Support*, Productivity Commission Inquiry Report No 54, Vol 2, p. 377

there is limited evidence about any links between direct employment and client safeguarding under the NDIS. However, various advocacy groups have expressed concerns about risks to service users and called for greater regulatory oversight where people directly employ their support workers.[51] These submissions identify barriers to quality care such as workers' reduced access to training, as does the Department of Social Services (DSS), in commenting on the increased risks where people employ their support workers through informal networks. Among these risks are that 'the person they employ might not have the skills they need to carry out particular tasks safely, or might have a history of violence or theft or fraud'.[52]

Similar concerns have been raised in relation to the introduction of CDC in home care services for the elderly. In its submission to the 2017 ALRC *Elder Abuse Inquiry*, the UWU argued that the likely growth in home care services would 'make it more difficult for consumers and carers to navigate and assess [the] credibility and quality of providers' and that 'the increasing demand for care workers could result in poorly trained and skilled workers entering the sector which could result in an increased risk of intentional or unintentional elder abuse'.[53]

Increased Risks for Workers?

There is some evidence that individualisation and marketisation in home care and disability support have exacerbated existing risks for workers and introduced new ones. Both service providers and unions have raised concerns about the shift of risks on to workers with direct consequences for workers' health and safety. In its 2015 consultation report on the NDIS quality and safeguarding framework, the Department of Social Services reported that some providers suggested there is 'a need to ensure appropriate wages, superannuation, fair working conditions, and insurance and occupational health and safety provisions for staff directly employed by participants who manage their own plans' and also 'to consider staff safety when working with people with challenging behaviours'.[54] A related concern that marketisation 'forces individual workers to bear the systemic risks of injury and retirement savings' was also put by the ASU in its submission to the Victorian *Inquiry into the On-Demand Workforce*, with the likely result being 'a tax payer-funded system of substandard employment'.[55] Recent qualitative research has documented examples of gender-based violence and other health and safety risks for workers in direct employment and independent

[51] See, for example, Multiple Sclerosis Australia (2015) Submission to the National Disability Insurance Scheme proposal for a Quality and Safeguarding Framework, 29 April 2015, Multiple Sclerosis Australia. National Ethnic Disability Alliance (NEDA) (2015) Submission on the Proposed NDIS Quality and Safeguarding Framework, NEDA. People with Disability Australia (PWDA) and Women with Disabilities Australia (WWDA) (2015) Submission: Consultation Paper – Proposal for a National Disability Insurance Scheme Quality and Safeguarding framework, PWDA & WWDA.

[52] Department of Social Services (2015) *Proposal for a National Disability Insurance Scheme Quality and Safeguarding Framewor*k, Consultation paper, DSS, p. 67.

[53] United Voice (2016) Submission to Australian Law Reform Commission Elder Abuse Issues Paper, Submission 145, August, p. 19.

[54] Department of Social Services (2015) *National Disability Insurance Scheme Quality and Safeguarding Framework Consultation Report*, August. p. 16.

[55] Australian Services Union (Vic and Tas) (2019) Submission to the Inquiry into the Victorian On-Demand Workforce, February, p. 21.

contracting in disability support work in the NDIS. Key issues for workers are absence of support and third party oversight, lack of knowledge of workplace rights and their own and their client's inexperience, including inexperience in managing employment relationships.[56]

Greater number of clients with complex needs

The structural shift in service provision towards the delivery of care and support outside institutional settings increases the number and diversity of eligible service users who require complex care in private home settings. In 2019, the UWU survey reported that two thirds of home care workers had seen an increase in clients with complex care needs, three quarters reported an increase in clients without family support and one third reported an increase in culturally diverse and non-English speaking clients. [57] These shifts in the nature of the client population have direct implications for workers who potentially face more challenging behaviours and more difficult circumstances, including abuse and violence.

Six out of 10 home care staff responding to the UWU survey reported they have been abused by clients or visitors. Seven out of 10 respondents also reported that they had been in situations where they could get injured or did not feel safe. The Union reported that home care workers 'have to deal with difficult client behaviour where clients may have dementia or mental health issues and encounter situations where they are verbally abused by clients or family'. Further, the Union noted that some workers report 'being threatened, hit, bitten or spat on by agitated clients 'and that clients may get angry about the service or having a new worker or having their service times changed.[58]

The 2019 UWU survey report also drew on verbatim reports from individual survey respondents who described competing pressures to ensure both their own safety and to provide care:

> Despite putting themselves at risk, the care workers in this team and more broadly had a strong sense of responsibility and duty to their clients as well as high levels of empathy for family carers, reasoning that if they did not provide care and respite for them then 'no one else will do it.' Another home care worker from a different workplace who had also been physically assaulted by a client, requiring three weeks off work to recover, described a similar sense of obligation. She returned to the client after the incident, stating 'Yeah, but somebody has to do the job'.[59]

Increased isolation

In disability support, a 2013 study examining the potential impact on workers of individualised models of care suggested that that relationships with clients, which may

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[56] Macdonald F (2020) 'Personalised risk' in paid care work and the impacts of 'gig economy' care platforms and other market-based organisations. *International Journal of Care and Caring*. doi.org/10.1332/239788220X15966470624270.

[57] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*, Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety, p. 24.

[58] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*. Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety.

[59] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*. Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety p. 51.

become 'abusive or otherwise distressing', can be difficult for workers to manage when they are 'isolated from the professional, managerial and collegial supports' that are more typical in institutional work settings.[60] Subsequent research has reported increased isolation of support workers from peers and supervisors under the NDIS as employers have limited paid work time to 'billable hours' time.[61] Home-based support workers responding to a 2020 national survey of disability workers reported lack of paid time for communication and to build rapport with colleagues, supervisors and senior managers, with this adding to work stress and feelings of isolation. A worker responding to this survey commented:

> We only see teammates once a month at meetings, [we are] otherwise isolated and alone in the community in a high stress job. I feel grossly unsupported.

> It's very hard to work with a client and make an important decision on my own because sometimes I cannot contact anyone or they don't call back. I am often left to decide what is right and worry I've made the wrong decision. This causes a lot of stress.[62]

Downward pressure on pay

While the pay in both home care and disability support has historically been low, unions, advocacy groups and researchers have raised concerns that the new individualised funding models have created downward pressure on pay, undermining the retention (and building) of a stable and quality workforce. In its 2015 response to the proposed NDIA Quality and Safeguarding Framework, the Health Services Union drew attention to the NDIS pricing and argued that there is a strong link between poor wages and increased abuse and violence towards people with disability:

> Currently, the inadequacy of the NDIS 'efficient price' risks entrenching the low wages offered in the sector and which will, in many instances, effectively reduce the wages of current disability support workers. This will make the sector less attractive to prospective workers at the same time the workforce needs to undergo a rapid expansion. Without the ability to attract and retain skilled and qualified workers, the goal of the NDIS to ensure genuine choice and control for people with disability will, at best, remain forever unfulfilled, or, at worst, lead to a decline in the quality of service provision. Indeed, in a sector-wide race to the bottom on wages, conditions and skills we are likely to witness increasing cases of violence, abuse and neglect against people with disability.[63]

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[60] Cortis N, Meagher G, Chan S, Davidson B and Fattore T (2013) *Building an Industry of Choice: Service Quality, Workforce Capacity and Consumer-Centred Funding in Disability Care*, Final Report for United Voice, Australian Services Union, and Health and Community Services Union, SPRC Report 02/13, p. 33.

[61] Cortis N, Macdonald F, Davidson B, and Bentham E (2017) *Reasonable, Necessary and Valued: Pricing Disability Services for Quality Support and Decent Jobs*. Sydney: Social Policy Research Centre, University of New South Wales; Macdonald F, Bentham E & Malone J (2018) Wage theft, underpayment and unpaid work in marketised social care. *The Economic and Labour Relations Review*, 29(1), pp. 80–96.

[62] Cortis, N and van Toorn, G (2020) *Working in New Disability Markets: A Survey of Australia's Disability Workforce*, Social Policy Research Centre, UNSW Sydney.

[63] Health Services Union (2015) Response to NDIA Quality and Safeguarding Framework Consultation Paper, May, p. 5. For a discussion of the erosion of wages see: Australian Services Union (Vic and Tas) (2019)

The Australian Services Union has also highlighted the impact of the increased entry of large for-profit companies into the care industry in undercutting existing providers with a direct impact on workers' wages.[64]

The fragmentation of work organisation with care workers increasingly working with and for individual clients—sometimes outside of an employment relationship with a service provider organisation—is seen as a particular risk in individualised care. The risks arise from isolation of care workers from peers, and isolation from, or a total absence of, organisational structures and supports. In the 2017 study of the psychosocial health and safety of home care workers such concerns were expressed by service managers who pointed out 'that funding does not allow workers to work out of community bases with their co-workers and groups of clients', which makes 'it harder for organisations to support field staff, requiring them to develop support mechanisms for which they do not receive funding …' [65]

Increased job insecurity and shift uncertainty

Concerns have been raised about the impact of a competitive consumer-led model on the viability of organisations and the job security of workers, and the potential implications for safety. In the 2017 study of the psychosocial health and safety of home care workers, employers described how, if home care workers refused to meet the unsafe demands of clients, that there was a risk of individually-funded clients (such as under the NDIS) 'threatening to take their package elsewhere'. Such threats had implications for both care workers' jobs and for increased financial risk for employers. The researchers further reported that care workers 'in some non-government providers noted that their employer was so worried about retaining clients that where home care workers had reported WHS risks at client homes, rather than ask the client to address the risk, the reporting worker had simply been moved from that client and replaced with another care worker'.[66]

Such risks had been anticipated in a 2013 Australian academic report that explored the potential impact of individualised funding in disability support, including on worker health and safety. Drawing UK research evidence, the authors of this report concluded that:

> 'Additional risks may arise under consumer-directed care where consumers request tasks which challenge the boundaries of OH&S practices, or are not anticipated by existing health and safety policies. In addition, casualisation has been found to increase health and safety risks, as contingent workers have been found to be more

Submission to the Inquiry into the Victorian On-Demand Workforce, February; Cortis N (2017) *Working under NDIS: insights from a survey of employees in disability services, (*SPRC Report 13/17) Social Policy Research Centre, UNSW Sydney.

[64] Australian Services Union (Vic and Tas) (2019) Submission to the Inquiry into the Victorian On-Demand Workforce, February, p. 10.

[65] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, August, p43-44. See also IPSOS (2019) *Understanding the Workforce Experience of NDIS,* NDIS Workforce Survey – longitudinal research project, Year 2 Report Prepared for the Department of Health and Human Services, September (Unpublished).

[66] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, August, p. 56.

likely to miss out on OH&S training, and to lack sufficient knowledge about how to report risks, or to be too concerned about job security to report problems.'[67]

The ASU has argued that there are real consequences for the quality of care in a system that reduces shifts for workers, limits workers' time to provide care and breaks continuity of care for clients.[68] These factors are seen to drive an unsafe work environment. A recent academic study on disability support work reported that workers had no confidence that assessments were being undertaken to establish if private homes were safe or appropriate worksites. In this and another recent industry study, frontline workers, supervisors and managers all reported that increased casualisation and high turnover were impacting negatively on the work environment. Greater variability in staffing arrangements meant support workers were unfamiliar with the people they were supporting, their preferences, vulnerabilities, and distress triggers. Workers expressed concerns that worker injuries were occurring due to lack of familiarity, routines and consistency of support.[69]

Recent research examining the working time of support workers employed under the NDIS points to ongoing problems of casualisation in the disability sector. Job insecurity is being fuelled by increased variability and unpredictability of demand in the individualised funding system and the labour practices in newly privatised and other disability services.[70] Insecurity arising from casual work may act to silence workers both in terms of their own safety and the abuse of those in care that they have observed. In a recent study examining work under the NDIS, concern was expressed by workers that it was less likely that the casual workers would report workplace injuries because these workers needed more shifts and feared reprisals.[71]

Not enough time to care

Providing workers with the time necessary to undertake the care and support set out in care and support plans is a critical factor in the safety and quality of care. A 2020 survey of the disability workforce under the NDIS found that the NDIS hourly pricing structure continues to be an issue underpinning lack of time and resources for workers to provide services and overwork, together with additional paperwork, poor pay, short or inconvenient shifts, not

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[67] Cortis N, Meagher G, Chan S, Davidson B and Fattore T (2013) *Building an Industry of Choice: Service Quality, Workforce Capacity and Consumer-Centred Funding in Disability Care*, Final Report for United Voice, Australian Services Union, and Health and Community Services Union, SPRC Report 02/13, March, pp. 26-27.

[68] Australian Services Union (Vic and Tas) (2019) Submission to the Inquiry into the Victorian On-Demand Workforce, February, p. 22.

[69] Baines D, Macdonald F, Stanford J and Moore J (2019) *Precarity and Job Instability in NDIS Support Work*, Canberra, The Centre for Future Work at the Australia Institute; Cortis N, Macdonald F, Davidson B, and Bentham E (2017). *Reasonable, Necessary and Valued: Pricing Disability Services for Quality Support and Decent Jobs*. Sydney: Social Policy Research Centre, University of New South Wales.

[70] Macdonald F, Bentham E and Malone J (2018) Wage theft, underpayment and unpaid work in marketised social care. *The Economic and Labour Relations Review*, 29(1), pp. 80–96.

[71] Baines D, Macdonald F, Stanford J and Moore, J (2019) *Precarity and Job Instability in NDIS Support Work*, The Centre for Future Work at the Australia Institute; Macdonald F, Bentham E and Malone J (2018) Wage theft, underpayment and unpaid work in marketised social care. *The Economic and Labour Relations Review*, 29(1), pp. 80–96.

enough hours and the cancellation of shifts. Organisation of work into short shifts means many workers can end up working for multiple providers to get enough shifts.[72]

A mismatch of workers and clients and the erosion of paid time necessary to develop an understanding of clients' needs and provide quality care is also emerging as an issue in home care. The 2017 study of the psychosocial health and safety of home care workers reported that poor rostering practices caused workers stress where these 'reduced quality of client care; where rostered staff did not have the requisite skills to provide safe complex care; and where rostering prevented continuity of care/relationships and accretion of knowledge relating to particular client needs.'[73]

Even when workers have relevant knowledge and skills, they need the work time in which to use them. In 2019, the *Royal Commission into Aged Care Quality and Safety* highlighted significant costs to the quality of care in respect of the use of restraints in residential care where workers are not allocated the time necessary to use non-restrictive ways of managing *complex* behaviour.[74]

Reduced education, training and supervision

Reduction in education and training time under marketisation and individualisation, including peer to peer learning opportunities, and the erosion of supervision may act to increase the risk of violence against care and support workers. Where workers reported a lack of education or training there was also worker concern about their capacity to provide safe and quality care. In the 2019 UWU survey, a quarter of home care workers reported that they often or always feel that they do not have enough training to deal with difficult situations with another half reporting they felt like this some of the time.[75]

In a 2020 University of New South Wales survey of disability support workers in all service settings, 27% of respondents disagreed or strongly disagreed that they receive the training they need to do their work safely, while around a half (51%) agreed. Similarly, 28% disagreed or strongly disagreed that their supervisor supported their safety, wellbeing and development, while half of respondents agreed or strongly agreed.[76] Only 36% of workers responding to this survey agreed that they get the time they need with supervisors and only 26% of casual employees said they get the time they need. Reflecting insufficient supervisor support, 59% of respondents agreed or strongly agreed that they have to make decisions about client safety, care and support on their own. Supervisors' experiences were in accord

[72] Cortis, N and van Toorn, G (2020) *Working in New Disability Markets: A Survey of Australia's Disability Workforce*, Social Policy Research Centre, UNSW Sydney. Macdonald F, Bentham E and Malone J (2018) Wage theft, underpayment and unpaid work in marketised social care. *The Economic and Labour Relations Review*, 29(1), pp. 80–96.

[73] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Sydney. Employment Research Australia.

[74] Royal Commission into Aged Care Quality and Safety (2019) *Interim Report: Neglect*, Vol 1. p. 207.

[75] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*. Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety p. 7.

[76] Cortis, N and van Toorn, G (2020) *Working in New Disability Markets: A Survey of Australia's Disability Workforce*, Social Policy Research Centre, UNSW Sydney.

with workers', with over half of supervisors (53%) agreeing they were unable to provide proper supervision due to lack of time.[77]

There is a growing concern that more recent recruits to individualised services are not receiving the qualifications and training they need and that, as a result, longer-term workers are being overloaded. In evidence given by home care workers to the *Royal Commission into Aged Care Quality and Safety*, worker concern extended to newer workers in home care who were increasingly likely to be students on casual contracts without the basic Certificate III level training that had been the norm in the home care sector.[78] Evidence was given that newer workers also had very limited on-the-job-training and that 'new workers are then thrown into situations they are unprepared for'.[79] The lack of training for new home care workers under CDC care has coincided with the growing incidence of dementia as well as mental health issues among the rapidly ageing cohort of home care clients. Workers gave evidence before the Commission that ongoing training of home care workers has also decreased and that much of the training provided is not transferable across the sector. One worker reported that in her case, face-to-face scenario-based training has been replaced by online training, which she described as a 'tick and flick' approach.[80]

Self-employed contracting, 'gig' work and the tuberization of care

Growth in care work being performed by workers engaged as self-employed contractors and growth in the intermediation of care and support work by digital platform agencies (also referred to as the 'uberisation' of care) have been enabled by the shift in aged care to consumer-based choice. In the disability sector, self-employment is actively encouraged by the NDIA in its role as market manager.[81] Health and safety issues for low-paid workers in self-employed contracting arrangements and for 'gig' platform workers have been identified where these arrangements have emerged in other industries.[82]

Both independent contracting and platform-mediated work require research to identify their potential to exacerbate worker isolation and create new challenges for safety. As noted earlier there is evidence from qualitative research of gender-based violence in direct employment arrangements under the NDIS.[83] Platform-mediated and self-employed contracting care and support are similarly poorly regulated, hidden from view and potentially totally dependent on the individual worker and service user for safe and respectful care and employment practices.

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[77] Cortis, N and van Toorn, G (2020) Working in New Disability Markets: A Survey of Australia's Disability Workforce, Social Policy Research Centre, UNSW Sydney.

[78] Mavromaras K, Knight G, Isherwood L, Crettenden A, Flavel J, Karmel T, Moskos M, Smith L, Walton H and Wei Z (2017) *The Aged Care Workforce 2016*, Canberra: Department of Health.

[79] Royal Commission into Aged Care Quality and Safety (2019) Transcript from Adelaide Hearing, 22 March, p. 1113.

[80] Royal Commission into Aged Care Quality and Safety (2019) Transcript from Adelaide Hearing, 22 March, p. 1113.

[81] NDIA (2017) NDIS Corporate Plan 2017-2021, Geelong: NDIA.

[82] ACTU (2019) Submission to the Inquiry into the Victorian On-Demand Workforce, February.

[83] Macdonald, F (2020) 'Personalised risk' in paid care work and the impacts of 'gig economy' care platforms and other market-based organisations. *International Journal of Care and Caring*. doi.org/10.1332/239788220X15966470624270.

In its submission to the Victorian *On-Demand Inquiry*, the ASU argued that such 'gig work' appears to be the most precarious and least regulated of work arrangements. In order to 'maintain their presence on the platform, workers must adhere to strict expectations, and once connected to a particular platform or provider have a potential dependency on that platform to maintain continuity and keep finding future work'. This leads to workers taking on care and support work at irregular times and in unsafe conditions.[84] These concerns were also raised in the 2017 study of the psychosocial health and safety of home care workers. This study found that workers 'registered with online brokering sites may be more frequently exposed to high risk situations and clients due to an absence of risk assessment, and where stressful or dangerous incidents occur, may have no access to organisational support'. The study concluded that 'a policy response is needed to ensure safeguards for care workers (and clients) in the largely unregulated part of the home care sector who work in the highest-risk environments' and that it was hoped that these safeguards would 'be addressed in the National Quality and Safeguards Approach (quality assurance system) for the NDIS and in the aged care sector, by AACQA.'[85] To date, however, there are no such safeguards in place under the CDC model of home care service delivery in aged care. As noted earlier, the NDIS Code of Conduct applies to all workers funded under the NDIS. However, most of the platform intermediaries are not regulated within the system as they are not considered to be service providers.

The very recently released Report of the Victorian On-Demand Inquiry found that platform workers—including personal care workers—who are employees are clearly captured by WHS frameworks. However, the Inquiry found that the situation is much less clear for those deemed non-employee workers, which has created some practical difficulties for workers attempting to navigate such frameworks.[86] While WorkSafe Victoria provided evidence to the Inquiry that platform businesses have duties to workers, whether employee or independent contracting arrangements are used, the duties vary depending on whether the worker is directly engaged as an employee or an independent contractor.[87]

Gaps in the evidence

In its campaign to address occupational violence and aggression in healthcare, *'Aggression and Violence against health care workers it's never okay'*, WorkSafe Victoria states that up to 95% of health care workers have experienced verbal or physical assault.[88] The national data on safety in the health care and social assistance industry, in which home and community care and support is based, identifies significant rates of injury. A 2017 study points out that the Health Care and Social Assistance Industry has been identified in both

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[84] Australian Services Union (Vic and Tas) (2019) Submission to the Inquiry into the Victorian On-Demand Workforce, February pp. 11-13.

[85] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, p. 217.

[86] Victorian Government (2020) R*eport of the Inquiry into the Victorian On-Demand Workforce*, Industrial Relation's Victoria, p. 116.

[87] Victorian Government (2020) *Report of the Inquiry into the Victorian On-Demand Workforce*, Industrial Relations Victoria, p. 117.

[88] Worksafe Victoria (ND) 'Aggression and Violence against health care workers it's never okay'.

iterations of the Australian Work Health and Safety Strategy (2002-2012; 2012-2022) as one of seven priority industries due to high numbers and rates of injury.[89] However it is unclear the extent to which these injuries may be linked to gender-based violence.

In recent years there have been many high profile public inquiries and commissions exploring issues of violence and abuse in aged care and disability support that have shone a light on practices that were often under-reported. These inquiries, reflecting their terms of reference, have focused on the abuse and violence experienced by people receiving care, largely in the context of residential or group housing. Violence in home and individualised care and violence that is experienced by workers remains under-researched and under-documented.[90]

We need to know more!

This scoping study indicates that violence and its gendered nature remain largely undocumented in individualised home care and disability support. The different impacts of marketisation, individualisation and uberisation on worker and client health and safety in aged care and disability support services also remain under-researched. However, there is some evidence that there are current risks that warrant concern. There is a need for further research to better understand the nature and extent of the problem of gender-based violence and how best to prevent it and respond to it where it occurs.

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[89] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia.

[90] Victorian Ombudsman (2015) *Reporting and Investigation of Allegations of Abuse in the Disability Sector: Phase 2 – Incident Reporting*, December.

4. Implications for Worker Health & Safety

Overview

The isolated nature of the work and the fracturing of the employment relationship in home care and disability support create specific challenges for WHS regulation and practice. Such regulation and practice have historically been created around a traditional workplace and the traditional employer-employee relationship. Many reports and inquiries have looked to strategies to prevent or mitigate violence and abuse in aged and disability care. They focus, primarily, on preventing harm to those receiving care and support.

In 2011, in its *Inquiry into Disability Care and Support* the Productivity Commission was equivocal about the costs of meeting WHS standards to minimise risks to staff and clients. The Commission stated that the costs of these standards needed to be weighed up against 'their impact on quality of care, additional financial cost as well as the additional pressure they place on scarce labour resources.'[91] More recently, however, there has been consistent acknowledgment that the quality and safety of care and support provided in aged care and disability support is linked to the working conditions in these sectors.[92] In particular, the relationship between worker safety and the quality and safety of care given was highlighted in evidence of service providers to the 2015 Senate *Inquiry into violence, abuse and neglect against people with disability in institutional and residential settings*. One provider described their approach as follows:

> … we up-ended our staff training. We now have compulsory mental health training for all of our staff because it is about equipping people to be able to work with people safely. We do occupational safety and health training as well, but that was coming out of understanding the needs and the situation of our clients and then equipping our staff to be able to work that way.[93]

There has also been an acknowledgement that there are some systemic tensions between regulating service quality under marketisation and ensuring safety for clients and workers as noted in Section 3.

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[91] Productivity Commission (2011) *Disability Care and Support*, Productivity Commission Inquiry Report, Overview and Recommendations, No 54, Vol 2, July, p. 708.

[92] Community Affairs References Committee (The Senate) (2015) *Inquiry into 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 Strait Islander People with Disability, and Culturally and Linguistically Diverse People with Disabili*ty, Nov., pp. 215, 239; Charlesworth S, Baines D, King D, Cunningham I and Daly T (2020) Decent Work Good Care Research Team Submission to the Royal Commission into Aged Care Quality and Safety, p. 2; Older Women's Network NSW (2016) Submission to Australian Law Reform Commission of Inquiry into Elder Abuse, Submission 136; United Voice (2016) Submission to Australian Law Reform Commission Elder Abuse Issues Paper, Submission 145, p. 6; Royal Commission into Aged Care Quality and Safety (2019) *Interim Report: Neglect*, Vol 1, p. 232.

[93] Community Affairs References Committee (The Senate) (2015) *Inquiry Into 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 Strait Islander People with Disability, and Culturally and Linguistically Diverse People with Disability*, p. 229.

In the section below we highlight several strategies that have been raised to address violence and abuse in the 'new' aged and disability care systems that have salience not only for clients but also for worker health and safety.

Regulation, culture and practice to prevent abuse and violence

With the shift to individualisation and marketisation, a role for government regulation and oversight of quality and safety has been raised in both aged care and disability support. The *Royal Commission into Aged Care Quality and Safety* has noted that earlier reports had recognised the limits of the market in ensuring quality and safety of care and that quality and safety standards and oversight should be retained to temper deregulation and market-based measures.[94] Government oversight or stewardship of quality and safety has also been called for the disability sector to enable the government to meet their duty of care to people with disability.[95] Some mechanisms are already in place with several proposals for further initiatives made to prevent abuse and violence. These initiatives include additional screening and registration of workers, mechanisms to prevent and better respond to violence where it occurs against both service users and workers, and worker education and training.

Screening and registration of workers

Whilst many reports stressed the value of staff in home care and disability support sectors there was also significant concern raised about the employment of people who may put service users' safety at risk. Under the NDIS, service providers are not required to be registered with the NDIS Quality and Safeguards Commission nor is worker screening required where NDIS participants self-manage their support plans or have them managed by a plan manager (i.e. not by the NDIA). More than 30 per cent of NDIS participants now fully or partly self-manage their funding and another 40 per cent use a plan manager.[96] However, a code of conduct applies to all registered and unregistered service providers and all workers who provide services funded under the NDIS, with providers and workers to be made aware of this by the NDIS participants and their plan managers.[97] Prior to the establishment of the NDIS Quality and Safeguards Commission there had been calls for mandatory screening and registration of both disability support and aged care workers, including calls for comprehensive accreditation and registration processes, including minimum qualifications and coverage. As the Health Services Union Secretary put it to the 2015 Senate *Inquiry into violence, abuse and neglect against people with disability*:

> It beggars belief that to be a crowd controller you must have a minimum qualification and you are registered, but to be a disability support worker you do not need any of these things: just a simple police check will suffice.[98]

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[94] Royal Commission into Aged Care Quality and Safety (2019) *Interim Report: Neglect*, Vol 1, p. 80.

[95] Department of Social Services (2016) *NDIS Quality and Safeguarding Framework*, December, p. 6.

[96] COAG Disability Reform Council (2020) *NDIS Quarterly Report*, 30 June 2020. Geelong, NDIA. Appendix E, Table E.53.

[97] NDIS Quality and Safeguards Commission (ND) NDIS Quality and Safeguards Commission website, https://www.ndiscommission.gov.au/providers/unregistered-providers, accessed 4 June 2020.

[98] Community Affairs References Committee (The Senate) (2015) *Inquiry into Violence, Abuse and Neglect Against People with Disability in Institutional and Residential Settings, including the Gender and Age Related*

To date, while there are requirements for police checks, there are no registration mechanisms for home care workers in the aged care sector. In Victoria the Disability Service Safeguards Act 2018 (Vic) has been established to regulate registered and unregistered disability workers. Under the Act a voluntary worker registration scheme has been established and was due to commence in July 2020 but has been deferred until July 2021 due to the COVID-19 pandemic. The scheme covers disability support workers under all funding arrangements (e.g. TAC as well as NDIS). It also includes a Code of Conduct that applies to registered and unregistered disability workers. A complaints and investigation function has been put in place and a Disability Services Commissioner has been established to regulate the conduct of unregistered disability workers.[99] Employers are required to report workers breaching the Code of Conduct.[100]

Acting on, reporting and investigating incidents of violence and abuse

Much of the focus on organisational action where violence and abuse is reported has been on service users. However, the evidence surveyed here suggests that organisational processes to enable the reporting and investigation of violence and abuse against clients are often inadequate. This makes the reporting of incidents of violence and abuse against workers even more difficult for the workers concerned, with clear implications for effective WHS protections.

Significant concerns have been expressed both by unions and relevant statutory bodies that violence and abuse in aged care and disability support may be being downplayed in organisational processes that deal with reports of abuse or neglect against clients. Such concerns have been long standing. For example, a 2015 Health Services Union survey found that while (at that time) most employers had a formal system in place to report instances of violence, most workers believed that these systems were inadequate.[101] These concerns are echoed in the findings of a 2020 national survey of disability support workers. Only three in five (61%) respondents agreed or strongly agreed that their organisation has effective processes in place to minimise risks of violence, abuse and neglect against people with a disability. One in five workers (21%) disagreed or strongly disagreed that this was the case for their organisation. The workers who were more positive about their organisation's processes to minimise risks of violence, abuse and neglect, and more confident they would report it were those who also reported they had better quality supervision.[102]

In respect to violence and abuse in the aged care sector, in 2017 the ALRC recommended a new approach to serious incidents of abuse and neglect in aged care:

Dimensions, and the Particular Situation of Aboriginal and Torres Strait Islander People with Disability, and Culturally and Linguistically Diverse People with Disability, Nov, p. 222.

[99] Due to COVID-19, the Commissioner will regulate all workers until the new registration scheme is up, and running and then only unregistered workers.

[100] Victorian Disability Worker Commission (2020) *Disability Worker Registration Scheme*.

[101] Health Services Union (2015) Response to NDIA Quality and Safeguarding Framework Consultation Paper, May, p. 6.

[102] Cortis, N and van Toorn, G (2020) Working in new disability markets: A survey of Australia's disability workforce, Social Policy Research Centre, UNSW Sydney, pp. 85-87, accessed 20 June 2020.

The emphasis should change from requiring providers to report the occurrence of an alleged or suspected assault, to requiring an investigation and response to incidents by providers. This investigation, response should be monitored by an independent oversight body.[103]

The ALRC also recommended that the serious incident response scheme be extended to the home care sector where the alleged perpetrator is a staff member of an approved provider.[104]

The 2016 NDIS Quality and Safety Framework places the responsibility for client quality and safety with providers and workers. However, as with the new Victorian regulation, it also provides for an external complaints process through NDIS Quality and Safeguards Commission.[105] The new NDIS Code of Conduct that applies to registered and unregistered providers and all disability support workers requires providers to 'identify and respond to incidents of violence, abuse, neglect and exploitation, and report these to the NDIS Commission and, as appropriate, to other relevant authorities'.[106] Under the Code providers are also expected to investigate and take appropriate action to address any breaches.

Worker safety education and training

The role of education and training are usually assumed to be central to worker safety. While there have been some divergent views as noted above, a significant majority of reports surveyed link the quality and safety of care for service users to well educated, trained workers who participate in ongoing peer-learning and who are supported by supervisors.[107] For example, in its 2017 submission on the proposed Victorian registration and accreditation scheme for the disability workforce, National Disability Services Victoria acknowledged the need for staff to have appropriate training and supported the compulsory national orientation and induction module for all workers stipulated in the NDIS Quality and Safeguarding Framework.[108] In its submission to the ALRC *Inquiry into Elder Abuse*, United Voice argued that appropriate qualifications and access to quality ongoing training and education in aged care were essential to ensure that all workers not only have the required knowledge and skills to carry out their role to a high standard, but also to assist in identifying elder abuse.[109]

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[103] Australian Law Reform Commission (2017) *Elder Abuse— A National Legal Response* – Final Report. Report 131, May, p 114.

[104] Australian Law Reform Commission (2017) *Elder Abuse— A National Legal Response* – Final Report. Report 131, May, p 122.

[105]. NDIS Quality and Safeguards Commission (n.d.) NDIS Quality and Safeguards Commission website,.

[106] NDIS Quality and Safeguards Commission (2019) 'The NDIS Code of Conduct - Guidance for Service Providers'. Geelong: NDIS Quality and Safeguards Commission, pp. ii, 33.

[107] United Voice (2016) Submission to Australian Law Reform Commission Elder Abuse Issues Paper, Submission 145, August, p. 14; See also Family and Community Development Committee (Parliament of Victoria) (2016) *Inquiry into Abuse in Disability Services*, Final Report, May, PP No. 167, Session 2014-16, p. 130; Royal Commission into Aged Care Quality and Safety (2019) Interim Report: Neglect, Vol 1.

[108] National Disability Services Victoria (2017) Submission: A Registration and Accreditation Scheme for the Victorian Disability Workforce, Submission in response to Victorian Government Consultation paper, October, p. 8.

[109] United Voice (2016) Submission to Australian Law Reform Commission Elder Abuse Issues Paper, Submission 145, August, p. 14. See also Family and Community Development Committee (Parliament of

However, there is a disjuncture between support for quality training and effective access to that training. Both workers and employers have raised concerns about the purpose and quality of training currently available. Workers are also concerned about the quality and variability of much of the education and training by employers.[110] In its submission to the ALRC *Inquiry into Elder Abuse*, United Voice argued that 'simply providing access to training, without having regard to its quality or appropriateness, will not result in quality support services. What is required is access to ongoing professional training, in conjunction with formal qualifications, which is provided by a qualified trainer and provides an appropriate balance between theory and hands on experience'.[111] However given worker training is not explicitly funded under the NDIS or CDC, the potential for building capacity in the sector around violence and abuse of services users as well as of workers may well be limited.

Developing safe work cultures and practice

The 2016 NDIS Quality and Safeguarding Framework strongly advocates prevention, early intervention and responses to abuse, neglect and violence towards people with disability through shifts in culture and practice. The Zero Tolerance Project, led by National Disability Services in partnership with the disability sector, provides a curriculum of safeguarding topics for CEOs, boards and senior managers. It also includes practical tools and resources for frontline staff and supervisors, such as on safer recruitment and screening and on the role of supervision in developing safer organisational cultures.[112]

The gendered violence experienced by many clients receiving care and support services points to a need for an approach that addresses gendered cultural attitudes and practice. The 2016 Victorian Parliamentary *Inquiry into Abuse in Disability Services* noted that Women with Disabilities Victoria had endorsed VicHealth's 2007 framework for the prevention of violence against women. This framework highlighted 'three areas for action: promoting respectful relationships; promoting non-violent norms; and improving access to information and support'.[113]

Decent and safe work key to quality care

Research shows that the quality of care and the quality of jobs in aged care are inextricably linked. This research points to the need for policies and practices to drive a 'virtuous circle', in which good organisation of care work, good employment and working conditions, supportive management and an empowering work culture, collaborative teams, high quality,

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Victoria) (2016) *Inquiry into Abuse in Disability Services*, Final Report, PP No. 167, Session 2014-16, p. 130; Royal Commission into Aged Care Quality and Safety (2019) *Interim Report: Neglect*, Vol 1.

[110] Australian Community Research (2019) *Survey of Home Care Workers in Aged Care*. Submitted as part of United Workers Union submission to the Royal Commission into Aged Care Quality and Safety p. 45.

[111] United Voice (2016) Submission to Australian Law Reform Commission Elder Abuse Issues Paper, Submission 145, p. 13.

[112] Department of Social Services (2016) *NDIS Quality and Safeguarding Framework*, December, p. 58.

[113] Family and Community Development Committee (Parliament of Victoria) (2016) *Inquiry into Abuse in Disability Services*, Final Report, May, PP No. 167, Session 2014-16.

relevant education and training, and high job satisfaction among care workers underpin high quality, person-centred care.[114]

A 2017 report on the psychosocial health and safety of Australian home care workers surveyed some of the relevant literature on the links between decent work and improvement in client care. It noted evidence for the value of rostering that enables more time both for working with people requiring care and for sharing information. In particular, reducing split shifts and enabling guaranteed regular hours of work as well as consistent client rosters were seen to provide a basis for the development of close relationships (important both for workers and clients) as well as for workers to share information with each other such as on the best ways to deal with difficult clients. Managerial and peer support has also been found to be crucial to both decent work and quality care as it can alleviate some of the negative features of home care work such as 'feeling alone, inadequate orientation and training, poor communication with coordinators and administration staff, and inflexibility in structuring work tasks'.[115]

In its submission to the Victorian *Inquiry into the on-demand workforce*, the ASU pointed out that the need to ensure safety for home care workers in the gig economy, and the challenges in doing so, are shared by other countries and industries. It referred to initial work undertaken by Unions NSW with AirTasker in relation to dispute resolution, safety and minimum rates, while recognising the limitations of these approaches.[116]

A distinguishing feature of both home care support for the elderly and disability support is that the federal government provides the overwhelming majority of funding and is the key 'purchaser' of both aged care and disability services in Australia. Thus, in relation to worker freedom from violence and abuse in community and home based care and support, the federal government has significant responsibilities. However in Victoria, the State government has responsibility for WHS regulation of Victorian employers and workers. One potential mechanism for both the federal and the State government to intervene to shape both awareness and strategic responses to the WHS risks of violence and abuse is the use of procurement. That would provide a potential mechanism to ensure providers proactively identify and mitigate the risks of violence and abuse against both workers and clients in order to be able to access government funding.[117]

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[114] Meagher G, Cortis N, Charlesworth S and Taylor W (2019) *Meeting the Social and Emotional Support Needs of Older People using Aged Care Services*. Macquarie University, UNSW Sydney and RMIT University., p. 3

[115] Evesson J and Oxenbridge S (2017) *The Psychosocial Health and Safety of Australian Home Care Workers: Risks and Solutions*, Employment Research Australia, August, pp. 34-35.

[116] Australian Services Union (Vic and Tas) (2019) Submission to the Inquiry into the Victorian On-Demand Workforce, February, pp. 24-25.

[117] See: Charlesworth S and Howe J (2018) The Enforcement of Employment Standards in Australia: Successes and Challenges in Aged Care. *International Journal of Comparative Labour Law and Industrial Relations* 34 (2), pp. 111–140.

5. Implications for WorkSafe Victoria

The scoping study has identified a range of systemic issues that create WHS risks in aged care and disability support work including in residential and group housing environments. However other risks are directly linked to the private home environment and individualisation of care and support work. Most existing WHS systems have been built around traditional workplaces and traditional employment relationships. The rapid growth in home care and community-based work outside such workplaces, and increasingly outside the standard employment relationship, presents some challenges for WHS regulators.

Particular WHS issues highlighted in this study include several identified over a decade ago in the 2009 study of home care contract workers in Adelaide and the Barossa Region. The most basic of these WHS issues, which has emerged again more recently under individualised funding in both aged care and disability support, is the widespread failure in the sector to undertake adequate risk assessment and hazard identification or to implement effective WHS policies and procedures.[118] As argued in the 2009 study, there are significant WHS risks where workers are sent to locations that lack the oversight and direct supervision of the employer or principal contractor, and [where] they work in isolation in a location that is not a purpose-built workplace'. These risks are exacerbated, and WHS management made more difficult, where workers are engaged via an employment agency or are self-employed.[119]

Earlier in this report we noted that key WHS risk factors identified in aged care and disability support work undertaken outside institutional settings included:

- the isolation and blurring of relationships where client's homes are workplaces;
- inadequate communication, supervision and training;
- violence being seen as 'part of the job'; and
- poor pay and conditions of work and limited career paths.

The shift to individualised and marketised services in both aged care and disability support has seen the growth in services located in private homes, an increased number and diversity of service providers/employers, including unregistered service providers and individual service users, and a more unstable care workforce in more insecure employment arrangements.

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[118] Bohle P, Finn J, Quinlan M and Rawlings-Way O (2009) *The Occupational Health and Safety of Home Care Contract Workers in Adelaide and the Barossa Region*, A Report Prepared for the Office of Employee Ombudsman, October, p. 27.

[119] Bohle P, Finn J, Quinlan M and Rawlings-Way O (2009) *The Occupational Health and Safety of Home Care Contract Workers in Adelaide and the Barossa Region*, A Report Prepared for the Office of Employee Ombudsman, October, p. 27.

In these new systems there is less regulatory oversight of both service providers and workers, which has exacerbated existing WHS risks for workers and introduced new risk factors including:

- increased job insecurity and shift uncertainty;
- not enough time or resources to provide good quality care;
- reduced education, training and supervision; and
- increase in self-employed contracting and gig work.

Abuse and violence in what are often invisible workplaces in home care and disability support is of direct concern to WHS regulators. While the recognition of the physical and musculoskeletal health and safety risks in these non-institutional workplaces by Australian WHS authorities is long-standing, risks of violence and abuse have also been acknowledged as WHS issues.

In Table 1 below, we note key guidance material produced by WHS and other government authorities in Australia for non-institutional workplaces including aged care and disability support. Worksafe Victoria has been specifically involved in the production of several of these guides. In some guides there is more focus on the risks of physical aggression and violence than on verbal violence with little if any recognition of the gendered nature of violence or abuse. In a 2011 Worksafe Victoria guide produced for home care there was no mention of violence or abuse as a WHS risk in this sector. However, in an earlier guide produced for community sector professionals working in clients' homes, occupational violence is extensively canvassed as a significant WHS risk. In these circumstances, it is unclear why occupational violence was not included in the 2011 home care guide.

The potential for violence and abuse against workers in home care and disability support has been recognised for quite some time as a WHS risk. This recognition, including by Worksafe Victoria, provides a useful platform on which to build any future action to address specific additional risk factors for gender-based violence in these sectors.

Importantly gendered violence has been recently recognised as a particular form of workplace violence in Worksafe Victoria's guide for employers on '*Work-related gendered violence including sexual harassment*'. The guide sets out a definition of work-related gendered violence as 'any behaviour, directed at any person, or that affects a person, because of their sex, gender or sexual orientation, or because they do not adhere to socially prescribed gender roles, that creates a risk to health and safety.' The work-related gendered violence guide is general in nature and not focused on the specific context of work outside institutional workplaces. However it provides a firm basis for Worksafe Victoria action to address the WHS risks of gender-based violence highlighted in this study that relate to the specific organisation and location of work in individualised home care and disability support.

Table 1: Selected Published WHS Guidance

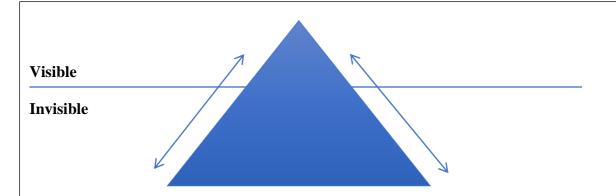| Guide	Guide Focus	Workers covered	WHS risks covered	Extent to which abuse & violence seen as WHS risk
Department of Human Services and Victorian WorkCover Authority (2005) **Victorian Home Care Industry Occupational Health and Safety Guidelines.** Available online at: https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/NOC-Victorian-home-care-industry-occupational-health-and-safety-guide-2005-10.pdf	To provide guidance on the methods and measures to manage the risks of providing home care services Sets out: • OHS & Planning Home Care Services • Home Care & OHS Law • OHS & Delivery of Home Care Services • Managing OHS • Managing Change • OHS Prevention Measures for Common Home Care Services	Home care workers	• Manual handling • Hazardous substances • Electrical Safety • Workplace violence • Driving and transporting clients • Infection control • Prevention of falls from height	Under Risks of Workplace violence, p. 57. It refers to two forms of violence: • Occupational violence • Bullying States 'risks may arise from the actions of clients, their carers or others at the home where services are provided'
Worksafe Victoria (2006) **Working safely in visiting health services.** Available online at: https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/ISBN-Working-safely-in-visiting-health-sevices-handbook-for-workplaces-2006-06.pdf	• Sets out: • Managing OHS in Your Workplace • Preventing Occupational Violence • Preventing Musculoskeletal Disorders • Manual Handling Aids & Equipment. • Referral & Assessment Checklist	Professional health practitioners	• Occupational Violence • Musculoskeletal Disorders	Occupational violence section is extensive pp. 7-20. Physical occupational violence and aggression inc: • Striking, kicking, scratching, biting, spitting or any other type of direct physical contact; • Throwing objects; • Attacking with knives, guns, clubs or any other type of weapon; • Pushing, shoving, tripping and grabbing; • Any form of indecent physical contact; • Aggression inc. sexual harassment/assault or where an employee is abused / threatened. Emphasis on hazard identification & risk assessment

Guide	Guide Focus	Workers covered	WHS risks covered	Extent to which abuse & violence seen as WHS risk
WorkSafe Victoria (2011) **Home care - occupational health and safety compliance kit**, WorkSafe Victoria, Available online at: https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/ISBN-Home-care-occupational-health-and-safety-compliance-kit-2011-06.pdf	Kit provides practical advice to address seven most hazardous tasks/ common causes of injury. It notes that in Victoria between 2004-2008, 700+ home care workers were seriously injured at work, mainly in clients' home and that 80% of injuries were sprains and strains/musculoskeletal injuries	Home care workers	• Vacuuming • Mopping • Showering/bathing client • Moving clients • Cleaning • Making beds • Use of vehicles	N/A
Worksafe SA (2014) **Community Workers Work health and safety guidelines**. 4th edition, Reviewed and updated in 2009 by Aged and Community Services SA & NT Inc. (ACS) with input from the ACS Project Steering Group. Reviewed and updated in July 2014 by SafeWork SA. Available online at: https://www.safework.sa.gov.au/__data/assets/pdf_file/0003/140772/Community-Workers-work-health-and-safety-guidelines.pdf	Guidance in managing work health and safety (WHS) challenges that arise when providing a service within homes or community settings • WHS legislative requirements • WHS management systems • WHS Hazards/risks • Sets out case studies under each WHS risk identified.	Community workers who work in homes/ community settings	• Hazardous manual tasks • Slips, trips and falls • Isolated or remote work • Challenging or aggressive behaviour • Psychological health • Vehicle and driver safety • Hazardous chemicals • Electrical safety. • Infection control • Domestic squalor.	'Challenging or aggressive behaviour' pp. 32-38. Covers verbal abuse; inappropriate sexual behaviour; aggressive or threatening behaviours.
Office of Industrial Relations (2018) **A guide to working safely in people's homes.** Workplace Health and Safety Queensland. First published in 2001, updated 2011 and 2018. Available online at: https://www.worksafe.qld.gov.au/__data/assets/pdf_file/0018/82503/community-working-safely-in-peoples-homes.pdf	Guidance on duty of care, reporting incidents and specific WHS risks in people's homes.	Community service workers who work in people's homes	• Manual tasks • Work-related violence • Work-related stress • Remote or isolated work • Biological hazards • Latex allergy • Hazardous substances • Electrical safety.	'Work related violence' pp. 11-13: covers: • Biting, spitting, scratching, hitting, kicking • Throwing objects • Pushing, shoving, tripping, grabbing • Verbal threats • Armed robbery • Sexual assault • Attacking with weapons.

Guide	Guide Focus	Workers covered	WHS risks covered	Extent to which abuse & violence seen as WHS risk
Worksafe Victoria (2017) **Disability Services – Occupational Health and Safety Compliance Kit**. Available online at: https://content.api.worksafe.vic.gov.au/sites/default/files/2018-06/ISBN-Disability-services-OHS-compliance-kit-2011-06.pdf	Kit provides practical advice on 1. main hazardous tasks that cause workplace injuries in the disability services sector 2. how to control the risks associated with these tasks to prevent injuries and comply with the Occupational Health and Safety Act 2004 (OHS Act).	Workers in disability services	• Moving and supporting people with a disability • Supporting people with personal hygiene care - • Assisting people in wheelchairs • Handling wheelchairs in and out of vehicles • Occupational violence • Moving and lifting objects – • Repetitive movements, lifting or moving heavy objects such as furniture.	Covered under occupational violence pp. 5-6 Defined as 'where a person is abused, threatened or assaulted in circumstances relating to their work'.
WorkSafe Victoria (2020) **Work-related gendered violence including sexual harassment: A guide for employers**, March 2020, WorkSafe Victoria. Available online at: https://www.worksafe.vic.gov.au/resources/work-related-gendered-violence-sexual-harassment	The Guide focuses on gendered violence including sexual harassment. It sets out: • What constitutes gendered violence • Legal responsibilities of employers, employees and others • Risks & effects of work- related gendered violence • Prevention of workplace related gendered violence • Responding to work-related gendered violence	All workers	Main focus on sexual harassment (SH)	Most examples of gendered violence relate to forms of SH. Training of those dealing with customers and clients *and* the need for a situational risk assessment—for example when visiting homes—are very briefly noted

Potential Worksafe Victoria action

1. Creating greater community awareness (and understanding) of gender-based violence in home care and disability support

Addressing gender-based violence in individualised aged care and disability support calls for attention to the discriminatory attitudes and structural and systemic issues that underpin gender-based violence in this sector as set out in Figure 1 below.[120] In the material surveyed in this scoping study there is evidence of the role of discriminatory attitudes towards women, the elderly and people with a disability which act to undervalue care and support work and that contribute to a culture that overlooks violence. Some material reviewed also highlights attitudes that 'minimise' or 'normalise' violence and an acceptance from workers that it is 'part of the job'.

Visible

Invisible

Violent and abusive language and behaviours experienced by users & workers

Assumptions & stereotypes
Views held about**:**

- Elderly people;
- People with a disability;
- Women;
- Value of care work;
- Markets and 'choice'

Structural –systemic issues
Individualisation, under-resourcing and location in private homes/community leading to:

- Inadequate time allocated to workers to undertake work;
- Inadequate training;
- Lack of supervision;
- Low pay, job & working time insecurity;
- Worker isolation;
- No/minimal WHS risk assessment

Figure 1: Violence in individualised aged care & disability support services

As shown in Figure 1, whilst it is the violent and abusive behaviours that may be felt and noticed, it is less obvious attitudes and systemic issues that underlie these behaviours. As the

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[120] This triangle is an analytical tool adapted from Burke B, Geronimo J, Martin D, Thomas B and Wall C (2002) Education for Changing Unions, Canada.

arrows indicate, behaviours, attitudes and systemic issues act to reinforce each other. Thus, any meaningful change to address the WHS risks in individualised disability support and aged care services needs to address all three aspects. That is, to achieve real change in violence we need to look beyond individual behaviours to consider the attitudinal and systemic issues and risk factors that create the environment that leads to gender-based violence.

We suggest that any community awareness campaigns by Worksafe Victoria to address gender based violence in individualised disability support and aged care services should:

- draw out links between discriminatory attitudes towards women, elderly and people with a disability and gender-based violence in home care and disability support;
- highlight links between the abuse and violence of service users and of workers; and
- use home care and disability support when providing examples of gender-based violence.

2. Education and increasing sector awareness about and accountability for WHS risks

Gender-based violence and abuse against workers in home care and disability support needs to be framed as a WHS issue. As noted above, in the 2011 Productivity Commission Inquiry into disability care and support some stakeholders presented WHS standards as leading to a regulatory burden, red tape and cost. Others stressed the importance of the role of WHS in the safety of workers and quality of care. Since that time, as highlighted in this report, there has been growing awareness of the links between the conditions that increase the risk of violence and abuse against service users, especially in institutional settings. There has also been a more slowly growing concern about the risk of violence and abuse of workers in siloed settings in private homes and in the community.

Greater sector awareness is required to ensure that employers in the sector are fully aware of their responsibilities to ensure that the provision of home care and disability support services in Victoria is in compliance with the Victorian *Occupational Health & Safety Act* 2004. Greater sector awareness and education on gender-based violence as a WHS concern could be achieved through:

- engagement with the Aged Care Quality & Safety Commission and the NDIS Quality and Safeguards Commission;
- engagement with peak sector bodies and advocacy groups; and
- the development of online guidance material (e.g. as a WHS topic on Topics webpage https://www.worksafe.vic.gov.au/topics).

3. Development of systemic and preventative strategies in partnership with the sector

The systemic concerns raised in this study are reinforced and enabled by discriminatory attitudes that devalue the work of carers, predominantly women, and discriminatory attitudes towards those in care. These gendered risks go beyond sexual harassment. Systemic and preventative strategies are required, not only to address the quality and safety of work, but also to ensure the safety and quality of care provided to vulnerable service users.

4. Strategic compliance & enforcement

In its work around occupational violence in the health system, Worksafe Victoria has worked closely with a range of employers, industry bodies and unions. Addressing gender-based violence in individualised aged care and disability support requires a similar approach with attention to specific features of home care and community-based work outside institutional workplaces. This could include the following

- engagement of key non-profit and for-profit home care and disability providers;
- engagement of Victorian sector unions, ASU, HSU and ANMF;
- sub-sector audits for education purposes;
- development of guidance around monitoring compliance where the employer is the service user under the NDIS;
- development of gender-based WHS risk indicator checklist to ensure focused compliance and enforcement activities; and
- development of the technical expertise of WorkSafe Victoria inspectors to promote compliance by employers in individualised home care and disability support services, including in private homes.

The International Labour Organisation (ILO) and the Republic of Ireland have produced strategic guides and evaluations of both labour rights and specific WHS inspections, where inspections take place outside institutional workplaces and in private homes, including in domestic work and childcare. The most relevant of these documents could provide useful resources for any future Worksafe Victoria action for strategic compliance & enforcement in the sector. These include:

- ILO (2016) *Labour inspection and other compliance mechanisms in the domestic work sector introductory guide* http://apmigration.ilo.org/resources/labour-inspection-and-other-compliance-mechanisms-in-the-domestic-work-sector/at_download/file1 This guide provides examples of different practices across ILO member states. It notes for example that, since 2006, the Swedish Working Environment Authority, has been mandated to promote private households' compliance with WHS legislation as well as with working time rights.
- Republic of Ireland (n.d.) *Inspections of private households as places of employment: Ireland* https://ec.europa.eu/social/BlobServlet?docId=20736&langId=en. This evaluation reviews the implementation of a strategy to increase domestic employer compliance with labour/employment regulations, including WHS regulation and communicate employment rights to those involved in domestic working relationships (in particular vulnerable groups such as migrant workers). In particular this evaluation sets out how inspections were carried out by the Workplace Relations Commission in collaboration with other agencies and groups.

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