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Disability Royal Commission: Service Provider Update

As the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Commission) approaches its 23 September 2023 reporting date, Piper Alderman recaps some of the key milestones, key public hearings over the past 12 months and what can be expected from the Commission in 2023.

KEY MILESTONES

On 12 December 2022, Commission Chair the Honourable Ronald Sackville AO KC opened Public Hearing 31 by providing a recap of some of the milestones that the Commission had achieved since it was established on 4 April 2019:

- 30 public hearings over a total of 150 days, generating approximately 14,000 pages of transcript;
- 6,357 submissions from various organisations, individuals and interested parties (expected to reach 6,500 by the end of 2022);
- 14 Issues Papers which generated 710 responses;
- 1,105 private sessions; and
- 16 publications as part of the Commission's Research Program.

RECENT KEY PUBLIC HEARINGS

Over the past 12 months, the Commission has held a total of 14 public hearings, including Public Hearing 31, which is currently taking place.

Some of the most relevant public hearings for disability service providers that have taken place over the past 12 months include the Sunnyfield Case Study, the Life Without Barriers (**LWB**) Case Studies and the Australian Foundation for Disability (**Afford**) Case Study.

Public Hearing 13: Sunnyfield Case Study

Earlier this year, the Commission released its report in response to the Sunnyfield Case Study, which included a total of 24 findings and three recommendations.

The findings were directed at [Sunnyfield's failure to prevent abuse and violence by its employees and Sunnyfield's responses to complaints made by family members](#). Sunnyfield's responses to those complaints were described as "defensive and often hostile", with the Commission also describing the organisation's culture as "dysfunctional", such that it discouraged staff from reporting their concerns.

The Commission, among other things, recommended that Sunnyfield apologise to clients and that its Board consider redress and appropriate supports for affected clients.

The Commission's report makes it clear that the Commission is prepared to make findings and recommendations specific to individual disability service providers, rather than on an industry-wide basis. However, it is open for the Commission to make general findings and recommendations in its final report in September 2023.

Public Hearing 20: Life Without Barriers Case Studies

A case study into LWB took place in December 2021 and focused on the [experiences of people with disability who received](#)

[accommodation and support services from LWB in both New South Wales and Victoria.](#)

Counsel Assisting's submissions were critical of LWB's handling of several incidents, specifically that the organisation:

1. failed to respect a client's dignity of risk and privacy;
2. created the potential for a client to find themselves in unsafe situations in circumstances where a client was ultimately sexually assaulted;
3. failed to provide adequate support to a client following a sexual assault; and
4. failed to report a sexual assault of a client to the organisation's Board.

Council Assisting was also critical of LWB's handling of a separate client incident, making suggested findings that LWBs:

1. failed to respect a female client's choice to not receive personal care from male support workers;
2. did not have the necessary processes in place to allow staff to report concerns about other employees; and
3. failed to promptly act to remove an employee from working with clients after concerns were raised within the organisation, including an allegation of indecent assault.

The LWB case studies highlights the importance of disability service providers having policies and procedures in place that specifically cover instances where employee violence, abuse, neglect or exploitation takes place, including:

- having proper reporting mechanisms that escalate to management, the Board and relevant state or federal bodies; and
- training staff on how these policies operate, including providing regular refresher courses.

Public Hearing 23: Australian Foundation for Disability Case Study

Unlike previous public hearings that focused on group homes and accommodation-based services, Public Hearing 23 focused on day programs operated by Afford.

The hearing examined Afford's response to the abuse of two clients by a Lifestyle Assistant who was charged with and later convicted of several criminal offences after he was found to be in possession of inappropriate videos and images of clients.

The Commission heard evidence from Afford that it did not conduct a risk assessment or investigation following the incident, nor a review of relevant policies, systems or procedures.

This public hearing highlights the importance of having adequate policies and procedures in place to properly respond to incidents of abuse, neglect, violence or exploitation, including reporting and proper investigatory processes, and making sure staff are aware of these and know how they operate.

Although submissions for this public hearing are confidential given the sensitivity of the content, the Commission has indicated that a report for this hearing will be published.

WHAT'S NEXT?

Given the extensive materials that the Commission has received and evidence that it has heard to date, the Commission has already commenced winding down the collection of evidence in anticipation of preparing its final report.

On 30 June 2022, the Commission closed registration for private sessions. Although registrations are closed, the Commission has indicated that it will attempt to get through the several hundred individuals who have registered for a private session prior to finalising its report.

The Commission has also indicated that from 31 December 2022 it will cease accepting any further submissions from organisations or individuals.

In 2023, the Honourable Ronald Sackville AO KC indicated that the Commission plans to hold two substantive Public Hearings, although the dates of these are yet to be confirmed. These hearings are foreshadowed as being:

1. a "wrap-up hearing", which will directly involve disability service providers. The Commission will hear evidence from disability service providers who previously gave evidence at other public hearings, and whose actions were previously scrutinised, in order to determine the progress that has been made to advance the issue(s) that were uncovered at these hearings; and
2. a "case study", where the Commission will hear evidence on a "*particularly troubling case study*".

As for the final report, which will endeavour to set out an achievable template for transformational change, it has already

been foreshadowed this will be a “multi-volume” report. Given the significance of this report and the evidence that the Commission has heard to date, this will understandably be, as the Chair of the Commission described, both a “*major undertaking*” and “*a formidable challenge*” for the Commission.