Reading: Abuse and Neglect and People with a Disability

References:


Frohmad, C, *Violence against people with a disability in Institutions and residential settings*, PWDA, 2014


Defining harm, risk of harm, abuse, neglect and victimisation…

Harm is a general term that can be used to describe when a person has suffered some ‘damage’. This damage may be physical, psychological, emotional or material or a combination of all or some of these.

When you consider a person is at ‘risk of harm’ it means you have current concerns about the safety, welfare and well being of the person for any one or more of the following reasons:

- The persons basic physical or psychological needs are not being met or at risk of not being met.
- The person has been or is at risk of being physically or sexually abused or ill treated.
- The person has engaged in self harm or is or is at risk of engaging in self harm (includes injury, suicide)
- The person is engaging in activities where there is a risk of physical harm (injury, illness, death) psychological or material harm.
- The person’s parents, carers, significant others has behaved in such a way towards the person that they have suffered, or are at risk of suffering serious psychological harm.

The following abuses are illegal under the NSW Crimes Act 1900. Many are also covered by other legislation such as The Disability Inclusion Act, 2014 and The Disability Discrimination Act, 1992

**SEXUAL ABUSE/ASSAULT**

This is where a person is subjected to sexual activities without their consent. Any sexual activity which is not wanted or not enjoyed by one partner and is for the sexual gratification of another. Sexual assault includes:

a) any sex with a person with an intellectual disability with the intention of taking advantage of their vulnerability. This includes any penetration of the vagina, anus or mouth by a penis or by any part of the offender’s body or any object manipulated by the offender.

b) sexual/genital fondling
c) unwilling exposure to exhibitionism and/or masturbation
d) suggestive behaviours and comments that are inappropriate or make the person feel uncomfortable or intimidated.
Consent as it relates to people with a disability is the permission or agreement given by the person to the relationship, as long as both partners are of a legal age. Legal age of consent is 16. There are two types of situations where the notion of consent is not relevant. They are where any of the above behaviours are perpetrated by an adult on a child or a worker or carer of a person with an intellectual disability where they are providing care to the person. In these instances sexual assault has occurred whether or not consent of any form was sought or obtained from the person on who the assault was committed. Consent must be given freely and be fully informed.

PHYSICAL ABUSE/ ASSAULT
This is any touching of another person that is harmful or offensive or unwanted. Any act intended to arouse fear of touch, such as shouting or threatening is also an assault. Wrongful imprisonment is deliberately confining a person in a particular place. Assault and wrongful imprisonment are civil wrongs - the victim can sue the perpetrator for damages, and criminal offences - the perpetrator can be prosecuted by the police. Examples include: hitting, slapping, pushing, burning, physical restraint, over/under medication.

EMOTIONAL/PSYCHOLOGICAL ABUSE
This refers to the allegation that the person has been harmed as a result of being subjected to behaviours such as severe verbal abuse, continual rejection, physical or social isolation, threats of abuse, harassment, frightening, dominating or bullying actions, humiliation, withholding of affection, threats of institutionalisation.

NEGLECT
This refers to allegations that a person has been harmed as a result of failure to provide adequate support, food, shelter, clothing or hygienic living conditions. It also includes failure to provide adequate information and education in the use of poisons, alcohol and drugs. Physical neglect - when nutritional, medical or other physical needs are deliberately ignored. Emotional or developmental neglect - when an individual is deprived of the basic human interactions required for the development of normal behaviour.

VICTIMISATION
This includes verbal or physical harassment.

FINANCIAL ABUSE
This is when a person’s money is taken from them or used in a way that is not helpful or beneficial to them. Examples include; denying a person access to their money, forcing a person to change their will, taking a person’s possession or money.

People in our community who are most vulnerable to harm, risk of harm, abuse, neglect and victimisation…

- People with a disability
- People who are elderly
- People with mental illness or mental health issues
- People with substance abuse issues
- Children and young people
- Babies under one
- Toddlers under three
- People who are homeless
- People in unequal relationships (eg. family violence)
Causes and characteristics of abuse and neglect: a summary  
(focus = people with a disability and people who are elderly)...

CAUSES

- Abuse is a widespread complex social phenomena. It is not simply an issue of people being abused by individuals.
- Risk of being abused is not of equal weight for every member of society. There are some groups that are more at risk than others - children more than adults, women more than men, and people with disabilities more than people without disabilities.
- Older people and people with a disability are especially vulnerable to being abused in our society because they have been made powerless. This is not because they have a disability as such, but as a result of the way they are viewed and subsequently treated eg. they are considered to have no value, not be important, have no feelings and so on. People with a disability are not just different, they are deviant/despised (Westcott, 2003)
- Historically the consequence of these ways of viewing people with disabilities and older people has been that they have been isolated, abused, neglected and denied their human rights (Westcott, 2003)
- Abuse is often systemic - it can be designed ‘into’ services unintentionally. For example:
  - people with a disability being segregated from society in dehumanising institutions,
  - emotional needs ignored by being isolated from developing ‘normal’ meaningful social lives in the community,
  - being subjected to harmful medical/physical intervention with the intent of managing ‘challenging behaviour’. Many abusive practices have been seen as a ‘normal’ part of how people with a disability should be ‘supported’ when in fact they have been criminal acts. Even so they have often been sanctioned by law and so called ‘professional practice’. For example; physically restraining someone without their consent constitutes assault (unless a *restricted practice has been authorised) (French et all, 2010)
- Widespread abuse can only be prevented by gaining social justice and equality in society. More recent legislation, social policy and changing attitudes in Australia are reflecting a growing movement to the empowerment and valuing of people with disability in the community and people in care generally.

CHARACTERISTICS

- Both adults and children experience abuse
- Abuse is more often than not perpetrated by someone known to, and often trusted by, the victim.
- Overwhelmingly the perpetrators of abuse are men.
- Both men and women are victims of abuse. Women are more frequently abused then men.
- People with disability suffer the same traumatic effects as a result of being abused as anyone else.
- There is a higher incidence of abuse against people with a disability than people without a disability.

WHAT DOES THIS MEAN FOR USER’S OF SUPPORT SERVICES?

- Older people and people with a disability are abused by people they know and trust. This includes people who are providing them with direct care. The most common perpetrators of abuse against older people and people with disability are their carers or family members, workers paid to provide care, and other people with a disability.
Men are most commonly the perpetrators of abuse. In the provision of accommodation services, women are generally housed with men. This continues to happen even if any of the men are known perpetrators of abuse. Service design is not necessarily keeping women safe.

Women who also have a disability are doubly jeopardised in terms of risk of abuse. Commonly women’s services in the community such as refuges, counselling and legal aid, do not offer women with disabilities the support services that they require. Services do not acknowledge the increased vulnerability of older women and women with a disability.

The effects of abuse on people with disability are often made more severe because it is the behavioural symptoms which are acted on. Too often, emotional needs are interpreted by professionals as challenging behaviours. Community support services such as counselling services are often not able to respond to the needs of people with disabilities. Also the needs of the victim are often ignored as is demonstrated when they are the ones who are moved or not able to access respite.

Certain environments increase the risk of abuse and neglect. Consider these possible, (and very real factors for many people with a disability who access services) and how they increase the risk of abuse and neglect - isolation, segregation, lack of privacy for individuals, inadequate and/or untrained staff, lack of supervision and support, housing incompatible people together and/or continue to house victims with perpetrators of abuse, minimal opportunities for skill development and/or rights/self advocacy training.

Living in the community – social inclusion - has been one way of addressing some of these factors. All evidence suggests that ‘genuine’ community living is far safer for people with a disability but groups homes in the community (some label as ‘mini institutions’) are environments where risk of abuse is still relatively high.

**INCIDENCE OF ABUSE**

It is difficult to know the incidence of abuse against people in care because:

- There are research limitations due to people defining abuse differently.
- Living arrangements mean that people in care are isolated from the community to whom they could complain, victims are dependent on services where abuse may be occurring,
- People in care are sometimes unfamiliar with their rights or are not supported in standing up for their rights,
- Difficulty in determining incidents of neglect and victimisation as these are rarely recorded
- People do not always recognise that they are being abused. This is because of the way society has devalued people with a disability and the dominance of attitudes such as people with a disability have no feelings

However, it is accepted that people in care are more vulnerable to abuse and there have been several studies which do give an indication of the scale of the problem (refer to the above references and more recent media reports). It is widely acknowledged that there is at least 1 ½ times higher incidence of abuse against people in care than in the community.

*The common effects of abuse and neglect…*

People may be affected by their experiences of abuse in a number of different ways. No two people will react in the same way. Although this list is not exhaustive, commonly found effects include:

**Physical issues:**
- Injury
- Insomnia/sleep deprivation
- Pregnancy
- Illness/infection
• Poor health
• Death

Psychological/emotional issues:
• Depression
• Poor self esteem
• Self hatred
• Passivity
• Ambivalence towards family member or carer
• Distorted ideas about social and intimate relationships
• Apathy
• Fearfulness
• Anxiety
• Helplessness
• Withdrawal
• Paranoid behaviour or confusion
• Resignation

These effects can last many years after the abuse and neglect has occurred. People can then have less ability to cope with life and take on destructive patterns such as living in an abusive relationship, having difficulty trusting people, being abusive or violent to others and engaging in ongoing self harm.

Recognising harm, risk of harm, abuse and neglect…

INDICATORS (SIGNS AND SYMPTOMS)
As the name suggests listed below are ‘indicators’ of abuse and neglect. One indicator in isolation does not constitute conclusive proof that abuse or harm is occurring. In most cases it will be a ‘cluster’ of indicators noticed over time that indicate abuse or neglect is occurring or occurred.

When working regularly with a person with a disability you will get to know them well and you will notice signs when something is wrong. Consider a happy and outgoing individual who has recently become very quiet and withdrawn. What could be some of the possible reasons for their change in behaviour? Of course there are all sorts of reasons why a person’s behaviour changes that have nothing to do with abuse and neglect – they might be nervous about starting a new job or worried about a friend who is very ill. Regardless, it’s our job to find out! As noted above, all too often, indicators of abuse and neglect in a person with a disability have been misinterpreted as ‘challenging behaviour’ or viewed as ‘a feature of their disability’. These misinterpretations stem from the negative attitudes and pervasive stereotypes held about people with a disability in our community.

When a person has been abused or neglected they may not be able to tell anyone about it or not want to tell anyone about it. This is particularly so for a person who has a disability. Common reasons for this include:
• They are unable to communicate clearly and meaningfully (eg. they do not use speech to communicate and do not have another means of clear and meaningful communication)
• They have no-one they trust to tell
• They think no-one will believe them
• They have been threatened with further harm if they tell anyone.
• They don’t understand what is happening to them
It is therefore vital that support workers are alert to indicators and develop a warm, genuine and trusting relationship with those they are supporting.

**Common signs of abuse – Physical and Sexual**
- Discrepancies between injury and history
- Facial swelling or missing teeth
- Burns
- Seen by different doctors or hospitals
- Unexplained accidents or injuries
- Bruising and abrasions
- Conflicting stories between clients and carers
- Unexplained physical trauma to a person’s genitals, breast or bottom, bruising, cuts, headaches, ear problems, bone fractures
- STI’s
- Pregnancy
- Changes in weight

**Common signs of abuse – Psychological**
- Loss of interest in self or environment
- Passivity
- Ambivalent towards family member or carer
- Apathy
- Fearfulness
- Lack of eye or facial contact with carer
- Huddled or nervous around carer
- Reluctance to talk openly
- Helplessness
- Withdrawal
- Insomnia/sleep deprivation
- Paranoid behaviour or confusion
- Resignation

**Common signs of abuse – Material and Financial**
- Reluctance to make a will
- Loss of jewellery and personal property
- Unprecedented transfer of funds
- Improper attainment, or misuse of a power of attorney
- Loss of financial material eg. bank books, credit cards, cheque books
- Bills not paid when money entrusted to a third party ie. Carer
- Management of a competent persons finances by another
- Sudden inability to pay bills: rent, buy food or participate in social activities
- Unexplained withdrawal from bank accounts
- Cashing of personal cheques
- Removal of cash from wallet

**Common signs of abuse – Behavioural**
- Afraid – of one or many persons
- Irritable – or easily upset
- Abusive or aggressive towards others
- Depressed or withdrawn
Lack of interest
Changing sleep pattern
Changing eating habits
Thoughts of suicide
Attacks of shaking, trembling and crying
Rigid posture
Presenting as helpless, hopeless or sad
Contradictory statements not from mental confusion
Reluctance to talk openly
Avoids contact, eye, physical or other with carer
Waiting for carer to answer
Worried or anxious for no obvious reason

Common signs of abuse – Behavioural signs in Abusers
- Reluctant to allow victim to be interviewed alone
- Difficulty in managing their own life
- Taking control of a victims assets and resources
- Using threats, insults, harassment
- Child-like treatment of the victim
- Avoiding contact – eye, verbal, physical
- Excessively concerned or unconcerned
- Responding defensively making excuses or evasive, hostile etc.
- Medical attention sought from a variety of sources
- Refusing treatment for the victim
- Blaming the victim eg. for wandering or incontinence

Common signs of abuse – Environmental
- The living arrangements may reflect an inability or unwillingness from the carer to adequately provide for the person
- Poor hygiene
- Poor sanitation
- Poor sleeping conditions
- Disrepair
- Unable to access food or water
- Poor heating
- Fire hazards
- Be careful not to let personal standards influence judgement

Common signs of Neglect
- Malnourishment
- Isolation
- Unmet physical needs
- Poor health/ongoing illness
- Pressure sores
- Poor hygiene
- Lacking essential aids eg. Spectacles, hearing aids, dentures
- Inappropriately medicated
- Inadequate supervision
Common signs of Self Neglect

- Poor hygiene/lack of personal care
- Unhygienic living environment
- Inability/refusal to pay bills
- Guarding of independence and privacy
- Frugality
- Reclusive behaviour
- Shrewdness, fear, distrust of others
- Hoarding of items/rubbish
- Malnutrition, dehydration
- Inappropriate eating habits
- A menagerie of pets

Issues of harm, risk of harm, abuse and neglect may also be reported to workers by the client, other workers or carers. While this may be reported in a clear, direct way it may also occur more indirectly. Other sources of information include previous contact notes or files of the person.

Responding to harm, risk of harm, abuse and neglect...

All workers have a duty of care to respond to suspected signs of abuse or neglect. People with a disability will often rely on another person to respond to a situation of risk and to ensure their safety, yet we know that abuse is under-reported and older people and people with disability are most often abused by people they know and trust, including those that are paid to care for them.

Support workers often face barriers when they need to respond to situations of risk but these must be broken down if people with a disability are to feel safe. These barriers may stem from their own attitude towards people with a disability, the attitudes of those they work with or issues concerning ‘organisational culture’.

Harm, risk of harm, abuse and neglect must be responded to appropriately. Responses can range from removal of the risk, reporting to appropriate parties/bodies, investigation, engaging specialist support and referral. Which response is appropriate will depend on legislation, the workers job role and organisational procedures. If you have concerns about the safety, welfare or well being of a person always:

- Attend to and support the person – their safety and physical, psychological and emotional health is the number one priority
- Document the facts (person’s file, incident report, hazard report)
- Report your concerns to your Manager or Supervisor and other relevant party where necessary. This will depend on such things as legislation, the person’s age and the nature of the situation. Other relevant parties include the Police, Emergency Services and Family and Community Services.
- Make an appropriate referral where necessary. Relevant examples here include:
  - Disability Abuse and Neglect Hotline
  - Mental Health Crisis Teams
  - Family and Community Services
  - Medical Specialists
  - Counsellors – critical/crisis, sexual assault, personal, financial
- Maintain effective communication (written and verbal) with the agency you are referring the person to.
- Follow your organisational policy and procedures
The principles of appropriate intervention...

- Encourage and assist individuals to make their own decisions
- The interests of the victim come first
- Intervention is focussed on the victim
- Victims of violence, threats, intimidation and harassment should be offered legal protection
- Confidentiality is respected
- The victim has the right to an independent advocate of choice
- Remember…..it is not your responsibility as a support worker to investigate the matters concerning abuse or neglect but to respond appropriately.

People with a disability (and their Carers) have the right to:

- Be and feel safe
- Be treated with dignity and as an individual
- Be told about their options
- Make their own decisions
- Culturally appropriate assistance
- Be consulted and participate in developing support services

Services are to ensure a safe environment

The current WHS legislation has very clear requirements of services in relation to the safety of their staff and the people they support. These requirements include what they should do about fire safety, maintenance of property and reporting and acting on hazards.

It is also a part of the duty of care of staff to ensure that any foreseeable danger or risk is dealt with. An example of a service’s responsibility to keep people safe is in relation to fire safety. This shows the importance of:

- Making sure the environment is safe
- Having policies and procedures to ensure things are done in the best possible way
- Providing training for everyone involved

Roles and Responsibilities of Services in Keeping People Safe

Services should have one or several policies in relation to abuse and neglect issues.

Funded services must meet their obligations under the Disability Service Standards, NDIS Code of Conduct and NDIS Practice Standards (and other relevant legislation). This includes the protection of human rights and freedom from abuse. The main responsibilities of services include having:

- Policies and procedures in relation to prevention
- Procedures for reporting and responding
- Staff training on ‘risk of harm/abuse and neglect and people with a disability’ and the appropriate responses and reporting requirements.
- Service user training on protective behaviours, rights and self advocacy, accessing information and support services.

*Restricted practices* can only be used in very limited situations where there are detailed procedures for their use in place and where the appropriate consent has been given. Without consent, the use of restricted practices may constitute assault or wrongful imprisonment.