

Welcome

Welcome to the first e-news update for the NSW Ombudsman's disability-related work.

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Disability Reportable Incidents

The [Disability Reportable Incidents Scheme](#) started on 3 December 2014, and has had a very busy first six months.

In addition to receiving a large number of individual notifications from service providers, our office has been providing training across the sector on the new scheme, as well as specific training on handling and responding to serious incidents. If your organisation is interested in this training, please contact our team. You will find details for the Disability Reportable Incidents team later in the newsletter.

We have established a Best Practice Working Group to support our reportable incidents work and to reflect to the sector the key themes that are emerging through the scheme. The group has now met four times and will continue to meet on a quarterly basis. Thank you to all of the individuals who donate their time to be part of this group – we appreciate the skills and experience you bring to the table.

We have engaged David Elliot, a former Director of the FACS Joint Investigation and Response Team (JIRT), to develop a practice guide and related resources for direct support workers in NSW to assist them in their immediate response to incidents and allegations of abuse and neglect of people with disability. This resource will be available soon, and we will provide a more detailed update in our next e-news update.

Six months in

We have welcomed the sector's engagement with the Disability Reportable Incidents scheme, and have been working proactively with services across NSW to assist in their initial responses to incidents.

As at the end of June, we have received 342 notifications, including:

- 202 (59%) employee to client incidents
- 104 (30%) client to client incidents

- 34 (10%) notifications of serious unexplained injuries, and
- two (1%) breaches of AVOs.

We have been working on the development of data sets to capture the number and type of reports being received through the Scheme. The following pie charts show the breakdown of reportable incidents under the two main categories of (1) employee to client, and (2) client to client. The NJ tag is reference to those incidents that have been assessed by our team as not meeting the definition of a reportable incident and therefore 'not in jurisdiction'.

Figure 1 Employee to Client data breakdown

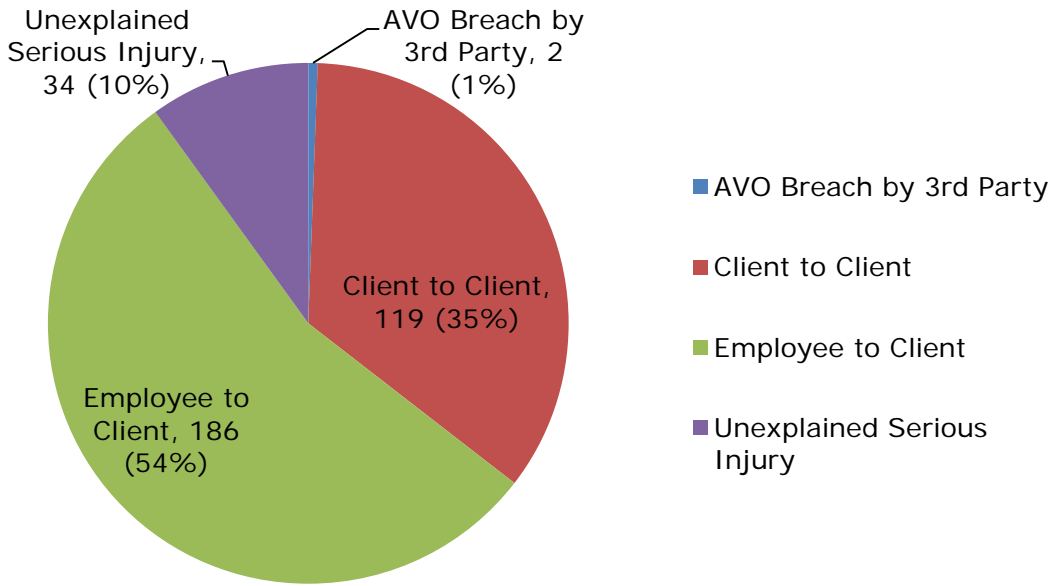
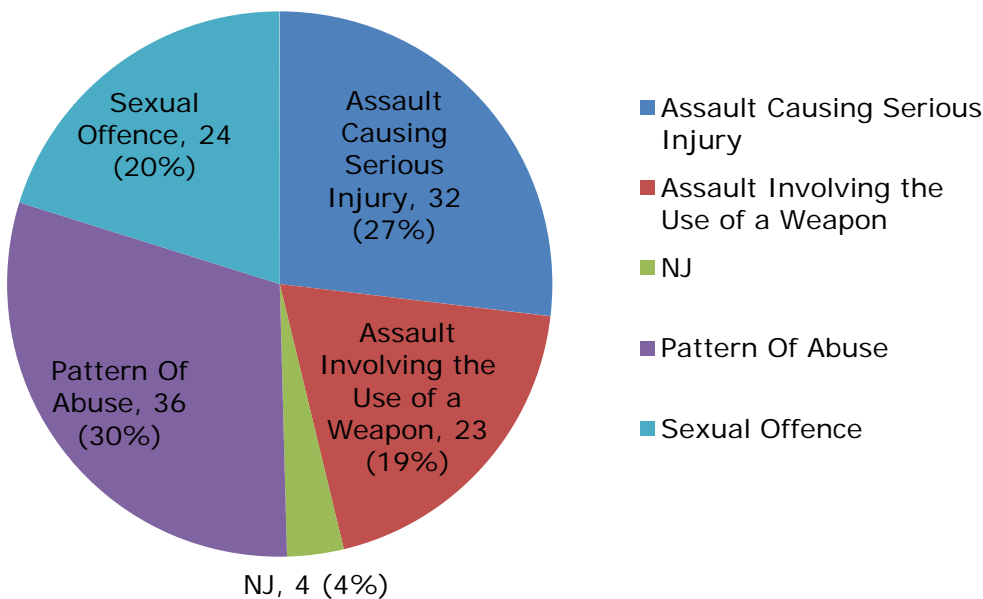


Figure 2 Client to Client data breakdown



Day programs are in jurisdiction

After consultation with FACS (Ageing, Disability and Home Care), we have determined that, subject to the qualifications below, an incident which occurs in a day program that is funded under the *Disability Inclusion Act 2014* is in the jurisdiction of the Disability Reportable Incidents scheme – **if the person involved in the incident lives in supported group accommodation.**

Under section 25P(1) of the Ombudsman Act, day programs should notify our office of the following matters:

Employee to client incidents where the incident involves an employee of a funded disability service provider (such as a day program) and a person with disability living in supported group accommodation. The location of the incident is not restricted to the site of the group accommodation and can therefore be at the day program (or elsewhere).

Client to client incidents where the incident occurs in a day program between clients who live in the same supported group accommodation.

Unexplained serious injuries where the injury relates to a person with disability who lives in supported group accommodation.

With respect to reporting to our office and any subsequent investigation of the incident, there should be close communication between the day program and supported group accommodation provider. In terms of which agency should generally take the lead in connection with the reportable incidents, the following examples provide guidance:

1. In an employee to client matter where the incident occurs at a day program, and the subject of allegation is an employee of that service, the day program should notify our office and conduct the risk assessment and investigation.
2. In a client to client matter where the incident occurs at a day program, the day program provider should notify our office, advise the supported group accommodation provider of the incident, and inform the accommodation provider that our office has been notified. While the initial risk assessment should be conducted by the day program, the accommodation provider should also conduct a risk assessment following the incident. The investigative response should be jointly settled by the day program and accommodation providers, with effective ongoing communication.
3. In unexplained serious injury matters, depending on where the injury is most likely to have been sustained, the day program or supported accommodation provider should notify our office, and lead the investigative response. Both providers should investigate if the likely location of origin is unknown.

Engagement with NSW Police

Our office has emphasised the importance of the early engagement of NSW Police when incidents or allegations involve conduct which may meet a criminal threshold.

We are encouraging service providers to build relationships with their NSW Police Local Area Command (LAC) to assist in seeking advice from police when incidents occur or allegations are made, and to get advice directly from police as to whether a matter should be formally reported to police.

We also advise services to ensure that they consult with NSW Police before embarking on their own investigation into an incident or allegation. It is vital that NSW Police have an opportunity to conduct their own inquiries before a service provider commences their investigation.

The Disability Reportable Incidents team

The seven members of our team are outlined below. Please contact us directly via email or phone if you have any questions or concerns.

Anthony Holton, Director
Email: aholton@ombo.nsw.gov.au phone: 02 9286 1049

Carol Berry, Principal Investigator ¹/Principal Project Officer (Practice Reform)
Email: cberry@ombo.nsw.gov.au phone: 02 9286 1086

Meredith Brown, Principal Investigator ²
Email: mebrown@ombo.nsw.gov.au phone: 02 9286 1068

Nicole Blundell, Senior Investigation Officer
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Alex Holtom, Administrative Officer
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We look forward to continuing to work with you to improve the safety and wellbeing of people with disability in supported accommodation in NSW.

¹ Carol Berry is responsible for client to client, and breach AVO notifications.

² Meredith Brown is responsible for employee to client, and unexplained serious injury notifications.

In addition to the Disability Reportable Incidents scheme, we have a range of other functions relating to people with disability. Below is a snapshot of some of our current or recent work.

Federal Senate Inquiry into violence, abuse and neglect of people with disability

In April 2015, we made a submission to the Federal Senate Inquiry into violence, abuse and neglect against people with disability in institutional and residential settings: [NSW-Ombudsman-submission-to-Federal-Senate-inquiry-into-abuse-and-neglect-of-people-with-disability-April-2015_web.pdf](#).

The submission includes detailed advice about the hands-on, active nature of our role in relation to the operation of the disability reportable incidents scheme, and the employment-related child protection reportable conduct scheme.

National Disability Insurance Scheme (NDIS) and complaints

As part of a formal agreement between the NSW and Commonwealth Governments, the NSW Ombudsman has the same role and functions in the NDIS launch sites as we do in the rest of NSW. This includes jurisdiction over mainstream services, and supports purchased as part of an NDIS participant's plan.

We are promoting our complaint-handling role in the NDIS launch sites to participants, their supporters, and service providers, and have developed an [easy English information sheet for NDIS participants](#). We are regularly attending conferences, public and stakeholder information sessions and other meetings in Sydney and the Hunter to explain our role in relation to the NDIS, and to gain information about the issues participants, their supporters, service providers and other parties are experiencing in the transition to the full scheme.

In July, we will be undertaking a range of consultations with NDIS participants and their supporters, and service providers, to discuss their experiences of the NDIS, and our role in relation to the scheme. In partnership with the Commonwealth Ombudsman, we will hold a community education and complaints outreach session on 23 July 2015 to discuss our respective complaint handling roles in relation to the NDIA and NDIS funded supports. On 24 July, we will be holding separate focus groups with mental health service providers, consumers and carers to discuss their experiences of the NDIS.

For more information, contact Terri Cohen, Senior Investigation and Review Officer, on tcohen@ombo.nsw.gov.au or 9286 1033.

Development of the NDIS quality and safeguarding framework

In May 2015, we made a submission to the Commonwealth Government in relation to the proposal for an NDIS quality and safeguarding framework: [NSW-Ombudsman-submission-on-Proposal-for-an-NDIS-Quality-and-Safeguarding-framework-May-2015.pdf](#). Among other things, the submission emphasises the need for:

- individual advocacy for people with disability
- a strong and well-considered framework for the provision of timely, accessible and ongoing decision-making support for participants and other people with disability
- an independent, national oversight body, with responsibilities that include complaint handling; overseeing the handling of reportable incidents; conducting ongoing reviews into the effectiveness of aspects of the NDIS; community education and training; promoting access to advocacy and supported decision-making; and monitoring the implementation of the National Disability Strategy
- a national community visitor scheme
- a reporting and independent oversight system for serious incidents (including deaths)
- significant findings from any legislated reportable incident scheme to feed into any legislative system for screening individuals who are applying to work with people with disability, and
- effective and efficient online reporting systems for complaints, serious incidents and restrictive practices.

For more information, contact Kathryn McKenzie, Director Disability, on kmckenzie@ombo.nsw.gov.au or 9286 0984.

Improving accommodation and support for people with psychosocial disability

We are continuing to monitor the work of FACS and Health in response to the recommendations from our [Denial of Rights: the need to improve accommodation and support for people with psychiatric disability report from November 2012](#). In July 2015, we will meet with FACS, Health and the NSW Mental Health Commission to gain an update on the progress of the work to transition long-stay patients from mental health facilities to more appropriate community-based accommodation.

Reviewable disability deaths report

On 29 June 2015, we tabled in Parliament our biennial report relating to the deaths in 2012 and 2013 of 239 people with disability in residential care: [Report-of-reviewable-deaths-in-2012-and-2013-Volume-2-Deaths-of-people-with-disability-in-residential-care-2.pdf](#)

Key issues identified in the report relate to:

- recognising and responding to critical situations (such as identifying illness and taking action)
- managing individual risks (including choking, respiratory and fracture risks)
- support to access medical treatment and support in hospital, and
- access to preventative health support.

The report includes a focus on planning for the health needs of people with disability in the transition to the NDIS. This chapter highlights the crucial need for careful planning and capacity building to meet the health needs of people with disability in the transition to the NDIS, and makes a number of recommendations in this regard.

For more information, contact Kathryn McKenzie, Director Disability, email kmckenzie@ombo.nsw.gov.au or phone 02 9286 0984.

Access to preventative health programs

Our reviews have consistently identified the significant health risks faced by people with disability in residential care associated with smoking, obesity and other lifestyle factors such as poor diet and lack of physical activity. We have emphasised the need for people with disability to be identified as a priority group in population health strategies aimed at helping people to make healthy choices, including reducing smoking rates and obesity.

In recent months, we have met with the NSW Office of Preventative Health and the Centre for Population Health in relation to the [NSW Healthy Eating and Active Living \(HEAL\) Strategy](#). The strategy is a NSW Health initiative aimed at reducing overweight and obesity rates across adults, young people and children in NSW through healthy eating and active living. Our discussions with Health have focused on opportunities for making preventative health programs, such as HEAL, accessible and workable for people with disability, particularly people with intellectual disability and/or mental illness living in residential care.

We have stressed the need for input from disability support services and peak bodies including FACS, NDS, NSWCID, the NSW Mental Health Commission and MHCC. To facilitate progress in this area, we will organise a meeting with the NSW Office of Preventative Health and representatives from the disability sector.

For more information, contact Maree Fenton-Smith, Senior Investigation and Review Officer, on mfentonsmith@ombo.nsw.gov.au or 9286 0919.

Rights project with people with disability

This financial year, we will commence a project involving significant rights-based work with people with disability, with a focus on people with significant levels of cognitive impairment, and people with complex needs. The project will involve partnerships with people with disability, advocates, complaints bodies and other key agencies, and will include development of accessible information and support for people with disability about their rights.

We will provide further details on this work in the next Disability e-News Update.

Official Community Visitors

Official Community Visitors (OCVs) are independent statutory appointees of the Minister for Disability Services and the Minister for Family and Community Services. There are currently 28 Visitors in the scheme, and we recently recommended 10 new Visitors for appointment.

OCVs visit people with disability in residential care and assisted boarding houses, and children and young people in residential out-of-home care. We coordinate the OCV scheme and provide support to the Visitors. On 26 May 2015, the latest OCV Annual Report was tabled in Parliament: <http://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/community-visitors/official-community-visitors-annual-report-2013-2014>. The report provides a useful snapshot of the key work and outcomes of the Visitors, and includes the personal accounts of people with disability and young people on their experience of living in residential care, and their contact with Visitors.

This year marks the 20th year of operation of the OCV scheme in NSW. The Ombudsman's office is planning on holding an event later this year to celebrate the work of OCVs over the past two decades.

For more information, contact Katerina Paneras, Manager OCV Scheme, email kpaneras@ombo.nsw.gov.au or phone 02 9265 0412.

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