

# **Royal Commission into Institutional Responses to Child Sexual Abuse**

## **Issues Paper 8 – Experiences of Police and Prosecution Responses**

### **Submission**

Children with Disability Australia  
June 2015

## INTRODUCTION

Children with Disability Australia (CDA) welcomes the opportunity to contribute to the Royal Commission into Institutional Responses to Child Sexual Abuse Issues Paper 8 - Experiences of Police and Prosecution Responses.

This submission will provide a brief overview of the experiences of children with disability accessing police and prosecution responses and highlight relevant considerations of equal access to justice for children with disability. CDA previously provided information of relevance to this issue in a Scoping Paper provided to the Royal Commission. This submission will draw on information provided in the Scoping Paper as well as a submission provided by CDA to the Australian Human Rights Commission addressing access to justice in the criminal justice system for people with disability.

## CHILDREN WITH DISABILITY AUSTRALIA

CDA is the national representative persons organisation for children and young people with disability, aged 0-25 years. The organisation is primarily funded through the Department of Social Services (DSS) and is a not for profit organisation. Project funding is also currently received from the Australian Government Department of Education. In addition, CDA has received funding from DSS to contribute to the work of the Royal Commission into Institutional Responses to Child Sexual Abuse. Through this work CDA provides information, referral and systemic advocacy regarding the experiences of children with disability who have experienced sexual abuse.

CDA has a national membership of over 5000 individuals and families. CDA provides a link between the direct experiences of children and young people with disability and their families to federal government and other key stakeholders. This link is essential for the creation of a true appreciation of the experiences of and challenges for children and young people with disability.

CDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CDA's purpose is to advocate systemically at the national level for the rights and interests of all children and young people with disability living in Australia and it undertakes the following to achieve its purpose:

- **Listen and respond** to the voices and experiences of children and young people with disability.
- **Advocate** for children and young people with disability for equal opportunities, participation and inclusion in the Australian community.
- **Educate** national public policy-makers and the broader community about the experiences of children and young people with disability.
- **Inform** children and young people with disability, their families and care givers about their citizenship rights and entitlements.
- **Celebrate** the successes and achievements of children and young people with disability.

## EXPERIENCE OF CHILDREN WITH DISABILITY IN AUSTRALIA

The disadvantage confronting children and young people with disability is profound. Children with disability typically contend with discrimination, low expectations, limited resources and opportunities, inadequate support and exclusion.

Major barriers to full participation and inclusion in social and economic life exist for children with disability. Published statistics reveal the considerable disadvantage experienced by children with disability across a range of life areas:

- 543 000 children and young people aged 0-24 years (7.3% of all children and young people aged 0-24 years) in Australia have disability.<sup>1</sup>
- Nationally, the representation of children with disability aged 3-5 years in a preschool program (5.1%) was lower than their representation in the community (6.3%) though this varies across jurisdictions.<sup>2</sup>
- 312 500 people with disability were reported as having a schooling or employment restriction.<sup>3</sup>
- 26% of people with a disability do not go beyond Year 10, compared to 18% of people without a disability.<sup>4</sup>
- 36% of people aged 15-64 years with reported disability had completed year 12 compared to 60% of people without a disability.<sup>5</sup>
- 42% of young people with disability neither work nor study<sup>6</sup>.
- 15% of people aged 15-64 with disability had completed a bachelor degree or higher compared to 26% of people without disability.<sup>7</sup>
- People with disability in Australia are only half (50%) as likely to be employed as people without disability.<sup>8</sup>
- 45% of people with disability in Australia live in or near poverty, more than double the OECD average of 22%.<sup>9</sup>
- 6.6% of DSP recipients were 16-24 years in 2013.<sup>10</sup>

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<sup>1</sup> Australian Bureau of Statistics 2012, 'Disability, Ageing and Carers, Australia: Summary of Findings, 2012', Commonwealth of Australia, Canberra.

<sup>2</sup> Productivity Commission 2014, *Report on Government Services 2014*, Commonwealth of Australia, Canberra, viewed 18 August 2014, [http://www.pc.gov.au/data/assets/pdf\\_file/0010/132310/rogs-2014-volumeb-child-care-education-and-training.pdf](http://www.pc.gov.au/data/assets/pdf_file/0010/132310/rogs-2014-volumeb-child-care-education-and-training.pdf), p. 3.23.

<sup>3</sup> ABS 2012, 'Disability, Ageing and Carers, Australia: Summary of Findings, 2012', Commonwealth of Australia, Canberra.

<sup>4</sup> Australian Bureau of Statistics 2009, 'Persons Aged 15-64 years, selected characteristics – by level of highest educational attainment', *Survey of education training and experience 2009: State and Territory Australian tables*, Commonwealth of Australia, Canberra.

<sup>5</sup> Australian Bureau of Statistics 2012, *Disability, Ageing and Carers, Australia: Summary of Findings*, 'Disability - Education and Employment', Commonwealth of Australia, Canberra, viewed 13 March 2015, <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/E82EBA276AB693E5CA257C21000E5013?opendocument>.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> PricewaterhouseCoopers 2012, *Disability expectations: Investing in a better life, a stronger Australia*, PwC, Australia, viewed 18 March 2015, <http://www.pwc.com.au/industry/government/assets/disability-in-australia.pdf>.

<sup>9</sup> Ibid.

<sup>10</sup> Australian Government Department of Social Services 2013, *Characteristics of Disability Support Pension recipients June 2013*, Commonwealth of Australia, Canberra, p. 10.

Most children with disability aged 0-14 years (99.7%) live with their families, representing a significant population shift from the previous practice of institutionalisation.<sup>11</sup> Despite this shift in historical living arrangements, children with disability regularly engage with institutional care providers such as schools, health and personal care providers, disability services, clubs and societies and churches.

Statistics reveal that a high proportion of children with disability rely upon service providers for their activities of daily living:

- 67% of children with disability (0-14 years) require assistance with day to day activities.<sup>12</sup>
- 95% of children with disability (0-14 years) receive some form of assistance. Of this cohort 91% receive informal assistance (family and friends), 67% receive formal paid assistance. 63% receive a combination of formal/informal care.<sup>13</sup>

## **ABUSE OF CHILDREN WITH DISABILITY**

Children with disability experience abuse at a remarkably higher rate than children without disability. CDA members report incidents of abuse (including sexual abuse, physical abuse, emotional abuse and neglect) in a variety of institutional settings.

Abuse experienced in these settings is often not recognised as abuse by the institution. Abuse and restrictive actions are often not recognised as such because the child or young person involved has a disability. Withdrawal of food and drink as punishment and the use of physical and chemical restraint are common examples of routine abuses.<sup>14</sup> If a child without disability were subject to these same abuses there would be significant community outcry.

There is a great paucity in local data on the prevalence of abuse of children and young people with disability. International research shows that children with disability are 3.4 times more likely to be abused than children without disability, and 3.14 times more likely to be sexually abused than children without disability.<sup>15</sup>

Available research has found that:

- Children with communication impairments, behaviour difficulties, intellectual disability and sensory disability experience higher rates of abuse.
- Abuse and neglect of children and young people with disability is likely to be under-reported.
- Children with disability are often abused on multiple occasions (the incidence of abuse).
- This maltreatment is significant (the impact of abuse).<sup>16</sup>

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<sup>11</sup> Australian Bureau of Statistics 2008, *Australian Social Trends*, 'Families with a Young Child with a Disability', Commonwealth of Australia, viewed 2 June 2015, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Chapter4002008>

<sup>12</sup> Australian Bureau of Statistics 2012, *Australian Social Trends*, 'Children with a Disability,' Commonwealth of Australia, viewed 11 June 2015, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features30Jun+2012#Need>

<sup>13</sup> Ibid.

<sup>14</sup> S. Robinson 2012, *Enabling and Protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*, Children with Disability Australia, Melbourne, p13.

<sup>15</sup> J. Knutson and P. Sullivan 2000, 'Maltreatment and disabilities: A population-based epidemiological study', *Child Abuse and Neglect*, Vol. 24, Issue10, p. 1257 and 1265.

<sup>16</sup> Robinson 2012, *Enabling and Protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*, p10.

CDA knows of many examples where abusive practices and assault experienced by children and young people with disability are routine practice, downplayed by the institution and/or rationalised as 'behaviour management.' A recent example brought to CDA's attention involved a school principal trapping a four year old student under his chair. The student's mother attempted to report this incident to the police who advised her they would not take a statement.

A common theme of these incidents is a failure of the institutions involved to adequately respond. Examples of this include parents, caregivers and criminal justice agencies not being notified when abuse has occurred and a general attitude that appears to reflect that these incidents are not considered to be crimes.

**Recommendation 1: Establishment of mechanisms to collect state and national data on the incidence of abuse of children with disability.**

**Recommendation 2: Funding of research that reliably identifies the scale and prevalence of sexual abuse of children with disability in Australia.**

## THE IMPACT OF ABLEISM

Contemporary views of disability that are discriminatory contribute to the current social context in which children with disability are disproportionately vulnerable to sexual abuse and less likely to have equal access to justice responses. The overarching attitude that constructs people with disability as inferior is known as ableism. Ableism has been defined as:

(Discriminatory) and exclusionary practices that result from the perception that being able-bodied is superior to being disabled, the latter being associated with ill health, incapacity, and dependence. Like racism, ableism directs structural power relations in society, generating inequalities located in institutional relations and social processes.<sup>17</sup>

The dehumanisation inherent to ableism contributes to a social context in which children with disability are devalued. A critical effect of ableist attitudes is that people do not see the child first, but focus on disability. This positioning is evident when people refer to children with disability using othering language such as 'they' or 'it.' Examples of ableist attitudes that relate to the sexual abuse of children with disability include:

- Children with disability are less likely to be believed when sexual abuse is reported;
- It is assumed that children with disability cannot comprehend the world around them;
- It may be assumed that children with disability do not understand what has happened and therefore are not affected by sexual abuse;
- Communication of the distress caused by sexual abuse through behaviour is misattributed to a child's disability; and
- Cases of sexual abuse of children with disability may not be prioritised or considered as grave as cases of sexual abuse of children without disability.<sup>18</sup>

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<sup>17</sup> M. McLean, 2008, 'Teaching about disability: An ethical responsibility?' *International Journal of Inclusive Education*, Vol. 12, No. 5, p. 607.

<sup>18</sup> D. Skarbek, K. Hahm, P. Parrish 2009, 'Stop sexual abuse in special education: An ecological model of prevention and intervention strategies for sexual abuse in special education,' *Sexuality and Disability*, Vol. 27, No.3; Hershkowitz et al. 2007, 'Victimization of Children with Disabilities,' *American Journal of Orthopsychiatry*, Vol. 7, No. 4.; Robinson 2012, *Enabling and Protecting*.

Ableism and discriminatory attitudes position children with disability as inferior, helpless, dependent and incapable of comprehending the social world. It is the view of CDA that the ableist positioning and dehumanisation contributes to the vulnerability of children with disability to sexual and other abuses.

## ACCESS TO JUSTICE

An overwhelming concern of CDA is that there is a significant disconnection between what is known to be a high prevalence of abuse of children and young people with disability and the response and involvement of the criminal justice system.

The Australian Human Rights Commission found that “(whether) a person with disability is the victim of a crime, accused of a crime or a witness, they are at increased risk of being disrespected and disbelieved and of not enjoying equality before the law.”<sup>19</sup> The aggregate effects of these failures of the justice system to provide access and support for people with disability compound the disadvantage faced by people with disability and increase the risk of experiencing ongoing violence and abuse.<sup>20</sup>

As a signatory to both the United Nations *Convention on the Rights of the Child* and the *Convention on the Rights of Persons with Disabilities*, Australia has committed to upholding the human rights of children with disability under international law. Each Convention provides a framework of expectation that children with disability be free from all forms of exploitation, violence and abuse,<sup>21</sup> torture or cruel, inhumane or degrading treatment<sup>22</sup> and enjoy liberty and security of person.<sup>23</sup> These human rights are reinforced with a commitment to effective and equal access to justice, whereby procedural and age-appropriate accommodations must be made and individualised supports provided.<sup>24</sup>

National policy frameworks that address the protection of children and access to justice for people with disability are the *Framework for Protecting Australia’s Children 2009-2020* and the *National Disability Strategy (NDS)*. The *Framework for Protecting Australia’s Children 2009-2020* advocates for a focus on prevention of child abuse and neglect with tailored responses to support families under stress.<sup>25</sup> The National Disability Strategy was developed by the Commonwealth, State and Territory governments through the Council of Australian Governments (COAG). The NDS sets a 10 year reform plan from 2010-2020 for all Australian governments to address the barriers faced by people with disability. It aims to ensure that mainstream services and programs including healthcare, housing, transport and education, address the needs of people with disability and operate in accordance with the principles of the *Convention on the Rights of Persons with Disabilities*.

The NDS highlights the importance of equality before the law and effective access to justice as a priority action area.<sup>26</sup> Despite this national strategic focus on equal access to justice, there is still

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<sup>19</sup> Australian Human Rights Commission (AHRC) 2014, *Equal before the law: Towards disability justice strategies*, viewed 5 August 2014,

[https://www.humanrights.gov.au/sites/default/files/document/publication/2014\\_Equal\\_Before\\_the\\_Law.pdf](https://www.humanrights.gov.au/sites/default/files/document/publication/2014_Equal_Before_the_Law.pdf), p. 5.

<sup>20</sup> Ibid.

<sup>21</sup> *Convention on the Rights of the Child* (CRC) 1990, Article 19; *Convention on the Rights of Persons with Disabilities* (CRPD) 2006, Articles 16, 34, 36.

<sup>22</sup> CRC 1990, Article 37, CRPD 2006, Article 15.

<sup>23</sup> CRC 1990, Articles 16, 37, CRPD 2006, Article 14.

<sup>24</sup> CRPD 2006, Article 12 and 13.

<sup>25</sup> Council of Australian Governments (COAG) 2011, *National Disability Strategy*, Commonwealth Government of Australia, p.xi.

<sup>26</sup> COAG 2011, *National Disability Strategy*, Commonwealth Government of Australia, p.27.

great national variability in the support options for people with disability who have been victims of crime.

The *South Australian Disability Justice Plan* is an example of how the NDS can inform state based policy to reinforce the rights of persons with disability. This is illustrated in the development of *Supporting vulnerable witnesses in the giving of evidence* guidelines for the judicial system and proposed changes to the Evidence Act in *Statutes Amendment (Vulnerable Witnesses Bill 2015)*.<sup>27</sup>

**Recommendation 3: Broadening of the National Framework for Protecting Australia’s Children to include maltreatment within institutional contexts.**

**Recommendation 4: Recognition within the National Framework for Protecting Australia’s Children of the heightened risk of abuse facing children with disability and commensurate adaptations in policy and practice.**

## **BARRIERS TO REPORTING SEXUAL ABUSE**

The reporting of child sexual abuse is challenging for any child. However, children and young people with disability face numerous additional barriers in reporting sexual abuse.

In addition to the nonsexual assaults discussed previously, CDA members have reported incidents of sexual harassment of children with disability by their peers including sexual taunting and the public pulling down of a child’s pants. These and other incidents involving children with disability are at times not recognised by institutional authorities as abuse or sexual harassment. CDA rarely hears firsthand accounts from members of occurrences of criminal child sexual abuse, however, as stated previously research indicates that children with disability are at a substantially higher risk of child sexual abuse and that incidence is likely to be significantly underreported.

Available research also indicates that abuse of children with disability is frequently downplayed and deprioritised.<sup>28</sup> Institutions such as schools and disability service settings at times fail to recognise these assaults as abuse and take no action at all or manage incidents as a matter of policy and procedure. Consequently in these instances there is no referral of the matter to the police. Instituting an administrative or human resources response to a criminal matter disrespects the right of children with disability to equal access to justice and safety.

The under provision of healthy relationship and sex education training, leaves children with disability more vulnerable to abuse and ill-equipped to report abuses suffered. Having the ability and opportunity to recognise and communicate abuse is vital to empowering children to disclose experiences of abuse.

**Recommendation 5: The establishment and availability of individualised services that reinforce and teach children with disability about healthy and respectful relationships.**

For many children with disability, difficulty with verbal communication means that communication occurs through behaviour. A change in behaviour may indicate the child's distress, but is often misattributed to their disability, leading to a failure to look at the meaning or reason for behaviour in these instances. Similarly, children who have unmet supported communication requirements may experience challenges in effectively communicating an experience of abuse.

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<sup>27</sup> Attorney General’s Department 2014, *Disability Justice Plan*, Government of South Australia.

<sup>28</sup> Robinson 2012, *Enabling and Protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*, p16.

Multiple assessors of capacity become involved at various levels of the justice process; parents, members of the institution, police, lawyers, prosecutors and judges.<sup>29</sup> Each of these assessments of a child's capacity to report on abuse may be skewed by discriminatory ableist views of capacity. All of these assessors have a part to play in whether allegations of child sexual abuse are ever reported to police, let alone proceed to prosecution.

**Recommendation 6: Training for staff working with children and young people with disability to safeguard their rights to safety; recognise harm, respond early and effectively to maltreatment, and support recovery of children and young people.**

**Recommendation 7: Organisational training in institutional care and judicial environments to address ableism, to aid the development of a culture that values people with disability and recognises diversity in support needs.**

## **POLICE RESPONSES**

There are a number of factors that inhibit the reporting of crime by victims with disability generally, including a lack of protection services for people with disability, the failure of the justice system to provide support and adjustments to assist people with disability participating in the system and discriminatory attitudes that position people with disability as being unable to make reliable statements.<sup>30</sup>

Police play a gate-keeping role in whether complaints of sexual abuse are investigated, charges laid and referred to prosecution. This requires police and criminal justice workers to treat allegations of sexual abuse from children with disability as serious crimes and strive to uphold the procedural and human rights of children with disability in these circumstances.

CDA members have reported experiences of police being unwilling to take a statement from a child either based on the assumption that they are not capable of making a statement or because there is no communication support available for victims who require it. The Australian Human Rights Commission finds that subjective discriminatory views of individual police officers may influence the willingness of officers to arrange required supports to assist individuals to make a statement.<sup>31</sup> This can stem from a limited understanding of different communication abilities, minimal experiences of working with children and young people with disability and an ableist institutional and community culture.

The refusal of police to take statements from children with disability contravenes the sections of the United Nations *Convention on the Rights of the Child* that specifies the rights of the child victim and the child witness. The Convention states:

The child victim and the child witness of a crime must be given an opportunity to fully exercise her or his right to freely express her or his view...<sup>32</sup> In particular, this means that every effort has been made to ensure that a child victim or/and witness is consulted on the

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<sup>29</sup> D. Brown, and C. Lewis 2013, 'Competence is in the Eye of the Beholder: Perceptions of intellectually disabled child witnesses', *International Journal of Disability Development and Education*, Vol 60, No. 1, p.6.

<sup>30</sup> Australian Human Rights Commission 2013, *Access to justice in the criminal justice system for people with disability*, Sydney, p.2-3.

<sup>31</sup> AHRC 2014, *Equal before the law: Towards disability justice strategies*, viewed 5 August 2014,

[https://www.humanrights.gov.au/sites/default/files/document/publication/2014\\_Equal\\_Before\\_the\\_Law.pdf](https://www.humanrights.gov.au/sites/default/files/document/publication/2014_Equal_Before_the_Law.pdf), p. 19.

<sup>32</sup> CRC 1990, Article 62.



relevant matters with regard to involvement in the case under scrutiny, and enabled to express freely, and in her or his own manner, views and concerns regarding her or his involvement in the judicial process.<sup>33</sup>

The right of the child victim and witness is also linked to the right to be informed about issues such as the availability of health, psychological and social services, the role of a child victim and/or witness, the ways in which “questioning” is conducted, existing support mechanisms in place for the child when submitting a complaint and participating in investigations and court proceedings, the specific places and times of hearings, the availability of protective measures, the possibilities of receiving reparation, and the provisions for appeal.<sup>34</sup>

A Victorian study which investigated the outcomes of 850 reported rape cases in Victoria found that of the 209 individuals identified as having disability, that just under half (49.3%) did not proceed due to no further police action.<sup>35</sup> The study also found that cases that resulted in no further police action were more likely in the case of younger adults.<sup>36</sup> No statistics were available as to the direct experience of children with disability in relation to prosecution and charge rates.

Rather than a view of disability that makes assumptions about the competence of children with disability, police and other criminal justice agencies should focus on providing supports for children with disability to make statements. This is supported by the Australian Human Rights Commission who recommend that criminal justice agencies “(provide) during interviews a sexual assault counsellor, disability support advocate or specialist disability lawyer to support adults and children with disabilities who have been sexually assaulted or experienced violence.”<sup>37</sup>

## PROSECUTORIAL RESPONSES

The standard of proof for investigating a criminal matter is very high. Demonstrating 'beyond reasonable doubt' in any sexual assault case is subsequently very challenging, creating a context in which a high proportion of sexual assault reports do not proceed to charges being laid and a prosecution pursued.<sup>38</sup> In this already challenging justice environment, children with disability face additional barriers to pursuing prosecution.

The low estimation of the capacity of children with disability to provide accurate and reliable accounts of their experience encountered at an initial reporting level, can extend into the court process. An example of this was given by Brown and Lewis whose research demonstrated that children with intellectual disability were more likely to be perceived by jurors as less accurate historians than their peers without disability.<sup>39</sup> However, the same research found that if provided with the individualised ‘developmentally sensitive communication strategies’ that children with intellectual disability can be accurate historians of their experience.<sup>40</sup> This potential mismatch of

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<sup>33</sup> Ibid., Article 63.

<sup>34</sup> CRC 1990, Article 64.

<sup>35</sup> Z. Morrison 2008, ‘What is the outcome of reporting rape to the police? Study of reported rapes in Victoria 2000-2003: Summary Research Report,’ *Australian Institute of Family Studies ACSSA Newsletter No. 17*, viewed 22 May 2015, <http://www3.aifs.gov.au/acssa/pubs/newsletter/n17.html>

<sup>36</sup> Ibid.

<sup>37</sup> AHRC 2014, *Equal before the law: Towards disability justice strategies*, p. 34.

<sup>38</sup> Morrison 2008, ‘What is the outcome of reporting rape to the police? Study of reported rapes in Victoria 2000-2003: Summary Research Report.’

<sup>39</sup> Brown and Lewis 2013, ‘Competence is in the Eye of the Beholder: Perceptions of intellectually disabled child witnesses’, p.12.

<sup>40</sup> Ibid, p.6.

perceived and actual capacity, is one illustration of the continuing impact of ableist bias within the judicial system.

The perpetuation of the stereotype that people with disability make “poor witnesses”, continues to inform hesitance to proceed with charges and prosecution of crimes against children with disability. The curtailed opportunity to demonstrate credibility as a witness in a court of law further perpetuates this stereotype.<sup>41</sup>

In a situation where a case proceeds to court, court proceedings too often do not accommodate individual support needs of witnesses.<sup>42</sup> *The Convention on the Rights of Persons with Disabilities* affirms that the court system must take necessary measures to ensure that people with disability have the individualised supports required to 'exercise their legal capacity'.<sup>43</sup> For each individual, the accommodations made will be unique. These could involve; regular breaks, provision and utilisation of assistive technologies and/or a communication assistant, flexible questioning style, pre-taping of evidence, minimising the number of times a victim’s statement has to be recounted and interviewing in a different setting.<sup>44</sup> This cannot be a one-size-fits-all approach but rather an adjustment of practice that accommodates every witnesses’ individual support needs on a case by case basis.

**Recommendation 8: Training criminal justice agencies around the rights of children with disability who are victims of crime.**

**Recommendation 9: Provision of training to police, lawyers, judges and juries redressing the common assumption that individuals requiring communication support will not be reliable witnesses.**

**Recommendation 10: Development of mechanisms to regularly assess and monitor the accessibility of justice procedures nationally.**

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<sup>41</sup> AHRC 2014, *Equal before the law: Towards disability justice strategies*, p. 23-24.

<sup>42</sup> Brown, and Lewis, 2013, 'Competence is in the Eye of the Beholder: Perceptions of intellectually disabled child witnesses', p.6

<sup>43</sup> CRPD 2006, Article 12.

<sup>44</sup> Attorney General's Department (AGD) 2014, *Supporting vulnerable witnesses in the giving of evidence: Guidelines for securing best practice*, Government of South Australia.

## RECOMMENDATIONS

**Recommendation 1:** Establishment of mechanisms to collect state and national data on the incidence of abuse of children with disability.

**Recommendation 2:** Funding of research that reliably identifies the scale and prevalence of sexual abuse of children with disability in Australia.

**Recommendation 3:** Broadening of the National Framework for Protecting Australia's Children to include maltreatment within institutional contexts.

**Recommendation 4:** Recognition within the National Framework for Protecting Australia's Children of the heightened risk of abuse facing children with disability and commensurate adaptations in policy and practice.

**Recommendation 5:** The establishment and availability of individualised services that reinforce and teach children with disability about healthy and respectful relationships.

**Recommendation 6:** Training for staff working with children and young people with disability to safeguard their rights to safety; recognise harm, respond early and effectively to maltreatment, and support recovery of children and young people.

**Recommendation 7:** Organisational training in institutional care and judicial environments to address ableism, to aid the development of a culture that values people with disability and recognises diversity in support needs.

**Recommendation 8:** Training criminal justice agencies around the rights of children with disability who are victims of crime.

**Recommendation 9:** Provision of training to police, lawyers, judges and juries redressing the common assumption that individuals requiring communication support will not be reliable witnesses.

**Recommendation 10:** Development of mechanisms to regularly assess and monitor the accessibility of justice procedures nationally.

## CONCLUSION

All children have the right to safety, protection from harm and timely, responsive access to justice. Too often, these rights for children with disability are not upheld, and sometimes, are actively denied. Recognition of the additional vulnerability to abuse experienced by children with disability, the range of abuses experienced and the myriad of barriers faced in reporting and accessing the judicial process, is essential to realising the basic human rights of children with disability to equal access to justice.

Please do not hesitate to contact CDA if you would like to discuss further any aspects of this submission. Thank you for the opportunity to provide a submission to this consultation.

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