



# Draft Accessibility Strategy of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

Submission by Children and Young People with Disability Australia, September 2019

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Children and Young People with Disability Australia (CYDA) is the national representative organisation for children and young people with disability aged 0 – 25 years. CYDA has an extensive national membership of over 5,000 young people with disability, families and caregivers of children with disability, with the majority of our members being families.

CYDA'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.

CYDA is pleased to provide this submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability on the Draft Accessibility Strategy.

## Key issues

### **Identify children and young people with disability as a priority group for engagement in the Royal Commission**

Children and young people with disability and their families/caregivers are largely absent in the Draft Accessibility Strategy.

The abuse and neglect of children and young people with disability is a longstanding and pervasive social problem. Children and young people with disability experience violence and abuse at approximately three times the rate of children without disability.<sup>1</sup> Violence and abuse is perpetrated against children and young people with disability in schools,

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<sup>1</sup> See, Robinson 2012, [Enabling and Protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability](#), p. 12; Children and Young People with Disability Australia, Melbourne. See also: Robinson, S. & McGovern, D. (2014) [Safe at School? Exploring safety and harm of students with cognitive disability in and around school](#). Lismore, Centre for Children and Young People. Report completed for the NSW Law and Justice Foundation.

educational and child care settings, including out-of-home care, and remains a widespread, unaddressed problem in Australia.<sup>2</sup>

Compared to their peers, women and girls with disability experience significantly higher levels of all forms of violence more intensely and frequently and are subjected to violence by a greater number of perpetrators.<sup>3</sup>

Although the Foundations section (p. 7) recognised “the evolving capacities of children with disability and the right of children with disability to preserve their identities”, a separate accessibility group needs to be created for children and young people with disability. It is recommended a separate statement include the particular risk factors children and young people face, along with gender based risks.

### **Ensure children and young people with disability and their families are heard and can safely engage with the Royal Commission**

CYDA together with other disability representative organisations wrote to the Royal Commission on 8 September 2019 to express serious concerns that supports and safeguards need to be in place for people with disability and their allies before the Royal Commission consultation process begins including opening submissions, public hearings and community forums.

Although the National Disability Advocacy Program (NDAP) and a free national telephone counselling and referral service will be available from October 2019 for people engaging with the Disability Royal Commission<sup>4</sup>, the burden for people with disability and their families/caregivers to use their own supports in the meantime goes against the trauma-informed processes outlined in the Draft Accessibility Strategy. We urge the Royal Commission to wait until individual and systemic advocacy, legal advice and counselling services are in place before proceeding further with public consultation and hearings.

A key priority is that the free supports available for the Royal Commission process are published in accessible formats and broadly disseminated, including national services and those in states and territories. Accessible support services are also required. For example telephone support may be inaccessible or inadequate for people with hearing impairment, intellectual or psychosocial disabilities.

The Royal Commission needs to ensure participation of children and young people with disability who are harder to reach, including those in youth detention, out of home care or living in rural and remote areas. Therefore we recommend the Royal commission have

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<sup>2</sup> The evidence base describing egregious breaches of the human rights of children and young people with disability in schools is rapidly increasing. See for eg: Children and Young People with Disability Australia (CYDA) (August 2016) [Bullying and abuse of school students with disability at alarming levels: Media Release 9 August 2016](#). See: Australian Broadcasting Corporation (ABC) (16 August 2016) [School investigated after claims boy with autism locked in 'cage'](#). Australian Broadcasting Corporation (ABC) (31 August 2016) [School accused of leaving teen with autism outside on beanbag for whole term](#). The Canberra Times (11 August 2016) [Autism cage details emerge as United Nations investigates abuse of children](#). See also: Senate Community Affairs References Committee (November 2015) [Final Report: 'Violence, abuse and neglect against people with disability in institutional and residential settings'](#). See also: Senate Education and Employment References Committee (2016) [Final Report: Access to real learning: the impact of policy, funding and culture on students with disability](#)

<sup>3</sup> Women With Disabilities Australia (WWDA) ['WWDA Position Statement 1: The Right to Freedom From All Forms of Violence'](#). WWDA, September 2016, Hobart, Tasmania. ISBN: 978-0-9585268-6-9

<sup>4</sup> Department of Social Services. Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability <https://www.dss.gov.au/disability-and-carers/royal-commission-into-violence-abuse-neglect-and-exploitation-of-people-with-disability>

mechanisms to encourage them to participate and be heard and report regularly on the engagement process.

CYDA recommends the Royal Commission adopt a context based approach to better understand, prevent and respond to abuse and neglect of children and young people with disability, for example abuse and neglect in education.

### **Create trauma informed processes specifically for children and young people with disability and their families**

CYDA welcomes the adoption of the principles of trauma informed engagement. However asking a victim to talk about their experiences of violence, abuse, neglect and exploitation can be profoundly re-traumatising. It can be quite intimidating for a child or young person with disability to speak to a panel or large audience or to speak in private with a stranger about their negative experience without the right environment and supports. Providing safe and comfortable spaces with the right supports for children and young people with disability are needed.

Supported decision making for children and young people should be available. Trauma informed services such as legal advice, counselling and advocacy services with competency in working with children and young people and their families are needed to help them to self-advocate and make informed decisions.

### **Define violence, abuse, neglect and exploitation as they relate to children and young people with disability**

The Accessibility Strategy needs to define the meaning of violence, abuse, neglect and exploitation and the different contexts and relationships where these can occur for children and young people with disability. These can include: denial of rights, crimes in the community, family violence, abuse, neglect or exploitation, poor quality domiciliary care, poorly commissioned, resourced or regulated care and non-criminal abuse by peers with and without disability<sup>5</sup>. It is also important to acknowledge factors increasing the risks of maltreatment to occur.

Many children and young people with disability and their families and caregivers are unaware of what maltreatment is or whether it is occurring. CYDA research has shown that abuse and neglect of children and young people with disability is underreported, minimised or underplayed. Therefore it is critical the Royal Commission listens to the voice of children and young people with disability to understand their concerns and how these have impacted on them. This will provide valuable information for prevention and response in the future.

The Draft Accessibility Strategy notes disability awareness training will be provided to all Royal Commission employees. There is no mention on training in disability accessibility and inclusion or training in violence, abuse, neglect and exploitation concepts and contexts where this can occur for people with disability. Training for employees of the Commission should be provided by disability advocates and self-advocates. The Self Advocacy Resource Unit, [Voice at the Table](#), is an example of high quality training on disability accessibility and inclusion.

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<sup>5</sup> CYDA (2014). *Enabling and Protecting: Proactive Approaches to Addressing the Abuse and Neglect of Children and Young People with Disability* P 10, 11. <https://www.cyda.org.au/enabling-and-protecting>

## **Adhere with all human rights instruments and laws and ensure institutions perpetrating abuse are held to account**

The Royal Commission should adhere not only to the rights-based approach of the United Nations Convention on the Rights of Persons with Disability (UNCRPD) but also to other rights instruments and laws such as the National Principles for Child Safe Organisations.

The Commission should adhere to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law through developing a national complaint and redress scheme for people with disability who have experienced violence, abuse, neglect and exploitation<sup>6</sup>. This is an important step to improve accessibility and engagement in the Royal Commission by reassuring potential participants that their rights will be upheld, there will be consequences for institutions that perpetrate abuse, and it will be prevented in the future.

The Accessibility Strategy needs to include a mechanism to access information from institutions or organisations working with people with disability so the Royal Commission process is not only complaints based at an individual level. This will ensure accountability and trust in the Commission process.

## **Recommendations**

- Include a separate statement for children and young people with disability in the Accessibility Strategy acknowledging the risk factors they face.
- The Disability Royal Commission adopt a context-based approach which can help to better understand, prevent and respond to violence, abuse, neglect and exploitation.
- Ensure there are mechanisms to encourage children and young people with disability to participate and be heard in the Royal Commission, including those in youth detention, out of home care, rural and remote areas, and report regularly on the engagement process.
- Develop a list of free supports available for people wishing to engage with the Royal Commission, including those funded by the Australian Government and those in states and territories, and disseminate widely.
- Clearly define violence, abuse, neglect and exploitation for people with disability, including children and young people.
- Provide training for Royal Commission employees on violence, abuse, neglect and exploitation concepts and contexts, and inclusion of people with disability.
- Adhere to human rights instruments and laws and hold institutions perpetrating abuse to account.

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<sup>6</sup> Australian Disabled People's Organisations (DPOs), Disability Representative Organisations (DROs) and Disability Advocacy Organisations (2019). *Disability Rights Now 2019 Australian Civil Society Shadow Report to the United Nations Committee on the Rights of Persons with Disabilities: UN CRPD Review 2019* (p. 28). <https://dpoa.org.au/wp-content/uploads/2019/08/CRPD-Shadow-Report-2019-English-PDF.pdf>

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