Issues Paper

The experience of First Nations People with Disability in Australia

9 June 2020
Introduction

The experiences of Australian First Nations people with disability are a key area of inquiry for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission).

Data shows that a disproportionate number of First Nations people live with a disability or some form of long term health condition. First Nations people with disability may face particular challenges in their day to day lives, including accessing education and healthcare and contact with the criminal justice and child welfare systems. These challenges can be further compounded by multiple layers of discrimination, particularly in relation to race and disability.

First Nations people with disability have the right to live free from violence, abuse, neglect and exploitation. We want to hear from First Nations people with disability, their families, communities and community organisations, about what can be done to more effectively prevent and respond to violence, abuse, neglect and exploitation.

We want to hear your views about the role of governments, institutions and communities in preventing and responding to violence, abuse, neglect and exploitation of First Nations people with disability. We also want to hear about what is already being done well, and any examples of effective approaches.

A list of questions are included at the end of this paper. The questions are a guide. You do not have to answer every question or any of the questions. More information about how to respond to this issues paper is at the end of the paper.

If you wish to share an individual experience of violence, abuse, neglect or exploitation, experienced by you or another person with disability, please consider making a submission. You can contact us in writing, by telephone or by sending a video. More information is on our website.

Attachment A sets out the Royal Commission’s working definitions of violence, abuse, neglect and exploitation for your information.
A human rights-based approach

We are committed to the rights of people with disability. Australia has ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD).³ This means that Australia has agreed to respect, protect and fulfil the rights described in the CRPD, including for First Nations people.⁴ Australia has also endorsed the United Nations Declaration on the Rights of Indigenous Peoples⁵ (UNDRIP), which, together with the CRPD, provide the foundational human rights standards for First Nations people with disability. These include the key principles of:

- safety and dignity
- self-determination
- respect for and protection of culture
- equality and non-discrimination.

The experiences of First Nations people with disability was referenced by the United Nations Committee on the Rights of Persons with Disabilities (the UN Committee) in its recent Concluding Observations on the combined second and third periodic reports of Australia.⁶ Of particular note were the UN Committee’s references to:

- the difficulties faced by First Nations people with disability in accessing services through the National Disability Insurance Scheme⁷
- the need to involve First Nations people with disabilities and their representative organisations in all aspects of the design, implementation and monitoring of the Australian Government Plan to Improve Outcomes for First Nations People with Disability.⁸

We understand there are many barriers that can prevent First Nations people with disability from the full enjoyment of their human rights. We want to understand what those barriers are and identify what steps can be taken to overcome them.
A life course approach

We are interested in learning about and understanding the experiences of First Nations people with disability across their life. A life course approach involves considerations of how transitions between life stages, such as moving from schooling years and into the workforce as a young person, have life-long impacts for people. People with disability may need extra supports for transitions in their lives.

We want to find out what changes are needed to support First Nations people with disability across the course of their lives and ensure they are able to live a life free from violence, abuse, neglect and exploitation. We will be considering a range of factors that affect First Nations people with disability, including opportunities to prevent violence, abuse, neglect and exploitation.

As the diagram below details, for First Nations people with disability, risk factors can include intergenerational trauma, poorer health, more frequent contact with the criminal justice and child protection systems and experiences of systemic discrimination, which may leave them vulnerable to violence, abuse, neglect and exploitation.9

Figure 1. Issues facing First Nations people with disability and people with disability in different setting across their life course10

This diagram shows some of the issues facing First Nations people with disability across their life course, including in different settings such as health, justice and education.11
Why is the Royal Commission looking into First Nations people with disability?

The Royal Commission’s terms of reference require us to consider the specific situation of violence against, and abuse, neglect and exploitation experienced by First Nations people.12

Previous studies and inquiries have found that compared to the general population that First Nations people with disability are at greater risk of experiencing harm, including being more likely to:

- have experienced threats of physical violence13
- have poorer health outcomes than other Australians with disability14
- have experienced problems accessing health services15
- have been removed and/or had relatives removed from their family16
- experience high or very high levels of psychological distress17
- be detained due to a cognitive disability, foetal alcohol syndrome or other disability18
- be reliant on government pensions or allowances as their main source of personal income19 and less likely to be studying and in jobs.20

Both people with disability and First Nations people are at greater risk of experiencing harm than the general population. First Nations people who also have disability have a dual status, something referred to as ‘double discrimination.’ 21 The compound effect of this dual status can further marginalise First Nations people with disability and place them at increased risk of abuse and neglect at both individual and systemic levels.22

We want to hear from First Nations people with disability, their families, communities and community organisations, about their specific experiences, and what can be done to more effectively prevent and respond to violence, abuse, neglect and exploitation. We want to understand the factors associated with harm, barriers to accessing the necessary support, and examples of best practice. This includes models of care that are designed, developed and delivered by First Nations communities that might contribute to improved safeguards and better outcomes for this significant segment of the Australian population with a disability.
Community-led solutions

First Nations peoples and organisations have consistently emphasised the importance of having a say in matters that affect them, and the positive role of culture in achieving improved outcomes for First Nations people. The 2016 Redfern Statement, which was made by a coalition of Aboriginal and Torres Strait Islander peak bodies, on behalf of First Nations communities, emphasised:

*It is time that Aboriginal and Torres Strait Islander voices are heard and respected, and that the following plans for action in relation to meaningful engagement, health, justice, preventing violence, early childhood and disability, are acted upon as a matter of national priority and urgency.*

More recently the Closing the Gap ‘refresh’ has sought to shift from government-led policies towards a partnership approach that values the voices of First Nations peoples and prioritises community-led solutions. This shift reflects the growing evidence that approaches led by First Nations peoples are generally better suited to the needs of individuals, families and communities, and are more effective in achieving better outcomes for First Nations people.

In line with this, the First People’s Disability Network of Australia has called for the development of a First Nations disability sector. In acknowledging this call from the national peak body, the Royal Commission wishes to better understand what such a sector would look like and how it would operate alongside existing frameworks.

We want to hear about initiatives that are led by First Nations peoples and are designed to protect the rights of First Nations people with disability and prevent experiences of violence, abuse, neglect and exploitation. We also want to understand how these approaches can be further supported and expanded.
Questions

The following questions are to assist First Nations people, communities and organisations, as well as other stakeholders, to share their insights and expertise with the Royal Commission.

You are welcome to answer as many of these questions as you wish. You do not need to answer them all and your response does not have to address any of the questions. We know that many of you will already have an idea of what you would like to tell us and we welcome your contribution.

In your response, you may want to consider different settings, for example, education, healthcare, workplaces, the justice system, home, online communities, and families. You might also want to consider different life stages (e.g. childhood, adulthood) and transition points (e.g. school to work).

Question 1

As a First Nations person, what are your experiences of disability? How does it affect you, your family and your community?

Question 2

How do First Nations people think about, identify with, and respond to disability in their communities? What role do First Nations languages and culture play in the inclusion and protection of people with disability in the community?

Question 3

What are the experiences of First Nations people with disability regarding violence, abuse, neglect and exploitation?

Question 4

What do you see as the priority areas that can help prevent and better respond to violence, abuse, neglect and exploitation of First Nations people with disability?

Question 5

Do you think that the age, gender, or sexual identity of a First Nation’s person with disability can impact on their experiences of violence, abuse, neglect or exploitation? If so, how?
Question 6

How can current systems better prevent or respond to experiences of violence, abuse, neglect and exploitation of First Nations people with disability? This might include areas, such as:

- the NDIS
- justice
- health
- education and
- out of home care.

Question 7

What are the experiences of First Nations people with disability, including children, in early learning services, with child protection and/or out of home care systems? Do you have any examples that illustrate those experiences?

Question 8

Have any government strategies, policies or practices increased or reduced the risk of exposure to violence, abuse, neglect and exploitation of First Nations people with disability?

Question 9

What are some examples of culturally appropriate responses to preventing violence, abuse, neglect and exploitation and supporting First Nations people with disability? What lessons can we learn from First Nation communities and their cultural governance systems? What are the challenges in implementing culturally safe and appropriate responses and programs?

Question 10

What could be done to strengthen disability support and advocacy services for First Nations peoples with disability? How might a national First Nations disability sector be developed and sustained?

Question 11

Are there examples of good practice for First Nations people with disability taking place in regional and remote areas? If so, what are they?

Question 12

What else would you like to tell us?
Responding to this issues paper

Responses to this issues paper can be provided by:

- email to DRCEnquiries@royalcommission.gov.au
- letter to GPO Box 1422, BRISBANE QLD 4001
- phone on 1800 517 199 or +61 7 3734 1900 (between 9:00am to 6:00pm AEDT Monday to Friday). We can make a time with you to take your response over the phone.

Responses can be in writing, an audio recording or a video recording. Responses can be in any language. The Royal Commission will translate the response to English.

We encourage responses by 11 September 2020. Responses will also be accepted after this date.

Support to respond to this issues paper

Blue Knot Foundation offers specialist counselling support and a referral service for anyone affected by the Disability Royal Commission.

For support please call their national hotline on 1800 421 468 (they are open every day).

In addition to the Blue Knot Foundation, the Australian Government provides support to assist people to engage with the Royal Commission. This support includes:

- free legal advisory services provided by National Legal Aid and the National Aboriginal and Torres Strait Islander Legal Services through the Your Story Disability Legal Service
- advocacy support services provided under the National Disability Advocacy Program.

Further information about these supports, including how to access them, is available on our website: disability.royalcommission.gov.au/counselling-and-support.

How we will use your response

All responses will inform the work of the Royal Commission.

We may make your response public, unless you tell us not to. You can request your response be anonymous.

If you refer to individual experiences or case studies, it is your responsibility to make sure the individual has consented to their information being published.
We may publish your response on our website and your response may also be referenced in any public document prepared by the Royal Commission, for example, our interim and final reports.
Attachment A – Definitions

The Royal Commission has provisionally defined key terms as follows:

First Nations people – Aboriginal and Torres Strait Islander people.

Violence and abuse – include assault, sexual assault, constraints, restrictive practices (physical and chemical), forced treatments, forced interventions, humiliation and harassment, financial and economic abuse and significant violations of privacy and dignity on a systemic or individual basis.

Neglect – includes physical and emotional neglect, passive neglect and wilful deprivation. Neglect can be a single significant incident or a systemic issue that involves depriving a person with disability of the basic necessities of life such as food, drink, shelter, access, mobility, clothing, education, medical care and treatment.

Exploitation – means the improper use of another person or the improper use of or withholding of another person’s assets, labour, employment or resources including taking physical, sexual, financial or economic advantage.

1 Australian Bureau of Statistics, National Aboriginal and Torres Strait Islander Health Survey, Australia, 2018–19, Catalogue number 4715, 26 May 2020, Table 4.3.
2 Scott Avery, Culture is inclusion, First Peoples Disability Network Australia: Sydney, N.S.W, 2018, p 37.
7 CRPD/C/AUS/2-3, Adopted by the UN Committee at its twenty-second session (26 August-20 September 2019), Advanced Unedited Version, 23 September 2019, 5(e).
8 CRPD/C/AUS/2-3, Adopted by the UN Committee at its twenty-second session (26 August-20 September 2019), Advanced Unedited Version, 23 September 2019, 8.
9 Scott Avery, Culture is inclusion, First Peoples Disability Network Australia: Sydney, N.S.W, 2018, p 41.
10 Figure 1 describes issues facing First Nations people with disability and all people with disability throughout the life course. The Royal Commission prefers the use of the term “communication disabilities,” in place of the diagram’s reference to “communication impairments”.
11 Scott Avery, Culture is inclusion, First Peoples Disability Network Australia: Sydney, N.S.W, 2018, p40-1.
14 Senate Community Affairs References Committee, Parliament of Australia, Bridging our growing divide: inequality in Australia, The extent of income inequality in Australia, Ch 4, December 2014, p 104.


21 First Peoples Disability Justice Consortium, April 2016 Submission 39 to Inquiry into Indefinite detention of people with cognitive and psychiatric impairment, 16.


25 Commonwealth of Australia, Department of the Prime Minister and Cabinet, *Closing the Gap Prime Minister’s Report* 2020, p9.
