



**Royal Commission**  
into Violence, Abuse, Neglect and Exploitation  
of People with Disability

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# Issues Paper

Overview of responses  
to the first Education and  
learning Issues paper

28 July 2020

Please be aware that the content and associated questions in this paper may be distressing or raise issues of concern for some readers.

There are a range of services available if you require support after reading this paper. Contact details for these services are located at the end of this paper under the heading 'Support'.

## Outline

### The first Education and learning Issues paper

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability published the Education and Learning Issues Paper (Education Issues Paper) on 30 October 2019 and invited responses by 20 December 2019, though responses were accepted after this date.

The Education Issues Paper outlined our preliminary understanding of some of the key issues and barriers experienced by people with disability in realising their right to education and explored the Royal Commission's Terms of Reference in the context of education and learning. Thirteen questions were asked within the paper and responses were invited from the public.

### Purpose of this document

This document provides a brief summary of what we have been told in responses to the Education Issues Paper. The responses express a range of views and some are very detailed. This summary is not an authoritative statement of the contents of the responses. We will consider all responses received to this issues papers in the course of our work.

### Scope of this document

This document does **not** summarise what we have been told so far in submissions, community forums, private sessions, public hearings or via research projects that relate to education. However, all information provided to the Royal Commission informs our work.

The Interim Report, due not later than 30 October 2020, will provide more detailed discussion of the information we have received so far about education for people with disability and their experiences of violence, abuse, neglect and exploitation. The Royal Commission will continue to consider education for people with disability and seek input in a variety of ways.

## Who responded?

As at 4 May 2020, we have received 49 responses to the Education Issues Paper. A diverse mix of people and organisations responded. We have received responses from two people with disability, several family members of people with disability, including parents, academics and a range of organisations.

We did not hear from any individuals that identify as First Nations or culturally or linguistically diverse people with disability in direct response to the Education Issues Paper, or organisations who represent these groups. However, responses from some organisations addressed issues relating to First Nations people with disability and one addressed issues relating to culturally and linguistically diverse people with disability.

## What did the responses say?

### **Nature and extent of violence, abuse, neglect and exploitation**

Responses to the Education Issues Paper provided many insights into the experiences of violence, abuse and neglect of students with disability. We heard about experiences across all education systems, settings and phases.

Respondents also offered information and research on the extent of violence, abuse and neglect for students with disability. For example, responses pointed to research that indicates restraint and seclusion are used in Australian schools for a variety of purposes beyond or in addition to a protective purpose, including as a means of coercion, discipline, convenience or retaliation. Some responses also reported that bullying is a prevalent and serious issue for autistic students, who report significantly more victimisation (physical, verbal and social) than their peers without autism.

We were told of the trauma experienced by children and young people with disability following violence, abuse or neglect and how it may lead to significant mental health impacts. Some responses reported high levels of depression, stress and anxiety, as well as self-harm or suicidal tendencies, even among very young children with disability.

Respondents outlined a variety of ways that neglect can occur in education. We were told that some feel the education for students with disability is simply not considered important by others. For example, we were told that the needs of students who may experience barriers to communicating, or those with 'invisible' disabilities, may not be identified and addressed, and that for students with disabilities that don't fall within a recognised category, schools may not feel obliged to provide adequate support.

Respondents told us that these situations heighten the risk of underachievement, low self-esteem and poor mental health, which may result in both educational and emotional neglect. We also were told that a poor school culture that devalues and entrenches low expectations of students with disability may contribute to educational neglect.

A small number of responses touched on the nature of multi-layered discrimination and disadvantage in education. The Australian Centre for Disability Law stated that children and young people with disabilities of all races, genders, religions and other intersectional factors experience greater instances of violence, abuse, neglect and exploitation in education. Another response discussed the challenges associated with Foetal Alcohol Spectrum Disorder (FASD) amongst First Nations students and the impact of a high

turnover of case workers in circumstances where the student is under the care of the Minister (e.g. in out of home care or kinship care).

Women with Disabilities Australia stated that women and girls with disability are more likely to experience violence, abuse, neglect and exploitation. They also noted that current legal and policy frameworks relating to education for students with disability do not address gender.

## **Potential enablers or drivers of violence, abuse, neglect and exploitation**

Responses reported a lack of resources, supports and training for educators. One of the common barriers to accessing education for students with disability mentioned in responses is a lack of adjustments and individualised supports. We were also told that schools may argue they lack funds or capacity to implement reasonable adjustments or do not agree to the reasonable adjustments recommended by the student, parents or allied health practitioners. A number of responses expressed frustration at schools' lack of collaboration and the failure of schools to recognise parents' understanding of their child's needs.

Speech Pathology Australia highlighted the importance of ensuring students who experience barriers to communication are supported to access the curriculum. They consider the denial of a student's assistive device or other similar adjustment a restrictive practice, as in their view it effectively acts to seclude a child.

## **Perspectives on different education settings and approaches**

Responses to date have reflected a range of views, particularly about the concept and understanding of 'inclusive education' and the role of separate education settings for students with disability, such as 'special schools' and 'special education' units or classes (which were referred to by some as segregated schools, units or classes). In this overview we refer to these schools, classes and units as 'separate settings'.

The two responses from people with disability and some responses from family members indicated a desire for inclusion. Academics, representative, advocacy and other organisations referred to research which suggests academic, social and emotional benefits of inclusive education. Respondents also argued that inclusive education builds confidence, resilience, self-acceptance and self-esteem for students with disability. We also heard about research that has considered the impact of inclusive education for students *without* disability. This includes that it helps them build empathy and has neutral to slightly positive impact on their education.

Many respondents, including the Australian Human Rights Commission, noted that inclusive education is a fundamental human right recognised in Article 24 of the UN *Convention on the Rights of Persons with Disabilities* (CRPD). Responses from representative, advocacy and other organisations referenced the explanation of inclusive

education in the CRPD Committee's *General Comment No.4*, along with the Committee's distinction between exclusion, segregation, integration and inclusion. Women with Disabilities Australia and All Means All, referencing the General Comment, put forward the view that segregation in education is a form of both discrimination and systemic neglect. Responses from parents, teacher associations and special educators indicated a different understanding of inclusive education. These responses put forward the view that separate schools and units can provide an education for students with disability that is inclusive.

Some individuals and representative and advocacy groups expressed the view that once a student is placed in a separate school, it is rare that they will transition to an inclusive general education classroom. These responses outlined that that this leads to low expectations, which can continue to impact students with disability across their life.

We were also told about the research which indicates that inclusive education leads to greater employment potential, community contribution, social inclusion and independence. Some responses suggest these positives can also be achieved in a separate school or classroom, or that a separate setting can assist students to transition to inclusive environments. We received responses from parents of students with disability who attended separate schools or classes, as well as responses from teachers from these settings. They told us about positive learning experiences in these environments. They also said these settings may provide a better environment in which to differentiate education, adapt curriculum, provide specialist support and cater to diverse needs. Some told us that parents and carers should be allowed to choose the education settings that they consider best meets the individual needs of their child

In contrast, some responses expressed significant concerns about separate settings, including:

- A potential increased risk of violence, abuse or neglect, which may be associated with less oversight and accountability of these settings.
- A potential lack of resources and training for teachers in separate environments.
- greater use of restrictive practices
- That parents who choose a separate setting may not do so freely, but following poor experiences in general education settings, pressure from schools and other forms of gatekeeping<sup>1</sup>.

## **Responding to violence, abuse, neglect and exploitation**

Responses identified several barriers to reporting, investigating and responding to violence, abuse, neglect and exploitation in education settings.

We were told that complaints procedures lack independence, that there is a lack of transparency and accountability for schools and principals. Responses indicated that current mechanisms for reporting violence, abuse, neglect and exploitation are inadequate. We received information that this may be of particular concern in Catholic or

independent schools which may be subject to less oversight and regulation. We also were told that the success of reporting is often reliant on the capacity of school staff to identify reportable incidents.

Speech Pathology Australia told us that complaints processes can be inaccessible, and it can be particularly difficult for students with disability who are non-verbal to report their experiences of violence, abuse, neglect or exploitation. For students with a hearing impairment, a conflict may arise where they require an interpreter to discuss or report concerns, and the student wishes to discuss issues relating to interpretation.

We were told that students with disability, particularly women and girls, face barriers to reporting and can be at risk of abuse. This can be due to a culture of victim blaming and not being believed. We also were told that a lack of information and accessible resources for complaints processes can be a significant barrier for students with disability and their families.

We were also told that inconsistent record-keeping practices and bureaucracy in schools and education departments can exacerbate barriers to reporting and investigation.

## Potential good practice in education for students with disabilities

Respondents offered the following examples of potential good or promising practice in education for students with disability, which we will consider exploring further:

- Positive behaviour support was explained as an established method of understanding a child's challenging behaviour and responding in a way that is child-centred, focusing on the causes of behaviour. This method allows teachers to understand factors contributing to a student's behaviour and interactions, resulting in attention being diverted from dealing with concerning behaviour to ensuring the participation in learning and social activities at school.
- The Victorian Education Department's *Principles for the Reduction and Elimination of Restraint and Seclusion in Victorian Government Schools*.
- The justice sectors' use of a communication intermediary for people with disabilities, an approach that could be adapted and applied to the education and learning setting to assist the investigative process.
- NSW Department of Education's initiative to establish the Specialist Allied Health Services to Schools - Prequalification Scheme, which attempt to provide students with disability with timely and easy access to special allied health services to enable school access, attendance and participation.
- Greater legislative protections and requirements, such as in the United States, where the provision of occupational therapists for students with disability is enshrined in the *Individuals with Disabilities Education Act 1975*, and the *No Child Left Behind Act 2002* requires schools to seek to improve the academic achievement of all students.

- The ‘satellite class model’ promoted by Aspect, where an autism-specific class operates in a ‘host’ general education school
- Access to disability advisors as advocates in universities.
- Inclusive practice in early childhood settings could be instructive for other education phases.

Other suggestions included: increased knowledge of disability amongst educators; ongoing support for teachers; open communication between teachers and parents; greater accountability and recordkeeping; and a culture where there is a freedom to report issues and not fear the consequences.

A number of responses consider inclusive education a preventative measure for violence, abuse, neglect and exploitation in education and beyond. However, respondents told us that inclusive education is not well implemented in Australia because of:

- Ambiguity on what constitutes inclusive education and how it is practiced.
- Inconsistent policy approaches across jurisdictions.
- A lack of workforce capacity in general education settings to implement inclusive education.
- A lack of will from leaders to create change.
- An inherent tension between educational uniformity demanded by national curriculum and inclusive education that responds to individual needs.

## Funding and data

Funding was raised by a number of respondents as a barrier to education and potential driver of neglect for students with a disability. Responses provided information on a lack of and inappropriate use of funds within schools, inconsistent access to funding and support across jurisdictions and education systems, calls for more funding and resources and calls for change to the federal funding model for support for students with disability.

Similarly, a number of responses also raised the collection and use of data. Some were of the view that the *Nationally Consistent Collection of Data on School Students with Disability* (NCCD) should also collect data on: children who were assessed but did not qualify for an adjustment; children who applied but were not assessed; and rates of the use of restrictive practices, suspension and expulsion.

Women with Disabilities Australia indicated the challenges of existing research on education for students with disability being gender neutral. In their view, the lack of disaggregated data and intersectional research in the area of education and learning significantly undermines the ability to understand the specific experiences of women and girls with disability.

## Proposals for change

Respondents, including academics, the Australian Centre for Disability Law, the Australian Human Rights Commissions, parents and representative and advocacy organisations requested that the Royal Commission, in its work:

- Closely consider human rights instruments, including the CRPD, and ensure our recommendations regarding education align with the Australian's governments obligations under those instruments.
- Consider the broader early childhood education and care system.
- Visit separate schools and have a direct experience of the kind of support offered in these environments.

Respondents also made a range of proposals for change related to:

- The Australian government implementing the recommendations regarding inclusive education set out in the CRPD Committee's concluding observations from 2018.
- The Australian government developing a National Action Plan for inclusive education.
- Ensuring consistent policy and approaches across jurisdictions in education for students with disability, including enhanced and improved enforcement of the National Disability Strategy and the Disability Education Standards 2005 (which are currently under review).
- The reduction and elimination of restrictive practices, improved understanding among educators of what these constitute, and greater understanding and use of positive behaviour support.
- Improved implementation of reasonable adjustments, including assistive technology.
- Improved teacher training and resources, additional staff and support personnel.
- Ensuring that schools consult with a range of professionals including occupational therapists, and creating dedicated roles in schools for allied health professionals.
- Directly involving students in the implementation of inclusive education.
- Ensuring identification of needs and supports early in life, particularly for people with autism.
- Provision of wellbeing programs to assist students with disability to form and maintain social connections.
- Improved accountability and oversight of principals to ensure compliance with existing legal and policy frameworks.
- Improved independent and robust reporting, investigating and monitoring mechanisms, including the establishment of a dispute resolution process for parents and teachers.

- Expanded and improved data collection, including in relation to the use of restrictive practices, suspension and expulsion rates, and greater transparency around this data.
- The need for greater support for students with disability both inside and outside formal education settings.
- That separate education settings be reduced or eliminated, including that no new separate schools be created.
- That separate schools, classes and units be maintained, with safeguards to prevent and monitor violence, abuse, neglect and exploitation.

We will further consider and investigate these proposals and suggestions.

## How will we use the information we received?

All information provided to us, including all responses to issues papers, is carefully considered by the Royal Commission. It informs our ongoing work, including public hearings, policy processes and our research agenda. It will also inform our Interim Report and help us to develop our recommendations.

## Support

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** (9am-6pm AEST Monday – Friday, 9am-5pm AEST Saturday, Sunday and public holidays).

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](https://disability.royalcommission.gov.au/counselling-and-support)

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<sup>1</sup> Gatekeeping describes the formal denial of access to, or informal discouragement of people with disability from, attending the school or education facility of their choice.



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