



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

Issues Paper

Promoting inclusion

December 2020

Please be aware that the content and associated questions in this Issues 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 to respond to this issue paper'.

Introduction

Our terms of reference ask us to examine what should be done to promote a more inclusive society that supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation.¹

The purpose of this issues paper is to invite information and discussion from people with disability, their families, supporters, advocates, governments, institutions and the private sector on:

- what makes an inclusive society
- how can an inclusive society be promoted
- how a more inclusive society can support the independence of people with disability
- how a more inclusive society can support the right of people with disability to live free from:
 - violence and abuse
 - neglect
 - exploitation
- what are the barriers to an inclusive society for people with disability
- what practical and sustainable steps government, non-government and private sector organisations can take to promote a more inclusive society.

We welcome any and all information that will assist the Royal Commission. A list of questions is included near the end of this paper. The questions are a guide. You do not have to answer every question. 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 also consider making a submission. You can contact us in writing, by telephone, by sending a video or in any other format and in any language of your choice. More information is on our [website](#).

Attachment A sets out the working definitions of violence, abuse, neglect and exploitation used by the Royal Commission.

How we will look at promoting a more inclusive society

We will examine the issue of inclusion through a human rights, life course and intersectional approach.

Human rights

We are committed to the rights of people with disability. Australia is required under the United Nations *Convention on the Rights of Persons with Disabilities (CRPD)* to respect, protect and fulfil the human rights of people with disability.² The eight general principles of the *CRPD* include the full and effective inclusion of people with disability in society and respect for the individual autonomy and independence of people with disability.³ These principles inform the rights and obligations in the *CRPD*. This includes Article 16, the right to freedom from exploitation, violence and abuse.

Life course

We are interested in understanding the experiences of people with disability across the whole of their lives in every setting. A life course approach recognises that all stages of a person's life are not only connected with one another, but also with other people in society, and with the lives of past and future generations.⁴ For example, a person's experience of inclusion during their early years may have lifelong positive effects throughout their life whereas early experiences of exclusion may have lifelong negative effects.

Intersectionality

Our terms of reference identify that experiences of violence, abuse, neglect and exploitation are multi-layered and influenced by experiences associated with age, sex, gender, gender identity, sexual orientation, intersex status, ethnic origin or race, including the particular situation of First Nations people and culturally and linguistically diverse people with disability.⁵ We will consider the linkage between these layers and inclusion as part of our work.

Why we are looking at promoting an inclusive society for people with disability

Research has shown the benefits of inclusion, both for people with disability and the wider society.⁶ However, promoting an inclusive society in Australia is a continuing challenge and this work is far from complete.

During the 19th and much of the 20th centuries in Australia, many people with disability were locked away for life in large residential institutions.⁷ Through to the 1960s and in some cases beyond, people with disability living in the community were also kept out of sight, unable to access many public spaces.⁸

While a process of law, policy and service delivery reforms by government, non-government and private sector organisations has begun, people with disability continue to experience exclusion and segregation from social, economic, political and cultural life.⁹

What are the barriers to inclusion for people with disability?

We understand that people with disability face barriers to inclusion which can result in them being excluded or prevented from participating in society on an equal basis to others. We have heard how these barriers may impact on their independence and right to live free from violence, abuse, neglect and exploitation.

Barriers to inclusion

Across all areas of life, barriers to inclusion may arise from:

- Negative attitudes that manifest as assumptions and low expectations of people with disability. Experiences of these attitudes can affect whether people with disability feel accepted, valued and that they belong.
- Discrimination or prejudice that comes from ableism - a set of beliefs and practices about 'typical' or 'normal' abilities that feed into attitudes and the refusal to adapt to the needs of people perceived as less valued or 'abnormal'.
- Discrimination or prejudice that comes from an interaction between ableism, racism, sexism, ageism, homophobia or socio-economic factors. For example, First Nations people with disability may experience 'double discrimination' due to the interaction between their race and disability.¹⁰
- Poor recognition and respect for autonomy, independence and interdependence. This could include not recognising the right of people with disability to have choice and control over their lives, in areas such as housing, relationships, health, economic participation, education and work.
- Inaccessible environments, public spaces, transportation, facilities, information and communication.¹¹
- A lack of culturally appropriate supports that people with disability may need in general facilities, services and programs.¹²
- Supports that are only provided in settings that are separate or segregated from the community or from general services.¹³

Examples of barriers to inclusion

Barriers to inclusion may affect a person with disability across their life, in a range of settings and contexts. For example:

- An employer who has low expectations of people with disability may not employ someone with disability or make reasonable adjustments for them during recruitment or employment.
- A failure to respect the autonomy and independence of a person with disability may mean they are not supported to choose where they live or with whom.
- An inaccessible, inflexible and under-resourced school that does not provide adjustments or supports may mean a child with disability cannot access and participate in education on an equal basis with others.
- Information provided by a doctor or allied health professional that is not available in other formats (such as Easy Read, Auslan or Braille) may mean it is inaccessible.
- Not allowing a person with disability to have a support person present in a criminal trial may limit their ability to give evidence.

We have heard that barriers faced by people with disability who experience intersectional disadvantage or discrimination, including women with disability, people with disability from culturally and linguistically diverse backgrounds, First Nations people with disability and people with disability who identify as LGBTQI+, can be compounded or distinct.

For example, some culturally and linguistically diverse people with disability or First Nations people with disability may face intersecting barriers due to information being both inaccessible and not available in a language other than English or culturally safe and appropriate.¹⁴

What is an inclusive society?

Disability advocates and academics have said that a genuinely inclusive society for people with disability values difference and respects the dignity and equality of all human beings.¹⁵ While the *CRPD* does not define inclusion, the Committee on the Rights of Persons with Disabilities has considered inclusion in different areas of life and has said:

- Accessible services, environments, transportation, information and communication, including interpreting and translation services, are a precondition for the inclusion of people with disability in their local communities and for them to have an independent life.¹⁶
- Being in the community 'includes living a full social life and having access to all services offered to the public and to support services offered to persons with disabilities.' It also involves 'having access to all measures and events of political and cultural life in the community, among others, public meetings, sports events, cultural and religious festivals and any other activity in which the person with disability wishes to participate'.¹⁷

- Full and effective participation entails the inclusion of people with disability in a range of decision-making bodies at local through to national levels.¹⁸
- Inclusion is the result of a process and commitment to eliminating barriers,¹⁹ from segregated models to inclusive models. This requires transforming culture, policy and practice to accommodate the differing requirements and identities of individuals with disability.²⁰

In Australia, the concept of an inclusive society features strongly in the National Disability Strategy 2010–2020 (NDS). Although not specifically defined in the strategy, an inclusive society is part of the vision of the NDS and inclusive and accessible communities is one of the six policy areas included in the NDS.²¹ An ‘inclusive society’ is also not defined in our terms of the reference.

The Chair of the Family and Development Committee (Victorian Committee) responsible for the Victorian Inquiry into Social Inclusion and Victorians with Disability (2014) suggested inclusion for people with disability:

extend[ed] beyond simply being present or passively participating in activities in the community. For people with disability, like everyone, social inclusion means experiencing respect for difference and for individual aspirations. It means having control over their own lives and having opportunities to contribute and participate in society in meaningful ways. It means feeling valued and experiencing a sense of belonging. It involves having significant and reciprocal relationships. It can also mean having the appropriate support to be socially included.²²

In its final report, the Victorian Committee recommended the following definition of inclusion, which has not been adopted by the Victorian Government.

Social inclusion for people with disability means:

- experiencing respect for their differences, their aspirations, and their right to have control over their own lives
- having opportunities to contribute and participate in society in a meaningful way and feel valued
- experiencing significant and reciprocal relationships
- having appropriate supports, where necessary.²³

The journey towards inclusion so far

As a nation, Australia has begun the process of moving from a society which segregates and excludes people with disability to a society that is inclusive of people with disability.

Key steps in this journey have included:

- The deinstitutionalisation of people with disability arising from the growing disability rights movement in Australia from the late 1970s.²⁴

- The development of anti-discrimination laws in all Australian states and territories,²⁵ and the introduction of the *Disability Discrimination Act 1992* (Cth) (DDA).²⁶ The DDA makes it unlawful to discriminate against a person on the basis of disability in certain circumstances across many areas of public life.²⁷
- The ratification of the *CRPD* by the Australian Government.²⁸ The full and effective participation and inclusion of people with disability in society is a guiding principle of the *CRPD*.²⁹
- The NDS sets out national commitments and a vision ‘for an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens’.³⁰ A new NDS is currently undergoing public consultation.
- The introduction of the National Disability Insurance Scheme (NDIS) in 2013.³¹ The *National Disability Insurance Scheme Act 2013* (Cth) promotes the inclusion of people with disability by:
 - promoting the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the community³²
 - raising community awareness of the issues that affect the social and economic participation of people with disability, and facilitate greater community inclusion of people with disability.³³
- The *National Agreement on Closing the Gap* which has sought to shift government-led policies towards a partnership approach with First Nations peoples, including First Nations people with disability.³⁴ This partnership aims to elevate First Nations community controlled institutions that provide services in different settings including to First Nations people with disability.
- The National Disability Insurance Agency has developed several strategies aimed at promoting inclusion for particular groups of people with disability:
 - The Aboriginal and Torres Strait Islander Strategy focuses on enabling quality engagement, service delivery and leadership to ensure the successful delivery of the NDIS in Aboriginal and Torres Strait Islander communities across Australia.³⁵
 - The Cultural and Linguistic Diversity (CALD) Strategy aims to enable people with disability from CALD backgrounds to achieve access to, and outcomes from, their NDIS Plan on an equal basis with the broader population.³⁶
 - The LGBTQIA+ Strategy aims to ensure cultural safety by being respectful and responsive to the diverse needs of people with disability who identify as lesbian, gay, bisexual, transgender, intersex, queer and asexual, their families, carers and communities.³⁷

- The Rural and Remote Strategy focuses on enabling quality engagement, service delivery and leadership to ensure the successful delivery of the NDIS in rural and remote communities and Aboriginal and Torres Strait Islander communities across Australia.³⁸
- State, territory and local governments have laws, policies, standards and plans that aim to improve the inclusion of people with disability. These often contain actions designed to remove barriers and make communities and services more accessible for people with disability.³⁹
- The private sector, including many small, medium and large organisations, has policies and operational practices that promote the inclusion of people with disability in the workplace.⁴⁰ These include inclusion targets, flexible working arrangements, new technology, accessible spaces and environments, and actively including people with disability in the development of policies and processes.⁴¹

Questions

The following questions are to assist you in sharing information with the Royal Commission. Please 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.

Please consider different areas of life in your response. We would also like to understand more about the specific experiences of people with disability in relation to their age, race, ethnic origin, gender identity and/or sexual orientation, including the particular situation of First Nations people and people from culturally and linguistically diverse backgrounds.

Question 1: What does inclusion mean to you?

Question 2 What makes an inclusive society?

- A. What are the characteristics of an inclusive society?
- B. How can the supports people with disability need be provided in a way that is consistent with promoting an inclusive society?
- C. What is the role of governments through legislation, policy making, funding and operation of public systems and services, in achieving an inclusive society?
- D. What is the role of non-government institutions and the private sector in achieving an inclusive society?
- D. How can inclusion in society be measured, monitored and reported on? What data is available that could be used?

Question 3: Do you think Australia is an inclusive society? If not, why not?

Question 4: How can an inclusive society support the independence and choice and control of people with disability?

Question 5: How can an inclusive society support a person with disability's right to live free from:

- A. violence and abuse?
- B. neglect?
- C. exploitation?

Question 6: What practical and sustainable steps can governments take to promote a more inclusive society for people with disability? What needs to change:

- A. in laws, policies and standards?
- B. in implementation, monitoring, and accountability measures?
- C. in service provision?
- D. to ensure people with disability are closely consulted and actively included in all steps to promote a more inclusive society?

Question 7: What practical and sustainable steps can non-government institutions, the private sector and communities take to promote a more inclusive society for people with disabilities? What needs to change:

- A. in attitudes, behaviours, relationships and values?
- B. in organisations, culture and workforces?
- C. in service provision?
- D. in implementation, monitoring, and accountability measures?
- E. to ensure people with disability are closely consulted with and actively included in all steps to promote a more inclusive society?

Question 8: What are the barriers and challenges to inclusion for people with disability? Including for:

- A. First Nations people with disability
- B. People with disability from culturally and linguistically diverse communities
- C. People with disability who identify as LGBTQI+
- D. Women and girls with disability

E. Children and young people with disability

F. People with disability living in rural or remote communities

Question 9: Is there anything else we should know?

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 **2 April 2021**. 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** (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.

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. Responses can be made anonymously. We may publish your response on our website. Your response may also

be referenced in any public document prepared by the Royal Commission, for example, our interim and final reports.

If you refer to individual experiences or case studies that are not your own, we may need to confirm that the person identified has provided consent for their information to be made public. Your information will not automatically be made public, even if you would like it to be. Any publication of information is a decision for the Royal Commission.

More information about how the Royal Commission will protect your confidentiality is on our website at disability.royalcommission.gov.au/share-your-story/make-your-submission.

Attachment A – Definitions

The Royal Commission has provisionally defined key terms as follows:

Ableism - Ableism refers to a set of beliefs and practices about ‘typical’ or ‘normal’ abilities that feed into prejudicial attitudes and the refusal to adapt to the needs of people perceived as inferior or ‘abnormal’

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.

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.

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.

¹ Letters Patent (Cth), 4 April 2019 amended 13 September 2019 (c).

² *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008).

³ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), art 3.

⁴ Duane F Alwin, Diana H Felmler & Derek A Kreager, 'Together through time: Social networks and life course', in Duane F Alwin, Diana H Felmler & Derek A Kreager (eds), *Social networks and life course: Integrating the development of human lives and social relational networks*, Springer, 2018, p 4.

⁵ Letters Patent (Cth), 4 April 2019 amended 13 September 2019 (g).

⁶ For example, Accenture, *Getting to Equal: The Disability Inclusion Advantage* (2018); Professor Suzanne Carrington, Public hearing 2, 5 November 2019, p 130 [19] – p 131 [29]; Thomas Hehir, Dr. Todd Grindal, Brian Freeman, Renée Lamoreau, Yolanda Borquaye, Samantha Burke, *A Summary of the Evidence on Inclusive Education*, 2016, p 7; Grzegorz Szumski, Joanna Smogorzewska and Maciej Karwowski, 'Academic achievement of students without special educational needs in inclusive classrooms: A meta-analysis', (2017) vol 21, *Educational Research Review*, pp 33-54, pp 49.

⁷ Corinne Manning, *Bye-bye charlie: Stories from the vanishing world of kew cottages*, University of New South Wales Press, 2008; Catherine Coleborne, *Madness in the family: Insanity and institutions in the Australasian colonial world, 1860-1914*, Palgrave Macmillan, 2009, p 55; Anne Borsay, *Disabled children: Contested caring, 1850-1979*, Pickering & Chatto Publishers, 2012; Lee-Ann Monk & Corinne Manning, 'Exploring patient experience in an Australian institution for children with learning disabilities, 1887-1933' in *Disabled children: Contested caring, 1850-1979*, Pickering & Chatto Publishers, 2012.

⁸ Doris Zames Fleischer & Frieda Zames, *The disability rights movement from charity to confrontation*, Temple University Press, 2011, p 48; Colin Barnes, *Disabled people in Britain and discrimination: A case for anti-discrimination legislation*, Hurst & Co., 1991, ch 7; Lindsey Patterson, 'The disability rights movement in the United States' in *The oxford handbook of disability history*, Oxford University Press, 2018.

⁹ Parliament of Victoria, Family and Community Development Committee, *Inquiry into Social Inclusion and Victorians with Disability*, Final Report (September 2014) p 20.

¹⁰ First Peoples Disability Network Australia, 'Intersectional dimensions on the right to health for Indigenous peoples - A disability perspective', Report for the Expert Mechanism on the Rights of Indigenous People study on the 'Right to Health for Indigenous People', February 2016, p 4.

¹¹ Human Rights Council, *Report of the Special Rapporteur on the rights of persons with disabilities on disability-inclusive policies*, UN General Assembly, 71st sess, UN Doc A/7/314 (9 August 2016), pp 8-12.

¹² Human Rights Council, *Report of the Special Rapporteur on the rights of persons with disabilities on disability-inclusive policies*, UN General Assembly, 71st sess, UN Doc A/7/314 (9 August 2016), pp 14-18.

¹³ For example, the CRPD Committee in the Committee on the Rights of Persons with Disabilities, *General Comment No.4: Article 24 Right to Inclusive Education*, UN Doc CRPD/C/GC/4 (2 September 2016) and the Committee on the Rights of Persons with Disabilities, *General Comment No.5 on living independently and being included in the community*, UN Doc CRPD/C/GC/5 (27 October 2017).

¹⁴ The Federation of Ethnic Communities Council of Australia, the National Ethnic Disability Alliance, the Refugee Council of Australia, and the Settlement Council of Australia, *Barriers & Exclusions: The support needs of newly arrived refugees with disability*, p 23.

¹⁵ Gerard Quinn and Theresia Degener, *Human Rights and Disability: The current use and future potential of United Nations human rights instruments in the context of disability*, United Nations Press, Geneva, (2002), p 15.

¹⁶ Committee on the Rights of Persons with Disabilities, *General Comment No 2 Article 9: Accessibility*, UN Doc CRPD/C/GC/2 (22 May 2014) [37].

¹⁷ The Committee on the Rights of Persons with Disabilities, *General Comment No.5 on living independently and being included in the community*, UN Doc CRPD/C/GC/5 (27 October 2017) [16(b)].

¹⁸ Committee on the Rights of Persons with Disabilities, *General Comment No 6 (2018) on equality and non-discrimination*, UN Doc CRPD/C/GC/6 (9 March 2018) [31].

¹⁹ The Committee on the Rights of Persons with Disabilities, *General Comment No.4: Article 24 Right to Inclusive Education*, UN Doc CRPD/C/GC/4 (2 September 2016) [10(d)].

²⁰ The Committee on the Rights of Persons with Disabilities, *General Comment No.4: Article 24 Right to Inclusive Education*, UN Doc CRPD/C/GC/4 (2 September 2016) [9].

²¹ National Disability Strategy 2010-2020, Australian Government Department of Social Services, 2017, pp 27.

²² Parliament of Victoria, Family and Community Development Committee, *Inquiry into Social Inclusion and Victorians with Disability*, Final Report (September 2014) p vi.

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- ²³ Parliament of Victoria, Family and Community Development Committee, *Inquiry into Social Inclusion and Victorians with Disability*, Final Report (September 2014) p 12.
- ²⁴ People with Disability Australia, *History of Disability Rights Movement in Australia* (2018)
- ²⁵ *Anti-Discrimination Act 1977* (NSW); *Equal Opportunity Act 1984* (SA); *Equal Opportunity Act 1984* (WA); *Discrimination Act 1991* (ACT); *Anti-Discrimination Act 1991* (Qld); *Anti-Discrimination Act 1996* (NT); *Anti-Discrimination Act 1998* (Tas); *Equal Opportunity Act 2010* (Vic).
- ²⁶ *Disability Discrimination Act 1992* (Cth).
- ²⁷ *Disability Discrimination Act 1992* (Cth) ss 3(a)-(b).
- ²⁸ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008).
- ²⁹ *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), art 3(c); Committee on the Rights of Persons with Disabilities, *General Comment No. 5 (2017) on Living Independently and Being Included in the Community*, UN CRPD, UN Doc CRPD/C/GC/5, (27 October 2017), 16(b).
- ³⁰ National Disability Strategy 2010-2020, Australian Government Department of Social Services, 2017, p 22.
- ³¹ Dinah Reddihough, Elaine Meehan, Ngaire Susan Stott & Michael Delacy, 'The National Disability Insurance Scheme: A time for real change in Australia', (2016), vol 58 (supplement S2), *Developmental Medicine & Child Neurology*.
- ³² *National Disability Insurance Scheme Act 2013* (Cth) s 3(1)(g).
- ³³ *National Disability Insurance Scheme Act 2013* (Cth) s 3(1)(h).
- ³⁴ Commonwealth of Australia, Department of the Prime Minister and Cabinet, *Closing the Gap Prime Minister's Report 2020*, p 9.
- ³⁵ Aboriginal and Torres Strait Islander Engagement Strategy 2017, National Disability Insurance Agency, 2017, p 5.
- ³⁶ Cultural and Linguistic Diversity Strategy 2018, National Disability Insurance Agency, 2018, pp 4-6.
- ³⁷ LGBTQIA+ Strategy 2020, National Disability Insurance Agency, Version 1.0 June 2020, p 3.
- ³⁸ Rural and Remote Strategy 2016-2019, National Disability Insurance Agency, February 2016, p 3.
- ³⁹ For example, A City for All: Inclusion (Disability) Action Plan 2017–2021, City of Sydney, 2017, A City for Everyone: Inclusive Brisbane Plan 2019-2029, Brisbane City Council, *Disability Inclusion Act 2014* (NSW) s 3(b).
- ⁴⁰ International Labour Organization, *The win-win of disability inclusion*, InfoStories, December 2016. <<https://www.ilo.org/infostories/en-GB/Stories/Employment/The-win-win-of-disability-inclusion#the-win-win-of-disability-inclusion>>
- ⁴¹ NSW Business Chamber, 'Missed Business: How To Attract More Customers Through Better Access. A guide for small business.' New South Wales, October 2017. <<https://www.nswbusinesschamber.com.au/NSWBC/media/Policy/NSWBC-MissedBusiness-Guide.pdf>>



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