



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

Issues Paper

Rights and attitudes

April 2020

Please be aware that some parts of 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 Issues paper'.

Introduction

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission) is interested in understanding awareness and recognition of the rights of people with disability. We are also looking at attitudes towards people with disability. We welcome any information that will assist our understanding of these issues, including how they may be linked to violence, abuse, neglect and exploitation, as well as examples of good practice.

A list of questions is included at 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.

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.

A human rights based approach

We are committed to the rights of people with disability. Australia has ratified the *UN Convention on the Rights of Persons with Disabilities*.¹ This means Australia has agreed to respect, protect and fulfil the rights described in that Convention.

Article 8 of the *UN Convention on the Rights of Persons with Disabilities* requires the government to:

Raise awareness ... foster respect for the rights and dignity of persons with disabilities ... combat stereotypes, prejudices and harmful practices ... [and] promote awareness of the capabilities and contributions of persons with disabilities.²

We are considering the multi-layered experiences of people with disability of different age, sex, gender identity, sexual orientation and race. This includes the particular situation of Australian First Nations people with disability and culturally and linguistically diverse people with disability.

A life course approach

We are interested in understanding the experiences of people with disability across their lives. A life course approach considers stages in life, such as childhood and adulthood, and transitions between life stages, such as moving from schooling into the workforce, and the lifelong impacts these can have on people.

People with disability may be exposed to increased risk of violence, abuse, neglect and exploitation if they do not have access to appropriate resources and supports during life transitions. If a person with disability experiences violence or abuse at one point in their life, it can affect them later in life.

We want to understand what laws, policies, practices and supports are needed to reduce the risk of violence, abuse, neglect and exploitation. A lack of rights awareness among people, organisations and governments and negative attitudes can shape laws, policies and practices that stigmatise and discriminate against people with disability. We want to understand how better rights awareness and positive attitudes towards people with disability can influence laws, policies and practices that reduce risk of exposure to violence, abuse, neglect and exploitation, and lead to more inclusive societies.

Rights

The CRPD sets out the rights of people with disability. It covers rights across all aspects of life, including home, family, education, work, healthcare and justice.³ It includes the right to privacy, access to public facilities, accessible information and participation in society on an equal basis.⁴ It also confirms that people with disability have the right to live free from exploitation, violence and abuse.⁵ Rights in the CRPD are not automatically part of Australian domestic law.

Australia has signed up to the CRPD and agreed to respect the rights of people with disability in our domestic laws, policies and practices.⁶ Criminal laws in Australia protect some of the rights of people with disability, especially the right not to be harmed by another person.⁷ People should not be threatened. People should not take property or money away from others without consent. People can decide if someone is allowed to touch their body, and whether or not they want to be in close relationships. They can decide if they want to share their possessions or money with other people. No one should be discriminated against because they have a disability.⁸

We want to understand how aware people with disability and the broader community are of the rights of people with disability, as set out in the CRPD. We also want to understand the extent to which organisations and governments recognise, promote and safeguard these rights in laws, policies and practices.

Advocacy

Disability advocacy is acting, speaking or writing to promote, protect and defend the human rights of people with disability. Disability advocacy may include:

- Self-advocacy: when a person or group with disability speaks up or acts to represent themselves
- Individual advocacy: where support is provided to an individual person by a professional advocate or other supporter, to address incidents of unfair treatment or abuse
- Legal advocacy: where lawyers give legal advice to people with disability about discrimination and human rights, or represent people with disability in a court or tribunal
- Systemic advocacy: working for long-term changes to make laws, policies and practices work better for people with disability.⁹

Representative organisations of people with disability have an important role to play in advocating for the rights and interests of people with disability.¹⁰

We would like to know about advocacy or advocacy assistance for people with disability, and how well this is working to promote and protect their rights. We are interested in understanding how people with disability are supported to build their own knowledge and protect their own rights throughout life, in different settings such as home, school, work and public places. We are also interested in suggestions for reforms or improvements to advocacy, to help prevent and improve responses to violence, abuse, neglect and exploitation of people with disability.

Attitudes

Attitudes are thoughts, beliefs and feelings that can influence our behaviour.¹¹ The attitudes that people, organisations and governments have about people with disability can inform laws, policies and practices, resulting in harmful consequences for people with disability. Attitudes can be implicit, based on hidden, negative thoughts and feelings known as unconscious bias. Unconscious bias can influence behaviour¹² and this may lead to discrimination.¹³

Attitudes can be a barrier to inclusion,¹⁴ and may also contribute to increased risk of violence, abuse, neglect and exploitation. People with disability report high levels of negative attitudes in public spaces such as shops, pubs and restaurants, as well as healthcare settings, on public transport, in the workplace and the media.¹⁵

Attitudes are developed, reaffirmed and shared within the wider community.¹⁶ Research suggests limited contact between people with disability and the wider community can contribute to a lack of understanding of disability.¹⁷ Negative attitudes can cause a social distance between people with disability and the wider community driven by stigma.¹⁸

Stigma occurs when people, organisations and governments label, exclude and discriminate against people with disability.¹⁹ It is often displayed through stereotypes that portray people with disability as a burden or an object of fear or pity.²⁰ These stereotypes reinforce negative attitudes towards people with disability. Even when people do not mean to cause harm, subtle forms of ableism can mean people with disability are treated in a patronising, paternalistic way because they are seen as childlike or powerless.²¹

Ableism refers to expectations about typical body and cognitive abilities, and the disadvantage people experience when their bodies and functioning capacities are seen as 'abnormal'. For example, when a teacher assumes a child with disability cannot participate in a maths lesson and gives them colouring tasks instead.

Paternalism supports the belief that people with disability should not make their own decisions. It refers to the loss of independence and violence of powerlessness experienced by many people with disability. For example, when a doctor does not speak to a patient with disability but addresses their parents or supporters instead.

Attitudes towards people with disability can vary depending on other factors, such as age, sex, gender identity, sexual orientation, race, and where they live.²² For example, women with disability report being targeted with negative attitudes more often than men.²³ Australian First Nations people with disability often experience racist stereotypes combined with ableist stereotypes.²⁴ Research also suggests that negative attitudes towards people with disability vary depending on the type of impairment. For example, people with intellectual disabilities or mental illness report experiencing more negative attitudes than people with physical disabilities.²⁵

Research has asked why negative attitudes toward people with disability persist within the community. It found that the history of institutionalisation of people with disability in Australia has resulted in a wider community uneducated about disability and mental illness.²⁶ Negative attitudes appear to be based in misunderstandings of people with disability and limited contact. We want to understand how the attitudes held by people, organisations and governments impact people with disability.

Questions

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 settings in your response, for example, education, healthcare, workplaces, the justice system, home, online communities, and within relationships. Please also consider different life stages (e.g. childhood, adulthood) and transition points (e.g. school to work).

Question 1: Where and when in life do people learn about the rights of people with disability? How could this be reinforced and/or improved?

Question 2: What stops the rights of people with disability being respected, promoted or realised? How is this linked to violence, abuse, neglect and exploitation?

Question 3: Thinking about rights of people with disability, what are the particular experiences of children, Australian First Nations people, culturally and linguistically diverse people, women and LGBTIQ+ people in having these rights realised?

Question 4: What advocacy or advocacy assistance is currently available to people with disability? What are your suggestions for reform or improvement to advocacy, to help prevent and improve responses to violence, abuse, neglect and exploitation of people with disability?

Question 5: How do attitudes contribute to violence, abuse, neglect and exploitation against people with disability?

Question 6: How do attitudes affect responses to violence, abuse, neglect and exploitation of people with disability?

Question 7: How do poor rights awareness and negative attitudes contribute to laws, policies and practices that discriminate against people with disability, ignore the experiences of people with disability, or lead to unintended consequences for people with disability? Please provide specific examples in your response.

Question 8: What can be done to improve attitudes towards people with disability? Please consider policy, laws and other approaches. What good practice examples should we know about?

Question 9: What should the role of media and social media be in helping to improve rights awareness and attitudes towards people with disability? How can they support or drive changes in policy and laws? What good practice examples should we know about?

Question 10: How can improvements in rights awareness and attitudes towards people with disability support a more inclusive society?

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 5:00pm AEST 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 **July 31 2020**. Responses will also be accepted after this date.

Support to respond to this Issues paper

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
- emotional support services provided by the Blue Knot Foundation
- advocacy support services provided under the National Disability Advocacy Program.

Further information about these supports, including how to access them, is available on the [counselling and support](#) section of our website.

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:

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.

Endnotes

- 1 *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008).
- 2 *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), art 8.
- 3 *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008).
- 4 *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008).
- 5 *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008).
- 6 Australia signed the *Convention on the Rights of Persons with Disabilities* on 30 March 2007 and ratified it on 17 July 2008. Australia has three interpretive declarations which means that Australia interprets Articles 12, 14 and 18 of the CRPD in a way that is different from how other countries and the CRPD Committee interprets them. This does not impact Australia's obligations under the CRPD.
- 7 *Crimes Act 1900* (ACT); *Criminal Code 2002* (ACT); *Crimes Act 1900* (NSW); *Criminal Code Act 1982* (NT); *Criminal Code Act 1899* (Qld); *Criminal Law Consolidation Act 1935* (SA); *Criminal Code Act 1924* (Tas); *Crimes Act 1958* (Vic); *Criminal Code Compilation Act 1913* (WA).
- 8 *Disability Discrimination Act 1992* (Cth)
- 9 Australian Government, *National Disability Advocacy Program*, Department of Social Services, accessed 4 March 2020. <<https://www.dss.gov.au/our-responsibilities/disability-and-carers/program-services/for-people-with-disability/national-disability-advocacy-program-ndap>>
- 10 *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, 999 UNTS 3 (entered into force 3 May 2008), see for example arts 4(3), 29(b)(ii) and 33(3).
- 11 Anne-Marie Bollier, Lauren Krnjacki, Anne Kavanagh, Georgia Katsikis & Jasmine Ozge, *Survey of community attitudes toward people with disability: A report for the Victorian Department of Health and Human Services*, Disability & Health Unit, Centre for Health Equity, University of Melbourne, August 2018, p 4.
- 12 Marco Perugini, Juliette Richetin & Cristina Zogmaister, 'Prediction of behaviour' in Bertram Gawronski & Keith B Payne (eds) *Handbook of implicit social cognition: Measurement, theory, and applications*, The Guilford Press, 2010, p 255–277.
- 13 Jayci Lynn Robb, 'Attitudinal ableism: A three-study exploration into attitudinal barriers encountered by people with mental illness, substance use, and physical disabilities' PhD Thesis, University of Arizona, 2015, p 25.
- 14 National People with Disabilities and Carer Council, *Shut out: The experience of people with disabilities and their families in Australia*, National Disability Strategy consultation report, 2009, p 3.
- 15 Boon Siong Tan, Erin Wilson, Robert Campain, Kevin Murfitt & Nick Hagliassiss, 'Understanding negative attitudes toward disability to foster social inclusion: An Australian case study' in Santoshi Hadler & Vassilios Argyropoulos (eds) *Inclusion, equity and access for individuals with disabilities*, Palgrave Macmillan, 2019, p 57.
- 16 Karen R Fisher & Christiane Purcal, 'Policies to change attitudes to people with disabilities', (2017), vol 19 (2), *Scandinavian Journal of Disability Research*, p 161–174, p 162.
- 17 Denise Thompson, Karen R Fisher, Christiane Purcal, Chris Deeming & Pooja Sawrikar, *Community attitudes to people with disability: Scoping project*, Occasional Paper No. 39, Social Policy Research Centre, Disability Studies and Research Centre, University of New South Wales, 2011, p 11.
- 18 Katrina Scior, Theresa Connolly, & Janice Williams, 'The effects of symptom recognition and diagnostic labels on public beliefs, emotional reactions, and stigmas associated with intellectual disability', (2013), vol 118 (3), *American Journal on Intellectual and Developmental Disabilities*, p 211–223.
- 19 Bruce G Link & Jo C Phelan, 'Conceptualising stigma', (2001), vol 27, *Annual Review of Sociology*, p 363–385, p 377.
- 20 National People with Disabilities and Carer Council, *Shut out: The experience of people with disabilities and their families in Australia*, National Disability Strategy consultation report, 2009, p 12.

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- 21 Jayci Lynn Robb, 'Attitudinal ableism: A three-study exploration into attitudinal barriers encountered by people with mental illness, substance use, and physical disabilities', PhD Dissertation, University of Arizona, 2015, p 93.
- 22 Denise Thompson, Karen R Fisher, Christiane Purcal, Chris Deeming & Pooja Sawrikar, *Community attitudes to people with disability: Scoping project*, Occasional Paper No. 39, Social Policy Research Centre, Disability Studies and Research Centre, University of New South Wales, 2011, p 11.
- 23 Karen R Fisher & Christiane Purcal, 'Policies to change attitudes to people with disabilities', (2017), vol 19 (2), *Scandinavian Journal of Disability Research*, p 161–174, p 162.
- 24 Scott Avery, *Culture is inclusion: A narrative of Aboriginal and Torres Strait Islander people with disability*, First Peoples Disability Network, 2018, p 36.
- 25 Boon Siong Tan, Erin Wilson, Robert Campain, Kevin Murfitt & Nick Hagiliassis, 'Understanding negative attitudes toward disability to foster social inclusion: An Australian case study' in Santoshi Hadler & Vassilios Argyropoulos (eds) *Inclusion, equity and access for individuals with disabilities*, Palgrave Macmillan, 2019, p 44.
- 26 Margaret E Hampson, Bruce D Watt, Richard E Hicks, Andrew Bode & Elizabeth J Hampson, 'Changing hearts and minds: The importance of formal education in reducing stigma associated with mental health conditions', (2018), vol 77 (2), *Health Education Journal*, p 198–211, p 207.



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