Royal Commission into Violence, Abuse,
Neglect and Exploitation of People with Disability
GPO Box 1422
BRISBANE QLD 4001

Email: DRCenquiries@royalcommission.gov.au

To Whom It May Concern:

RE: Feedback on the Issues Paper – Violence and abuse of people with disability at home

As the Commissioner for Children and Young People WA, I have a statutory responsibility to monitor the wellbeing of children and young people under 18 years in WA, and to advocate on their behalf. Under the *Commissioner for Children and Young People Act 2006* it is my role to advocate for the best interests of all children and young people under the age of 18 years in WA, to promote their meaningful participation within organisations and to monitor their wellbeing. In undertaking my functions I must give priority to Aboriginal and Torres Strait Islander children and young people and those who are vulnerable or disadvantaged for any reason.

I appreciate the invitation to provide a submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) in response to the *Issues Paper: Violence and abuse of people with disability at home*. I was pleased to see a clear focus on children and young people within the issues paper and consultation questions, and a commitment to better understanding their distinct needs and experiences of violence and abuse at home.

In my response, I will be addressing a number of the questions raised by the Royal Commission of relevance to children and young people, and which I am best positioned to comment on.

Question 1: How do people with disability experience violence and abuse in the home? What are the impacts across their life?

It is difficult to obtain a clear picture of the prevalence and incidence of violence and abuse towards children with disability in the home, with little research looking at the impact of abuse and neglect in the lives of children and young people with disability.[i]

The impact of child abuse and neglect is significant and wide-ranging. Child abuse and neglect has a harmful impact not only on infant, children and young people's physical, cognitive, behavioural, emotional and social development, but also potentially on their ability to develop and maintain trusting and intimate relationships with others.[ii]

The contexts in which children and young people with disability experience abuse and violence in the home includes when this is caused by other family members living in the family home; by personal care providers who are providing care in the home; as well as other care providers where children and young people are residing in alternative accommodation settings (including group homes, respite care, out-of-home care boarding homes, or other institutional care settings).[iii]

My 2019 Speaking Out Survey heard from approximately 315 secondary students with a disability about their experiences and wellbeing. Although it was a relatively small sample size, and cannot be considered representative of the full population of students with disability in secondary school, a substantial proportion of these young people with disability did not feel safe in their homes and/or are worried about their family fighting.

Whilst the survey did not specifically ask them about their experiences of abuse or violence in the home, young people with disability were less likely to feel safe at home than young people without disability, with more than 5 per cent (5.4%) of students with disability reporting feeling safe at home only a little bit of the time or never.[iv] Female respondents with disability were less likely than male respondents with disability to report feeling safe all the time at home. Despite the small sample size, these concerning findings align with other research that indicates that children and young people with disability have a higher risk of abuse and neglect.[v]

Question 7: Can you tell us about the violence and abuse of children with disability in their homes, including out-of-home care:

A. What risk factors contribute to the violence and abuse of children with disability where they live?

Child characteristics, parental factors (e.g. age, mental health problems and substance abuse) and neighbourhood factors such as socioeconomic disadvantage are all risk factors associated with child maltreatment.[vi] There is a tendency for families of children and young people with disability to more frequently experience these risk factors, which is therefore associated with a higher risk of child maltreatment.[vii]

Research also suggests factors relating to the relationship between a child with disability and their parent may influence the likelihood of abuse or harm towards the child. These include:

- disruptions in mother-child relationship, including maternal depression; feelings of hostility towards the child; misunderstanding and misinterpreting children and young people's behaviour or actions; and inaccurate expectations of a child's development and abilities;[viii] [ix]
- parents not having capacity to provide the appropriate care for their child, or provide the care needs specific to their disability;[x]
- parental stress, including managing high care demands; managing difficult behaviour; and decreased personal time for caregiver.[xi]

Significant work undertaken by the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) identified four dimensions which can influence the risk of abuse towards children and young people in institutional settings. Whilst this research primarily considered child sexual abuse, there is applicability across all types of harm and abuse towards children and young people, and the specific needs of children and young people with disability.

The Royal Commission identified four types of risk factors:

- situational risk – arising from the opportunities for abuse that the environment offers, including the nature of the activity, or the setting within which care takes place

- vulnerability risk – arising from the characteristics of the children cared for, with heightened vulnerability risk arising where an organisation working with children and young people who are at greater risk of abuse than other children

- propensity risk – arising from a greater-than-average clustering of those with a propensity to abuse children and young people

- institutional risk – stemming from the characteristics of an institution that may make abuse more likely to occur or less likely to be dealt with properly if disclosed.

These are outlined below, and should be considered in the context of children and young people with disability, including those living at home, particularly where other adults visit or come to the home (e.g. care providers etc.), as well as those living away from parents and out of the family home.

Nature of activities	**Situational risk** – Arising from opportunities for abuse that the environment provides Being alone with a child or forming relationships that involve physical contact or emotional closeness can lead to grooming and unlawful sexual behaviour • Elevated situational risk: Residential institutions of all kinds e.g. juvenile detention, immigration detention centres, residential out-of-home care, boarding schools, disability accommodation, particularly those which require one-on-one personal care with a child or young person.	Situational risk is a precondition for sexual abuse. Some risks are modifiable, and can be minimised, whereas others may not be (e.g. the requirement for personal care).

	Vulnerability risk – Arising from the characteristics of children
	All children are vulnerable, however some are more so than others
	
	    • Elevated vulnerability: age (upper primary / lower secondary); disability (particularly intellectual); family breakdown/dysfunction; prior experience of maltreatment; children with an incentive to remain silent.
	
	    • Factors above also relevant to child-to-child abuse which is more likely to occur in the context of harassment, bullying or clumsy /careless sexual experimentation. Children are more likely to demonstrate these behaviours in groups.
		Vulnerability makes it more likely that a child will be targeted

Characteristics of the institution	**Propensity risk** – Arising from disproportionate clustering of risk
	    • Adults with a tendency to abuse
	    • Children with harmful sexual behaviours
	    • Staffing profile in terms of gender
	    • Staff in residential or family settings with non-biological children
	    • Gender profile of children and young people
		Characteristics of the institution:
		
		Increases the child's chances of being abused

	Institutional risk – characteristics and culture of the institution may make abuse more likely to occur and less likely to be identified or responded to appropriately
	    • institutions placing greater importance on the protection of reputation
	    • culture of not listening to and respecting children.
		Increases the chance the handling of a disclosure of abuse will be inadequate

Situational risk:

To expand on the above, a number of situational risks exist for children and young people with disability arising from the environments in which they live and are cared for:

- reliance on practical assistance in daily living, including receiving personal care from a range of carers
- continued exposure to physical assistance, which may make it difficult to distinguish between physical abuse and care
- carers often working with the child one-on-one
- communication challenges between children and carers/staff
- lack of continuity in care, which may increase the risk that behavioural changes will go unnoticed
- the possibility of abuse by peers
- intimidation and bullying
- reluctance to report abuse due to reliance on the service, and concern it would be withdrawn [xii]

There are also a range of other features which constitute a high risk environment where violence, abuse, neglect and exploitation are more likely to occur, including those where:

- children and young people have limited choice or control over aspects of their lives
- children and young people are isolated
- there is a focus on compliance, and where children and young people are expected to be compliant and well behaved
- there are multiple children and young people with a greater vulnerabilities or risk in the same setting.[xiii]

Vulnerability risk:

There are some characteristics of children and young people with disability that may increase the likelihood of someone harming or abusing them, including:

- difficulty being able to defend themselves against an assault[xiv] or utilising protective strategies that may be available to others[xv]
- difficulty being able to report incidents of harm or abuse due to learning or communication difficulties[xvi] [xvii]
- increased likelihood of being socially isolated[xviii]
- a lack of general information and understanding of sexuality or sexual activity – due to not being provided with adequate sex education.[xix]

Some research indicates the likelihood of abuse and harm for children with disabilities varies depends on the type of disability. Children and young people with intellectual disabilities are at highest risk of maltreatment, abuse and neglect, followed by those with conduct disorder, mental, and behavioural disorders.[xx] However, there may be other associated factors which contribute to the risk of harm, including other characteristics within family of origin, such as maternal use of alcohol during pregnancy and continued alcohol use after.[xxi]

Propensity risk

Propensity risk refers to risk which arises due to a disproportionate clustering of risk factors. In the context of children and young people with disability, these include:

- placement with other children and young people who may harm them (e.g. violence, harmful sexual behaviours)
- increased likelihood of harm where care is provided by people who are not parents
- gender profile of the children and the staff providing care to them, such as a high proportion of male staff.

Institutional risk

Where children and young people are living outside of the family home, or are receiving care from a service provider, the characteristics of an organisation may make it more likely for abuse to occur, or for it to go undetected. This was explored by the RCIRCSA, and particularly in the *Report of Case Study 41: Institutional responses to allegations of the sexual abuse of children with disability.*[xxii]

Some of the institutional risk factors for children and young people with disability include:

- care providers who are poorly commissioned, resourced or regulated[xxiii]
- children and young people with disability being viewed negatively by others[xxiv]
- the skill and capacity of staff to interpret child behaviours and non-verbal disclosures of abuse[xxv]
- insufficient complaints mechanisms and processes
- staff who are unmotivated or overwhelmed[xxvi]
- unethical or unauthorised practices in terms of responding to challenging needs, mental health need or illness. [xxvii]

B. What are the experiences of First Nations children with disability of violence and abuse where they live?

Data indicates there is a higher rate of family and domestic violence in Aboriginal families than non-Aboriginal families across Australia,[xxviii] which should be understood in the context of colonisation, forced child removal, intergenerational trauma and social disadvantage.[xxix] Aboriginal families, including those who have children with disabilities, are more likely to experience risk factors associated with family violence, such as increased likelihood of poor and overcrowded housing, higher levels of poverty, lower education and higher unemployment.[xxx]

Aboriginal children and young people with disability experience high rates of placement in out-of-home care, often in placements which do not appropriately meet their needs, as well as long periods in respite care or hospitals. This places them at great risk of abuse, neglect or harm in line with the factors discussed earlier, and can limit contact and/or isolate them from, their family and community.[xxxi]

C. Are laws, policies and practices for children with disability experiencing violence and abuse where they live working well? If not, how could they be improved?

Child protection and abuse prevention programs that aim to reduce the risk of harm and abuse to children and young people often do not have a specific focus on children

and young people with disability.[xxxii] There are also challenges with the lack of capacity and experience of the child protection system to understand and respond to the abuse and harm of children and young people with disability. This may include limited knowledge and experience in investigating child abuse or neglect of children with disability, limited experience in interviewing children and young people with disability or using alternative communication methods, a greater likelihood of attributing characteristics of the child as being a contributor to their abuse, and potential to empathise with abusive family members where the child or young person has a disability.[xxxiii]

Child protection and abuse prevention strategies at a national and state level need to place greater emphasis on protecting children and young people with disability from abuse and harm, and encourage early reporting of possible and actual maltreatment and harm.[xxxiv] Such strategies should include:

- Early intervention services for families with children with disability who may be at risk
- Family-centred supports and parenting initiatives which equip families to meet the needs of children with disability, and to deal with any challenges this may present (e.g. dealing with challenging behaviours).
- Interagency initiatives and collaboration between child protection and disability services
- Building the capacity of different sectors, including domestic violence services, to recognise children with disability as a specific group for support, and work with children with disabilities and their families, including those who are at risk of, or experiencing, harm. [xxxv] [xxxvi] [xxxvii]

There is also a critical need for stronger oversight of care and accommodation provided to children and young people with disability, as well as more broadly in terms of the services that they receive. Given the risks that exist for children and young people with disability, particularly where they are being cared for outside of their parents or family members, there need to be appropriate safeguards in place to protect children and young people from abuse or harm.

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended in 2017 that all organisations in child related work (government, non-government and commercial) meet ten Child Safe Standards, which includes organisations providing accommodation and residential services for children, as well as services for children and young people with disability (Recommendation 6.8 and 6.9). [xxxviii]

These Standards are reflected in the National Principles for Child Safe Organisations, which were agreed upon by all States and Territories in 2019,[xxxix] and which outline how organisations can promote child safety and wellbeing in their organisations, families and communities, and protect children and young people from harm. These National Principles are a key driver to embed child safety across different sectors, and their implementation and adoption will be of significant importance when it comes to protecting children and young people, including those with disability, from harm, abuse or violence. Currently, implementation of the National Principles varies greatly across different states, territories, and sectors. In Western Australia, the Principles are not mandated or legislated, and there is no oversight body in place to monitor implementation.

D. How child focused, culturally safe and accessible are complaint and reporting mechanisms? How could they be improved?

Evidence shows that children and young people experience a range of barriers to accessing complaints systems, and that they may not complain through formal complaints channels or speak up about harm or abuse.[xl xli xlii] Barriers to speaking up may include children and young people fearing they won't be believed or taken seriously, feeling ashamed or embarrassed, being concerned about the consequences of speaking up, being unsure how to speak up, or being worried about how their information will be handled.[xliii xliv]

As well as the above barriers, children and young people with disabilities may face additional challenges in making a complaint, including communication difficulties, being unable to access complaints mechanisms without support from someone else, a fear that services or care might be stopped as a result of speaking out, not understanding that what they have experienced is in fact abuse or harm, and not having the language or capacity to articulate what has happened.[xlv] These barriers need to be addressed to support children and young people to be able to speak out about concerns and make a complaint.

Broadly speaking, children and young people often reach out to a trusted adult, like a parent or teacher, to help them to speak up and make a complaint. Families, as well as staff and organisations working with children and young people with disability, need to be equipped to respond to disclosures of abuse or harm by children and young people, as well as recognise the signs of abuse, and the different ways that children and young people might express that something has happened to them.

Independent advocacy and support for children and young people is also a key element to ensuring that they feel well supported to make a complaint and speak up about concerns.

Principle 6 of the National Principles for Child Safe Organisations outlines that *Processes to respond to complaints and concerns are child focused.*[xlvi] The National Office for Child Safety have developed the *Complaint Handling Guide: Upholding the rights of children and young people,* to provide advice to agencies on embedding and managing a complaints handling system that prioritises child safety.[xlvii] This should be used as a benchmark for disability service providers and other organisations providing a service for children and young people with disability, to ensure that their processes are child-focused and child-friendly. Organisations should also undertake consultation with children and young people with disability that they work with, to ensure that they understand how they would like to make complaints within the service, and the supports that they require to do so.

Question 13: Have we missed anything? What else should we know about people with disability experiencing violence and abuse at home?

It would also be valuable for the Royal Commission to consider the harmful impacts of people with disabilities being exposed to or witnessing violence and abuse towards others in their home. This may include exposure to family and domestic violence against a parent or other family member, violence and abuse towards other residents or staff in residential care services. Witnessing and being exposed to family violence has been shown to have significant impacts on children and young people, including being emotionally and psychologically traumatised by these experiences.[xlviii]

Summary:

Thank you for the opportunity to provide this feedback to you. This Royal Commission is an extremely important opportunity to presents in address the needs and experiences of children and young people with disability. Please feel free to contact me directly if you would like to discuss the content of this letter any further.

Yours sincerely

COLIN PETTIT

Commissioner for Children and Young People WA

5 March 2021

---

[i] Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*, Children with Disability Australia, Clifton Hill, Victoria.

[ii] Health and Human Services 2015, *Children and families at risk due to living circumstances, Victorian State Government*, Viewed online on 18/2/2021 at https://www.betterhealth.vic.gov.au/health/ServicesAndSupport/Children-and-families-at-risk-due-to-living-circumstances

[iii] Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*, Children with Disability Australia, Clifton Hill, Victoria.

[iv] Commissioner for Children and Young People WA 2020, *Speaking Out Survey 2019 Data Tables* [unpublished].

[v] Wayland S and Hindmarsh G 2017, *CFCA Practitioner Resource: Understanding safeguarding practices for children with disability when engaging with organisations*, Australian Institute of Family Studies.

[vi] Maclean M et al 2017, Maltreatment Risk Among Children with Disabilities, *Paediatrics, 139(4)*, [e20161817], Viewed online on 20/2/2021 at https://doi.org/10.1542/peds.2016-1817

[vii] Ibid.

[viii] Tominson A 1996, *NCPC Issues No. 7: Child maltreatment and disability*, Australian Institute of Family Studies, Viewed online on 19/2/2021 at https://aifs.gov.au/cfca/publications/child-maltreatment-and-disability#par

[ix] Maclean M et al 2017, *Maltreatment Risk Among Children with Disabilities*, Paediatrics, 139(4), [e20161817], Viewed online on 20/2/2021 at https://doi.org/10.1542/peds.2016-1817

[x] Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*, Children with Disability Australia, Clifton Hill, Victoria.

[xi] Tominson A 1996, *NCPC Issues No. 7: Child maltreatment and disability*, Australian Institute of Family Studies, Viewed online on 19/2/2021 at https://aifs.gov.au/cfca/publications/child-maltreatment-and-disability#par

[xii] Hertfordshire Safeguarding Children Partnership 2016, *Children with a Disability and Child Abuse*, Viewed online on 19/2/2021 at https://hertsscb.proceduresonline.com/chapters/p_disab_abuse.html#mainContent

[xiii] Robinson S 2012*, Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*, Children with Disability Australia, Clifton Hill, Victoria.

[xiv] Tominson A 1996, *NCPC Issues No. 7: Child maltreatment and disability, Australian Institute of Family Studies*, Viewed online on 19/2/2021 at https://aifs.gov.au/cfca/publications/child-maltreatment-and-disability#par

[xv] Hertfordshire Safeguarding Children Partnership 2016, *Children with a Disability and Child Abuse*, Viewed online on 19/2/2021 at https://hertsscb.proceduresonline.com/chapters/p_disab_abuse.html#mainContent

[xvi] Ibid.

[xvii] Ibid.

[xviii] Ibid.

[xix] Tominson A 1996, *NCPC Issues No. 7: Child maltreatment and disability,* Australian Institute of Family Studies, Accessed online at https://aifs.gov.au/cfca/publications/child-maltreatment-and-disability#par

[xx] Maclean M et al 2017, Maltreatment Risk Among Children with Disabilities, *Pediatrics, 139(4), [e20161817],* Viewed online on 20/2/2021 at https://doi.org/10.1542/peds.2016-1817

[xxi] Ibid.

[xxii] Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Report of Case Study No 41, Institutional responses to allegations of the sexual abuse of children with disability*, Commonwealth of Australia.

[xxiii] Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability,* Children with Disability Australia, Clifton Hill, Victoria.

[xxiv] Ibid.

[xxv] Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Final Report Volume 4, Identifying and disclosing child sexual abuse,* pg. 10, Commonwealth of Australia.

[xxvi] Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability,* Children with Disability Australia, Clifton Hill, Victoria.

[xxvii] Ibid.

[xxviii] Australian Institute of Health and Welfare (AIHW) 2018, *Family, domestic and sexual violence in Australia 2018,* Cat No FDV 2, AIHW, p. 85.

[xxix] Campo M and Tayton S 2015, *Domestic and family violence in regional, rural and remote communities: An overview of key issues,* Child Family Community Australia, Australian Institute of Family Studies.

[xxx] Australian Institute of Health and Welfare (AIHW) 2018, *Family, domestic and sexual violence in Australia 2018,* Cat no FDV 2, AIHW, p. 88.

[xxxi] Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability,* Children with Disability Australia, Clifton Hill, Victoria.

[xxxii] Ibid.

[xxxiii] Manders J & Stoneman Z 2009, *Children with disabilities in the child protective services system: An analog study of investigation and case management,* Child Abuse & Neglect, 33, 229–237.

[xxxiv] Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability,* Children with Disability Australia, Clifton Hill, Victoria.

[xxxv] Tominson A 1996, *NCPC Issues No. 7: Child maltreatment and disability,* Australian Institute of Family Studies, Accessed online at https://aifs.gov.au/cfca/publications/child-maltreatment-and-disability#par

[xxxvi] Maclean M et al 2017, Maltreatment Risk Among Children with Disabilities, *Pediatrics, 139(4), [e20161817],* Viewed online on 20/2/2021 at https://doi.org/10.1542/peds.2016-1817

[xxxvii] Robinson S et al 2020, *Violence prevention and early intervention for mothers and children with disability: Building promising practice,* ANROWS, Sydney.

[xxxviii] Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Final Report - Recommendations,* Commonwealth of Australia.

[xxxix] Commissioner for Children and Young People WA 2016, *Child Safe Organisations WA: Guidelines,* Commissioner for Children and Young People, Perth.

xl Commonwealth of Australia 2019, *Complaint Handling Guide: Upholding the rights of children and young people*, Department of the Prime Minister and Cabinet, Canberra.

xli UNICEF 2019, *National human rights institutions (NHRIs) Series: Tools to support child-friendly practices. Child-friendly Complaint Mechanisms.* Viewed online on 19/2/2021 at https://www.unicef.org/eca/sites/unicef.org.eca/files/2019-02/NHRI_ComplaintMechanisms.pdf

xlii Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Final Report: Volume 7, Improving institutional responding and reporting*, Commonwealth of Australia.

xliii Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Final Report Volume 4, Identifying and disclosing child sexual abuse,* pg. 10, Commonwealth of Australia.

xliv Commissioner for Children and Young People WA 2016, *Speaking Out About Raising Concerns in Care: The views of Western Australian children and young people with experience of out-of-home care,* Commissioner for Children and Young People WA, Perth.

xlv Robinson S 2012, *Enabling and protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability,* Children with Disability Australia, Clifton Hill, Victoria.

xlvi Commissioner for Children and Young People WA 2016, *Child Safe Organisations WA: Guidelines,* Commissioner for Children and Young People WA, Perth.

xlvii Commonwealth of Australia 2019, *Complaint Handling Guide: Upholding the rights of children and young people*, Department of the Prime Minister and Cabinet, Canberra.

xlviii Health and Human Services 2015, *Children and families at risk due to living circumstances,* Victoria State Government, Health and Human Services, accessed at https://www.betterhealth.vic.gov.au/health/ServicesAndSupport/Children-and-families-at-risk-due-to-living-circumstances