



Commissioner for Children and Young People
Western Australia

All enquiries

Telephone: (08) 6213 2297
Email: natalie.hall@ccyp.wa.gov.au
Our reference: 21/381

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

Email: DRCCenquiries@royalcommission.gov.au

To Whom It May Concern

RE: General feedback to the Royal Commission

"Kids have to be given the opportunity to say something. It helps if more people have a say about what it's like with autism and then with more people talking about it, then that creates a larger voice." 15 year-old¹

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.

After reviewing the Interim Report of the Royal Commission and a number of the Issues Papers, I have identified an opportunity to provide some feedback to the Royal Commission for consideration.

In particular, I would like to draw attention to the experiences and rights of children and young people with disability, as well as how the Royal Commission might consider some of these matters as the inquiry process continues.

¹ Commissioner for Children and Young People WA 2020, *Speaking Out About Autism - the views of WA children and young people with autism*, Commissioner for Children and Young People WA, Perth.

General feedback

The rights, needs and experiences of children and young people

"Some people don't get treated right and don't have anyone to stand up for them." 15 year-old boy²

I am pleased that the experiences of children and young people are being considered by the Royal Commission, however it is my view that there is scope to further expand on this to ensure that their unique rights, needs and abilities are appropriately considered. The rights of children and young people are outlined under the *United Nations Convention on the Rights of the Child*. Children and young people, including those with disabilities, have distinct needs to those of adults, and may encounter very different vulnerabilities to violence, exploitation, abuse and neglect compared to adults.

Reference to this can and should be strengthened throughout the Royal Commission's work, with further explanation given regarding how children and young people's views may differ to those of adults.

"I don't have more help. It's not easier. I don't like school. I don't get along with other kids there...I don't have an EA [Education Assistant] in my class. I want to have help but no one's listening to me." 9 year-old³

As it has done with other specific cohorts or population groups that have been identified as having distinct needs, the Royal Commission should recognise children and young people as a priority population and distinct cohort, across all aspects and focus areas of the Inquiry.

This might include having a specific focus on children and young people through separate issues papers or facilitating additional opportunities to hear and genuinely consider the experiences of children and young people on broader topics being examined.

Consultation and participation with children and young people

"Make more time to listen to [young people with disability], not our ... parents or carers or support workers or people who are not us." 18 year-old girl⁴

"We are smart but some of us [are] just trapped ... but we have thoughts, feelings and opinions." 10 year-old girl⁵

² Commissioner for Children and Young People WA 2013, *Speaking Out About Disability: The views of Western Australian children and young people with disability*, Commissioner for Children and Young People WA, Perth.

³ Commissioner for Children and Young People WA 2020, *Speaking Out About Autism - the views of WA children and young people with autism*, Commissioner for Children and Young People WA, Perth.

⁴ Commissioner for Children and Young People WA 2013, *Speaking Out About Disability: The views of Western Australian children and young people with disability*, Commissioner for Children and Young People WA, Perth.

⁵ Ibid.

"I am important, ask me what I think." 9 year-old girl⁶

Often, the experiences of children and young people with disability are viewed through the lens of parents and carers, rather than directly from children and young people themselves. Whilst input from parents and other supporters is valuable, it is not a substitute for hearing directly from children and young people.

Research shows that a child's perspective on their experience of impairment and the impact of disability on their life varies greatly from that of their parent or carer. Parents often hold quite different views on the concerns, worries, stresses, emotional wellbeing, goals and aspirations to their children and young people.⁷

Children and young people with disability have valuable and important insights into their own lives and should not be denied an opportunity to share these on the basis of their age or perceived capacity. Hearing directly from children and young people is not only important in ensuring that policies, services and initiatives are responsive to their needs, but also in validating their lived experiences of harm, abuse and neglect.⁸

Research undertaken through the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) highlighted that little attention has been paid to the perspectives of children and young people with disability in research and consultation around abuse, yet given the high rates of harm amongst children and young people with disability, their participation is critical.⁹

In researching sensitive issues, ethical considerations, as well as the best interest of the child, must always be paramount. I understand the complexity of balancing these sensitivities, however these issues can be managed and should be balanced with the ethics of excluding children and young people with disability, particularly in light of how this may leave them feeling silenced, or minimising their direct experiences of abuse and neglect.¹⁰

While I was pleased to read in the Interim Report the plans outlined to further engage with young people, it is equally important that both children and young people are provided with an opportunity to share their unique perspectives. Given the tendency for research with children and young people with disability to consult more frequently with older, more articulate, and less-severely disabled children and young people,¹¹ I recommend that a variety of consultation methodologies are employed to engage a wide range of children and young people, including younger children, children and

⁶ Commissioner for Children and Young People WA 2013, *Speaking Out About Disability: The views of Western Australian children and young people with disability*, Commissioner for Children and Young People WA, Perth.

⁷ Ibid.

⁸ Ibid.

⁹ S Robison 2016, *Feeling safe, being safe: What is important to children and young people with disability and high support needs about safety in institutional settings?*, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2016.

¹⁰ Ibid.

¹¹ Sloper, P. & Beresford, B. (2014). Children who have disabilities. In G. B. Melton, A. Ben-Arieh, J. Cashmore, C. S. Goodman & N. K. Worley (eds.), *The SAGE Handbook of Child Research*. London: SAGE.

young people with limited or no speech, and those with cognitive impairments or severe disabilities.

"I'm not very good at explaining things in words so I like pictures or music." 18 year-old girl¹²

"I use my PODD 7 book to help me talk." 11 year-old girl¹³

The Royal Commission should further consider and prioritise this approach through targeted engagement, access and inclusion strategies, to ensure that children and young people's perspectives and feedback are considered and included, and that processes to do this are accessible, child-friendly and child-safe.

Consultation methods should also be employed to ensure that consultation is culturally safe for participants who are Aboriginal, or from a culturally and linguistically diverse background, as well as who may be diverse in other ways.

In establishing the approach for consultation with children and young people, the Royal Commission should draw from the protocols and processes that were established to consult with children and young people through the RCIRCSA. Although the RCIRCSA dealt with highly sensitive subject matter, effective processes were developed to safely manage the experience for children and young people. This included ensuring that the process was supportive, safe, considerate and responsive to individual needs, and did not subject the child or young person to further harm or re-traumatisation.

My office recently released the second edition of the Participation Guidelines, which outline the principles of participation and offer advice on how to effectively engage with children and young people. These guidelines can be found on my website ccyp.wa.gov.au

Royal Commission into Institutional Responses to Child Sexual Abuse and the implementation of the National Principles for Child Safe Organisations

There is an opportunity for this Royal Commission to draw further on the findings and learnings from the RCIRCSA to inform future reporting and recommendations. Clear themes emerged from the RCIRCSA about the vulnerability of children and young people with disability, including, but not limited to:

- vulnerability within institutional settings
- limited personal understanding of what constitutes abusive behaviour
- reliance on caregivers for personal needs
- potential challenges in raising concerns and being believed.¹⁴

Case study 41 of the RCIRCSA focuses specifically on the responses to allegations of sexual abuse of children with disability within disability services. A research report commissioned by the RCIRCSA, *Feeling Safe, being safe: What is important to children*

¹² Commissioner for Children and Young People WA 2013, *Speaking Out About Disability: The views of Western Australian children and young people with disability*, Commissioner for Children and Young People WA, Perth.

¹³ Ibid

¹⁴ Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Final Report Volume 4, Identifying and disclosing child sexual abuse*, Commonwealth of Australia.

and young people with disability and high support needs about safety in institutional settings? also has a dedicated focus on children and young with disability, and their experience of safety in institutional settings.

The RCIRCSA recommended that organisations providing a service for children and young people must take responsibility to protect children and young people from all kinds of harm and abuse, by identifying and implementing strategies to mitigate the risks that may impact on their safety.¹⁵

The National Principles for Child Safe Organisations (2019) were agreed by the Coalition of Australian Governments in February 2019 and are based on the RCIRCSA's Child Safe Standards. The National Principles underpin an organisation's approach to creating child safe environments, including minimising the risk of harm occurring, increasing the likelihood of the harm being uncovered, and responding appropriately to disclosures or allegations of harm.

Recommendation 6.9 of the RCIRCSA outlines a range of institutions that should be legally required comply with the child safe standards and National Principles, including accommodation and residential services for children, as well as services for children with disability, amongst many others.¹⁶ This recommendation was accepted in principle by the Australian Government, with the recognition that this would primarily be a matter for state and territory governments to implement.

The implementation of the National Principles for Child Safe Organisations will help to safeguard children and young people with disability accessing both mainstream and disability-specific services. This includes, but is not limited to:

- education and awareness for children and young people about their rights and safety
- managing complaints and disclosures from children and young people with disability, including the capacity of respondents to understand and respond to this appropriately
- ensuring that complaints processes are child-focussed and child-friendly
- having well-equipped and skilled staff
- ensuring children and young people can participate in decision-making
- ensuring safe physical and online environments for children and young people with disability.

It is not clear how this Royal Commission plans to consider or incorporate the findings of the RCIRCSA into its work, nor the role of the National Principles for Child Safe Organisations to guide disability service providers, and other organisations, in safeguarding children and young people with disability who are using their services.

These are important to consider and comment on as the Royal Commission is making its findings and recommendations.

¹⁵ Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Final Report – Recommendations*, Commonwealth of Australia.

¹⁶ Ibid.

Harmful sexual behaviours

Research estimates that 30 to 60 per cent of all experiences of childhood sexual abuse is carried out by children and young people who display harmful sexual behaviours (HSB).

The RCIRCSA had a specific focus on HSB between children and young people in *Volume 10 – Children with harmful sexual behaviours*. It identified that during their private sessions, those who reported being sexually abused by another child (6.6 %) identified as having a disability at the time of abuse.¹⁷ A number of case studies where children and young people with disability were either the victim of HSB by another child, or displayed HSB themselves are also provided in this volume.

Given the higher likelihood of children and young people with disability being sexually abused compared to those without disability, and considering their increased contact with institutions, there is a need for this Royal Commission scope of inquiry to consider harmful sexual behaviours between children and young people with disability.

As well as broader difficulties in supporting and responding to children and young people with HSB, the RCIRCSA heard about additional challenges faced when working with children and young people with disability. This included HSB at times being overlooked or ignored on the basis of the child's disability, or conversely misinterpreting otherwise innocuous behaviour as HSB.

Research also indicates that in some instances, children and young people perceive abuse from peers as normal behaviour, have unrealistic ideas about how to protect themselves from harm and remove themselves from unsafe situations, and are impacted by a lack of sense of privacy or bodily integrity due to the personal care or medical needs they may have.¹⁸

Programs and interventions to support people with HSB and prevent further harm, are often provided by mainstream services, without being developed to meet the needs of people with disability.

My office continues to advocate for an improved focus on HSB between children and young people, including providing services available to support children and young people with HSB or affected by it, as well as considering what is required to improve responses to children and young people with HSB. This work has identified the need for specific, targeted services for children and young people with intellectual disabilities.

The discussion paper on this topic, as well as a service mapping report for Western Australia can be found on my website ccyp.wa.gov.au

Organisations like Sexuality Education and Consultancy Agency (SECCA) play a valuable role in advocating for systemic change as well as building community capacity to reduce the disproportionate violence, abuse, and exploitation experienced by people with disability. These organisations must be adequately resourced so they can

¹⁷ Royal Commission into Institutional Responses to Child Sexual Abuse 2017, *Final Report Volume 10, Children with harmful sexual behaviours*, Commonwealth of Australia.

¹⁸ S Robinson 2016, *Feeling safe, being safe: What is important to children and young people with disability and high support needs about safety in institutional settings?*, Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney, 2016.

continue to provide support and services for people with disability. More information about SECCA's work can be found on their website secca.org.au

Relevant work of this office

My office has undertaken a range of other work which would be useful to consider as part of this Royal Commission. This includes consultations and surveys hearing the views of children and young people with disability, as well as other projects investigating the supports provided for children and young people with disability.

Speaking Out Survey

The 2019 Speaking Out Survey was conducted with close to 5,000 students across primary and secondary schools throughout Western Australian. In total, 315 (11.4%) participating Year 7 to 12 students reported having a long-term disability lasting six months or more. Due to the relatively small sample size, the results for young people with disability are observational and not representative of the population of students with disability in Years 7 to 12 in WA. The results also do not reflect the experiences of those who are not attending mainstream schooling, who are unable to complete the survey due to accessibility requirements, or those disengaged from education.

However, they provide some valuable insights into the experiences of students with disability in mainstream education settings.

Findings from the 2019 Speaking Out Survey found that compared to students without disability, a greater proportion of students with disability reported:

- being affected by stress related to bullying and personal safety
- having been bullied, including missing school because of a fear of bullying
- having been suspended from school
- worrying somewhat or a lot about family issues such as someone in their family fighting, hurting someone, or hurting themselves
- having been physically harmed by someone on purpose, and an increased likelihood of this occurring at school or in their neighbourhood.

Further, in comparison to their peers without disability, a lower proportion of students with disability reported:

- feeling that they get along with their classmates
- feeling like they belong at school
- being able to see someone for their health when they wanted or needed to in the last 12 months
- feeling safe at home
- feeling safe at school.

Similar proportions of students with disability and those without disability reported the following:

- 41.7 per cent of Year 9 to 12 students with disability reported having ever been sent unwanted sexual material, such as pornographic pictures, videos, or words.
- One-third of students with disability (35.7%) felt safe 'only sometimes or less' in their local areas, including 4.4 per cent of students who said they 'never' felt

safe. Less than one-quarter of Year 7 to 12 students with disability (23.6%) reported feeling safe in their local area 'all the time'.

- More than one-in-five (21.6%) students with disability reported not liking school 'at all' or 'not much'.
- Forty per cent (41.1%) of students with disability said they get extra help 'sometimes' and one-in-five said they 'almost never' got help (18.6% with disability compared to 13.8% without). One-third (35.8%) of students with disability reported 'almost always' getting extra help from teachers in class, if needed.

My office has completed fieldwork for the 2021 Speaking Out Survey, with over 15,000 students across WA included in the main survey sample. Overall findings from the survey will be published in a summary report that highlights the views of WA children and young people on issues that are critical to their wellbeing. This will be tabled in the WA Parliament in late 2021.

In order to understand the experiences of students with disability in education support centre settings, the Speaking Out Survey questionnaire and methodology have been modified. Fieldwork for the modified survey will take place between August and November 2021, with findings due to be published in April 2022.

Child-friendly complaints processes

In my previous submission to the Royal Commission in response to the *Issues paper – Violence and abuse of people with disability at home* (March 2021) I made reference to the National Office for Child Safety's *Complaint handling Guide: Upholding the rights of children and young people*. I recommended that this be used as a benchmark for disability service providers to ensure that their processes are child-focussed and child-friendly.

While the work was not solely related to children and young people with disability, my office was appointed by the National Office for Child Safety to develop resources for children and young people explaining their right to speak up when they feel uncomfortable, unsafe or marginalised, and outlining the steps they can take to raise their concerns or make complaints within organisations. Supported by Commissioners and Guardians offices across Australia, I consulted widely with children and young people to develop these resources, which complement the National Office for Child Safety's complaint handling guidelines.

The *Speak up* resources include a poster, brochure for children and young people and a guide for adults to support them to speak up. They can all be found on my website ccyp.wa.gov.au and on the National Office for Child Safety's website childsafety.pmc.gov.au

Student Wellbeing in Schools project

This project explored issues impacting on student wellbeing, as well as the approaches and resources available to support student wellbeing in schools. The views of school leaders and staff from the three WA education sectors (government, Catholic and independent) were represented as part of this project.

Students with disability were identified as a distinct cohort at various points, including:

- specific issues impacting on the wellbeing of students with disability
- the funding and resourcing allocation provided to schools to support students with disability
- targeted approaches to supporting students with disability in schools, as well as some of the challenges facing schools in being able to adequately meet the needs of students with disability.

Three reports have been published that provide an overview of this work, including a discussion paper, a report on the findings of the survey with school leaders, and a report looking specifically at the financial resources available for schools. All three reports can be found on my website ccyp.wa.gov.au

Mental health inquiries and reports

This office has undertaken several inquiries and reviews into the mental health and wellbeing of children and young people in Western Australia. This includes the initial *Report of the Inquiry into the mental health and wellbeing of children* in 2011, the follow up *Our Children Can't Wait – Review of the implementation of recommendations of the 2011 Report of the Inquiry into the mental health and wellbeing of children and young people in WA* in 2015, and the 2020 *Progress update for agencies on the recommendations from the 2015 Our Children Can't Wait report*.

These inquiries and reviews heard from a range of stakeholders about the mental health needs of children and young people with disability and the capacity of the service system to support and respond to these needs. The reports may be of interest to the Royal Commission and can all be found on my website.

Speaking Out consultation reports

The office has also undertaken specific consultations with children and young people with disability, where they have spoken about a range of important topics and issues to them. This includes the 2020 *Speaking Out About Autism* report, which captured the views of a small group of WA children and young people with autism, as well as the *Speaking Out About Disability* report, which was developed in 2012 after consultation with close to 250 children and young people with disability. These reports can also be found on my website.

Summary

This Royal Commission presents a vital opportunity to explore the issues that are impacting on the rights and safety of people with disability in Australia. The Inquiry has shown so far that too many people with disability are experiencing preventable harm at the hands of their caregivers, the community, and the services that are intended to support them.

I strongly urge the Royal Commission to carefully consider the suggestions outlined in this document, particularly in relation to prioritising the voices and experiences of children and young people with disability.

I appreciate the opportunity to provide this feedback to you, and hope that the information provided is of assistance.

Please contact Natalie Hall, Director of Policy, Monitoring and Research on 6213 2297 or natalie.hall@ccyp.wa.gov.au if you would like to discuss the content of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Colin Pettit', written in a cursive style.

COLIN PETTIT

Commissioner for Children and Young People WA

19 August 2021