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

Nature and extent of violence, abuse, neglect and exploitation

Final Report
Volume 3

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Acknowledgement of Country

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Royal Commission) acknowledges Australia's First Nations peoples as the Traditional Custodians of the lands, seas and waters of Australia, and pays respect to all First Nations Elders past, present and emerging.

We recognise their care for people and country. In particular, we acknowledge the Traditional Custodians of the lands on which our offices are based: the Gadigal people of the Eora Nation where our Sydney office stands, the Jagera and Turrbal people as Traditional Owners and Custodians of the lands on which the city of Brisbane is located and the Ngunnawal and Ngambri peoples upon whose land the city of Canberra is located.

We pay our respects to all First Nations people with disability and recognise the distinct contributions they make to Australian life and to the outcome of this inquiry.

Acknowledgement of people with disability

The Royal Commission acknowledges people with disability who fought and campaigned long and hard for the establishment of this Royal Commission.

We acknowledge the courage and generosity of people with lived experience of disability who shared their knowledge and experiences of violence, abuse, neglect and exploitation with the Royal Commission. Their contributions to the Royal Commission have been indispensable in framing recommendations designed to achieve a more inclusive society that supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation.

Content warnings

This report contains information about violence, abuse, neglect and exploitation that may be distressing to readers.

The report contains first-hand accounts of violence, abuse, neglect and exploitation. As a result, some direct quotes in the report may contain language that may be offensive to some people.

First Nations readers should be aware that some information in this report may have been provided by or refer to First Nations people who have passed away.

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Key terms

violence, abuse, neglect and exploitation

Violence, abuse, neglect and exploitation can occur as single, repeated or cumulative incidents, acts or omissions by individuals or groups, or at the system or structural levels.

Some forms of violence, abuse neglect and exploitation overlap and the concepts may be interchangeable. For example, sexual violence by an intimate partner may be part of a pattern of abuse; failing to provide a person with disability with the necessities of life is neglect and may also be part of a wider pattern of abuse.

The definitions of ‘violence’, ‘abuse’, ‘neglect’ and ‘exploitation’ in this *Final report* are broader than those in our *Interim report*. This reflects what we learnt as our inquiry progressed, as we examined the experiences of people with disability in specific settings and contexts and the particular experiences of different groups of people with disability. The *Final report* definitions are also informed by past inquiries and reports,[1] the *Convention on the Rights of Persons with Disabilities* (*CRPD*)[2] and the definitions or descriptions used by other organisations.[3]

The definitions of ‘violence’, ‘abuse’, ‘neglect’ and ‘exploitation’ do not necessarily require an intention to inflict harm on a person with disability; they are particularly concerned with the nature, extent and effect of acts or omissions on the person with disability.

violence

‘Violence’ is the use or threatened use of force or the unjust use of power that causes or is likely to cause harm or fear of harm to a person or group of people with disability.

Forms of violence people with disability experience include, but are not limited to:

- physical violence, including cruel, inhuman or degrading treatment; deliberately causing pain or injury when responsible for providing personal support or care; directing shame; or threatening pain, injury or death
- sexual violence, including sexual assault; child sexual abuse including grooming; tricking or coercing someone into sex or sexual activities like recording, posting or sharing images or videos; or threats of sexual violence
- exclusionary discipline and restrictive practices applied to children and young people
- inflicting psychological harm, coercion, arbitrary deprivation of liberty, and stalking. These include coercive control, enforcing isolation from family and friends, repeated humiliation or degradation, and threats to harm loved ones or pets

- reproductive violence or coercion such as forced or coerced sterilisation, pregnancy, abortion, contraception or threats of these
- forced treatments and interventions
- continual failure to meet a person with disability's needs (slow violence).

These forms of violence may occur in any setting, including in family or domestic relationships.

abuse

'Abuse' consists of acts or omissions causing or likely to cause direct or indirect harm to a person or group of people with disability. Abuse can occur as a single incident or repeated incidents or a pattern of behaviour over a period of time.

Forms of abuse people with disability may experience include, but are not limited to:

- bullying, verbal abuse, vilification, harassment, including sexual harassment
- threats, intimidation and behaviour that insults or humiliates a person, such as disability-specific slurs or insults
- disability-specific abuse, including removing, denying or withholding necessary equipment or devices, such as a wheelchair or communication aids; and withholding necessary assistance and care
- the misuse or overuse of restrictive practices, guardianship and administration orders and indefinite detention arising from unfitness to plead laws
- discrimination or victimisation on the ground of disability
- exclusion and isolation
- forced segregation
- emotional, financial and online abuse
- deprivation of human rights and personal dignity
- denial of autonomy over significant or everyday decisions
- misuse of power and authority with respect to a person with disability
- micro-aggressions, including incidents of disrespect, humiliating treatment, non-consensual filming and photography, and being treated as an inconvenience.

Note: Commissioners Galbally and McEwin consider entrenched segregation to be a form of abuse.

neglect

'Neglect' is the failure to provide for the physical, emotional, social and cultural wellbeing and development of a person or group of people with disability.

Forms of neglect include but are not limited to:

- deprivation of basic necessities of life, including food, clothing and housing
- failure to provide assistance with daily activities
- failure to provide health care
- depriving a person of the right, or limiting their right, to education
- depriving a person of the opportunity, or limiting their opportunity, to develop personal relationships, friendships or engage in community activities
- depriving a person of access to, or limiting their access to, language and forms of communication
- infringing a person's human rights
- failing to act in the best interests of a child
- developmental neglect, including failing to provide an environment for each person to maximise their potential
- the failure to facilitate access to cultural practices or relationships
- exclusion from access to or participation in settings and services available to the general population
- failing to provide services essential for the safety, health and wellbeing of a person.

Neglect can occur where natural and systemic safeguards fail to protect a person, such as when family, friends, neighbours, communities and government agencies ignore or fail to take action to prevent the risk of violence against, or abuse, neglect or exploitation of, a person with disability.

exploitation

'Exploitation' involves taking or attempting to take improper advantage of a person or group of people with disability for benefit, advantage or gratification, including taking physical, sexual, financial or economic advantage of a person with disability.

Forms of exploitation people with disability experience include:

- within disability service provision, improper 'capturing' of a person's need for multiple services by a single service provider
- payment of wages below relevant award rates or at unconscionably low rates.

Endnotes

1 For example, see ‘Violence, abuse and neglect’ in Senate Community Affairs References Committee, Parliament of Australia, *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability*, Report, November 2015, p 5.

2 See Committee on the Rights of Persons with Disabilities, *General comment no. 3 (2016) on women and girls with disabilities*, UN CRPD/C/GC/3, (25 November 2016), [31–37]; Committee on the Rights of Persons with Disabilities, *General comment no. 8 (2022) on the right of persons with disabilities to work and employment*, UN CRPD/C/GC/8, (9 September 2022), [72].

3 For example, see ‘violence’ in: World Health Organization, *Global status report on violence prevention 2014*, Report, 2014, p 84; and United Nations, *Declaration on the Elimination of Violence against Women*, Adopted 20 Dec 1993, art 2; Also see: the Alliance for Child Protection in Humanitarian Action, ‘Discussion paper: Review of definitions and explanations of abuse, neglect, exploitation and violence against children’, 2019, p 8; also see the Australian Institute of Health and Welfare definition of ‘neglect’ in relation to children, in Australian Government, Australian Institute of Health and Welfare, Child protection, Glossary.

Summary

Key points

Violence and abuse

- Across all age groups, a greater proportion of people with disability experience violence than people without disability. People with disability also experience violence more frequently.
- Rates of violence are particularly high for:
    - women with psychological or intellectual disability
    - First Nations women with disability
    - young women with disability.
- More than half of people with disability aged 18 to 64 (55 per cent) have been physically or sexually abused since age 15 compared with 38 per cent of adults without disability in that age group.
- People with disability who experience violence are more likely to know the perpetrator than people without disability who experience violence (81 per cent compared with 60 per cent). They are more likely to experience violence in all relationships, including with intimate partners, family members, friends and co-workers.
- Forty-six percent of people with disability have been subjected to violence by a stranger.

Neglect

- Neglect of people with disability occurs in multiple forms. It includes deprivation of basic necessities of life; disability-specific forms of neglect, such as a failure to provide assistance with daily activities; and being excluded from quality settings and services, including education and health care. It includes a failure to provide an environment in which an individual can thrive, and being denied the right to develop personal relationships, friendships or engage in community activities.
- Neglect also occurs through failures to prevent the risk of violence, abuse, neglect and exploitation.
- Data on neglect of people with disability is limited.

Exploitation

- People with disability have shared experiences of financial and sexual exploitation by other individuals. Exploitation also occurs through ‘capturing’ of a person’s NDIS services and through payment of very low wages. Data on exploitation is also limited.

Practices that deny or diminish autonomy, health and wellbeing

- People with disability are disproportionately subjected to practices that deny them their autonomy and can have adverse impacts on their health and wellbeing. These include restrictive practices, such as being physically and chemically restrained; guardianship and administration; and indefinite detention.

Segregated environments

- Some people with disability have no choice but to live, attend school, work or socialise in completely segregated environments. Forced segregation and limiting people's access to the community are forms of abuse and neglect.[1]

Intersecting experiences

- Individuals and groups of people with disability experience intersecting forms of discrimination and disadvantage. This includes First Nations, culturally and linguistically diverse, and LGBTIQA+ people with disability.

Life outcomes

- People's life trajectories and life outcomes can be profoundly influenced by violence, abuse, neglect and exploitation.
    - An estimated 400 deaths each year of people with intellectual disability aged 20 and above are considered potentially avoidable.
    - Nearly half (47 per cent) of working-age people with disability are not in the labour force, a rate that has not substantially changed in 25 years.

Costs of violence, abuse, neglect and exploitation

- In addition to the high personal cost to people with disability, violence, abuse, neglect and exploitation have a significant cost to Australian society more broadly. In total, this is estimated to be at least $46 billion annually.

Introduction

Violence against, and abuse, neglect and exploitation of, people with disability in Australia occur in multiple forms and affect almost every aspect of many people's lives.

This volume of our *Final report* provides an account of the nature and extent of the violence, abuse, neglect and exploitation people with disability experience in different settings and contexts and across their different life stages. It sets out what occurs in people's homes and other residences, at school, at work, while socialising, when going about everyday life and when engaging with services and supports. It examines violence, abuse, neglect and exploitation perpetrated by individuals and resulting from systemic and structural barriers, practices and failures. It illustrates how this can alter the life trajectories of people with disability and affect their life outcomes; and what this costs both people with disability and Australian society more generally.

This summary presents the key areas addressed in this volume.[2] Later volumes of the *Final report* examine particular issues raised in more detail and make recommendations for eliminating violence against, and abuse, neglect and exploitation of, people with disability in Australia.

People with disability in Australia

People with disability are a diverse community. They vary in age, gender, sexual identity, race or cultural background, family environments, socioeconomic circumstance, geographic locations and their particular disability. Their exposure to and experiences of violence, abuse, neglect and exploitation are also different, and can be influenced by these factors and characteristics. For example, we heard from many people with disability of people responding negatively to both their disability and characteristics such as age, gender, sexual identity, race or cultural background. Together, these responses form part of the nature and extent of people's experiences of violence, abuse, neglect and exploitation.

Number of people with disability

There is no one source of data to identify people with disability and their experiences of violence, abuse, neglect or exploitation.

The best source of data on the number of people with disability is the Australian Bureau of Statistics 2018 *Survey of Disability, Ageing and Carers* (*SDAC*). The Australian Bureau of Statistics defines disability as 'any limitation, restriction or impairment which restricts everyday activities and has lasted, or is likely to last, for at least six months'.[3] It relies on self-reporting of limitations or restrictions. According to the *SDAC*, there are around 4.4 million people with disability in Australia, which is 18 per cent of the total population, or nearly one in five people.

We generally focused on people with disability under 65 years of age. As explained in Chapter 1, 'People with disability in Australia', reasons for this include that our terms of reference did not require us to inquire into matters dealt with by the Royal Commission into Aged Care Quality and Safety, conducted from 2018 to 2021. There are around 2.4 million people with disability under 65 years, which is 12 per cent of the population in that age group.

While we have relied on the *SDAC* and other surveys to assess the number of people with disability in Australia, the Royal Commission's approach to disability is based on the *Convention on the Rights of Persons with Disabilities.* We recognise the interaction between people's impairments and barriers to participating in society, as discussed in Chapter 1.

Age and disability

The older a person the more likely they will have a disability:

- 8.2 per cent of children (aged under 18) have disability (approximately 450,000 children)
- 13 per cent of adults aged 18 to 64 have disability (2.0 million adults in this age group)
- almost 50 per cent of adults aged 65 and over have disability (1.9 million adults in this age group).

Among children with disability:

- there are more boys (61 per cent) than girls (39 per cent)
- more than half have an intellectual disability (56 per cent)
- 56 per cent have what the Australian Bureau of Statistics calls ‘profound’ or ‘severe’ disability.

Adults aged 18 to 64 years with disability are more likely to have a physical disability (65 per cent) than another type of disability. Of this age group, 24 per cent have profound or severe disability.

Of the individuals and groups the Royal Commission paid particular attention to:

- Around 35 per cent of First Nations people under 65 had disability in 2018–19, which is three times higher than the percentage of people with disability in the general population.
    - Children accounted for almost one-quarter (24 per cent) of all First Nations people with disability. More than one in five First Nations children had disability (22 per cent), most commonly sensory disability (sight, speech or hearing impairment). Around 29 per cent of all First Nations children with disability had profound or severe disability (20,900 children).
    - Among First Nations adults aged 18 to 64, nearly half (45 per cent) had disability, most commonly physical disability.
- Fifteen per cent of people from culturally and linguistically diverse backgrounds had disability in 2018, and 6.6 per cent of those aged under 65, according to the limited data available. This is likely to be an underestimate.
- Little information is available on the number of LGBTIQA+ people with disability. The available data indicates that, as at 2014, 30 per cent of people aged 18 and over who identify as gay, lesbian, bisexual or ‘other’ sexual identity had disability.

National Disability Insurance Scheme participants

People have to be under 65 years to apply to participate in the National Disability Insurance Scheme (NDIS). To qualify for the NDIS, people are likely to have relatively high and complex support needs.

As at 31 December 2022, there were 573,342 participants in the NDIS:

- half were aged 18 or under
- 61 per cent were male
- 35 per cent of participants had autism
- 17 per cent of participants had intellectual disability.

Interpersonal violence and abuse

The available data clearly shows that compared with people without disability, people with disability in Australia:

- experience higher rates of interpersonal violence and abuse (that is, violence and abuse perpetrated by another individual) and are more likely to experience multiple incidents
- experience more than twice the rate of violence by a domestic partner
- experience twice the rate of sexual assault
- are more likely to know the perpetrator of violence
- are more likely to experience abuse at a young age.

The Australian Bureau of Statistics 2016 *Personal Safety Survey* (*PSS)* is a national survey about people's experiences of violence and abuse. According to the *PSS*, since age 15:

- More than half of people with disability aged 18 to 64 (55 per cent) have experienced physical or sexual violence, compared with 38 per cent of people without disability.
- Physical assault is the most common type of violence or abuse (experienced by 45 per cent of people with disability), followed by emotional abuse perpetrated by a domestic partner (31 per cent). In comparison, 29 per cent of people without disability experienced physical violence and 17 per cent emotional abuse.
- The rate of violence by a domestic partner is much higher for people with disability (21 per cent) than people without disability (9.8 per cent). The rate of sexual assault of people with disability is double that of people without disability (18 per cent compared with 9.1 per cent).

Of people who experience violence since age 15, people with disability are more likely than people without disability:

- to experience multiple incidents (76 per cent compared with 62 per cent)
- to know the perpetrator (81 per cent compared with 69 per cent). For all perpetrator types the *PSS* asks about, people with disability are more likely to experience violence. The most common perpetrator is a former intimate partner (33 per cent) followed by a family member (22 per cent), current intimate partner (19 per cent), friend (15 per cent) or co-worker (11 per cent).

Overall, men and women with disability experience similarly high rates of violence from age 15 (56 per cent and 54 per cent, respectively). This compares with 41 per cent for men without disability and 34 per cent for women without disability. However, men and women with disability experience different types of violence.

Men with disability aged 18 to 64 are:

- more likely to experience physical violence or threats of violence, and are more than twice as likely to experience violence perpetrated by a stranger than women with disability aged 18 to 64.

As discussed later in this section, women with disability are:

- more likely than men with disability to experience sexual assault, domestic partner violence, emotional abuse, and stalking
- more likely to experience violence by someone known to them.

(The 2016 *PSS* did not record gender identities other than ‘male’ and ‘female’.)

People with head injury and psychological or intellectual disability

As we know, people with disability are not a homogenous group and people with some types of disability experience higher rates of violence again.[4] This includes:

- people with head injury, stroke and brain damage (73 per cent)
- people with intellectual disability (67 per cent)
- people with psychological disability (66 per cent).

This compares with 60 per cent of people with sight, hearing or speech impairment and 57 per cent of people with physical disability.

Violence against and abuse of young adults and children

Across all age groups, a higher proportion of people with disability experience violence than people without disability. However, rates for younger adults are much higher than for older adults. Fifteen per cent of young adults aged 18 to 35 experienced violence in the previous 12 months, compared with 5.5 per cent of adults aged 36 to 64.

People with disability are more than twice as likely to experience physical or sexual abuse before the age of 15 (23 per cent) than people without disability (11 per cent).

Research also indicates children with disability, and First Nations children with disability in particular, are exposed to family and domestic violence at higher rates than children without disability. This is based on a study of children from Western Australia whose mothers were hospitalised for family and domestic violence.

Children and young people with disability are also subjected to higher rates of bullying than students without disability, according to 2020 research.

Chapter 3, ‘Interpersonal violence, abuse, neglect and exploitation’ provides more detail on rates of violence and abuse and the nature of people with disability’s experiences.

Women and girls

As noted, women with disability experience all forms of violence at higher rates than women without disability. They are:

- more than twice as likely to have experienced physical and sexual abuse before the age of 15
- more likely to experience violence by a previous intimate partner since age 15.

Of those who have experienced violence since age 15, women with disability are more likely to experience multiple incidents of violence than women without disability (77 per cent compared with 67 per cent).

Compared with men with disability, women with disability are more likely to experience sexual assault, violence and emotional abuse by a domestic partner, and stalking. Women with disability are also more likely to know the perpetrator of violence against them (93 per cent of women with disability compared with 69 per cent of men with disability).

Violence and abuse of women and girls predominantly occur within family and domestic contexts. As discussed in Chapter 4, women and girls with disability can be exposed to family and domestic violence in relationships and settings outside of relationships with intimate partners, parents, siblings and extended family members in private homes. For example, they can also be exposed to violence and abuse by support workers and co-residents in supported accommodation and institutional settings.

Young women, First Nations women and women with psychological disability experience higher rates of violence

Women with psychological or intellectual disability, young women with disability and First Nations women with disability experience higher rates of violence again.

Seventy-two per cent of women with psychological or intellectual disability have experienced violence since age 15 compared with 54 per cent of women with disability of any type. They are 16 percentage points more likely to have been sexually assaulted; 45 per cent of women with psychological or intellectual disability have been sexually assaulted compared with 29 per cent of women with any type of disability. They are at particular risk of domestic partner violence.

Chapter 4, ‘Women and girls’, examines this in more detail.

First Nations and LGBTIQA+ people with disability and people from culturally and linguistically diverse backgrounds

As noted, we heard from many people with disability about negative responses to their disability intersecting with negative responses to other characteristics, such as age, gender, sexual identity, race or cultural background.

First Nations people with disability

As we know, around 35 per cent of First Nations people under 65 had disability in 2018–19, which is three times higher than the percentage of people with disability in the general population. We also know that as people with disability they are subjected to higher rates of violence and abuse than people without disability.

Directly comparing rates of violence against and abuse of First Nations people with disability and non-Indigenous people with disability is difficult because of how data is gathered and presented. However, the Australian Bureau of Statistics *National Aboriginal and Torres Strait Islander Health Survey* (*NATSIHS*) 2018–19 shows that First Nations people with disability are more likely to have experienced physical harm or threats of harm in the previous 12 months than First Nations people without disability (22 per cent compared with 12 per cent). A separate study for New South Wales shows First Nations people with disability in that State are around twice as likely to be victims of violent crime as non-First Nations people with disability.

We also know First Nations women with disability:

- are more likely to be injured by their most recent experience of deliberate physical harm (78 per cent) than First Nations women without disability (63 per cent) and First Nations men with disability (68 per cent)
- are more than twice as likely (53 per cent) as First Nations men with disability (25 per cent) to report that a current or previous intimate partner was the perpetrator of physical harm against them in the previous 12 months.

According to the *NATSIHS*, the most common perpetrator of physical harm against First Nations women with disability is a current or previous intimate partner (53 per cent). For First Nations men with disability, the most common perpetrator is another family member (39 per cent).

Culturally and linguistically diverse people with disability

There is limited data on people with disability from culturally and linguistically diverse backgrounds and what is available should be interpreted with caution given the diversity of this cohort. The limited data shows:

- Culturally and linguistically diverse people with disability experience more violence and abuse than those without disability (33 per cent compared with 23 per cent).

- During the first wave of the COVID-19 pandemic, culturally and linguistically diverse women with disability reported higher rates of domestic partner violence including physical or sexual violence (21 per cent) and coercive control (26 per cent) than those with English-speaking backgrounds (16 per cent and 18 per cent respectively).

LGBTIQA+ people with disability

People with disability who identify as gay, lesbian, bisexual or 'other' sexual identity are almost twice as likely to have experienced physical or threatened violence than those who identify as heterosexual (20 per cent compared with 12 per cent).[5]

Among LGBTQA+ people with disability (this does not include intersex people, due to limited sample size), rates of violence and abuse are higher among those with 'severe' disability than those with 'moderate' or 'mild' disability. Of respondents to two surveys analysed for the Royal Commission, almost half aged 18 and over with severe disability had experienced verbal abuse (49 per cent) and more than one-quarter (27 per cent) had experienced threats of physical violence, or an attack or assault in the previous 12 months. Among LGBTQA+ people with disability, rates of violence and abuse vary based on both sexual identity and gender identity.

People with disability who identify as LGBTQA+ report high levels of violence and abuse by family members compared with LGBTQA+ people without disability.

Chapter 5, 'Intersectional experiences of interpersonal violence and abuse' focuses on First Nations people with disability, culturally and linguistically diverse people with disability and LGBTIQA+ people with disability.

Violence and abuse in public places

In addition to high rates of violence by someone known to them, the *PSS* records that 46 per cent of adults with disability who have experienced violence indicate a stranger was responsible in at least one of those instances. The *PSS* does not record the setting in which violence by strangers occurs, but it is likely that some was in public places. There is limited data otherwise available on the extent of violence and abuse people with disability experience when going about their everyday lives in public places. However, it is clear from Public hearing 28, 'Violence against, and abuse of people with disability in public places', that it can be persistent and pervasive.

In Public hearing 28, people with disability described:

- physical and sexual violence and verbal abuse
- threatening or intimidating behaviour, including being physically blocked and followed
- micro-aggressions, that is, seemingly more minor incidents that can cumulatively amount to abuse, including non-consensual filming
- verbal and sexual abuse and harassment in online forums, including social media, public and private forums and dating sites.

Violent and abusive treatment in public places has a material impact on the health and wellbeing of people with disability. It can cause individuals to modify their behaviours, such as by not going out in public alone and avoiding particular places, activities and people. This includes avoiding travelling on public transport, going to places where alcohol is consumed, and avoiding groups of teenagers and young adults. The overall effect is of limiting people's lives and reducing their participation in the community.

Chapter 6, 'Violence and abuse in public places' examines this in more detail.

Interpersonal neglect and exploitation

Neglect

Neglect of people with disability occurs in multiple forms and across different stages of people's lives. The forms of interpersonal neglect we have identified are often connected to or enabled by systemic or service delivery issues. Forms of interpersonal neglect people with disability experience include, but are not limited to:

- deprivation of basic necessities of life
- failure to provide assistance with daily activities
- deprivation of, or limits on, the opportunity to develop personal relationships, friendships or engage in community activities
- developmental neglect, including a failure to provide an environment for each person to maximise their potential
- failure to prevent the risk of violence, abuse, neglect or exploitation.

(See 'Exclusion from settings and services' and 'Violence, abuse, neglect and exploitation in segregated settings and services' in this Summary for more on neglect.)

There is no nationally representative data source on neglect of people with disability. Data on the number of 'reportable incidents' from the NDIS Quality and Safeguards Commission (NDIS Commission) provides some insight on neglect of NDIS participants. Reportable incidents cover a range of acts and events, including abuse and neglect of a person with disability, with neglect defined as 'an action, or a failure to act, by a person who has care or support responsibilities towards a person with disability'.

The NDIS Commission examined reportable incidents concerning seven of the largest NDIS providers of Supported Independent Living (SIL). Of the 6,269 incidents reported from 1 July 2018 to 30 September 2022, 1,293 (21 per cent) related to neglect in a group home setting, not including incidents of unauthorised restrictive practices. This included inadequate supervision, inadequate personal hygiene support and medical omissions.

Exploitation

People with disability have shared experiences of both sexual and financial exploitation by other individuals with the Royal Commission. However, the data on exploitation of people with disability by an individual or group of individuals is also limited. (Exploitation in disability services provision and wage payment is discussed in ‘Violence, abuse, neglect and exploitation in segregated settings and services’ in this Summary.)

The Australian Competition and Consumer Commission (ACCC) provided the Royal Commission with data under notice on all scams reported to its Scamwatch program between January 2016 and May 2020.[6] The ACCC data shows the average number of people with disability reporting scams increased each year, from 263 reports per month in 2016 to around 419 per month in 2019. People with disability aged 55 to 64 were most at risk, with 30 per cent of reported scams from people in that age group.

The types of scams reported by people with and without disability were largely similar but scams against people with disability were more likely to have a serious financial impact. People with disability lost more money on average than people without disability, totalling $24.6 million over the four-year period.

People with disability were more than twice as likely to experience financial loss from dating and romance scams than people without disability (14 per cent compared with 6 per cent).

Chapter 3, ‘Interpersonal violence, abuse, neglect and exploitation’, examines the nature and extent of interpersonal neglect and exploitation in more detail.

Practices that disproportionately affect people with disability

In addition to violence, abuse, neglect and exploitation at the interpersonal level, people with disability are solely or disproportionately subjected to practices that deny them their autonomy, and can affect their health, safety and wellbeing. These include:

- restrictive practices, including physical, chemical or mechanical restraint
- guardianship and administration orders, which remove freedom to make life decisions
- indefinite detention.

Restrictive practices

A restrictive practice is any practice or intervention that has the effect of restricting a person’s rights or freedom of movement. A restrictive practice can be physical, chemical, mechanical or environmental. People with disability are at risk of restrictive practices across settings, including in schools, supported accommodation, health care settings and places of detention.

We found that psychotropic mediation is overused and overprescribed for people with cognitive impairment. We found that this was often in response to people with disability displaying ‘behaviours of concern’. We also concluded that the use of restrictive practices in schools is unregulated and lacking in oversight.

Data supplied by the NDIS Commission shows high levels of restrictive practices use in NDIS settings. In 2021–22, there were 5.58 million recorded authorised uses and 1.42 million notified unauthorised uses. Chemical restraint was the most frequently used restrictive practice. There is a lack of data about the use and frequency of restrictive practices in other settings.

Guardianship and administration

A guardianship or administration order is an order made by a court or an appointment by a person that authorises a person to make decisions on another person’s behalf.

We heard accounts of people whose health or cultural needs were not met, who were disconnected from their community, or were denied the opportunity to build their financial skills while under guardianship or administration.

Data and evidence show the NDIS rollout has led to an increase in guardianship applications and orders, particularly orders appointing a public guardian or advocate. This is due to the complexity of NDIS plan management, and service providers wanting certainty around consent to decisions. It may have resulted in some people with disability coming under guardianship who may not need to be.

Unfitness to stand trial

People with disability charged with offences can be deemed to be ‘unfit’ to stand trial because they do not understand or cannot plead to the charges they are facing. The consequences of a finding of unfitness can be detention in prison or in a forensic mental health facility for longer than had the person been found guilty and sentenced to the maximum term of imprisonment.

After Public hearing 11, ‘The experiences of people with cognitive disability in the criminal justice system’, we found that people with disability who are found unfit to stand trial are at risk of being indefinitely detained. We heard evidence that they are also at high risk of being subjected to restrictive practices, including solitary confinement, in custody. They may also be at risk of cruel and inhumane treatment.

Chapter 7, ‘Practices disproportionately affecting people with disability’ examines the nature and extent of these practices in more detail.

Exclusion from settings and services

Many people with disability will also experience violence, abuse, neglect or exploitation through barriers, policies or practices at the systems or structural level.

Exclusion was the major theme that emerged from this inquiry's examination of people's experiences in settings and services available to the general population (often referred to as 'mainstream'). That is, evidence showed that many people with disability are either denied access altogether or denied full participation or support in these settings and services. This includes health care, 'mainstream' education, open employment and criminal justice. We consider it a form of neglect to exclude people from settings and services that they have the right to access and participate in as members of the general population.

Adverse life outcomes

Data relevant to these settings and services shows people with disability:

- have worse health outcomes and lower life expectancy than people without disability
    - for example, an estimated 400 deaths each year of people with intellectual disability aged 20 and above are considered potentially avoidable
- leave school earlier and obtain school certificates at lower rates than people without disability
- participate in the labour force at lower rates than people without disability and have higher rates of under-employment
    - for example, close to half (47 per cent) of working-age people with disability are not in the labour force, a rate that has not substantially changed in 25 years
- come into contact with the justice system at high rates as victims of crime and alleged offenders, and are incarcerated at disproportionate rates.

The outcomes are worse again for some individuals and groups of people with disability, in particular for First Nations people with disability.

Adverse outcomes in these key areas should be understood from a life course perspective – that is, as outcomes from the multiplying impacts of influences and experiences in different settings and contexts and different stages of people's lives.

Chapter 2, 'Violence, abuse, neglect and exploitation across the life course' discusses compounding impacts of maltreatment over a lifetime, and how it can alter people's life trajectories. Chapter 8, 'Abuse and neglect in mainstream settings and services' examines disparities in life outcomes and the exclusion of people with disability from key settings and services.

Violence, abuse, neglect and exploitation in segregated settings and services

Segregation is when people with disability live, learn, work or socialise in environments designed specifically to cater for people with disability and separate from people without disability. Segregation limits the ability of people with disability to participate in the broader community, reducing their social, economic and cultural participation. Participation can be further limited through the structure, operation and service delivery of some segregated settings.

While all Commissioners adopt this definition for the purposes of the *Final report*, Commissioners have different views as to the precise meaning and significance of the term 'segregation' and its derivatives. The differences are explained in Volume 7, *Inclusive education, employment and housing*, which sets out the respective views of the Commissioners.

Evidence to the Royal Commission shows people with disability can be forced into segregated environments through lack of meaningful choices about where to live, work, socialise and study. Forced segregation can occur, for example, when people with disability need to enter or remain in a group home against their will, due to limited options for accessible and affordable housing. It can also occur when students with disability are excluded from mainstream education and are compelled to study at a special/segregated school without contact with their peers in other schools.

Segregation can become entrenched for some people with disability. This can occur for example when people with disability who live in group homes then attend the same day programs as their co-residents. It can also occur when people with disability transition to a new life stage, such as when a student with disability leaves a special/segregated school to work in an Australian Disability Enterprise (ADE).

Forced segregation and exclusion of people from access to the community can be considered forms of abuse and neglect.

Other forms of violence, abuse, and neglect in segregated settings and services

Some disability services continue to be designed and delivered in ways that maintain a power imbalance between providers and participants. This includes some group homes, ADEs and day programs. Evidence to the Royal Commission identified segregated environments with institutional cultures and practices exposing people with disability to:

- denial of choice and control
- violence and abuse
- neglect of development.

Exploitation in disability services provision and wage payments

The Royal Commission examined how wage arrangements in workplaces established for people with disability can amount to financial exploitation. Under the *Supported Employment Services Award 2020* people with disability can be legally paid less than the minimum wage in ADEs and in some open employment workplaces. They may receive the same extremely low wage rate for many years, which can amount to exploitation. (It should be noted that around 96 per cent of people with disability who work in ADEs receive the Disability Support Pension to supplement their ADE wage.)

Financial exploitation can also occur through the improper 'capturing' of a person's need for multiple services by a single disability service provider. For example, a service provider overseeing supported accommodation may have an interest in recommending other types of services they provide to a person with disability, even if those services are unsuited to the person's goals.

Chapter 9, 'Segregated, separate or non-mainstream settings and services' defines segregation and examines these issues in more detail.

The cost of violence, abuse, neglect and exploitation

The violence, abuse, neglect and exploitation examined by the Royal Commission have significant impacts for people with disability and for Australian society more broadly. To understand this better, we commissioned actuarial modelling and economic analysis by Taylor Fry and the Centre for International Economics (CIE). Their report, *Economic cost of violence, abuse, neglect and exploitation for people with disability*, estimates the annual cost to people with disability and to Australian society more broadly to be at least $46 billion each year. (The modelling is for all people with disability – that is, it is not restricted to those aged under 65.)

The report attributes $18.3 billion of the $46 billion to the costs of interpersonal violence against, and abuse, neglect and exploitation of, people with disability. This includes costs such as those resulting from reduced length and quality of life, health system costs, and homelessness and child protection system costs. The remaining $27.7 billion relates to systemic neglect impacting people with disability. This includes costs associated with the higher rate of avoidable deaths, preventable hospitalisations, people living in housing with accessibility issues, and lower employment rates that are attributable to violence, abuse, neglect or exploitation. It also includes costs associated with failings in the public health system to reduce health risk factors.

The economic costs are higher for some groups of people with disability, generally due to the higher rates of interpersonal maltreatment those groups experience. Economic costs are higher for First Nations people, people with severe or profound disability and people with psychosocial disability.

In addition to the $46 billion, the report identifies another $28.8 billion relating to the costs of 'additional gaps in outcomes'. These cover the poor outcomes of people with disability likely to be linked to violence, abuse, neglect or exploitation but for which insufficient research or data is available to establish the extent of this relationship.

Reducing the experiences of people with disability to a dollar figure is not intended to diminish or detract from the significant personal harm caused by violence, abuse, neglect and exploitation. Rather, the scale of the costs underscores the need for urgent action to address the many forms and instances of maltreatment examined throughout this inquiry. Action to address violence, abuse, neglect and exploitation has the potential to improve outcomes and save significant economic costs for people with disability and for the Australian community more broadly.

Chapter 10, ‘Costs and impacts of violence, abuse, neglect and exploitation’ examines this in more detail.

Endnotes

1 See Chapter 9, ‘Segregated, separate or non-mainstream settings and services’, for the definition of ‘segregation’, and how Commissioners have different views on its meaning.
2 See the chapters that follow for the references to the sources relied on in this volume summary.
3 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings*, 2018, Catalogue number 4430, 24 October 2019.
4 Based on experiences since age 15.
5 Australian Bureau of Statistics (2021), *Disability and Violence – In Focus: Crime and Justice Statistics*, <www.abs.gov.au/statistics/people/crime-and-justice/focus-crime-and-justice-statistics/latest-release#socio-demographic-characteristics>
6 Material obtained by the Royal Commission from Competition and Consumer Commission in response to Cth notice, 2020, CTH-NTG-00046.

1. People with disability in Australia

Key points

- The Royal Commission adopted the same approach to disability as the *Convention on the Rights of Persons with Disabilities,* recognising the interaction between impairment and barriers to participating in society on an equal basis with people without disability.
- The Royal Commission relied primarily on the 2018 Australian Bureau of Statistics *Survey of Disability, Ageing and Carers* for estimates of numbers and characteristics of people with disability.
- In 2018, there were around 2.4 million people with disability in Australia aged under 65, which is 12 per cent of the population in this age category.
- The older a person, the more likely it is they will have disability. In 2018:
    - 8.2 per cent of children aged under 18 had disability; 56 per cent of children with disability had intellectual disability
    - around 13 per cent of adults aged 18 to 64 and almost 50 per cent of adults aged 65 and over had disability. In both age groups, more people had physical disability than another type of disability.
- Between 2009 and 2018, the proportion of people with disability decreased overall, but increased for children. Of people with disability:
    - the proportions with physical disability decreased for all age groups
    - the proportion of children with psychological disability increased notably, from 16 per cent in 2008 to 28 per cent in 2018.
- In 2018–19, around 35 per cent of First Nations people aged under 65 had disability, which is about three times higher than the percentage of non-Indigenous people with disability.
- In 2018, 6.6 per cent of people aged under 65 from culturally and linguistically diverse backgrounds had disability.
- In 2014, 29 per cent of people aged 18 to 64 years who identify as gay, lesbian, bisexual or ‘other’ sexual identity had disability.
- In December 2022, 573,342 people with disability were National Disability Insurance Scheme (NDIS) participants.

1.1. Introduction

This volume of the *Final report* records the nature and extent of violence against, and abuse, neglect and exploitation of, people with disability in Australia.

This first chapter builds an understanding of the diversity of people with disability. It illustrates that people with disability vary including by age, gender, sexual identity, race or cultural background, geographic locations and their particular disability. Recognising the diversity of people with disability is important when examining the nature and extent of the violence, abuse, neglect and exploitation they experience, which can be influenced by those factors and social characteristics. For example, we heard from many people with disability about negative responses to disability intersecting with negative responses to social characteristics such as age, gender, sexual identity, race or cultural background. As discussed throughout this volume, it is also the case that people with particular disability types experience higher rates of different forms of violence, abuse, neglect and exploitation. For example, rates of violence and abuse are particularly high for people with cognitive disability.

Recognising the diversity of people with disability is also important in preventing and responding to violence, abuse, neglect and exploitation; and a critical part of delivering appropriate and targeted services and supports.

The chapter begins by explaining the Royal Commission's definition of disability, which is consistent with the approach of the *Convention on the Rights of Persons with Disabilities* (*CRPD*).

1.2. Defining and describing disability

Our work is guided by the human rights of people with disability, in particular the rights recognised by the *CRPD*. The preamble to the *CRPD* recognises:

> disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others …[1]

The *CRPD* describes people with disability as including:

> those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.[2]

We adopted the *CRPD* approach to both disability and people with disability throughout our inquiry. This approach recognises the interaction between impairment and barriers to participating in society on an equal basis as people without disability. Some of the Royal Commission's information sources take a different approach, which we explain later.

Survey of Disability, Ageing and Carers

Importantly for this chapter, when discussing the number of people with disability, we rely primarily on estimates from the 2018 Australian Bureau of Statistics *Survey of Disability, Ageing and Carers* (*SDAC)*. In contrast to the *CRPD*, this survey defines disability according to impairment only, that is as 'any limitation, restriction or impairment which restricts everyday activities and has lasted, or is likely to last, for at least six months'.[3]

The Australian Bureau of Statistics does not directly ask a person whether they have disability.[4] Instead, it asks questions to determine whether the person needs assistance, or has difficulty with or uses aids or equipment to perform, different types of activities.[5] These activities include self-care (such as showering, bathing or dressing), household chores, schooling and meal preparation. An individual with restrictions or limitations in these everyday activities for at least six months is classified as a person with disability, and an individual with no restrictions or limitations is classified as a person without disability.[6]

Based on the answers to survey questions, the Australian Bureau of Statistics also identifies levels of core activity limitation. The levels are determined on the basis of whether a person needs help, or has difficulty with, or uses aids or equipment to perform any of the core activities (mobility, self-care and communication).[7]

The four levels of limitation are:[8]

- profound – the person is unable to do, or always needs help with, a core activity task
- severe – the person
    - sometimes needs help with a core activity task, and/or
    - has difficulty understanding or being understood by family or friends, or
    - can communicate more easily using sign language or other non-spoken forms of communication
- moderate – the person needs no help, but has difficulty with a core activity task
- mild – the person needs no help and has no difficulty with any of the core activity tasks, but uses aids or equipment for core tasks, or has one or more of the following limitations
    - cannot easily walk 200 metres
    - cannot walk up and down stairs without a handrail
    - cannot easily bend to pick up an object from the floor
    - cannot use public transport
    - can use public transport, but needs help or supervision
    - needs no help or supervision, but has difficulty using public transport.

The Australian Bureau of Statistics also groups people with disability according to whether the disability relates to the functioning of the mind or senses, or to anatomy or physiology.[9] These disability 'types' may refer to a single disability or a number of similar disabilities. Table 3.1.1 sets out the disability types the Australian Bureau of Statistics uses, with examples of the kinds of impairments that restrict daily activities.[10]

Table 3.1.1: Disability types used by the Australian Bureau of Statistics

Disability type	Examples of impairments that restrict daily activities
Physical	Shortness of breath or breathing difficulties Blackouts, seizures or loss of consciousness Chronic or recurrent pain or discomfort Incomplete use of arms or fingers
Sensory	Loss of sight, not corrected by glasses or contact lenses Loss of hearing where communication is restricted or an aid is used Speech difficulties
Psychosocial	Nervous or emotional conditions Mental illness Memory problems or periods of confusion Social or behavioural difficulties
Intellectual	Difficulty learning or understanding things
Head injury, stroke or acquired brain injury	Head injury, stroke or other acquired brain injury with long-term effects
Other	Any other long-term conditions or ailments that require treatment or medication, and still restrict everyday activities Any other long-term conditions that restrict everyday activities.

Source: Australian Bureau of Statistics (2019).

While the *Survey of Disability, Ageing and Carers* is the largest and most comprehensive survey on people with disability in Australia, it has a series of limitations:[11]

- The *SDAC* collects information from three target populations: people with disability; older people (those aged 65 and over); and carers of people with disability or a long-term health condition or older people. As limited information is collected for those not in the target populations, comparisons between population groups are restricted.
- Limited information is collected from people living in cared accommodation[12] or completing an interview on behalf of someone else. This may mean some people with profound and severe types of disability are excluded from participating, or have limited information collected about them.

- The *SDAC* excludes certain population groups, including those living in short term accommodation, religious and educational institutions, correctional facilities, very remote areas or discrete Aboriginal and Torres Strait Islander communities.
- The explanatory notes for the *SDAC* state it is difficult to consistently measure disability because it depends on a person's perception of their ability to perform everyday tasks. Answers may also have been provided by another person (a proxy) and may differ from how the selected person would have responded.
- Certain conditions may not have been reported, underestimating the number of people with one or more disability types. This could be due to reasons such as sensitivities about the conditions, the condition was episodic or seasonal, or a proxy was unaware of the condition or its correct term.
- The different collection methods used (personal interview for households and administrator completed questionnaire for cared accommodation) may have affected reporting. This likely affected the reporting of 'need for assistance with core activities' and therefore affected measures such as disability status, particularly for older age groups who are more likely to be living in cared accommodation.

1.3. Number of people with disability

According to the 2018 *SDAC*, there are around 4.4 million people with disability in Australia. That is 18 per cent of the Australian population, or nearly one in five people (Table 3.1.2).[13]

Table 3.1.2: Number and percentage of people with disability in Australia by gender, 2018

Gender	Number of people with disability ('000)	Percentage with disability
Male	2144.0	17.6%
Female	2224.2	17.8%
Total	**4367.2**	**17.7%**

Note: The number of males and females with disability does not add up to the total number of people with disability because the Australian Bureau of Statistics changes some numbers to protect the confidentiality of people completing the survey.

Source: Australian Bureau of Statistics (2018).

These figures are for the total Australian population; the Royal Commission, however, has focused primarily on people with disability who are aged under 65. One reason for this is that this Royal Commission was set up in 2019 when the Royal Commission into Aged Care Quality and Safety was already underway. Our terms of reference make it clear we were not required to inquire into a particular matter if we were satisfied it 'has been, is being, or will be, sufficiently and appropriately dealt with by the Royal Commission into Aged Care Quality and Safety'.[14]

A second reason for focusing on people with disability under 65 years is that they tend to have different experiences of violence, abuse, neglect and exploitation, and tend to face different issues than older people. This is partly due to their age, but also to their different types of disability compared with older people (explained below).

The Australian Bureau of Statistics 2018 survey shows there are around 2.4 million people aged 0 to 64 with disability in Australia (Table 3.1.3), which is 12 per cent of the Australian population in that age group.[15] The proportion of people under 65 with disability in 2018 is similar for men (12 per cent) and women (11 per cent).

Table 3.1.3: Number and percentage of people with disability aged 0 to 64 in Australia by gender, 2018

Gender	Number of people with disability ('000)	Percentage with disability
Male	1239.7	12.0%
Female	1189.0	11.4%
Total	**2426.7**	**11.7%**

Note: The number of males and females with disability does not add up to the total number of people with disability because the Australian Bureau of Statistics changes some numbers to protect the confidentiality of people completing the survey.

Source: Australian Bureau of Statistics (2018).

1.4. Age and disability

The older a person the more likely it is they will have disability.

Table 3.1.4 shows the number and percentage of people with disability in Australia for three age groups:[16]

- children (people aged under 18 years)
- adults aged 18 to 64
- older adults aged 65 and over.

The final column of the table also shows the number of people in each age group as a percentage of all people with disability.

Table 3.1.4: Number and percentage of people with disability by age group, 2018

Age group	Number of people with disability ('000)	Of age group, percentage with disability	Of all people with disability, percentage in age group
Children (aged under 18)	453.9	8.2%	10.4%
Adults (aged 18–64)	1,973.3	13.0%	45.2%
Older adults (aged 65+)	1,941.5	49.6%	44.5%
Total	**4,367.2**	**17.7%**	**100.0%**

Note: The number of people with disability in each age group does not add up to the total number of people with disability because the Australian Bureau of Statistics changes some numbers to protect the confidentiality of people completing the survey.

Source: Australian Bureau of Statistics (2018).

The 2018 survey shows that around 450,000 children have disability. This represents 8.2 per cent of all children in Australia and 10 per cent of all people with disability.[17]

There is a greater proportion of people with disability in older age groups. Around 13 per cent of adults aged 18 to 64 have disability, compared with almost 50 per cent of adults aged 65 and over. More than two in five people with disability are aged over 65 years.

Tables 3.1.5 to 3.1.7 show the number and percentage of people with disability by gender as well as by age group.[18] In summary:

- of children with disability, there are more boys (61 per cent) than girls (39 per cent) (Table 3.1.5)
- 9.8 per cent of boys have disability compared with 6.5 per cent of girls (Table 3.1.5)
- in the older age groups, the proportion of people with disability is the same for men and women (around 13 per cent for people aged 18 to 64, and 50 per cent for people aged 65 and over) (Table 3.1.6 and Table 3.1.7).

Table 3.1.5: Number and percentage of children with disability by gender, 2018

Gender	Number of children with disability ('000)	Of children, percentage with disability	Of children with disability, percentage by gender
Male	277.5	9.8%	61.1%
Female	175.9	6.5%	38.8%

Source: Australian Bureau of Statistics (2018).

Table 3.1.6: Number and percentage of people with disability aged 18 to 64 by gender, 2018

Gender	Number of people with disability aged 18 to 64 ('000)	Of people aged 18 to 64, percentage with disability	Of people aged 18 to 64 with disability, percentage by gender
Male	960.3	12.8%	48.7%
Female	1011.2	13.1%	51.2%

Source: Australian Bureau of Statistics (2018).

Table 3.1.7: Number and percentage of people with disability aged 65 and over by gender, 2018

Gender	Number of people with disability aged 65+ ('000)	Of people aged 65+, percentage with disability	Of people aged 65+ with disability, percentage by gender
Male	905.9	49.5%	46.7%
Female	1036.1	49.8%	53.4%

Source: Australian Bureau of Statistics (2018).

Children with disability

According to the 2018 survey, more children with disability have intellectual disability than other disability types.[19] More than half (56 per cent) of children with disability have an intellectual disability – almost one in 20 of all children. This represents around 256,000 children (see Table 3.1.8).[20] There are roughly equal numbers and proportions of children with sensory disability (164,000 children or 36 per cent of children with disability) or psychosocial disability (169,100 children or 37 per cent of children with disability).

Table 3.1.8: Number and percentage of children under 18 with disability by disability type, 2018

Disability type	Number of children with disability ('000)	Of all children, percentage by disability type	Of children with disability, percentage by disability type
Sensory	164.0	3.0%	36.1%
Intellectual	256.0	4.6%	56.4%
Physical	111.2	2.0%	24.5%
Psychosocial	169.1	3.1%	37.3%
Head injury, stroke or acquired brain injury	12.6	0.2%	2.8%
Other	98.2	1.8%	21.6%
Total	**453.9**	**8.2%**	**–**

Note: People can experience more than one disability type at a time. This is why the sum of the number of people in each disability group does not equal the total number of people with disability and why the total percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

Comparing boys and girls with disability:[21]

- boys are more likely than girls to have sensory disability (41 per cent of boys with disability compared with 30 per cent of girls with disability)
- boys are also more likely to have intellectual disability (60 per cent of boys with disability compared with 50 per cent of girls with disability)
- girls are more likely to have physical disability (29 per cent of girls with disability and 21 per cent of boys with disability).

Around 4.6 per cent of children in Australia, or 56 per cent of children with disability, experience what the Australian Bureau of Statistics calls 'profound' or 'severe' disability (252,000 children).[22] (These terms are defined in section 1.2.) A greater proportion of boys aged under 18 experience profound or severe disability (59 per cent of boys with disability) than do girls (50 per cent of girls with disability).[23]

A greater proportion of children with a head injury, stroke or acquired brain injury and children with a psychosocial disability are considered to have profound or severe disability than children with other types of disability.[24] The proportion of children with disability with profound or severe disability is:[25]

- 91 per cent of children with head injury, stroke or acquired brain injury
- 74 per cent of children with psychosocial disability
- 71 per cent of children with sensory disability
- 62 per cent of children with physical disability.

Adults with disability aged 18 to 64

Almost 1.3 million adults aged 18 to 64 (8.4 per cent) have physical disability, according to the 2018 data.[26] Adults with disability aged 18 to 64 are more likely to have physical disability (65 per cent) than another disability type (see Table 3.1.9).[27] More than 600,000 adults in this age group – nearly one in every 20 – have psychosocial disability, representing 31 per cent of all people with disability aged 18 to 64.

Table 3.1.9: Number and percentage of adults aged 18–64 with disability by disability type, 2018

Disability type	Number of adults aged 18–64 with disability ('000)	Of adults aged 18–64, percentage by disability type	Of adults aged 18–64 with disability, percentage by disability type
Sensory	402.6	2.6%	20.4%
Intellectual	287.5	1.9%	14.6%
Physical	1285.6	8.4%	65.1%
Psychosocial	613.7	4.0%	31.1%
Head injury, stroke or acquired brain injury	162.5	1.1%	8.2%
Other	901.4	5.9%	45.7%
Total	**1973.3**	**13.0%**	**–**

Note: People can experience more than one disability type at a time. This is why the sum of the number of people in each disability group does not equal the total number of people with disability, or why the total of the percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

The proportions of men and women with disability aged 18 to 64 are roughly equal at 13 per cent (Table 3.1.6). Table 3.1.10 compares the type of disability for men and women.[28] Men and women with disability are similarly likely to have a physical disability (around 65 per cent) or psychosocial disability (around 30 per cent). However, men with disability are more likely than women with disability to have intellectual disability (19 per cent compared with 11 per cent) or sensory disability (24 per cent compared with 17 per cent).

Table 3.1.10: Percentage of men and women aged 18 to 64 with disability by disability type, 2018

Disability type	Of men aged 18–64 with disability, percentage by disability type	Of women aged 18–64 with disability, percentage by disability type
Sensory	24.1%	16.7%
Intellectual	19.1%	10.5%
Physical	65.0%	65.5%
Psychosocial	32.0%	30.3%
Head injury, stroke or acquired brain injury	10.4%	6.1%
Other	41.0%	50.0%

Note: People can experience more than one disability type at a time. This is why the total percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

Around 470,000 adults aged 18 to 64 have profound or severe disability, which is 3.1 per cent of the adult population and 24 per cent of all adults aged 18 to 64 with disability. The proportion of people with severe or profound disability varies by disability type. The proportion of people in this age group with profound or severe disability is:[29]

- 48 per cent of people with intellectual disability, and a higher proportion of women (56 per cent of people with intellectual disability) than men (42 per cent)
- 44 per cent of people with head injury, stroke or acquired brain injury
- 43 per cent of people with psychosocial disability
- 29 per cent of people with physical disability.

Adults aged 65 and over

Similar to adults aged 18 to 64, adults with disability aged 65 and over are more likely to have physical disability (71 per cent) than another disability type (see Table 3.1.11).[30] However, the percentage of people with physical disability is much higher for older people than adults aged 18 to 64. In 2018, more than one-third of all adults aged 65 and over had physical disability (35 per cent), compared with 8.4 per cent of adults aged 18 to 64.[31]

Table 3.1.11: Percentage of older adults aged 65 and over with disability by disability type, 2018

Disability type	Number of adults aged 65+ with disability ('000)	Of adults aged 65+, percentage by disability type	Of adults aged 65+ with disability, percentage by disability type
Sensory	968.5	24.8%	49.9%
Intellectual	203.0	5.2%	10.5%
Physical	1385.4	35.4%	71.4%
Psychosocial	356.8	9.1%	18.4%
Head injury, stroke or acquired brain injury	147.5	3.8%	7.6%
Other	842.5	21.5%	43.4%
Total	**1941.5**	**49.6%**	**–**

Note: People can experience more than one disability type at a time. This is why the sum of the number of people in each disability group does not equal the total number of people with disability, or why the total of the percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

The proportion of men and women aged 65 and over who have disability is approximately the same (50 per cent). Similar to adults aged 18 to 64, older men with disability are more likely than older women with disability to have sensory disability (59 per cent compared with 42 per cent; see Table 3.1.12).[32] However, in contrast to adults aged 18 to 64, older women with disability are more likely than older men with disability to have physical disability (77 per cent of women with disability compared with 64 per cent of men with disability).

Table 3.1.12: Percentage of men and women aged 65 and over with disability by disability type, 2018

Disability type	Of men aged 65+ with disability, percentage by disability type	Of women aged 65+ with disability, percentage by disability type
Sensory	58.7%	42.1%
Intellectual	9.8%	11.1%
Physical	64.3%	77.4%
Psychosocial	17.2%	19.4%
Head injury, stroke or acquired brain injury	9.3%	6.1%
Other	41.6%	44.9%

Note: People can experience more than one disability type at a time. This is why the total of the percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

The percentage of people with profound or severe disability increases sharply with age. Almost one in five adults (18 per cent) aged 65 and over, or nearly 690,000 people, have profound or severe disability, compared with 3.1 per cent of adults aged 18 to 64.[33]

Similar to other age groups, the number of people aged 65 and over with profound or severe disability varies by disability type. In 2018, the proportion of people in this age group with profound or severe disability was:[34]

- 82 per cent of older adults with intellectual disability
- 80 per cent of older adults with psychosocial disability
- 68 per cent of older adults with head injury, stroke or acquired brain injury
- 44 per cent of older adults with physical disability
- 36 per cent of older adults with sensory disability.

Overall, of people with disability aged 65 and over, there are more women with severe or profound disability (40 per cent) than men with profound or severe disability (30 per cent).

1.5. Trends in disability

According to the *SDAC,* the number of people with disability in Australia increased from 4.0 million in 2009 to around 4.4 million people in 2018. However, the proportion of the Australian population with disability decreased from 19 per cent in 2009 to 18 per cent in 2018 because the number of people without disability grew more quickly.[35]

The change in proportions of people with disability between 2009 and 2018 differs according to age and gender.

Between 2009 and 2018, the proportion of children with disability increased, but the proportion of adults and older adults with disability decreased (see Figure 3.1.1):[36]

- the proportion of children with disability in 2018 increased by 1.2 percentage points for males and 1.3 percentage points for females
- the proportion of adults aged 18 to 64 with disability decreased by 2.2 percentage points for males and 2.7 percentage points for females
- the proportion of older adults aged 65 and over decreased by 4 percentage points for males and 3.6 percentage points for females.

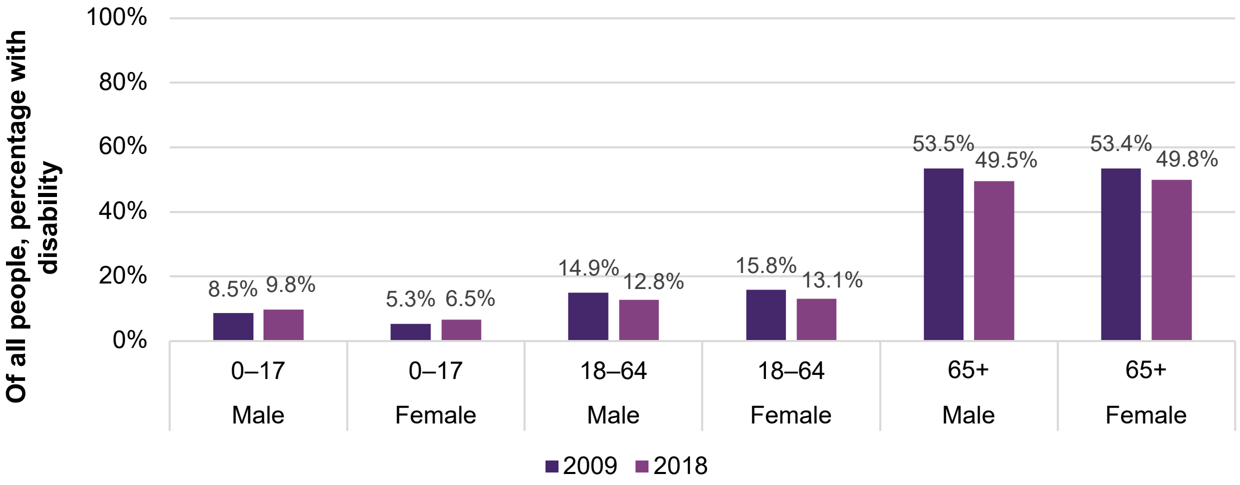

Figure 3.1.1: Of all people by age group and gender, percentage with disability, 2009 and 2018

Source: Australian Bureau of Statistics (2018).

The severity of disability, as defined by the Australian Bureau of Statistics, also changed between 2009 and 2018, with differences according to age and gender (see Figure 3.1.2).[37] Notably, between 2009 and 2018 among people with disability:

- the proportion of children with severe and profound disability increased by 3.8 percentage points for males and 4.2 percentage points for females
- the proportion of adults aged 18 to 64 with severe and profound disability increased by 2.7 percentage points for males and decreased by 1.2 percentage points for females
- the proportion of older adults (people aged 65 and over) with severe and profound disability decreased by 1.1 percentage points for males and 3.8 percentage points for females.

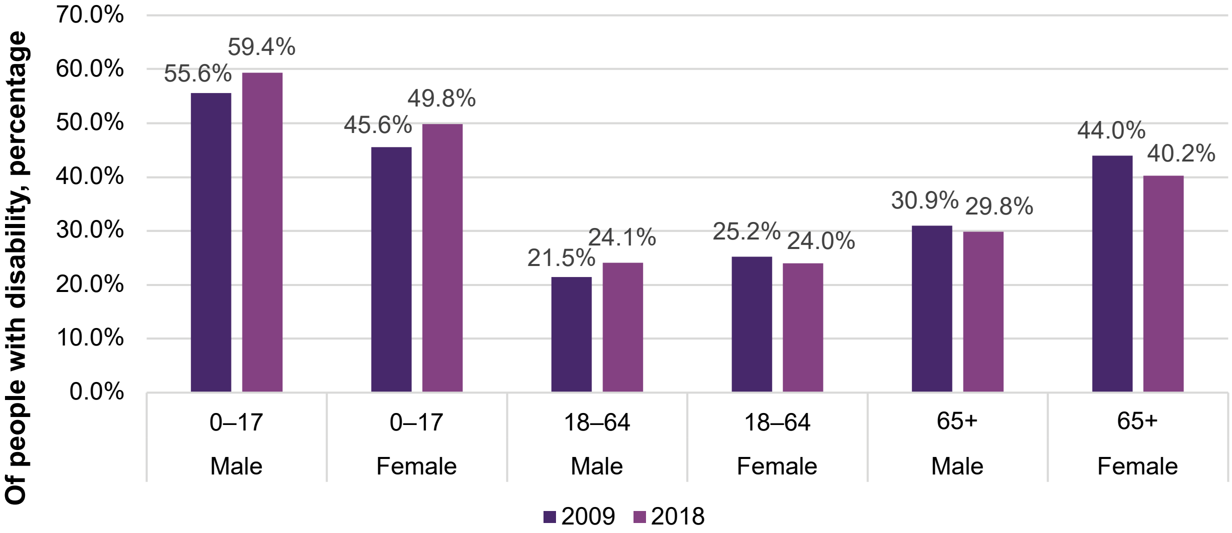

Figure 3.1.2: Of people with disability by age group and gender, percentage with profound or severe disability, 2009 and 2018

Source: Australian Bureau of Statistics (2018).

Despite an increase in the proportion of people with disability with severe or profound disability, the total percentage of people in the Australian population under 65 with severe or profound disability remained stable between 2009 and 2018, at 3.6 per cent and 3.5 per cent, respectively. This suggests that although the profile of people with disability is changing – with more people with disability having severe or profound disability – the overall percentage of people with severe or profound disability in the general population remains consistent.

The proportions of people with disability according to type of disability also changed between 2009 and 2018. However, in this case there is greater similarity across the age groups, with the proportion of people with a physical disability decreasing between 2009 and 2018 for all age groups. For children and adults aged 18 to 64 with disability, there was also a notable increase in psychological disability between 2009 and 2018. However, for adults aged 65 and over the greatest increase was in the proportions with sensory and speech disability. More details are given in Figures 3.1.3 to 3.1.5.

For children with disability, the proportion of children with psychological disability increased from 16 per cent in 2009 to 28 per cent in 2018 (see Figure 3.1.3).[38] In comparison, the proportion of children with physical disability decreased from 31 per cent to 25 per cent.

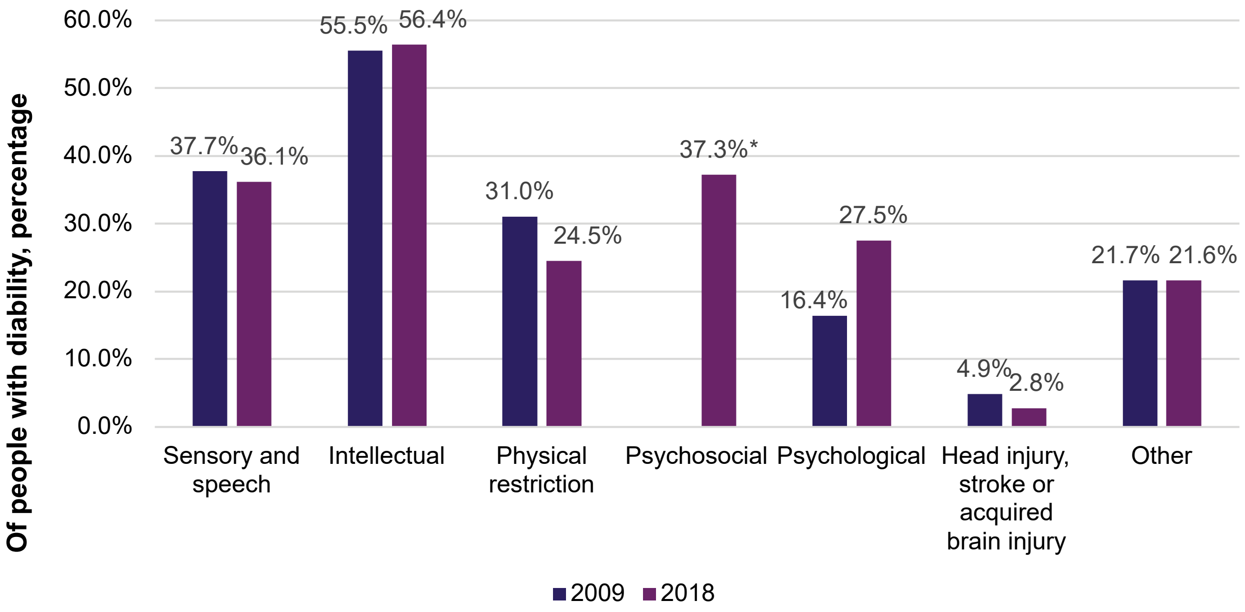

Figure 3.1.3: Of children aged under 18 with disability, percentage by disability type, 2009 and 2018

* In 2015, the disability group 'Psychosocial' replaced 'Psychological'. Given 'Psychosocial' was not available in 2009, 'Psychological' is included for period comparison. Note: People can experience more than one disability type at a time. This is why the total of the percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

For adults aged 18 to 64 with disability, from 2009 and 2018:

- the proportion with physical disability decreased from 72 per cent to 65 per cent
- the proportion with psychological disability increased from 17 per cent to 26 per (see Figure 3.1.4).[39]

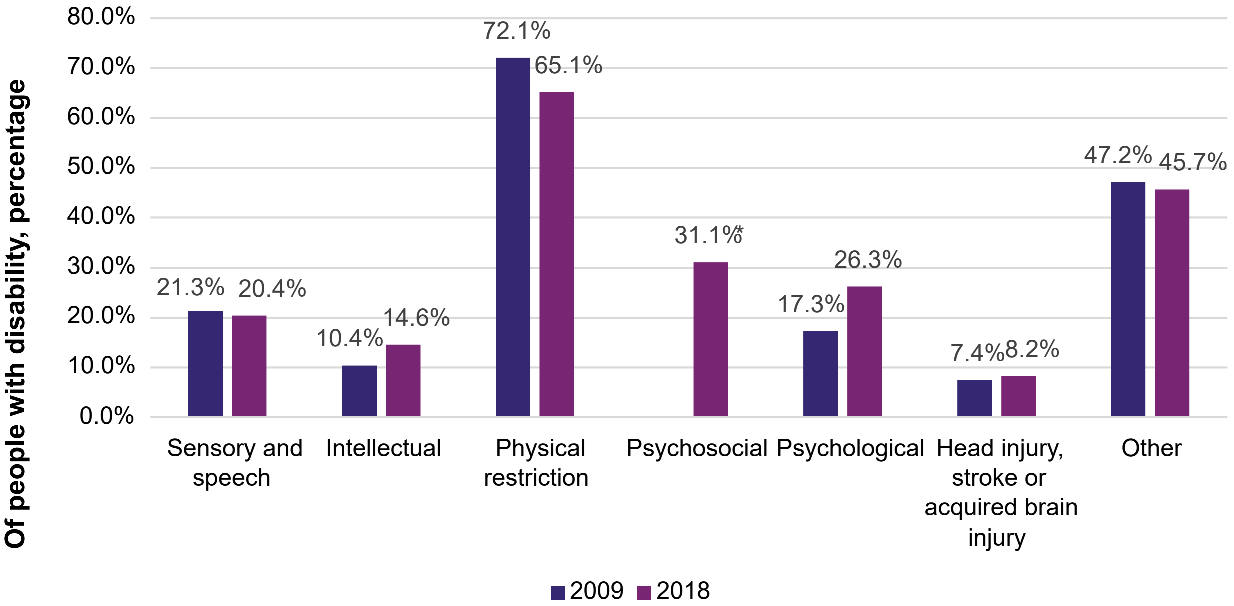

Figure 3.1.4: Of adults aged 18–64 years with disability, percentage by disability type, 2009 and 2018

* In 2015, the disability group 'Psychosocial' replaced 'Psychological'. Given 'Psychosocial' was not available in 2009, 'Psychological' is included for period comparison.

Note: People can experience more than one disability type at a time. This is why the total percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

For adults aged 65 and over, the proportion with physical disability decreased from 76 per cent to 71 per cent between 2009 and 2018. However, the proportion of older adults with sensory disability increased from 47 per cent to 50 per cent between 2009 and 2008 (see Figure 3.1.5).[40]

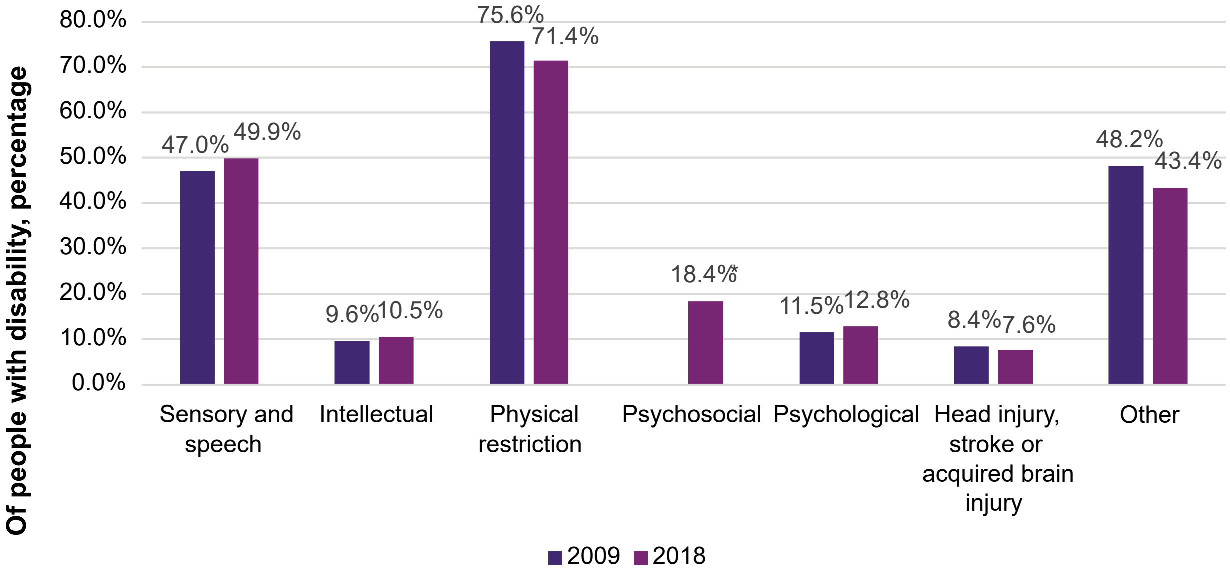

Figure 3.1.5: Of older adults aged 65 and over with disability, percentage by disability type, 2009 and 2018

* In 2015, the disability group ‘Psychosocial’ replaced ‘Psychological’. Given ‘Psychosocial’ was not available in 2009, ‘Psychological’ is also included for period comparison.
Note: People can experience more than one disability type at a time. This is why the total percentage of people in each disability group may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

1.6. Geographic location

This section looks at the geographic location of people with disability – whether they live in metropolitan, regional or remote areas and what state or territory they live in.

Geographic areas

Table 3.1.13 shows the proportion of people with disability by age group in the major geographic areas across Australia. Regional areas have the largest proportions of people with disability – 24 per cent in inner regional areas and 20 per cent in outer regional areas. Major cities have the lowest proportion of people with disability, at 16 per cent.

Looking at people aged under 65:

- in inner regional areas, 19 per cent of people aged 18 to 64 and 11 per cent of people aged under 18 have disability
- in comparison, in major cities, 11 per cent of people aged 18 to 64 and 7.5 per cent of people aged under 18 have disability.

Table 3.1.13: Percentage of people with disability by geographic area and age group, 2018

Geographic area[a]	Of children under 18, percentage with disability	Of adults aged 18–64, percentage with disability	Of adults aged 65+, percentage with disability	Of all people, percentage with disability
Major cities	7.5%	11.4%	48.9%	16.0%
Inner regional	10.7%	19.1%	52.0%	24.1%
Outer regional	8.6%	15.1%	48.8%	20.0%
Remote	6.1%	12.5%	57.1%	17.3%
Total	**8.2%**	**13.0%**	**49.6%**	**17.7%**

[a] Based on relative geographic remoteness using the Australian Bureau of Statistics Accessibility/Remoteness Index of Australia Plus (ARIA+). Very remote areas are excluded as they were not surveyed in the *SDAC*.

Source: Australian Bureau of Statistics (2018).

Comparing states and territories

This section compares the numbers of people with disability and the types of disability across the states and territories.

Table 3.1.14 sets out the percentage of the population with disability in the different states and territories by age group.[41] Two jurisdictions stand out:

- Tasmania has relatively high proportions of people with disability in all age groups compared with Australia as a whole:
    - 11 per cent of those aged under 18 (compared with 8.2 per cent for Australia)
    - 21 per cent of those aged 18 to 64 (compared with 13 per cent for Australia)
    - 61 per cent of those aged 65 and over (compared with 50 per cent for Australia).
- The Australian Capital Territory also has relatively high proportions of people with disability at ages under 18 (13 per cent) and at 18 to 64 (16 per cent). However, the proportion aged 65 and over (51 per cent) is close to the Australian average.

While the Northern Territory has a particularly low proportion of people with disability at ages under 18 (4.1 per cent), this estimate has a high relative standard error and should be used with caution.

Table 3.1.14: Percentage of people with disability by state and territory and age group, 2018

State or territory	Of children aged under 18, percentage with disability	Of adults aged 18–64, percentage with disability	Of adults aged 65+, percentage with disability
New South Wales	7.9%	11.8%	48.8%
Victoria	7.8%	12.5%	48.4%
Queensland	8.6%	14.8%	51.4%
South Australia	9.7%	13.1%	50.7%
Western Australia	7.5%	12.2%	47.9%
Tasmania	11.0%	20.7%	61.2%
Northern Territory	4.1%[a]	9.7%	52.1%
Australian Capital Territory	12.7%	15.5%	50.9%
Total	**8.2%**	**13.0%**	**49.6%**

[a] Estimate has a relative standard error of 25 per cent to 50 per cent and should be used with caution.

Source: Australian Bureau of Statistics (2018).

Table 3.1.15 provides more information about jurisdictional differences, showing the type of disability for people aged 0 to 64 by state and territory.[42] The stand-out jurisdiction is Tasmania: of people with disability aged 0 to 64, Tasmania has higher proportions of people with sensory and speech disability (28 per cent), intellectual disability (27 per cent) and psychosocial disability (43 per cent) than other states and territories.

Table 3.1.15: Of people with disability aged 0 to 64 years in each state and territory, percentage by disability type, 2018

State or territory[a]	Sensory and speech	Intellectual	Physical	Psychosocial
New South Wales	22.9%	20.9%	57.8%	31.3%
Victoria	23.9%	22.6%	55.8%	31.7%
Queensland	23.8%	22.9%	56.6%	33.2%
South Australia	21.8%	24.4%	59.6%	37.2%
Western Australia	23.0%	22.4%	60.0%	25.3%
Tasmania	28.0%	26.8%	62.1%	42.7%
Australian Capital Territory	19.8%	20.2%	51.4%	35.0%
Australia	**23.4%**	**22.4%**	**57.5%**	**32.2%**

[a] The Northern Territory is not included as some of the estimates have a relative standard error greater than 50 per cent and are considered too unreliable to use.

Notes: The disability group ‘Head injury, stroke or acquired brain injury’ is not included as some of the estimates have high relative standard error.
People can experience more than one disability type at a time. This is why the total percentage of people in each disability type may exceed 100 per cent.

Source: Australian Bureau of Statistics (2018).

1.7. First Nations people with disability

The Australian Bureau of Statistics *National Aboriginal and Torres Strait Islander Health Survey 2018–19* is the most reliable and recent source on the number of First Nations people with disability.

According to the survey, around 274,400 First Nations people under 65 years of age have disability, representing 35 per cent of the First Nations population under 65.[43] The percentage of First Nations people with disability under 65 is nearly three times higher than the percentage of people with disability in the general under-65 population (12 per cent).

The survey shows there are around 72,700 First Nations children (people aged under 18) with disability. This is more than one in five First Nations children (see Table 3.1.16).[44] Children account for almost one-quarter (24 per cent) of all First Nations people with disability.

Around 202,200 First Nations adults aged between 18 and 65 have disability, representing almost half (45 per cent) of all First Nations adults, and 66 per cent of all First Nations people with disability.

Looking at First Nations people aged 65 and over, a high proportion (79 per cent) have disability.

Table 3.1.16: Number and percentage of First Nations people with disability by age group, 2018–19

Age group	Number of First Nations people with disability ('000)	Of First Nations people, percentage with disability	Of First Nations people with disability, percentage by age group
Children (aged under 18)	72.7	22.2%	23.8%
Adults (aged 18–64)	202.2	45.3%	66.1%
Older adults (aged 65+)	31.4	79.3%	10.3%
Total	**306.1**	**37.6%**	**100.0%**

Note: The number of people with disability in each age group does not add up to the total people with disability because the Australian Bureau of Statistics changes some numbers to protect the confidentiality of people completing the survey.

Source: Australian Bureau of Statistics (2019).

First Nations children

The percentage of First Nations children with disability is higher for boys (26 per cent) than for girls (18 per cent).[45] Around 20,900 First Nations children have profound or severe disability, which is around 29 per cent of all First Nations children with disability, and 6.4 per cent of all First Nations children.[46]

The most common disability type among First Nations children is sensory disability (see Table 3.1.17).[47] Nearly 40,000 First Nations children (12 per cent) have sensory disability. Around 8.8 per cent of First Nations children have intellectual disability and around 4.7 per cent have physical disability.

Table 3.1.17: Number and percentage of First Nations children with disability by disability type, 2018–19

Disability type	Number of First Nations children with disability ('000)	Of all First Nations children, percentage by disability type
Sensory	38.7	11.8%
Intellectual	29.0	8.8%
Physical	15.5	4.7%
Psychological	13.4	4.1%
Head injury, stroke or acquired brain injury	0.7[a]	0.2%[a]
Other	13.2	4.0%
Total	**72.7**	**22.2%**

[a] Indicates moderate margin of error. Estimate should be used with caution and interpreted as 'indicative'.

Note: People can experience more than one disability type at a time. This is why the sum of the number of people in each disability group does not equal the total number of people with disability, and why the percentage of people in each disability group may together exceed the total percentage.

Source: Australian Bureau of Statistics (2019).

First Nations adults aged 18 to 64

The proportion of First Nations men aged 18 to 64 with disability is similar to the proportion of First Nations women with disability (both around 45 per cent).[48]

Of First Nations adults aged 18 to 64 with disability, around 19 per cent have profound or severe disability. This means 8.5 per cent of all First Nations adults aged 18 to 64 have profound or severe disability.[49]

Table 3.1.18 shows the types of disability for First Nations adults aged 18 to 64, noting that:[50]

- the most common disability type is physical disability – around 28 per cent of First Nations adults have physical disability
- 21 per cent have sensory disability
- around 12 per cent have psychological disability.

Table 3.1.18: Number and percentage of First Nations adults aged 18-64 with disability by disability type, 2018–19

Disability type	Number of First Nations adults with disability ('000)	Of all First Nations adults, percentage by disability type
Sensory	93.0	20.8%
Intellectual	38.6	8.6%
Physical	127.0	28.4%
Psychological	51.3	11.5%
Head injury, stroke or acquired brain injury	7.5	1.7%
Other	58.3	13.1%
Total	**202.2**	**45.3%**

Note: People can experience more than one disability type at a time. This is why the sum of the number of people in each disability group does not equal the total number of people with disability, and why the percentage of people in each disability group may together exceed the total percentage.

Source: Australian Bureau of Statistics (2019).

1.8. Culturally and linguistically diverse people with disability

The Australian Bureau of Statistics has a set of statistical standards designed to support a nationally consistent framework for collecting and disseminating data on cultural and language diversity.[51] The Minimum Core Set of Cultural and Language Indicators considers four concepts:

- country of birth
- main language other than English spoken at home
- proficiency in spoken English
- Indigenous status.

In this section we measure cultural and language diversity among people with disability based on whether people:

- were born outside Australia in a country where English is not the main language spoken (that is, a country other than Canada, New Zealand, the Republic of Ireland, South Africa, the United Kingdom and the United States of America)
- speak a language other than English at home (including Auslan), or
- speak English ‘not well’ or ‘not well at all’.

Looking at these groups together, the data from the 2018 *SDAC* shows that around 842,000 people with disability in Australia were born in a country where English is not the main language and/or speak a language other than English at home and/or do not speak English well or at all.[52] This is equivalent to:

- 3.4 per cent of the Australian population
- around 19 per cent of all people with disability
- around 15 per cent of all people who were born in a non-English speaking country *or* speak a language other than English at home *or* do not speak English well or at all.

Of this group:

- 2.5 per cent are aged under 18 years
- 34 per cent are aged 18 to 64 years
- 63 per cent are aged 65 years and over.

For those aged under 65, 6.6 per cent of people from culturally and linguistically diverse backgrounds have disability.

Data is not available from the *Survey of Disability, Ageing and Carers* for numbers of people with disability from different culturally and linguistically diverse communities.

1.9. LGBTIQA+ people with disability

Little information is available on the number of lesbian, gay, bisexual, transgender, intersex, queer, questioning and asexual (LGBTIQA+) people with disability. The Australian Bureau of Statistics 2014 *General Social Survey,* which includes data on disability status, also asked people aged 18 years and over about their sexual identity. People could identify as heterosexual; gay or lesbian; bisexual; or ‘other’ sexual identity.[53] These response options give a narrow picture of the number of LGBTIQA+ people with disability because they do not include people who identify as transgender, intersex, queer or questioning people.

Although the survey was conducted almost 10 years ago, we have used it because results for people with disability from the 2019 and 2020 *General Social Surveys* were not available in time for our analysis.[54] However, the survey was not designed to collect information on both disability and sexual identity, so estimates from the survey should be interpreted as indicative only.[55]

As shown in Table 3.1.19, the available data indicates there were 81,500 people with disability aged 18 years or over who identify as gay, lesbian, bisexual or other sexual identity.[56] This is 30 per cent of the total number of people aged 18 years or over who identify as gay, lesbian, bisexual or other sexual identity. Focusing on those aged 18 to 64, some 73,100 have disability, which is 29 per cent of people aged 18 to 64 who identify as gay, lesbian, bisexual or other sexual identity.

Table 3.1.19: Of people who identify as gay, lesbian, bisexual or other sexual identity, number and percentage with disability by age group, 2014

Age group	Number of people with disability ('000)	Percentage with disability
Adults (aged 18–64)	73.1	29.1%
Older adults (aged 65+)	10.6	53.0%
Total	**81.5**	**30.0%**

Note: The number of people with disability in each age group does not add up to the total people with disability because the Australian Bureau of Statistics changes some numbers to protect the confidentiality of people completing the survey.

Source: Australian Bureau of Statistics (2014).

Table 3.1.20 gives the gender breakdown for people with disability aged 18 to 64 who identify as gay, lesbian, bisexual or other sexual identity.[57] Of this group, the data shows that women are nearly twice as likely as men to have disability (37 per cent compared with 19 per cent).

Table 3.1.20: Of people aged 18-64 who identify as gay, lesbian, bisexual or other sexual identity, number and percentage with disability by gender, 2014

Gender	Number of people with disability ('000)	Percentage with disability
Male	22.9	19.2%
Female	49.7	37.0%
Total	**73.1**	**29.1%**

Note: The number of males and females with disability does not add up to the total people with disability because the Australian Bureau of Statistics changes some numbers to protect the confidentiality of people completing the survey.

Source: Australian Bureau of Statistics (2014).

Table 3.1.21 shows people with disability aged 18 to 64 who identified as gay, lesbian, bisexual or other sexual identity, according to the level of their activity limitation.[58] Relatively low proportions of people with an activity limitation have profound or severe limitation (5.9 per cent and 7.5 per cent, respectively) but a relatively high proportion have a schooling or employment restriction (31 per cent).

Table 3.1.21: Of people aged 18–64 years with disability who identify as gay, lesbian, bisexual or other sexual identity, percentage by core activity limitations, 2014

Core activity limitation	Percentage by core activity limitation
Profound limitation	5.9%*
Severe limitation	7.5%*
Moderate limitation	11.4%*
Mild limitation	17.5%*
Schooling or employment restriction only	30.9%
No specific restriction	24.6%

Note: * indicates that the estimate has relative standard error of 25 per cent to 50 per cent and should be used with caution.

Source: Australian Bureau of Statistics (2014).

Most people (54 per cent) with disability aged 18 to 64 who identify as gay, lesbian, bisexual or other sexual identity, have physical disability (Table 3.1.22).[59] Nearly half (48 per cent) have psychological disability.

Table 3.1.22: Of people aged 18–64 with disability who identify as gay, lesbian, bisexual or other sexual identity, percentage by disability type, 2014

Disability type	Percentage by disability type
Sensory	22.3%
Intellectual	10.8%
Physical	53.8%
Psychological	48.4%

Notes: The disability group ‘Head injury, stroke or acquired brain injury’ is not included as some of the estimates have high relative standard errors.
Percentages add up to more than 100 because people can have more than one disability type.

Source: Australian Bureau of Statistics (2014).

1.10. National Disability Insurance Scheme participants

The NDIS is the most significant reform to occur in disability policy in Australia (see Volume 5, *Governing for inclusion*). The objectives of the scheme, outlined in the *National Disability Insurance Scheme Act 2013* (Cth) (*NDIS Act*), include supporting the independence and social and economic participation of people with disability and providing reasonable and necessary supports for participants.[60]

This section looks at the number and characteristics of people with disability who participate in the NDIS. It differs from the other sections in this chapter, which present data from national surveys.

The full rollout of the NDIS began in 2016, following a three-year trial. States and territories were progressively brought into the scheme; the rollout was completed on 1 July 2020.[61] Table 3.1.23 shows the sharp increase in active participant numbers since the beginning of the full rollout: from 89,610 in 2016–17 to 534,655 in 2021–22.[62]

Table 3.1.23: Number of active participants in the NDIS 2016–17 to 2021–22

Year	Number of participants
2016–17	89,610
2017–18	172,333
2018–19	286,015
2019–20	391,999
2020–21	466,619
2021–22	534,655

Source: NDIA (2022).

The disability requirements for the NDIS are set out in subsection 24(1) of the *NDIS Act*.[63] For a person to meet the disability requirements, they must have:

- disability that is attributable to one or more intellectual, cognitive, neurological, sensory, or physical or psychosocial impairments
- impairment(s) that is or is likely to be permanent
- impairment(s) resulting in substantially reduced functional capacity in at least one of the activities of communication, social interaction, learning, mobility, self-care, and self-management
- impairment(s) that affect the person’s capacity for social or economic participation.

The person must also be likely to require support under the NDIS for their lifetime.[64]

Eligibility to apply to become an NDIS participant is limited to people with disability under 65 years old.[65] Table 3.1.24 shows the percentage of NDIS participants by age and gender as at 31 December 2022, noting that:[66]

- half of participants are aged 18 and under
- 61 per cent are male
- 37 per cent are female.

Table 3.1.24: Percentage of active NDIS participants by gender and age group, as at 31 December 2022

Age group	Male – percentage of total	Female – percentage of total	Other – percentage of total	Total – percentage of total
0–18	34%	16%	0%	50%
19–64	25%	20%	0%	45%
65+	2%	2%	0%	4%
Total percentage	61%	37%	1%	100%
Total number ('000)	**352.4**	**214.0**	**7.0**	**573.3**

Source: NDIA (2022).

The NDIA collects information about participants' level of function. Of NDIS participants as at 31 December 2022:[67]

- 29 per cent reported a high level of function
- 46 per cent reported a moderate level of function
- 25 per cent reported a low level of function.

Table 3.1.25 shows the primary disability types of NDIS participants. Autism is the top primary disability type, recorded for 35 per cent of all NDIS participants.[68]

Table 3.1.25: Percentage of active participants in the NDIS by gender and top five primary disability groups, as at 31 December 2022

Primary disability group	Male – percentage of total NDIS participants	Female – percentage of total NDIS participants	Other – percentage of total NDIS participants	Total – percentage of total NDIS participants
Autism	25%	10%	1%	35%
Intellectual disability	10%	7%	0%	17%
Psychosocial disability	5%	5%	0%	10%
Developmental delay	7%	3%	0%	10%
Hearing impairment	2%	2%	0%	4%

Source: NDIA (2022).

Table 3.1.26 shows the percentage of NDIS participants by state or territory. The percentages reflect Australia's population distribution: more than three quarters (78 per cent) of NDIS participants live in New South Wales, Victoria or Queensland.[69]

Table 3.1.26: Percentage of active NDIS participants by state or territory, as at 30 June 2022

State or territory	Percentage of NDIS participants	Percentage of Australian population
New South Wales	30.1%	31.4%
Victoria	26.6%	25.5%
Queensland	20.9%	20.5%
South Australia	8.7%	7.0%
Western Australia	8.7%	10.7%
Tasmania	2.3%	2.2%
Northern Territory	0.9%	1.0%
Australian Capital Territory	1.7%	1.8%
National	**100.0%**	**100.0%**

Sources: NDIA (2022), Australian Bureau of Statistics (2022).

First Nations people with disability comprise 7.4 per cent of all NDIS participants and 51 per cent of participants in the Northern Territory, as shown in Table 3.1.27.[70]

Table 3.1.27: Percentage of First Nations active NDIS participants by state or territory, as at 31 December 2022

State or territory	Number of NDIS participants who are First Nations people ('000')	Percentage of NDIS participants who are First Nations people
New South Wales	14.3	8.3%
Victoria	5.0	3.3%
Queensland	12.1	10.0%
South Australia	3.1	6.2%
Western Australia	3.9	7.8%
Tasmania	1.2	9.5%
Northern Territory	2.7	50.5%
Australian Capital Territory	0.4	4.4%
National	**42.7**	**7.4%**

Source: NDIA (2022).

People with disability from culturally and linguistically diverse backgrounds comprise 9.2 per cent of all NDIS participants (see Table 3.1.28). There are relatively high proportions of NDIS participants from culturally and linguistically diverse backgrounds in New South Wales (11 per cent) and Victoria (12 per cent). Under the NDIS, a person from a culturally and linguistically diverse background is defined as someone whose country of birth is not Australia, New Zealand, the United Kingdom, the Republic of Ireland, the United States of America, Canada or South Africa, or someone whose primary language spoken at home is not English.[71]

Table 3.1.28: Percentage of active NDIS participants from culturally and linguistically diverse backgrounds by state or territory, as at 31 December 2022

State or territory	Number of culturally and linguistically diverse participants ('000)	Percentage of participants who are culturally and linguistically diverse
New South Wales	18.8	10.9%
Victoria	17.9	11.7%
Queensland	6.5	5.4%
South Australia	3.6	7.2%
Western Australia	4.0	8.1%
Tasmania	0.4	3.0%
Northern Territory	0.3	6.3%
Australian Capital Territory	1.0	10.1%
National	**52.5**	**9.2%**

Source: NDIA (2022).

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), preamble (e).

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 1.

3 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings, 2018*, Catalogue number 4430, 24 October 2019.

4 Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers (SDAC 2018): Household survey questionnaire*, Catalogue number 4430, 24 October 2019.

5 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings methodology, 2018, Appendix – Limitations and restrictions*, Catalogue number 4430, 24 October 2019.

6 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings, 2018, Conceptual framework: Disability*, Catalogue number 4430, 24 October 2019.

7 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings methodology, 2018,* Catalogue number 4430, 24 October 2019.

8 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings methodology, 2018*, Catalogue number 4430, 24 October 2019, Explanatory notes and glossary

9 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings, 2018*, Catalogue number 4430, 24 October 2019.

10 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings, 2018, Appendix 2 – Disability groups*, Catalogue number 4430, 24 October 2019.

11 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings methodology, 2018*, Catalogue number 4430, 24 October 2019, Explanatory notes and glossary.

12 ‘Cared accommodation’ refers to accommodation within establishments, such as hospitals, nursing homes, aged care hostels, cared components of retirement villages, psychiatric institutions, and other ‘homes’, such as group homes for people with disability; Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings, 2018*, Catalogue number 4430, 24 October 2019, Glossary.

13 Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers*, 2018, Results accessed using Australian Bureau of Statistics TableBuilder, Age in single years up to 100 years and over (5 year ranges and broad typeings); by Whether has a disability.

14 *Letters Patent* (Cth), 4 April 2019 (as amended), p 3.

15 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia, 2018*, Results accessed using Australian Bureau of Statistics TableBuilder, Age in single years up to 100 years and over; by Whether has a disability.

16 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia, 2018*, Results accessed using Australian Bureau of Statistics TableBuilder, Age in single years up to 100 years and over; by Whether has a disability.

17 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia, 2018*, Results accessed using Australian Bureau of Statistics TableBuilder, Age in single years up to 100 years and over; by Whether has a disability.

18 Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers*, *2018*. Results accessed using Australian Bureau of Statistics TableBuilder, Age in single years up to 100 years and over (5-year ranges and broad typeings); by Whether has a disability; by Sex.

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2. Violence, abuse, neglect and exploitation across the life course

Key points

- A life course approach helps us understand the experiences of violence against, and abuse, neglect and exploitation of, people with disability across life stages and in multiple settings and contexts.
- This involves understanding the influences on people's lives at different levels, including at the individual, relational, system and societal levels.
- Many people with disability experience intersecting forms of discrimination and disadvantage, which can heighten experiences of violence, abuse, neglect and exploitation. These include First Nations, culturally and linguistically diverse, and LGBTIQA+ people with disability.
- The impacts of violence, abuse, neglect and exploitation can accumulate over time, and this can affect the long-term life outcomes and trajectories of people with disability.
- Considering violence, abuse, neglect and exploitation in the context of the whole life course helps us to develop holistic and targeted recommendations.

2.1. Introduction

People with disability have told the Royal Commission of their experiences of violence, abuse, neglect and exploitation. While some accounts were of isolated incidents, people with disability also described violence, abuse, neglect and exploitation occurring repeatedly, in different forms and settings, and across many stages of their lives.[1]

This chapter outlines how a life course approach can be used to understand violence, abuse, neglect and exploitation across the life course. It considers the risk and protective factors that influence the lives of people with disability, and how these factors impact people's life pathways and outcomes. It explores how these experiences are often inter-related, as the impacts of maltreatment accumulate and increase the risk of further harm. It also considers the heightened impacts of experiences of people with disability exposed to multi-layered disadvantage, such as for First Nations people with disability.[2]

Chapters 3 to 9 of this volume examine the different forms of violence, abuse, neglect and exploitation people with disability experience in different settings and contexts. Read together, these chapters illustrate how people with disability may experience maltreatment in different contexts in Australian society, and the cumulative impact of maltreatment over the life course.

2.2. Life course

> If mum and dad had looked after me in the proper way, half the stuff would never have happened to me.[3]

The life course refers to the experiences that take place across a person's life stages, within their social environment and with an historical context.[4] Each person's life course is unique; however, patterns can be observed across groups of people who share common circumstances or experiences.

The life course approach takes a long-term view of people's life stories, which reflect changing biological, social, environmental and historical factors.[5] The approach emphasises:

- the interconnectedness of human lives,[6] including across generations[7]
- the timing of life influences, for example those that occur:
  - early in life
  - during transitions,[8] which are key periods in a person's life pathway that involve a significant change in their circumstances
- the inherent capacity of individuals to influence their own lives.[9]

This approach allows for a more holistic understanding of how violence, abuse, neglect and exploitation occur in the lives of people with disability, and their long-term impacts.

Life stages

Life stages are phases of a person's life related to age or development from before birth to end of life. All stages of a person's life are inherently linked, with experiences in earlier life stages having an immense impact on subsequent life stages.[10]

Life stages are not the same for everyone. The developmental pathway of some people with disability may not fit into societal expectations about 'standard' life stage development.[11] Understandings and expectations of life stage development vary between cultures and over time.[12]

People with disability have told us about violence, abuse, neglect and exploitation at every stage of life. The examples given below are not exhaustive and should not be viewed in isolation, but illustrate the forms of maltreatment that people with disability may be exposed to at various points. These examples also demonstrate the inter-connectedness of each life stage, as experiences of violence or abuse in one stage go on to affect outcomes in other stages. Together they contribute to the overall trajectory of individual lives.

Perinatal and early childhood

A substantial body of research demonstrates that early life exposures and experiences have an immense impact on development, long-term physical and mental health, educational outcomes, economic participation and involvement with the criminal justice system.[13] In our public hearings, several witnesses described to us how experiences of violence and abuse in early childhood went on to greatly impact their lives. For example, we heard from First Nations parents with disability who had been exposed to multi-generational child removal. People who had been removed as young children grew up to have their own children removed.[14] This cycle perpetuates intergenerational trauma and reinforces the drivers of child removal.[15]

Later childhood

As shown in Chapter 3, 'Interpersonal violence, abuse, neglect and exploitation', children with disability are more likely than their peers to experience interpersonal violence.[16] Research shows that for people with disability, childhood exposure to violence increases the likelihood of experiencing repeated exposure to violence later in life.[17]

In primary school, barriers to safe, quality and inclusive education for children with disability, including bullying and exclusion, can have major impacts on later life.[18] As discussed in Chapter 8, 'Abuse and neglect in mainstream settings and services', many children with disability are denied access to and participation in education at an equitable level as children without disability.[19] This can have a compounding impact across the course of a person's life. Importantly, it can increase the risk of coming into contact with the youth justice system, particularly for First Nations children.[20]

Adolescence

Due to its importance for psychological and biological development, experiences during adolescence have a strong impact on life course outcomes.[21] For example, poor experiences with secondary education can limit the pathways of young people with disability to higher education and employment opportunities.[22] We also heard about the impacts of early contact with the criminal justice system, especially for First Nations children with disability in out-of-home care.[23]

Early adulthood

The transition to adulthood is not a linear process and many young adults with disability face additional challenges in the transition to post-school life.[24] People with disability may experience paternalistic or infantilising treatment well into adulthood,[25] including a denial of choice about where to live, work and socialise. This is explored in Chapter 9, 'Segregated, separate or non-mainstream settings and services'. As shown in Chapter 8, young people with disability face additional barriers to gaining employment.[26]

Later adulthood

People with disability can be subjected to discriminatory attitudes and treatment with regard to pregnancy, childbirth and parenting.[27] As discussed in Chapter 10, 'Costs and impacts of violence, abuse, neglect and exploitation', mothers with intellectual disability appear to be at particularly high risk of intervention from child protection authorities.[28] This is compounded for First Nations parents with disability.[29]

Older age

As they age, people with disability face further barriers and may need additional or different support than the broader ageing community. The intersectionality of disability and ageing is complex, and experiences of ageing with disability vary.[30] Life expectancy is lower for people with disability than people without disability.[31] Many people with disability are also inadequately supported to exercise autonomy regarding their end-of-life care.[32]

2.3. Life influences

> It's not that we are born inherently vulnerable and isolated and that we can't fit in. We have public transport systems that aren't accessible. We have people on income support that leaves them below the poverty line … we've got employment rates for people with disabilities way below the OECD average … All of this leads to us being isolated.[33]

A life course approach is used to understand how different influences impact people's lives.[34] Life influences are direct or indirect experiences or events that affect an individual's life pathways, trajectories and outcomes.[35] These experiences or events can be categorised in four main levels of influence, as shown in Figure 3.2.1:[36]

- at an individual level
- within relationships
- at the system and setting level
- at the societal level.

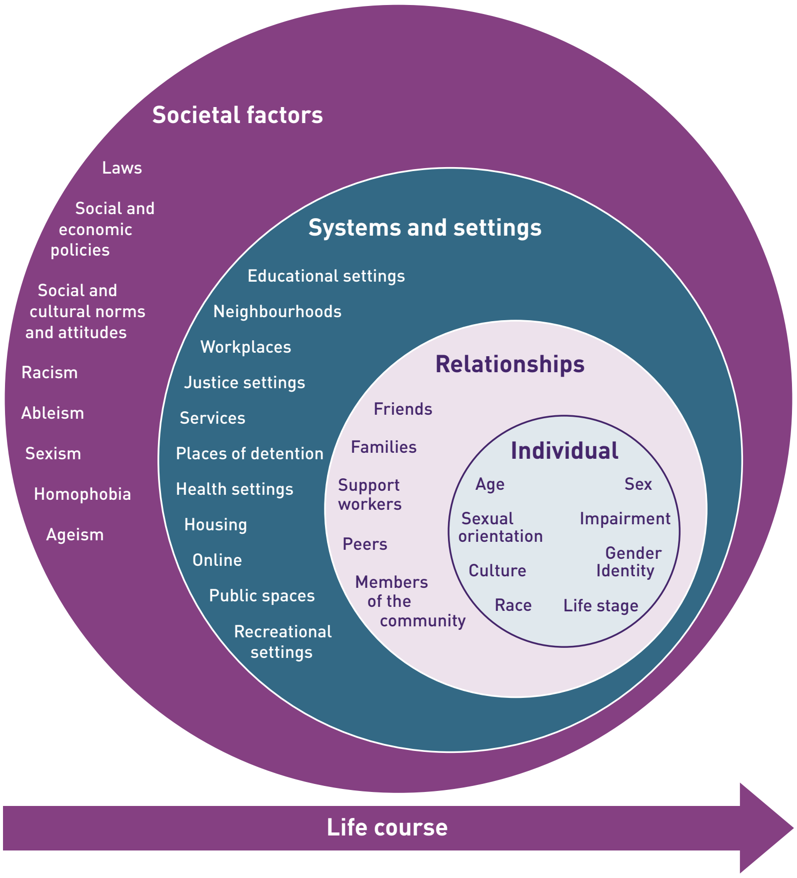

Figure 3.2.1: Levels of life influences

People with disability have diverse experiences of disability and identity, and operate in multiple relationships and systems throughout their lives.[37] It is therefore important to consider the individual, relational, systemic and societal life influences present at any one time.

Influences can accumulate over the life course and together increase the risk of violence, abuse, neglect and exploitation. People with disability can be set on a life trajectory of compounding maltreatment, as increasing disadvantage in turn increases the risk of maltreatment. Some individuals and cohorts experience increased risk and rates of maltreatment and require targeted protective measures and safeguards.[38]

Risk and protective factors

Life influences are sometimes framed as risk and protective factors. These factors are often used as statistical terms to describe any individual or environmental factor with an increased likelihood of being associated with another factor.[39]

This section focuses on risk factors associated with people with disability experiencing violence, abuse, neglect and exploitation. The risk factors listed in this section can increase the risk of experiencing maltreatment, but they do not *cause* particular outcomes.[40] Protective factors can counteract risk factors. They help protect people with disability from, or reduce the prevalence or severity of, violence, abuse, neglect and exploitation.

It is important to note that people with disability have the right to *dignity of risk,* and should be supported to be able to make decisions that may entail risk in their lives. 'Dignity of risk' and 'risk factors' are different, but related concepts. For example, a person with disability may choose to live alone, even though there may be increased risks when living alone. Dignity of risk is discussed in Volume 6, *Enabling autonomy and access.*

Cultural influences

Understanding of disability itself varies within and between cultures.[41] For some First Nations people with disability, their First Nations identity takes precedence over their identity as a person with disability. Many First Nations people reject the labelling of disability altogether in favour of a more holistic, cultural understanding of health and wellbeing.[42] Cultural factors affect all areas of life, as a person's cultural beliefs and understandings of the world impact their relationships, the institutions they interact with and societal influences. Culture can be a protective influence that fosters community participation, inclusion and resilience for First Nations people with disability.[43]

Cultural influences have been considered here as a separate category. However, in practice, the influence of culture cuts across all levels of social influence, from the individual to the societal.

Individual level risk factors

Individual attributes can increase the risk of a person with disability experiencing violence, abuse, neglect or exploitation. These characteristics may include biological, neurological and physical attributes relating to their disability, as well as their identity, history and current life stage.

Factors at the individual level that increase the risk of experiencing maltreatment include when a person with disability:

- has difficulty communicating or expressing themselves[44]
- has a history of experiencing violence and abuse[45]
- has a lack of education about or understanding of what constitutes violence, abuse, neglect and exploitation.[46]

Relationship level risk factors

Interpersonal relationships influence everyone's lives. For people with disability, this can include relationships with families, carers, friends, support workers, educators, professionals, co-workers, co-participants in disability services and contacts through other community activities. These relationships can be a protective factor against maltreatment, or they can increase the risk of maltreatment. For example, a partner, parent or support worker could present both a risk and a protective factor.

Relational risk factors arise when a person with disability is:

- dependent on others for caregiving and supports for daily living[47]
- in need of complex, high risk or intimate supports[48]
- economically dependent on the person who provides their support and care[49]
- wholly or substantially reliant on one person, or very few people, for care[50]
- socially isolated[51] or lives alone.[52]

Individual, relational and other risk factors can accumulate to increase the likelihood of a person experiencing violence, abuse, neglect and exploitation. Chapter 3 outlines the higher rates of violence and abuse against people with disability compared with the general population, with even higher rates for some cohorts of people with disability. For example, we see higher rates of violence and abuse against people with intellectual disability, who are more likely to encounter communication barriers and be dependent on others for daily supports.

System and setting level risk factors

Risk factors can arise in systems and settings in which social, professional and institutional relationships occur, including disability services, education, health, the criminal justice system, workplaces and supported accommodation. Risk factors feature in varying degrees in any particular setting, and shape how well an authority prevents, and responds to, maltreatment in any given environment.

Problems from inadequate systemic responses to violence, abuse, neglect and exploitation are explored in detail in Volume 11, *Independent oversight and complaint mechanisms* and Volume 10, *Disability services.* They can include inadequate processes and policies for complaint mechanisms,[53] ineffective external safeguards,[54] and service under-resourcing.[55] Further, institutional and segregated settings may increase the risk of social isolation[56] and barriers to making complaints.[57]

Experiences of exclusion can deter people with disability from future engagement with services and supports.[58] First Nations and culturally and linguistically diverse people with disability are at risk of maltreatment when they encounter barriers to accessing culturally safe services and supports.[59] First Nations people, whether in urban, rural, regional or remote areas, can face a range of barriers to service access, diagnosis and service delivery not faced by non-Indigenous people.[60] People with disability from culturally and linguistically diverse backgrounds are less likely to access mainstream and disability systems and services than people with disability from other backgrounds.[61]

Societal level risk factors

Societal factors can influence a person’s risk of experiencing violence, abuse, neglect or exploitation. Influences at the societal level include the broader social, economic and policy context, including laws, policies, socio-economic inequalities and community attitudes. Disability-specific laws and policies, such as the National Disability Insurance Scheme (NDIS), Disability Support Pension and policies and practices that result in segregation influence the daily lives of people with disability, as do the continuing legacies of past government disability policy.[62]

Socio-economic disadvantage is associated with a greater risk of maltreatment for people with disability.[63] This disadvantage can compound with other risk factors, exposing a person with disability to social isolation, financial insecurity and increased risk of family and domestic violence.[64] We heard from the Victorian Disability Services Commissioner:

> people with disability may lack affordable housing or access to transport, which again creates a cycle of unemployment or underemployment. It also perpetuates a situation where people with disability may be reliant on others, even when those relationships are not safe.[65]

Women with Disabilities Australia told us that economic disadvantage can increase the risk of maltreatment for women with disability because a lack of economic independence can ‘reduce their capacity to act and take decisions, and increases their exposure to, and risk of violence, abuse, neglect and exploitation’.[66]

Nathanael*

Nathanael, in his 50s, has a cognitive disability. He told the Royal Commission his father was a 'bastard' and 'treated the family hard'. Nathanael was particularly vulnerable. 'I had a disability – he thought he could get away with anything.'

One time, Nathanael was helping his father build a shed. His father told him to hold something steady but it was difficult. His father drilled the drill bit through Nathanael's arm, into the tendons. He didn't say sorry and didn't take Nathanael to the doctor. Nathanael still has a very visible scar.

At school, the other boys bullied Nathanael relentlessly. They 'picked on' him because of his voice and the way he spoke. He was slower than the others and they taunted him because he wasn't smart. 'I was very scared.'

Nathanael told his parents and his father called him 'soft' and told him to stand up for himself. Nathanael said he became 'too scared to say anything'.

Nathanael never went to secondary school.

In his 20s, Nathanael delivered catalogues to homes in the area. A gang of kids would take the catalogues and throw them on the road. One time they assaulted him and tried to 'rip [his] head off'. A passing motorist intervened and asked him if he wanted to go to the police. He was too scared.

'Every time they picked on me it got worse and worse and worse.' Nathanael thought they would kill him and asked his father for help. His father told him to tough it out and 'just be a man'. 'When it came to me he wouldn't do anything for me … that hurt me so much.' Nathanael 'lost it' and 'went off his head'. His mother called the doctor who gave him drugs to calm him down. 'I was forced to leave home, otherwise I would kill dad.'

Nathanael went to live in emergency disability accommodation. He was suicidal and asked for help. Disability services assessed him as 'too smart' and told him he was not eligible for support. He stayed for three months but said his mental health was worse when he left.

After some time in respite accommodation, Nathanael lived in supported accommodation with two other men. In those days, he said, he didn't know how to say 'no'. One of the other residents pestered him to get involved with a woman who already had a boyfriend. Nathanael didn't want to and tried to ignore him. The man ended up damaging Nathanael's car to get his attention. Nathanael reported him to the police but they couldn't do anything because there wasn't enough evidence.

Nathanael was distressed and ended up having a 'second breakdown'. The doctor viewed him as 'a danger to life' and medicated him. Nathanael was desperate for more help but the accommodation provider said he was too dangerous and refused to support him anymore.

A few years later, Nathanael became involved in a sexual relationship with a co-worker at the disability enterprise where he worked. He tried to end the relationship but she threatened to tell her mother. Nathanael was scared he would lose his job so stayed in the relationship.

Two years later the woman told her mother about their relationship. Her mother asked the enterprise to sack Nathanael and tried to obtain a restraining order. Nathanael attempted suicide and cut his wrists.

Nathanael's employer and his social worker helped him to get mental health support. He continues to work for the same disability enterprise and lives on his own with disability support five days a week. He likes a woman who treats him like a 'real person' and hopes one day she will be his girlfriend.

Nathanael says he has learned 'the hard way' to say 'no' to people. 'The last seven years of my life have been the best years of my life because I've got myself what I needed to get through.'

He said: 'If mum and dad had looked after me in the proper way, half the stuff would never have happened to me.'

* This is a de-identified narrative of an experience shared with us in a submission or private session. The person who shared their experience was not a witness. They did not give evidence, take an oath or give an affirmation. Nothing in this narrative represents a finding of the Royal Commission and any views expressed are those of the person, not of the Royal Commission.

2.4. Intersectional identity and experiences

> I'm a person of colour who has grown up in a white dominated society. I'm a person with a disability growing up in an ableist world. I'm a same-sex attracted person who lives in a heteronormative world. I'm also from a lower socioeconomic background. For me, it has been really important to find my people who accept all parts of my multi-dimensional identity.[67]

People with disability are diverse and are not a homogenous group. Their experiences of violence, abuse, neglect and exploitation are also different and diverse. Beginning early in life, some groups of people with disability are exposed to an increased risk of experiencing maltreatment. These experiences early in life may result in cumulative harm across their lives.

Our terms of reference require us to have regard to:

> the specific experiences of violence against, and abuse, neglect and exploitation of, people with disability are multilayered and influenced by experiences associated with their age, sex, gender, gender identity, sexual orientation, intersex status, ethnic origin or race, including the particular situation of Aboriginal and Torres Strait Islander people and culturally and linguistically diverse people with disability.[68]

Throughout this inquiry we have received much evidence from and about people with disability whose experiences of violence, abuse, neglect and exploitation were heightened as a result of negative responses to disability combined with negative responses to these other characteristics.[69] Many of these experiences are discussed in Chapter 4, 'Women and girls' and Chapter 5, 'Intersectional experiences of interpersonal violence and abuse'.

Intersectionality describes how society can respond to a person's different social characteristics, exposing them to multi-layered or 'intersecting' forms of discrimination or disadvantage. Professor Kimberlé Crenshaw first wrote about the concept of intersectionality in 1989 to describe how women of colour experience discrimination because of the intersection between their gender and race. She argued that legislation that considered only racial or sexual discrimination failed to fully account for people affected simultaneously by both.[70]

Disability theorists point to the interaction between a person's race, gender, disability, class and other factors in creating and reproducing inequalities for people with disability.[71] The intersection of ableism with other forms of oppression – such as racism, sexism, ageism or homophobia – work to disempower many people with disability.[72]

Dr Scott Avery is a Senior lecturer in Indigenous disability and inclusion at Western Sydney University. He argues that for many First Nations people with disability, ableism intersects with racism to create a 'heightened vulnerability not adequately explained by racism or ableism alone'.[73] He gives the example of a First Nations man with cognitive impairment who is 'harassed at a shopping centre by security guards who assume he is drunk. The physical presentation of a person with cognitive impairment interacts with populist prejudices about Aboriginal people and drinking', resulting in discrimination when he attempts to go shopping or perform other regular tasks in public.[74]

In this way, people with disability who experience multi-layered discrimination or disadvantage can be exposed to increased risk and unique forms of violence, abuse, neglect and exploitation.

Identities and communities

People's identities are complex and evolve over their lives. They are often made up of many inseparable layers that interact with each other.[75] They can encompass membership of communities or other personal characteristics that can be the target of abuse or discrimination, such as those listed in our terms of reference. Those terms require us to have regard to multi-layered experiences, including the particular experiences of First Nations people with disability and people with disability from culturally and linguistically diverse backgrounds.[76] This volume examines the experiences of:

- women and girls with disability
- First Nations people with disability
- people with disability from culturally and linguistically diverse backgrounds
- LGBTIQA+ people with disability.

We also recognise the diversity that exists within and across different communities, and how people with disability identify. For example, a First Nations woman with disability may identify with a number of communities simultaneously, while an LGBTIQA+ person with disability who is a new migrant may not feel that they easily belong to any group. As noted in our *Interim report,* many First Nations people do not accept the label of 'disability' at all.[77]

In Public hearing 18, 'The human rights of people with disability and making the *Convention on the Rights of Persons with Disabilities* a reality in Australian law, policies and practices', First Peoples Disability Network CEO Damian Griffis told us:

> We would tend to talk about whole of life … Our people with disability have multiple identities. There are people with disability and Indigenous people, and of course there are other identities too.[78]

Experiences of violence, abuse, neglect and exploitation also vary by disability type. For example, as shown in Chapter 3, people with cognitive, psychological or intellectual disability experience higher rates of violence than those with sensory or physical disability.[79]

The intersection of different types of disability with other forms of marginalisation can influence experiences of violence, abuse, neglect or exploitation. For example, First Nations people with fetal alcohol spectrum disorder (FASD) may face additional barriers in understanding their rights or advocating for themselves when being interviewed by police. The impacts of this are magnified given high rates of contact with the justice system among First Nations people, particularly those with FASD.[80]

Intersectionality across the life course

Intersectional discrimination and disadvantage need to be understood in the context of the life course, rather than at a single point in time. The impacts of the multi-layered experiences discussed above can be life-long, and expose some people with disability to increased likelihood of future harm.[81]

Over the course of their lives, people with disability from particular cohorts will experience some additional level of risk or disadvantage linked to their age, gender, sexuality, race, culture or geographical location, as discussed in Chapter 5. Considering people with multi-layered experiences across their life course provides a holistic understanding of the violence against, and abuse, neglect and exploitation of, people with disability.

2.5. Impacts and pathways

> I feel that the abuse I suffered as a child, along with poor support, meant that the outcomes of my life have been the way they are. It has caused inter-generational exposure to the Department and out-of-home care. I was in care, and my first three children are in care.[82]

Violence, abuse, neglect and exploitation can greatly impact the life outcomes of people with disability, and the trajectories of their lives. This is especially the case for experiences early in life, or during periods of transition.

Impacts of violence, abuse, neglect and exploitation on life outcomes

We received evidence about the adverse impacts of violence, abuse, neglect and exploitation on people's physical health,[83] mental health,[84] education,[85] economic participation[86] and relationships.[87]

Chapter 10 summarises the impacts of violence, abuse, neglect and exploitation of people with disability that can be directly measured based on available data. It includes estimates of the reduced outcomes of people with disability in key outcome areas, including:[88]

- health and wellbeing
- employment and financial security
- safety, rights and justice
- inclusive homes and communities
- education and learning.

Life pathways

Life pathways are patterns that a person's life may take over the long term as the impacts of different life influences accumulate. Identifying these pathways helps uncover the long-term impacts of experiences that happen in earlier life stages.

Research and evidence show experiences of violence, abuse, neglect and exploitation can set people with disability on particular pathways,[89] including the following examples.

Repeated interpersonal violence and abuse

A research review prepared for the Royal Commission shows that people with disability who have experienced violence or abuse are at increased risk of future violence or abuse. This was particularly evident for people who experienced violence, violent crime and child maltreatment.[90] We also heard evidence from victim-survivors of childhood violence and abuse who went on to experience family and domestic violence as an adult.[91] This pattern can also extend across generations, entrenching cycles of family and domestic violence.[92]

Early experiences of violence and trauma

We heard from Aboriginal and Torres Strait Islander Social Justice Commissioner June Oscar AO at Public hearing 8, 'The experiences of First Nations people with disability and their families in contact with child protection systems'. She described her involvement in community-led First Nations research projects that showed the high prevalence of FASD in Fitzroy Valley in Western Australia, and 'that Early Life Trauma (ELT) was almost universal' in that area.[93] Commissioner Oscar described how these early experiences can influence childhood and adolescence:

> Trauma has a profound impact on the development of a child's brain and can influence a child's development. The type of behavioural responses that develop are associated with risk taking, anger, aggression, dissociation and disinterest. These behaviours if unaddressed have been connected to high levels of alcohol and drug consumption from a young age. These are also the risk factors associated with unprotected sex and teenage pregnancies that can heighten the likelihood of exposing a child to alcohol in utero.[94]

Homelessness and the justice system

Evidence from Public hearing 11, ‘The experiences of people with cognitive disability in the criminal justice system’, outlined the link between homelessness and interaction with the criminal justice system.[95] We heard how laws and practices to restrict the activities and movements of people experiencing homelessness can lead to fines or incarceration.[96] A dataset focusing on housing indicates that people with disability are five times more likely to access specialist homelessness services than people without disability.[97] They are also more likely to experience multiple episodes of homelessness.[98]

‘Enmeshment’ in the criminal justice system

Professor Eileen Baldry is Deputy Vice-Chancellor Equity, Diversity and Inclusion and Professor of Criminology at the University of New South Wales and Dr Kathy Ellem is a Senior Lecturer at the University of Queensland and the vice president of the non-government organisation Community Living Association. Professor Baldry and Dr Ellem gave evidence in Public hearing 11 on how cumulative disadvantage brings people into contact with the justice system.[99] Early contact with the criminal justice system can lead to protracted engagement, particularly for people from disadvantaged backgrounds.[100] People with disability can cycle in and out of the criminal justice system over years in a process known as ‘enmeshment’.[101]

Pathways of criminalisation are explored in Volume 8, *Criminal justice and people with disability* and in Volume 9, *First Nations people with disability*.

Out-of-home care and criminalisation

We received evidence about the high rates of out-of-home care, contact with police as victims and offenders, convictions, and homelessness for children and young people with disability, particularly among First Nations children with disability.[102] Children who have been removed from their family and placed in out-of-home care are more likely to have early and long-term contact with the justice system.[103] Unnecessary exposure to the youth justice system as a result of contact with the child protection system is referred to as ‘care criminalisation’.[104] The impacts of this are compounded as the individuals are exposed to worse outcomes as a result of their involvement with the justice system, including greater risks of incarceration, unemployment and homelessness.[105] This is illustrated in Figure 3.2.2.

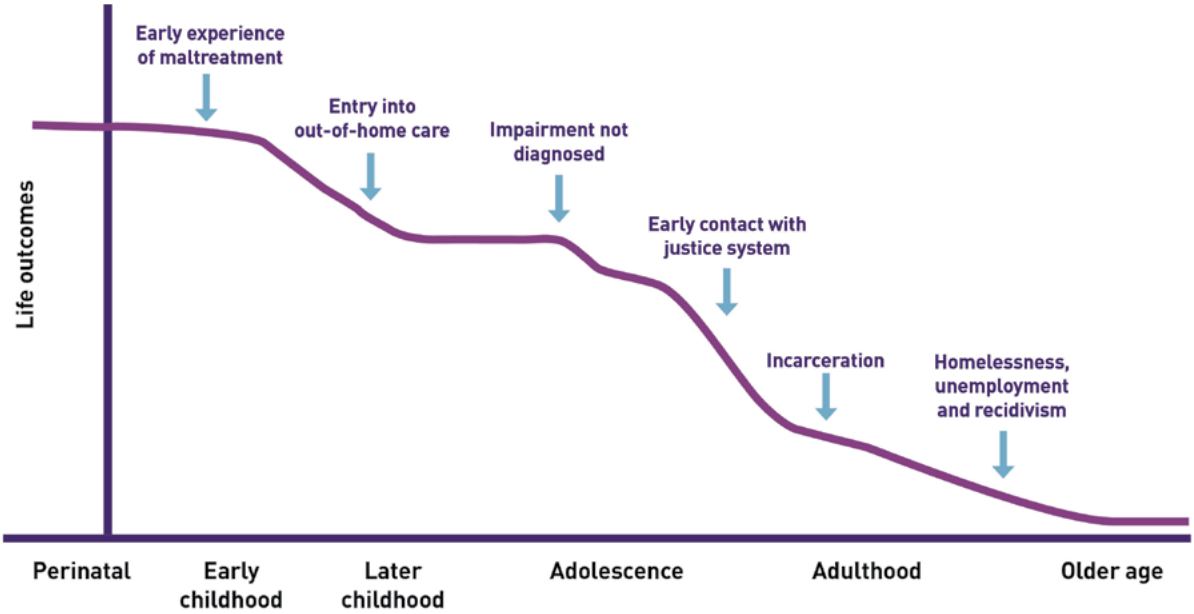

Figure 3.2.2: An example of a life pathway affected by maltreatment

Life pathways that increase the risk of experiencing violence, abuse, neglect and exploitation can be disrupted if the right supports are provided at the right time.[106] By identifying people entering high-risk life pathways early, recommendations can be targeted where they will most effectively disrupt these trajectories and reduce the risk of ongoing harm.[107] This is illustrated in Figure 3.2.3, building on the example shown in Figure 3.2.2.

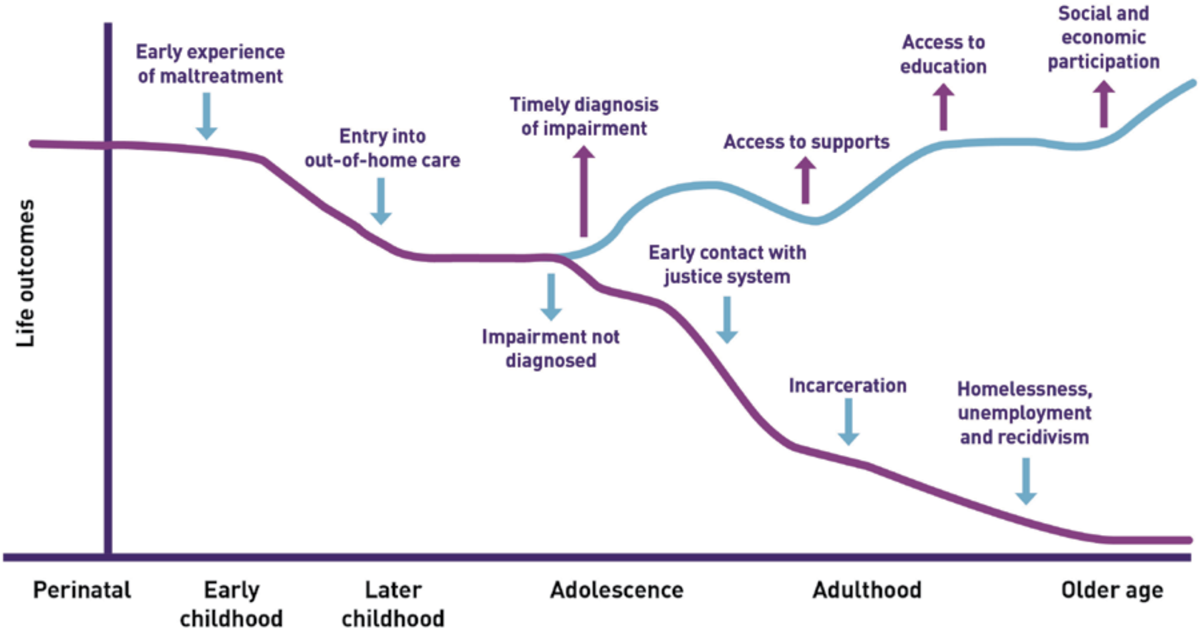

Figure 3.2.3: An example of how a life pathway can be disrupted through targeted supports

Endnotes

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3. Interpersonal violence, abuse, neglect and exploitation

Key points

- Interpersonal violence, abuse, neglect and exploitation refers to violence, abuse, neglect or exploitation by another individual or individuals.
- People with disability experience more interpersonal violence and abuse than people without disability. More than half of adults aged 18 to 64 with disability, or 55 per cent, have experienced physical and/or sexual violence since age 15 compared with 38 per cent of adults aged 18 to 64 without disability.
- People with disability are more likely to experience all kinds of interpersonal violence, including sexual and physical violence, and threats of violence. They also experience violence more frequently.
- People with disability who are subjected to violence are more likely to know the perpetrator than people without disability subjected to violence.
- Younger people with disability experience higher rates of interpersonal violence than older people with disability and young people without disability.
- Experiences of violence for people with disability differ according to type of disability. People with psychological or intellectual disability experience higher rates of violence and abuse than people with physical or sensory disability.
- We identified multiple ways in which people with disability are neglected at the interpersonal level. This includes deprivation of basic necessities of life; disability-specific forms of neglect, such as a failure to provide assistance with daily activities; a failure to provide an environment in which an individual can thrive; and being denied the right to develop personal relationships, friendships or engage in community activities. Neglect also occurs through failures to prevent the risk of violence, abuse, neglect and exploitation. Data on interpersonal neglect of people with disability is limited.
- There is also limited data on the exploitation of people with disability by other individuals. People have shared experiences with the Royal Commission of sexual and financial exploitation.

3.1. Introduction

The Royal Commission refers to violence, abuse, neglect and exploitation by an individual or individuals as ‘interpersonal’ violence, abuse, neglect and exploitation.

This is the first of four chapters in this volume focusing on the nature and extent of interpersonal violence against, and abuse, neglect and exploitation of, people with disability in Australia. These chapters draw on relevant data and evidence from our public hearings about the experiences of people with disability. This chapter:

- explains the available data and its limitations
- provides an overview of interpersonal violence against and abuse of people with disability
- sets out what we know about interpersonal neglect and exploitation.

The following three chapters look at specific areas and cohorts in more detail. They are:

- women and girls with disability (Chapter 4)
- First Nations people with disability, people with disability from a culturally and linguistically diverse background, and LGBTIQA+ people with disability (Chapter 5)
- violence and abuse in public places (Chapter 6).

As explained in Chapter 1, ‘People with disability in Australia’, our analysis focuses primarily on people with disability aged under 65.

3.2. Data on interpersonal violence and abuse

We reviewed the available data on interpersonal violence against, and abuse, neglect and exploitation of, people with disability in Australia. There is population-level data on violence and abuse but limited data on neglect and exploitation.

The Australian Bureau of Statistics 2016 *Personal Safety Survey* (*PSS*) is a national survey about people’s experiences of violence and abuse since age 15. It is the best source of data on people with disability and their experiences of interpersonal violence and abuse.[1] However, it has a series of limitations as described below. The survey was last conducted in 2021 but results disaggregated by disability were not available in time for this *Final report*.[2]

The *PSS* enables comparison of data about violence against and abuse of people with and without disability, as well as between different groups of people with disability. It is conducted in all states and territories, across urban, rural and remote areas of Australia, excluding very remote areas.[3] In 2016, 21,242 women and men aged 18 years and over were surveyed. The sample was then weighted to infer results for the total population of men and women over 18.[4]

To report on people with disability, the *PSS* relies on survey respondents to self-report on limitations or restrictions at the time of the survey. It defines disability similarly to the *Survey of Disability, Ageing and Carers*, discussed in Chapter 1 – that is, as ‘any limitation, restriction or impairment which restricts everyday activities and has lasted, or is likely to last, for at least six months’.[5]

The *PSS* looks at different types of violence and abuse experienced since age 15: physical and sexual violence; violence and emotional abuse by a current or previous domestic partner; and stalking. It also collects information from survey participants about their experiences of physical and sexual abuse perpetrated by an adult before the participant reached the age of 15.

We analysed the 2016 *PSS*, which provided detailed information about frequency and type of violence, and perpetrators of violence and abuse towards people with disability. Within the population of people with disability, we compared experiences based on age, type of disability, gender, and other variables. Unless otherwise specified, the analysis on adults with disability applies to those aged 18 to 64.

The *PSS* uses the term ‘partner’ to describe a person the respondent lives with, or lived with at some point (in a married or de facto relationship).[6] When referring to the *PSS* definition of a current or previous ‘partner’ we use the term ‘domestic partner’. In line with the *PSS,* we use ‘intimate partner’ to include both domestic partners and intimate partners the respondent did not live with at the time they took the survey.[7]

Limitations of the Personal Safety Survey and how we addressed them

As noted, while the *PSS* is currently the best source of information about violence against, and abuse of, people with disability in Australia, it has some limitations. One limitation is that disability is identified at the time of the survey and it is therefore not possible to determine whether the person responding to the survey had disability when the violence and abuse occurred.[8]

Further, the *PSS* cannot tell us about the experiences of some people with disability:[9]

- The *PSS* may under-represent respondents who identified as having a profound or severe disability or communication impairments due to specific interview requirements for the *PSS*. The *PSS* uses the ‘short disability module’, which is known to overestimate the number of people with less severe disability.[10]
- The *PSS* does not survey children. As noted, it does ask adults about their experiences of violence and abuse before the age of 15, but this is not intended to provide population estimates. We use some of these figures indicatively, but they should be understood with caution.
- The *PSS* does not collect information specifically on First Nations people and therefore cannot tell us about the experiences of First Nations people with disability.

- The *PSS* may underestimate the numbers of people from a culturally and linguistically diverse background. While the *PSS* collects information about language spoken at home, proficiency in spoken English, and country of birth, these indicators focus on the ‘linguistic’ component of cultural and linguistic diversity.
- The *PSS* does not have data on sexuality, intersex status, or gender identities other than ‘man’ and ‘woman’.
- The *PSS* only surveys people who live in private homes. This means it does not survey people who live in group homes, or in institutional settings such as prison or hospital, or people who are experiencing homelessness. These limitations in the methodology mean that violence and abuse in carer and support worker relationships are very likely to be under-represented.
- Finally, the *PSS* definition of ‘partner emotional abuse’ includes examples of neglect and financial exploitation, but does not break down the data. It is therefore not possible, for example, to know how many participants experienced financial abuse.

To address some of these limitations, we use a variety of other data sources, including the Australian Bureau of Statistics *National Aboriginal and Torres Strait Islander Social Survey, National Aboriginal and Torres Strait Islander Health Survey* and *General Social Survey*. We also commissioned original research from La Trobe University on the experience of LGBTQA+ people with disability and partnered with the Australian Institute for Criminology to research women with disability’s experience of intimate partner violence during the COVID-19 pandemic. These sources are discussed in detail in Chapter 5, ‘Intersectional experiences of interpersonal violence and abuse’.

We make recommendations for improving data on the nature and extent of violence, abuse, neglect and exploitation experienced by people with disability in Volume 12, *Beyond the Royal Commission.*

3.3. Overview of interpersonal violence and abuse

People with disability experience more violence and abuse

The data clearly shows people with disability in Australia are subjected to higher rates of interpersonal violence and abuse than people without disability (Table 3.3.1).[11] More than half of all people with disability aged 18 to 64 years (55 per cent), have experienced physical or sexual violence since the age of 15. In comparison, around 38 per cent of adults aged 18 to 64 without disability experienced physical or sexual violence.[12]

Table 3.3.1: Prevalence of experience of violence from age 15 for people aged 18 to 64 with and without disability, 2016

Experience of violence	Percentage of people with disability	Percentage of people without disability
At least one experience of violence	55.2%	37.7%
No experience of violence	44.8%	62.3%
Total	**100%**	**100%**

Note: ‘Violence’ includes: sexual threat, sexual assault, physical threat, and physical assault. It does not include ‘abuse’, which includes emotional abuse.

Source: Australian Bureau of Statistics (2017).

Further, people with disability report a higher prevalence of all forms of violence and abuse experienced since the age of 15 than people without disability, shown in Figure 3.3.1.[13]

For example, people with disability experienced high rates of physical assault (45 per cent) and sexual assault (18 per cent). In comparison, the rates of physical assault and sexual assault for people without disability were 29 per cent and 9.1 per cent, respectively.

The *PSS* shows that people with disability also experience high rates of violence perpetrated by a domestic partner: 21 per cent. This is around twice the rate for people without disability (9.8 per cent). Similarly, 31 per cent of people with disability experience emotional abuse by a domestic partner, compared with 17 per cent of people without disability.

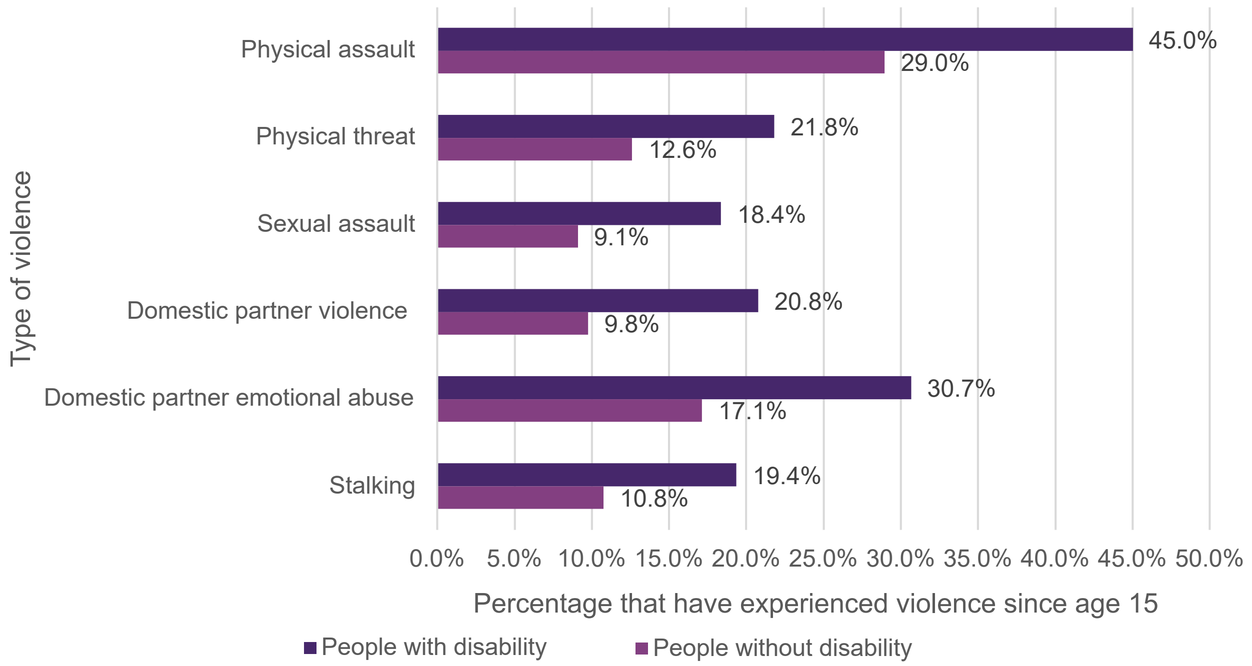

Figure 3.3.1: Experience of different types of violence and abuse since the age of 15 reported by people aged 18 to 64 with and without disability, 2016.

Note: Sexual threat is not included as some of the estimates have a relative standard error greater than 50 per cent and are considered too unreliable to use. Domestic partner violence and emotional abuse only refers to violence and abuse perpetrated by a domestic partner and does not include violence and abuse by an intimate partner the respondent did not live with.

Source: Australian Bureau of Statistics (2017).

Men and women aged 18 to 64 with disability are subjected to similarly high rates of violence overall: 56 per cent of men with disability and 54 per cent of women with disability have been subjected to violence since age 15.[14] This compares with 41 per cent of men without disability and 34 per cent of women without disability. However, there are substantial differences in the types of violence experienced by men with disability and women with disability. Men with disability are more likely than women with disability to experience physical assault or threat, whereas women are more likely to experience sexual assault, violence and emotional abuse perpetrated by a domestic partner, or stalking.[15] The experiences of woman and of girls are examined in detail in Chapter 4, ‘Women and girls’.

People with disability who have experienced violence are also more likely to experience multiple incidents of violence since age 15 than people without disability in this age group (Table 3.3.2).[16] Of those who experienced violence, 76 per cent of people with disability experienced more than one incident, compared with 62 per cent of people without disability.[17]

Table 3.3.2: Of people aged 18 to 64 who have experienced violence since age 15, percentage who have experienced multiple incidents of violence, 2016

Experience of violence	People with disability who have experienced violence	People without disability who have experienced violence
One incident of violence	24.5%	37.7%
More than one incident	75.5%	62.3%

Note:'Violence' includes: sexual threat, sexual assault, physical threat, and physical assault. It does not include 'abuse', which includes emotional abuse.

Source: Australian Bureau of Statistics (2017).

Multiple incidents of violence: Mr Gearin

In Public hearing 28, 'Violence against and abuse of people with disability in public places', Mr David Gearin, who has a vision impairment, gave evidence about multiple incidents of violence, abuse and harassment that he has experienced in public. In the first incident described by Mr Gearin, he was physically assaulted while travelling on a train with his guide dog.[18] The perpetrator first hurt his dog and then punched him in the face. He also told us about several other incidents over the years, including being shoved and spat on.[19] He said:

> I am not able to recall every time a stranger has sworn at me, accused me of faking my condition or been abusive towards me in another way, since I became vision impaired. This is because there have been too many occasions when this has happened over the years … It is unusual for a week to pass without me encountering some form of abuse when I am simply out going about my business.[20]

Perpetrators of violence

People with disability aged 18 to 64 who experienced violence since the age of 15 are more likely to know the perpetrator than people without disability who experienced violence (81 per cent compared with 69 per cent; see Table 3.3.3). People with disability were more likely to experience violence than people without disability in every relationship reported on in the *PSS*.

For both people with and without disability, the most common known perpetrator of violence is a previous intimate partner. People with disability, however, experience a higher rate of violence by previous intimate partners (33 per cent) than people without disability (22 per cent).[21]

Table 3.3.3: Relationship to perpetrator of violence for people aged 18 to 64 who experienced violence since the age of 15, by disability status, 2016

Relationship to perpetrator	People with disability	People without disability
Known person	**81.2%**	**69.4%**
Current intimate partner	19.2%	17.8%
Previous intimate partner	32.6%	21.5%
Family member [a]	22.3%	14.8%
Friend [b]	15.4%	11.8%
Co-worker [c]	10.8%	5.9%
Other [d]	10.4%	9.3%
Stranger	**45.7%**	**48.7%**

[a] Includes father, mother, son, daughter, brother, sister, or other relative.

[b] Includes friends and housemates.

[c] Includes employer, manager, supervisor, and co-worker.

[d] Includes teacher, tutor, client, patient, customer, medical practitioner, priest, rabbi, carer excluding non-paid family or unpaid carer, or other known person.

Note: Components do not add up to totals as a person may experience violence by more than one perpetrator. A person who has experienced violence by more than one perpetrator is counted only once in the aggregate groups and totals.

Source: Australian Bureau of Statistics (2017).

People with disability experience violence and abuse in domestic, family and sexual relationships, and by people they know through work, study or other social or community connections.[22] Perpetrators may be people in positions of trust and authority in these settings, including managers and support workers.[23] They may be friends or colleagues in the workplace, as shown in Table 3.3.3. They may be fellow participants at a day program.[24] As is detailed in Chapter 8, ‘Abuse and neglect in mainstream settings and services’, people with disability are under-represented in the Australian workforce yet over-represented among people who have experienced workplace sexual harassment.[25]

People with some types of disability experience higher rates of violence

People with head injury, stroke and brain damage, psychological or intellectual disability are more likely to experience violence since age 15 than people with other kinds of disability. Figure 3.3.2 shows that the highest rate of violence (73 per cent) is experienced by people aged 18 to 64 with head injury, stroke and brain damage. This is followed by those with intellectual disability (67 per cent) and psychological disability (66 per cent).[26] Conversely, 38 per cent of people without disability experienced violence since age 15.

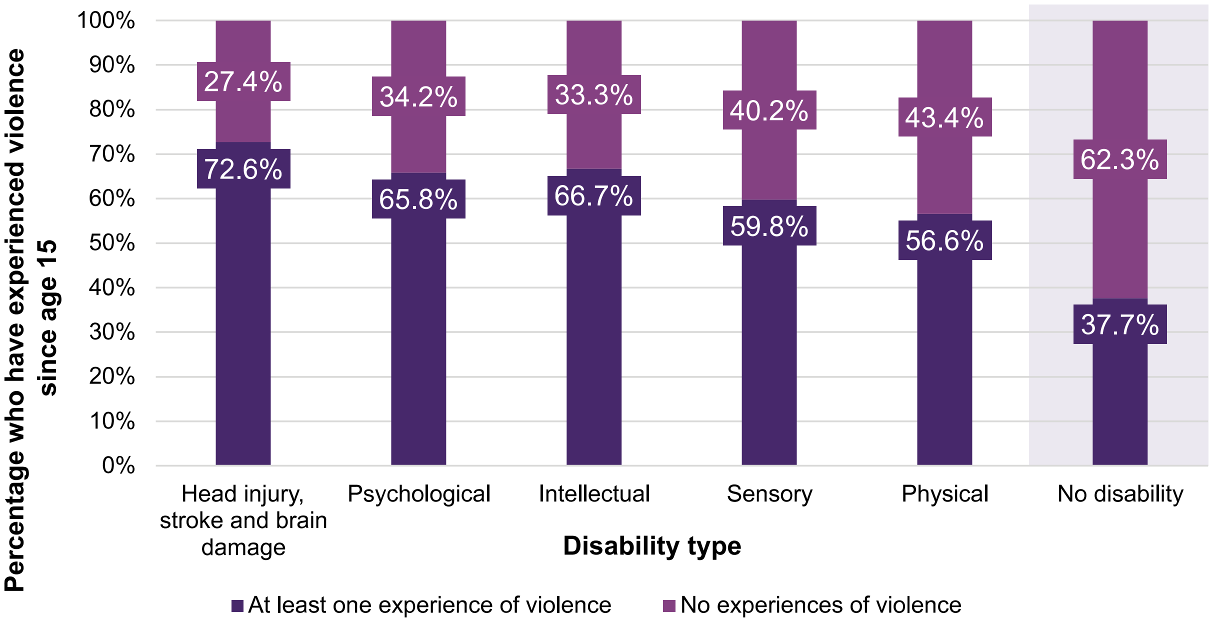

Figure 3.3.2: Experience of violence since the age of 15 reported by people aged 18 to 64 by disability type and by those without disability, 2016

Note: Disability type not specified has been excluded from this analysis.

Source: Australian Bureau of Statistics (2017).

3.4. Violence against young people with disability

While rates of violence are on the whole higher for people with than without disability, younger adults with disability experience violence at much higher rates than older adults with disability.

Data from the *PSS* shows people aged 18 to 35 with disability are more than twice as likely to have experienced physical and/or sexual violence (15 per cent) in the previous 12 months than people with disability aged 36 to 64 (5.5 per cent).[27] This fits with general population trends, as young people without disability are also more likely to experience violence than those who are older. However, the difference is greater for people with disability than without; younger people with disability were 9.5 percentage points more likely to experience violence than older people with disability, compared with a difference of 4.7 percentage points between younger and older people without disability.

Young people with disability aged 18 to 35 are also almost twice as likely to experience physical and/or sexual violence in the previous 12 months as young people aged 18 to 35 without disability (15 per cent compared with 8.3 per cent).[28] Young people with disability experienced higher rates across all types of violence and abuse than young people without disability as shown in Figure 3.3.3.[29]

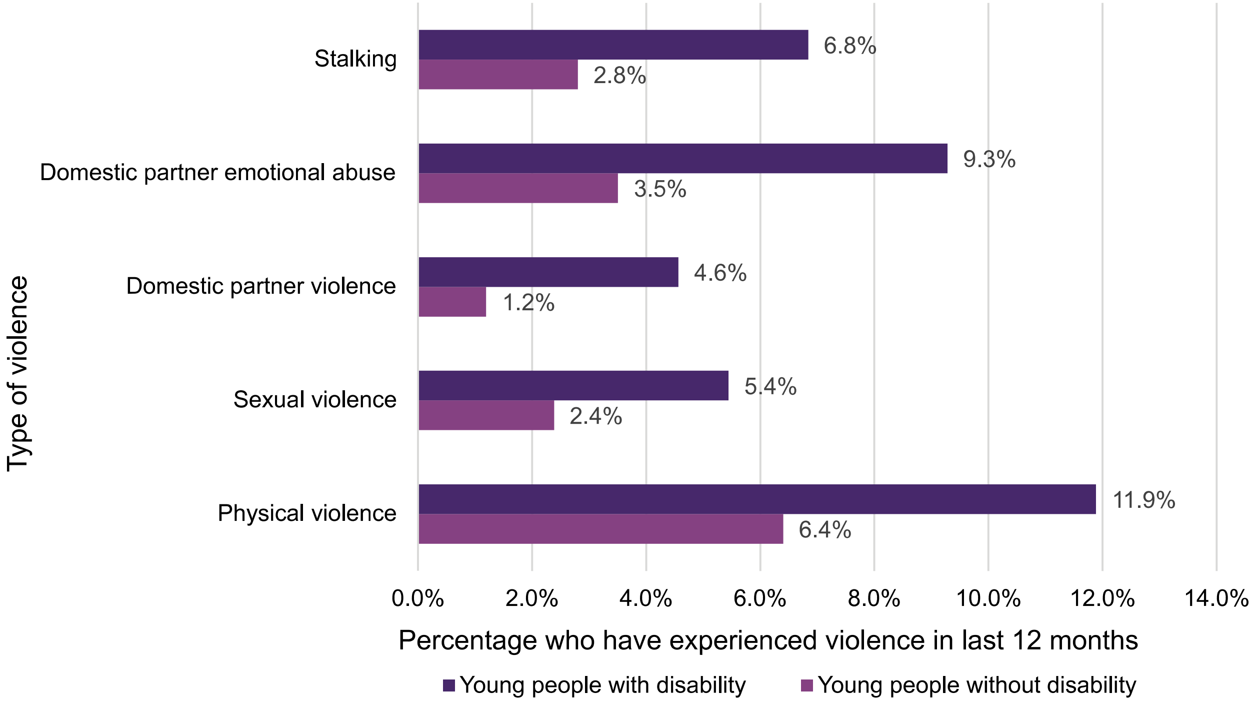

Figure 3.3.3: Types of violence and abuse experienced in the last 12 months reported by people aged 18 to 35 with and without disability, 2016

Note: Domestic partner violence and emotional abuse only refers to violence and abuse perpetrated by a domestic partner and does not include violence and abuse by an intimate partner the respondent did not live with.

Source: Australian Bureau of Statistics (2017).

Violence and abuse in childhood

Data on interpersonal violence against and abuse of children with disability is limited in comparison to information about the experiences of adults. Adults with disability participating in the *PSS* are more likely to report that they experienced physical or sexual abuse before the age of 15 than adults without disability: 23 per cent compared with 11 per cent.[30] However, the Australian Bureau of Statistics advises caution when interpreting these figures because it is not known if the person had a disability at the time they experienced violence and abuse.[31] People with disability can experience violence and abuse in childhood in family and domestic settings, and in schools or other social or community settings.[32] Perpetrators in school and community settings may be peers or they may be people in positions of trust, such as teachers or teachers’ aides.[33]

Violence as a child: Ms Crawford

Ms Libby Crawford, who has a mild intellectual disability and physical disabilities, described at Public hearing 17, ‘The experience of women and girls with disability with a particular focus on domestic, family and sexual violence’ her experience of violence and abuse by her mother when she was a child.[34] She told us that her mother, when struggling to manage her own psychosocial disability, would physically abuse Ms Crawford by kicking her, punching her and pulling her hair.[35] Ms Crawford went to live in an institution where she was subjected to sexual violence when she was 12 years old.[36]

High rates of exposure to family and domestic violence and bullying

Research into South Australian child protection and Western Australia hospital data shows that, in the cohort considered,[37] children with disability were exposed to more than twice as much family and domestic violence as children without disability.[38] Experiences of family and domestic violence among children with disability are detailed further in Chapters 4 and 5.

Children and young people with disability experience higher rates of bullying than children and young people without disability, according to surveys by the Australian Institute of Health and Welfare[39] and Mission Australia.[40] We received evidence and accounts of students with disability being physically, verbally and socially bullied by their school peers in person and online.[41] Dr Lisa Bridle provided evidence at Public hearing 2, ‘Inclusive education in Queensland – preliminary inquiry’, that supports the data showing high rates of bullying of students with disability.[42] Children and young people can also experience humiliating and punitive behaviours from teachers and teachers’ aides. This can include being deliberately ignored, punished for their natural behaviours, and publicly identified and shamed in front of their peers because of their disability.[43]

Brooke*

Brooke is in her 40s. She describes herself as 'one of those late-diagnosed women who was missed as a child'. 'I've always wondered why people don't like me,' Brooke told the Royal Commission. 'Now that I know … it's because I'm autistic.'

Over the years people labelled Brooke a drama queen, over-sensitive, a hypochondriac, precocious and obsessive. At school, teachers called her stupid and yelled at her. She found it hard to sit still and focus. She would fidget, look out the window and sing to herself. Brooke remembers three male teachers cornering her and shouting at her which was confusing and terrifying. As she got older she didn't understand 'the girl world' and the other girls bullied her. She found it hard to manage big friendship groups and didn't like to go out.

In year 10, Brooke had a breakdown. Her mother was so worried about her she moved schools. Brooke is an excellent musician so they found a school that focused on music. She met other neuro-diverse people and felt safer. The new school was much more supportive, but she wasn't able to pass year 12.

The first time Brooke was sexually assaulted she was still a child. 'Socially I didn't know when someone was being a predator, I probably still don't get it.'

At university, Brooke was raped by an older man. 'I woke up one night and thought I was suffocating. He was on top of me, I was terrified.' She had another breakdown, became non-verbal and couldn't look at people. She wasn't able to continue her studies.

Despite these setbacks, Brooke qualified as a music teacher. She said students love her and she has 'always delivered'. She has run departments, staged great school musicals and put together wonderful bands. Yet she's been 'bullied in every job'.

Staff rooms are too noisy and Brooke prefers to 'hide' in her office. She explained there is a lack of awareness of what 'that noise' does to autistic people. She described the sensation as feeling physically drained, 'like there's a cloud around my head'. It is debilitating and affects her work. One workplace said she was 'insulting them' by not going to the staffroom and told her 'it's too bad, everybody has to go'. They made her attend the staffroom every morning before school and at recess. She ended up leaving.

In Brooke's last job, she let them know that she has autism. The school liked to hold staff meetings in a café. She told them she couldn't participate because she couldn't hear and it made her physically sick. They refused to change venues.

Brooke ended a 'very unhappy' and abusive marriage, and now lives with her teenage children. She can't afford to buy a house and said rental managers take advantage of her. The last house she lived in had mould, was infested with insects and falling apart. 'They continued to take the money off us and then they took my bond … it was horrible.'

Brooke's oldest child was flagged as autistic and attended school part-time. Brooke didn't want him diagnosed because she didn't want him labelled. In hindsight, she said, she 'should have got it properly sorted'. He has anxiety and 'went through a lot of shit at school'. He's been waiting to see an autism specialist for six months.

Brooke's daughter was diagnosed with autism when she was young. She is non-verbal and uses Auslan to communicate which 'opens up a whole new world'. Brooke loves that her daughter is able to tell her to get out of her room.

Brooke said 'it would have been amazing' if her parents had known she was autistic. They would have understood her behaviour and she would have understood herself.

'I think I had a potential, and I think I still do have the potential to do what I want to do,' she said. 'I just feel like I haven't been looked after in the system.'

* This is a de-identified narrative of an experience shared with us in a submission or private session. The person who shared their experience was not a witness. They did not give evidence, take an oath or give an affirmation. Nothing in this narrative represents a finding of the Royal Commission and any views expressed are those of the person, not of the Royal Commission.

3.5. Interpersonal neglect

We have defined ‘neglect’ as the failure to provide for the physical, emotional, social and cultural wellbeing and development of a person or group of people with disability, or a failure to maintain the conditions or circumstances to support a person.

Forms of interpersonal neglect of people with disability that we identified during this inquiry and examine throughout our *Final report* include, but are not limited to:

- deprivation of basic necessities of life, including food, clothing and housing
- failure to provide assistance with daily activities
- depriving or limiting a person’s opportunity to develop personal relationships, friendships or engage in community activities
- depriving or limiting a person’s access to language and forms of communication
- infringing a person’s human rights
- failing to act in the best interests of a child
- developmental neglect, including failing to provide an environment for each person to maximise their potential.

These forms of neglect are often connected to or enabled by systemic or structural issues. Neglect can occur where natural and systemic safeguards fail to protect a person. For example, neglect can occur when family, friends, neighbours, communities and government agencies ignore or fail to act to prevent the risk of violence against, and abuse, neglect and exploitation of a person with disability. Neglect at the system and structural levels is discussed in Chapters 8 and 9.

Data and experiences

There is no nationally representative data on neglect of people with disability. Data on incident reports from registered NDIS providers from the NDIS Quality and Safeguards Commission (NDIS Commission) gives one indication of the nature and extent of neglect, as well as of other forms of maltreatment.[44]

Providers are required to notify the NDIS Commission of reportable incidents if they occur in connection with the provision of NDIS supports or services by the provider.[45] The following must be notified as reportable incidents:[46]

- the death of a person with disability
- serious injury of a person with disability
- abuse or neglect of a person with disability

- unlawful sexual or physical contact with, or assault of, a person with disability
- sexual misconduct committed against, or in the presence of, a person with disability
- unauthorised restrictive practices.

In January 2023, the NDIS Commission published a report of its inquiry into reportable incidents in connection with seven of the largest NDIS providers of Supported Independent Living (SIL) as well as Specialist Disability Accommodation (SDA).[47] SDA and SIL are defined and discussed further in Volume 7, *Inclusive education, employment and housing.* These seven providers represent a significant proportion of the supported accommodation market across Australia.

The inquiry looked at reportable incidents from 1 July 2018 to 30 September 2022. Over this period, there were 6,269 reportable incidents in a group home setting, not including incidents of unauthorised restrictive practices.[48] (Restrictive practices are discussed in Chapter 7, 'Practices disproportionately affecting people with disability'.) There were 1,293 reportable incidents of neglect, or 21 per cent of reportable incidents, in group homes. Neglect was the third most common type of incident.[49]

Most of the reportable incidents about neglect of a person with disability involved:[50]

- inadequate supervision of a person with disability for a short period
- inadequate support by not providing personal hygiene support to a person with disability in a timely way
- medication omissions, such as not providing a person's medication when required.

Some reportable incidents about neglect of a person with disability involved:[51]

- not assisting a person with disability to access health or medical support in a timely way
- not providing a support to a person with disability in a timely way.

A few of the reportable incidents about neglect of a person with disability involved neglectful treatment of a person with disability by another provider.[52]

The Royal Commission heard evidence at public hearings of experiences of people with disability of interpersonal neglect by family members, intimate partners and support workers.[53]

Death from neglect: 'Marceline'

Ms Margaret Burn gave evidence at Public hearing 17 about her sister-in-law, 'Marceline'. Marceline was diagnosed with multiple sclerosis in 1999 at the age of 40.[54] When Marceline's condition deteriorated and she needed support, she relied solely on her husband, 'Dominick'. He isolated Marceline from her family and rejected offers and forms of support.[55] Ms Burn was greatly concerned because Dominick 'wasn't able to really look after himself or cope'.[56] Marceline was hospitalised on a number of occasions for serious medical issues often stemming from neglect.[57]

Ms Burn told the Royal Commission that the medical practitioners failed to see and understand the neglect and she was critical of their decisions to discharge Marceline back into Dominick's care.[58] Marceline died at home about seven months after hospital discharge aged 48 and weighing 30 kilograms.[59] The cause of death was attributed to malnutrition and sepsis from untreated bedsores.[60] She had not been attended to or seen by doctors.[61] Dominick was charged with her murder.

3.6. Interpersonal exploitation

The Royal Commission uses the term 'exploitation' to mean taking or attempting to take improper advantage of a person or group of people with disability for benefit, advantage or gratification, including taking physical, sexual, financial or economic advantage of a person with disability.

Forms of interpersonal exploitation described to the Royal Commission in public hearings included financial and sexual exploitation. Interpersonal exploitation as part of domestic, family and sexual violence is discussed in Chapter 4. Exploitation at a system level is discussed in Chapter 9, 'Segregated, separate or non-mainstream settings and services'.

Data

There is very limited data on exploitation of people with disability. However, the Australian Competition and Consumer Commission (ACCC) provided the Royal Commission with data under notice on all scams reported to its Scamwatch program between January 2016 and May 2020.[62] These are generally perpetrated by groups and syndicates.

The ACCC data shows the average number of scams reported by people with disability increased each year, from 263 reports per month in 2016 to around 419 per month in 2019. For scams where a person reported their age, people with disability aged 55 to 64 were most at risk, with 30 per cent of reported scams from people in that age group. In contrast, 17 per cent of scams reported by people without disability were aged 55 to 64. People with disability aged 45 to 54 were the next most likely to report being scammed (22 per cent).[63]

The types of scams reported by people with and without disability were largely similar. However, scams against people with disability were more likely to have a serious financial impact. Twenty-six per cent of scams reported by people with disability were reported by people who were experiencing financial hardship, compared with 3.4 per cent of people without disability reporting scams.[64] The median financial loss for people with disability was $500, compared with $400 for people without disability.

People with disability reported dating and romance scams twice as often as people without disability, at 4.3 per cent of scams compared with 1.7 per cent. They were much more likely to experience financial loss from dating and romance scams than people without disability (14 per cent compared with 5.9 per cent).[65]

People with disability lost more money from scams on average than people without disability, totalling $24.6 million over the four-year period. Twelve per cent of scams targeting people with disability resulted in financial loss, compared with 9.1 per cent targeting people without disability.[66]

Endnotes

1 Georgina Sutherland, Anne Kavanagh, Gwynnyth Llewellyn, Sean Byars, Lauren Krnjacki and Jen Hargrave, *Nature and extent of violence, abuse, neglect and exploitation against people with disability in Australia*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, March 2021, p 8.

2 Australian Bureau of Statistics, Personal Safety, Australia, 15 March 2023.

3 Australian Bureau of Statistics, *Personal Safety Survey, Australia: User Guide, 2016*, Catalogue number 4906.0.55.003, 8 November 2017.

4 Australian Bureau of Statistics, *Personal Safety, Australia methodology*, 8 November 2017, Explanatory notes at [16], [31].

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8 Australian Bureau of Statistics, *Personal Safety, Australia methodology*, 8 November 2017, Glossary; Australian Bureau of Statistics, *Personal Safety, Australia: User Guide, 2016,* 4906.0.55.003, 8 November 2017.

9 Australian Bureau of Statistics, *Personal Safety Survey, Australia: User Guide, 2016,* Catalogue number 4906.0.55.003, 8 November 2017; Australian Institute of Health and Welfare, 'Technical Resources: Data Sources - Australian Bureau of Statistics – Personal Safety Survey (PSS)'.

10 Australian Bureau of Statistics, *Personal Safety, Australia methodology*, 8 November 2017, Glossary; Australian Bureau of Statistics, *Personal Safety, Australia: User Guide, 2016,* 4906.0.55.003, 8 November 2017.

11 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any violence since age 15; by Whether has a disability; by Age (18-64).

12 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016,* Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any violence since age 15; by Whether has a disability; by Age (18-64).

13 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016,* Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any physical assault since age 15, Whether experienced any physical threat since age 15, Whether experienced any sexual assault since age 15, Whether experienced any sexual threat since age 15, Whether experienced any current / previous partner violence since age 15, Whether experienced emotional abuse by current and /or previous partner since age 15, Whether experienced stalking since age 15; by Whether has a disability; by Age (18-64).

14 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any violence since age 15; by Whether has a disability; by Sex; by Age (18–64).

15 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016,* Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any physical assault since age 15, Whether experienced any physical threat since age 15, Whether experienced any sexual assault since age 15, Whether experienced any sexual threat since age 15, Whether experienced any current / previous partner violence since age 15, Whether experienced emotional abuse by current and /or previous partner since age 15, Whether experienced stalking since age 15; by Whether has a disability; by Sex; by Age (18-64).

16 This section and some following sections refer to *Personal Safety Survey* data on 'violence'. This does not include 'abuse', which includes emotional abuse. Use of only 'violence' is due to limitations in Australian Bureau of Statistics TableBuilder. 'Violence' includes: sexual threat, sexual assault, physical threat, and physical assault.

17 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced violence more than once; by Whether has a disability; by Sex; by Age (18–64).

18 Exhibit 28-003, 'Statement of David Gearin', 26 August 2022, at [25–29].

19 Exhibit 28-003, 'Statement of David Gearin', 26 August 2022, at [43, 49].

20 Exhibit 28-003, 'Statement of David Gearin', 26 August 2022, at [20–21].

21 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Relationship to all perpetrators ever experienced violence by since age 15 per violence type; by Whether has a disability; by Age (18-64).

22 For example in workplaces: Transcript, Public hearing 22, Mr Anthony Reid, 13 April 2022, P70; For example in day programs: Public hearing 23, Exhibit 23-199, NSW.0065.0001.0001, p 1–3; Public Hearing Transcript 17.2, Day 4, Witness 2 'Niky', 31 March 2022, P-237; Public Hearing Report 3, [216].

23 Transcript of Cody Skinner, Public hearing 9, 7 December 2020, P-47 [26—29]; Exhibit 2-9, 'Statement of Witness AAA', 31 October 2019, at [24]; Transcript, Public Hearing 17 (Part 2), 'Clarisse', 29 March 2022, P-93 [8–16].

24 For example, see Transcript, Niky and her mother, Public hearing 17 (Part 2), 31 March 2022, P-236–45.

25 Australian Human Rights Commission, Time for respect: Fifth national survey on sexual harassment in Australian workplace, 2022, p 53.

26 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016,* Results accessed using Australian Bureau of Statistics DataLab, Whether experienced violence since age 15; by Disability group.

27 *Microdata: Personal Safety Survey, 2016,* Results accessed using Australian Bureau of Statistics DataLab, Whether experienced violence since age 15; by Age of person 18-35, then 36 plus; by Disability status.

28 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any violence in last 12 months; by Whether has a disability; by Sex; by Age (18–35).

29 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any physical violence in last 12 months, Whether experienced any sexual violence in last 12 months, Whether experienced any current / previous partner violence since age 15, Whether experienced emotional abuse by current and /or previous partner in last 12 months, Whether experienced stalking in last 12 months; by Whether has a disability; by Sex; by Age (18-35).

30 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced abuse before the age of 15; by Sex; by Age.

31 Australian Bureau of Statistics 2017, cited in Australian Institute of Health and Welfare, *People with disability in Australia 2022*, 2022, catalogue number DIS 72, Canberra: AIHW, p 186.

32 For example in educational institutions: Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 2: Inclusive education in Queensland – preliminary inquiry*, 27 October 2020, [371]; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 7: Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts*, October 2020, [176]; Submissions of Counsel Assisting the Royal Commission following Public hearing 24, 21 October 2022, p 26, [67–68]; Transcript, 'Claire', Public hearing 17 (Part 2), 28 March 2022, P-45, [35–45].

33 Transcript, Lisa Bridle, Public hearing 2, 4 November 2019, P-54, [6–14]; Transcript of Brittney Wilson, Public Hearing 24, 6 June 2022, P-25 [44–46]; Transcript, AAC, Public hearing 2, 5 November 2019, P-86 [36].

34 Transcript, Elizabeth Crawford, Public hearing 17 (part 2), 31 March 2022, P-219–35.

35 Exhibit 17.26.2, TRA.3000.0005.0020, p 2 [16–35].

36 Exhibit 17.26.2, TRA.3000.0005.0020, pp 2 [37–44, 46], 3 [1]; Transcript, Elizabeth Crawford, Public hearing 17 (Part 2), 31 March 2022, P-222 [7–18].

37 Children who had a mother hospitalised for assault.

38 Olivia Octoman, Martine Hawkes, Fernando Lima, Melissa O'Donnell, Carol Orr, Fiona Arney, Tim Moore, Sally Robinson, kylie valentine, Amy Marshall, Jala Burton & Chris Brebner, ANROWS, The nature and extent of domestic and family violence exposure for children and young people with disability, Research Report, September 2022, p 32 at Table 9.

39 Children with disability were more likely to experience bullying than children without disability during the school term in which the survey was conducted (74 per cent compared with 59 per cent respectively). Australian Institute of Health and Welfare 2020, *Australia's children*, Cat. no. CWS 69. Canberra: AIHW, p 369.

40 Young people with disability (aged 15–19) were more likely (43 per cent) to have experienced bullying in the previous 12 months than those without disability (19 per cent). Hall S, Fildes J, Liyanarachchi D, Plummer J and Reynolds M (2020) Young, willing, and able – youth survey disability report 2019, Mission Australia, Sydney p 7.

41 For example, Transcript, Gi Brown, Public Hearing 24, 7 June 2022, P-80 [33–36]; Transcript, 'Sharon', Public Hearing 7, 15 October 2020, P-292 [1–5]; Exhibit 7-01, 'Statement of Yarraka Bayles', 24 September 2020, at [92–98]; Transcript, 'Alexa', Public Hearing 24, 10 June 2022, P-374-375; EXHIBIT 2-12 - STAT.0010.0001.0001 - Statement of AAC; Transcript, AAA, Public hearing 2, 4 November 2019, P-27 [20–40], P-28 [11–37], P-29 [11–61]; Transcript, AAC, Public hearing 2, 5 November 2019, P-78 [29–33], P-84–86, P-88–89.

42 Exhibit 2-11, 'Statement of Lisa Bridle', 31 October 2019, at pp 5–6.

43 Transcript 'AAA', Public Hearing 2, 4 November 2019, P-21-36; Transcript, Gi Brown, Public Hearing 24, 7 June 2022, P-81 [1] and [16–18]; Transcript Brittney Wilson, Public Hearing 24, 6 June 2022, P-25 [44–46]; Exhibit 22-003, Statement of 'Kaite', 30 March 2022, [42c]; Name withheld, Submission, 21 May 2020.

44 NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023.

45 NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023, p 9.

46 NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023, p 43.

47 NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023.

48 NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023, p 50.

49 NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023, p 46.

50 'Most' means the majority of reportable incidents examined related to these types of incidents and they were common across all providers. NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023, p 54.

51 'Some' means there were a number of these types of incidents examined but they were not common across all providers. NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023, p 54.

52 'Few' means a small number of these types of incidents were received but they were not common, and may have related to only one provider. NDIS Quality and Safeguards Commission, *Own Motion Inquiry into Aspects of Supported Accommodation in the NDIS*, NDIS Quality and Safeguards Commission, 2023, p 54.

53 For example, Exhibit 17-19.1, 'Statement of Margaret Burn', 15 March 2022; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Public hearing 14, Preventing and responding to violence, abuse, neglect and exploitation in disability services (South Australia)*, Public Hearing Report, June 2022, [Finding 7]; Exhibit 33-1, DRC.2000.0014.0118.

54 Exhibit 17-19.1, 'Statement of Margaret Burn', 15 March 2022, at [54].

55 Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-143–157.

56 Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-146 [42–44].

57 Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-147 [33–35]; Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-150 [38]–P-151 [4].

58 Exhibit 17-19.1, ‘Statement of Margaret Burn’, 15 March 2022, at [100]; Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-149 [21–24]; Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-151 [36–42].

59 Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-152 [40–47].

60 Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-152 [40–47].

61 Transcript, Margaret Burn, Public hearing 17 (Part 2), 30 March 2022, P-152 [40–47].

62 Material obtained by the Royal Commission from Australian Competition and Consumer Commission in response to Cth notice, CTH-NTG-00046, 12 June 2020, CTD.7800.0001.0001.

63 Material obtained by the Royal Commission from Australian Competition and Consumer Commission in response to Cth notice, CTH-NTG-00046, 12 June 2020, CTD.7800.0001.0001.

64 Material obtained by the Royal Commission from Australian Competition and Consumer Commission in response to Cth notice, CTH-NTG-00046, 12 June 2020, CTD.7800.0001.0001.

65 Material obtained by the Royal Commission from Australian Competition and Consumer Commission in response to Cth notice, CTH-NTG-00046, 12 June 2020, CTD.7800.0001.0001.

66 Material obtained by the Royal Commission from Australian Competition and Consumer Commission in response to Cth notice, CTH-NTG-00046, 12 June 2020, CTD.7800.0001.0001.

4. Women and girls

Key points

- Women with disability experience high rates of sexual assault, intimate partner, family and domestic violence, emotional abuse and stalking. The rates are higher than for men with disability or women without disability.
- Rates of violence and abuse are particularly high for:
    - women with psychological or intellectual disability (72 per cent of women with psychological or intellectual disability have experienced violence or abuse since the age of 15)
    - young women with disability
    - First Nations women with disability.
- Women with disability also experience violence and abuse more frequently than women without disability.
- Women with disability are more likely to have experienced violence and abuse before the age of 15 than men with disability or women without disability.
- Of women with disability who experienced violence, 93 per cent knew the perpetrator in at least one instance.
- Women and girls with disability are subjected to all forms of family, domestic and sexual violence that women without disability experience. However, they can experience these types of violence in a broader range of contexts and relationships:
    - Perpetrators of domestic and sexual violence, abuse, neglect and exploitation include disability support workers, co-residents in residential settings, and peers in disability services.
    - Women with disability can have their disability and needs exploited, including to isolate and coercively control them.
    - Women with disability can be subjected to reproductive violence and abuse including menstrual suppression, forced termination, non-consensual contraception or sterilisation. However there is limited data on the extent to which this occurs.

4.1. Introduction

The Royal Commission's terms of reference require us to look into 'the specific experiences of violence against, and abuse, neglect and exploitation of, people with disability associated with their age, sex, gender [and] gender identity' among other characteristics.[1] The terms of reference also require us to consider the *Convention on the Rights of Persons with Disabilities* (*CRPD*), which has a core principle of equality between men and women, and recognises the multiple forms of discrimination experienced by women and girls with disability.[2]

This chapter begins the Royal Commission's response to these requirements. This chapter provides an overview of data, evidence and research on the family, domestic and sexual violence against and abuse of women with disability. Unless otherwise specified, the data and research on adults with disability applies to those aged 18 to 64. The evidence presented draws in particular on Public hearing 17, 'The experience of women and girls with disability with a particular focus on domestic, family and sexual violence'.

The chapter also sets out some of the experiences women with disability and their supporters shared with the Royal Commission in submissions and private sessions.

This chapter addresses:

- overall patterns of gendered violence against, and abuse of, women with disability, particularly sexual, intimate partner, family and domestic violence and abuse, and common perpetrators
- high rates of violence against, and abuse of, girls and young women with disability
- differences in rates and types of violence and abuse experienced by women with different disabilities
- women's experiences of family and domestic violence where perpetrators, including support workers, have targeted their disability
- reproductive violence and abuse.

The following chapter examines the intersecting experiences of interpersonal violence and abuse of women with disability from First Nations, culturally and linguistically diverse and LGBTIQA+ communities.

4.2. The nature of family, domestic and sexual violence and abuse

We use ‘family and domestic violence and abuse’ to refer to a range of violence, abuse, neglect or exploitation, including:

- intimate partner violence and abuse, perpetrated by current or former romantic or sexual partners, or people met in person or online for dating or sex
- family and domestic violence, abuse, neglect and exploitation perpetrated by parents, siblings, extended family members and support workers
- violence, abuse, neglect and exploitation in supported accommodation, and by paid carers delivering support at home
- sexual violence and abuse, which can be part of family and domestic violence, but does not always take place in this context.

In Australia, there is no uniform or consistent definition of family or domestic violence. The definition of what constitutes ‘violence’ differs in legislation across jurisdictions.[3] Definitions include intimate partner violence and most include violence by immediate family members. Some definitions extend to violence within ‘family-like’ relationships.[4]

People with disability have criticised definitions of domestic or family or domestic violence that are limited to intimate partners or private homes.[5] Women with disability experience family and domestic violence in all residential settings, including private homes, supported accommodation and institutional settings. They experience violence in additional domestic or family-like relationships, such as with support workers and co-residents.[6] For women and girls with disability, forms of family and domestic violence may include threatening to or actually withholding supports or assistive devices; use of restrictive practices and restraints; and non-consensual medical interventions such as contraception and sterilisation.[7] Family and domestic violence may include using a woman’s disability or her isolation to further coerce and control her.

The issue of inclusive and consistent definitions of family and domestic violence is discussed further in Volume 8, *Criminal justice and people with disability.*

In this chapter, sexual, intimate partner and family and domestic violence and abuse are discussed in separate sections that reflect available data, particularly from the Australian Bureau of Statistics 2016 *Personal Safety Survey* (PSS). We also discuss sexual violence separately in recognition that while it may be part of family and domestic violence, it is also perpetrated outside this context. Many women experience multiple or concurrent forms of family, domestic and sexual violence.

As noted in the previous chapter, we use the term ‘domestic partner’ to refer to someone the person responding to the survey lives with or lived with at some point in a married or de facto relationship. We use ‘intimate partner’ for data that combines both domestic partner and other partners the respondent did not live with, such as a boyfriend, girlfriend, or date and ex-boyfriend or ex-girlfriend. This varies from the *PSS*, which uses 'partner' instead of domestic partner.[8]

4.3. Data on violence experienced by women and girls with disability

As discussed in the previous chapter, men and women aged 18 to 64 with disability are subjected to similarly high rates of violence overall. However, there are important differences in the types of violence experienced by men and women with disability (Figure 3.4.1).[9] Men with disability are more likely to experience physical assault or threat than women with disability. For instance, 48 per cent of men with disability experienced physical assault at least once since age 15 compared with 43 per cent of women with disability.

Conversely, women with disability are more likely than men with disability to have experienced sexual assault, stalking, and/or violence or emotional abuse by a domestic partner since age 15:

- Twenty-nine per cent of women with disability have experienced violence by a domestic partner compared with 12 per cent of men aged 18 to 64 with disability.
- Women with disability are more than three times as likely to have experienced sexual assault than men aged 18 to 64 with disability (29 per cent compared with 7.7 per cent).

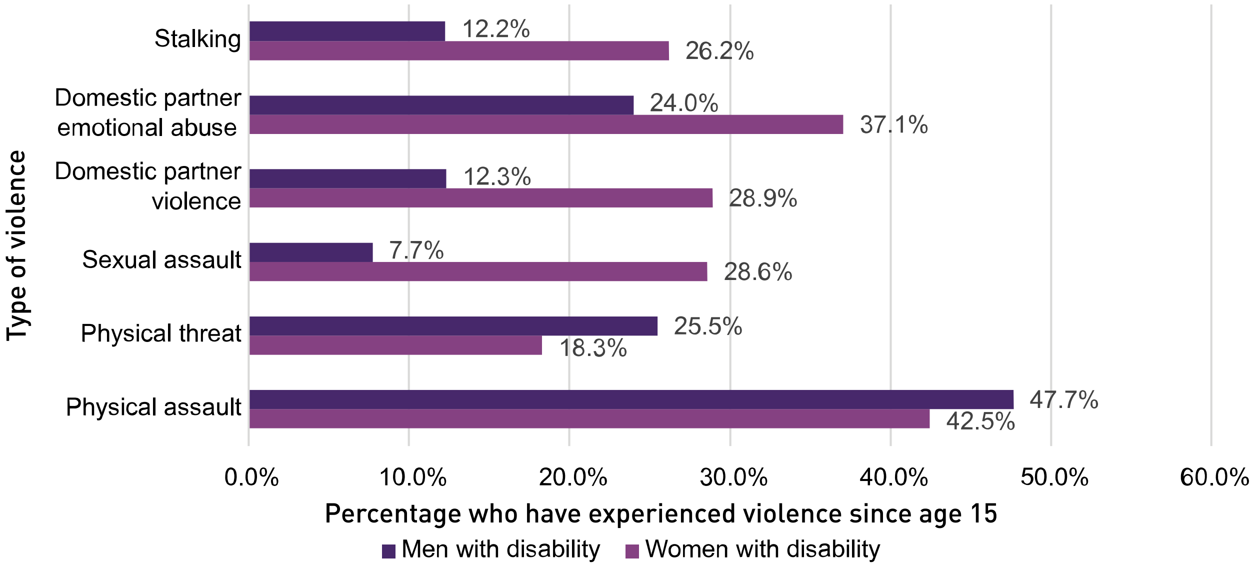

Figure 3.4.1: Types of violence and abuse experienced by men and women aged 18–64 with disability since the age of 15, 2016

Notes: Sexual threat is not included as some of the estimates have a relative standard of error greater than 50 per cent when split by gender and are considered too unreliable to use.

Violence and emotional abuse perpetrated by a domestic partner does not include violence and abuse by an intimate partner the respondent did not live with.

Source: Australian Bureau of Statistics (2016).

The likelihood of a person experiencing violence by a stranger or a known perpetrator also differs depending on gender. Similar to the broader population,[10] men with disability are more than twice as likely to experience violence perpetrated by a stranger than women with disability (62 per cent of men with disability compared with 29 per cent of women with disability who experienced violence). Conversely, women with disability are more likely to have experienced violence by someone known to them than men with disability. Ninety-three per cent of women with disability who experienced violence knew the perpetrator, compared with 69 per cent of men with disability.[11]

Women with disability's experiences of violence and abuse also differs from the experiences of women without disability. Both women with disability and women without disability experience high rates of sexual violence, violence or emotional abuse by a domestic partner, and stalking compared with men with and without disability. However, women with disability experience these forms of violence and abuse at higher rates than women without disability (see Figure 3.4.2).[12] Women with disability experience domestic partner violence and sexual assault at about twice the rate of women without disability.

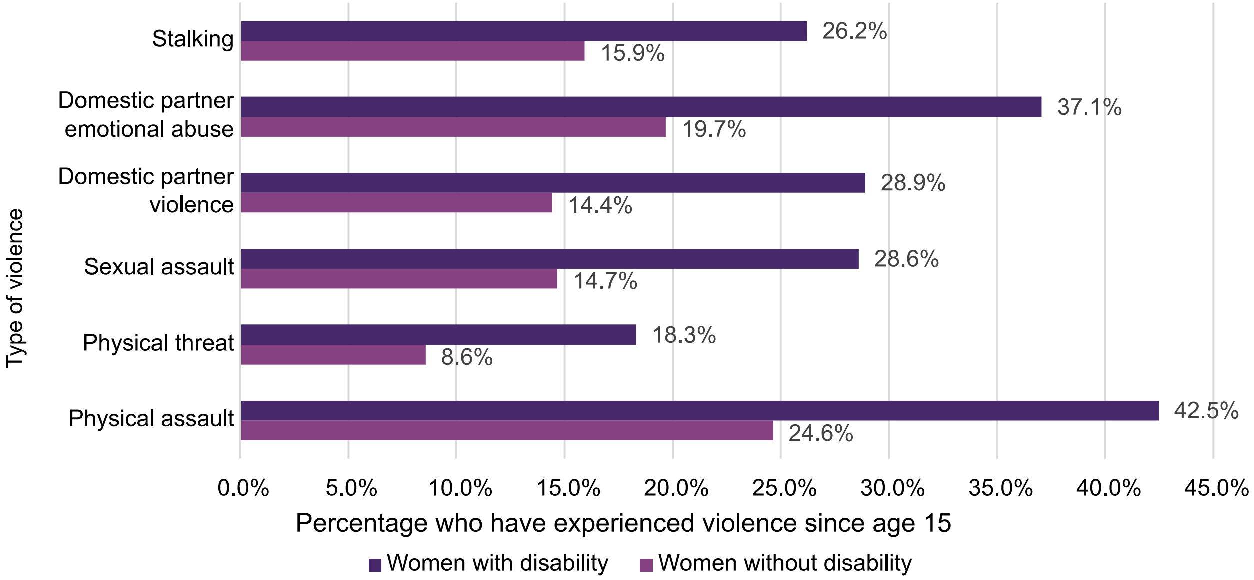

Figure 3.4.2: Types of violence and abuse experienced by women aged 18–64 with and without disability since age 15, 2016

Notes: Sexual threat is not included as some of the estimates when split by gender have a relative standard of error greater than 50 per cent and are considered too unreliable to use.

Violence and emotional abuse perpetrated by a domestic partner does not include violence and abuse by an intimate partner the respondent did not live with.

Source: Australian Bureau of Statistics (2016).

The following groups of women experience particularly high rates of violence compared with other women with disability:

- women with psychological or intellectual disability[13]
- young women with disability[14]
- First Nations women with disability.[15]

First Nations women's experiences of violence and abuse are described in more detail in Chapter 5, 'Intersectional experiences of interpersonal violence and abuse'.

Of women aged between 18 and 64 with psychological or intellectual disability, 72 per cent have experienced at least one incident of violence since age of 15 compared with 34 per cent of women without disability and 54 per cent of women with all forms of disability overall.[16]

Young women with disability aged 18 to 35 are also at higher risk of all forms of violence and abuse than young women aged 18 to 35 without disability, as shown in Table 3.4.1. For most of the forms of violence or abuse listed, they are at least twice as likely to have experienced this violence or abuse in the previous 12 months.[17]

Table 3.4.1: Of young women aged 18 to 35, percentage who experienced violence and abuse in the previous 12 months, by disability status, 2016

Type of violence or abuse	Women with disability aged 18 to 35	Women without disability age 18 to 35
Physical violence	11.5%	4.5%
Sexual violence	8.3%	3.4%
Violence by an intimate partner	7.8%	3.2%
Emotional abuse by a domestic partner	9.3%	3.8%
Stalking	7.7%	4.3%

Note: Emotional abuse perpetrated by a domestic partner does not include abuse by an intimate partner the respondent did not live with, while violence by an intimate partner does includes violence by all current and previous intimate partners.

Source: Australian Bureau of Statistics (2016).

Women with disability are also more likely to report experiencing physical and sexual violence and abuse before the age of 15 than women without disability:

- More than one in four women with disability report experiencing abuse before the age of 15 (28 per cent), compared with 13 per cent of women without disability.[18]
- Women with disability are more than twice as likely to experience sexual abuse before the age of 15 (20 per cent) than women without disability (9 per cent).[19]

Women with disability more likely to know the perpetrator of violence

Of women with disability who have experienced violence, 93 per cent know the perpetrator (Figure 3.4.3). In comparison, 69 per cent of men with disability and 89 per cent of women without disability who have experienced violence know the perpetrator.[20]

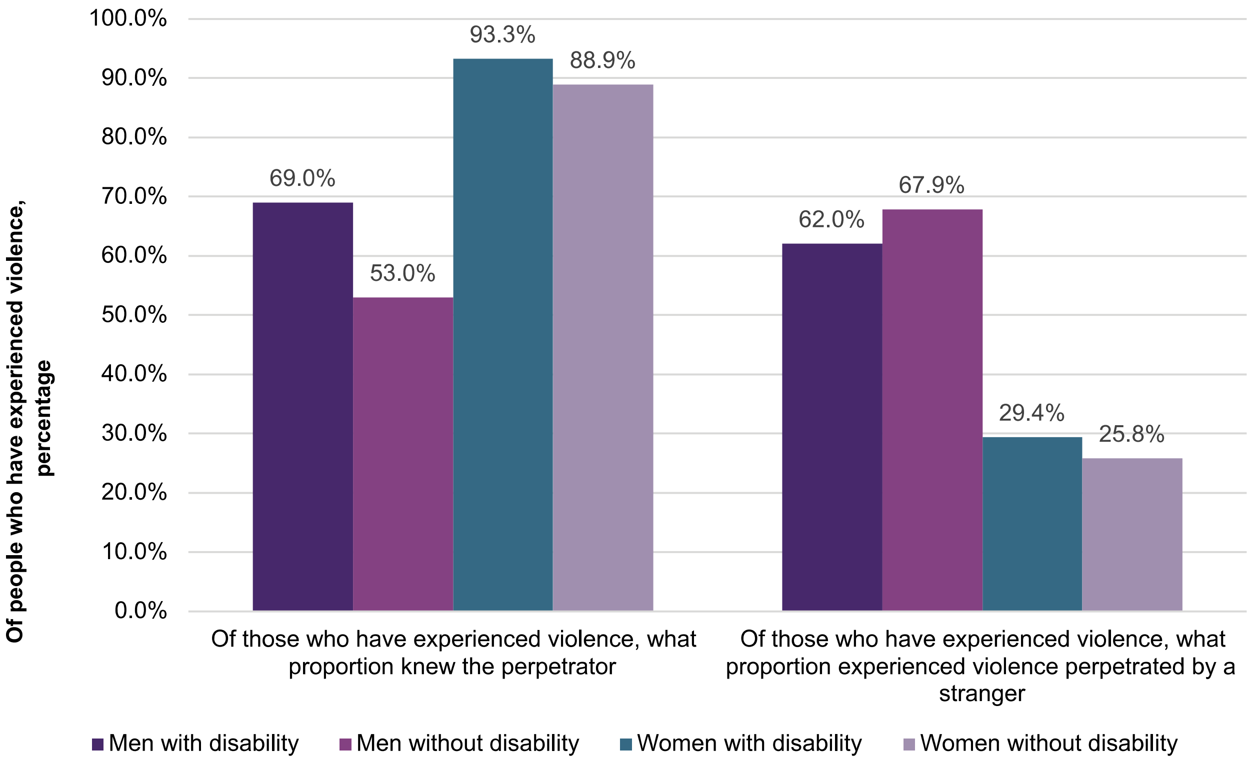

Figure 3.4.3: Violence by known and unknown perpetrators, by disability and gender, 2016

Note: Respondents may have experienced violence by multiple perpetrators. Therefore, percentages do not add up to 100 per cent.

Source: Australian Bureau of Statistics (2016).

Women with disability who experience violence are most likely to experience it from a previous intimate partner (48 per cent), followed by a current intimate partner (28 per cent) (Table 3.4.2). This fits with broader gendered patterns of violence where women are more likely to know the perpetrator of violence than men, regardless of disability status. However, women with disability who have experienced violence are at greater risk of experiencing it from a previous intimate partner, at 1.3 times that of women without disability.[21]

Table 3.4.2: Relationship to perpetrator of violence for people under 65 who experienced violence, by disability status and gender, 2016

Perpetrator	Women with disability	Men with disability	Women without disability	Men without disability
Known person	**93.3%**	**69.0%**	**88.9%**	**53.0%**
Current intimate partner [a]	27.6%	10.8%	29.1%	8.3%
Previous intimate partner [b]	48.1%	16.9%	36.2%	9.2%
Family member [c]	27.9%	16.6%	18.0%	12.0%
Friend [d]	16.8%	14.0%	12.9%	10.9%
Co-worker [e]	7.6%	14.0%	5.6%	6.1%
Other [f]	10.8%	10.1%	8.6%	9.9%
Stranger	**29.4%**	**62.0%**	**25.8%**	**67.9%**

[a] Includes current domestic partner and current boyfriend/girlfriend/date.

[b] Includes previous domestic partner and ex- boyfriend/girlfriend/date.

[c] Includes father, mother, son, daughter, brother, sister, or other relative.

[d] Includes friends and housemates.

[e] Includes employer, manager, supervisor, and co-worker.

[f] Includes teacher, tutor, client, patient, customer, medical practitioner, priest, rabbi, carer excluding non-paid family or unpaid, or other known person.

Note: Percentages may exceed 100 per cent because people can experience violence by more than one perpetrator type.

Source: Australian Bureau of Statistics (2016).

Women with disability more likely to experience repeated incidents of violence

Many women who shared their experiences of violence by family members, partners and other people they know described a repeated pattern of violence in their relationships over the course of their lives. At Public hearing 17, we heard accounts by women with disability of repeated incidents of violence over their lifetimes, in multiple relationships.[22] Witnesses at other public hearings also described repeated incidents in the same relationship, and relationships characterised by environments of coercive control.[23] This pattern was supported in submissions and private sessions.[24]

Research and data also support these accounts. Research illustrates that people with disability who have been subjected to violence or abuse once can experience this repeatedly, perhaps in a different form, circumstance or relationship.[25] The *PSS* shows that more than three-quarters of women with disability (77 per cent) who have experienced violence have experienced multiple incidents of violence since the age of 15. In comparison, 67 per cent of women without disability and 76 per cent of men with disability have experienced more than one incidence of violence (see Figure 3.4.4).[26]

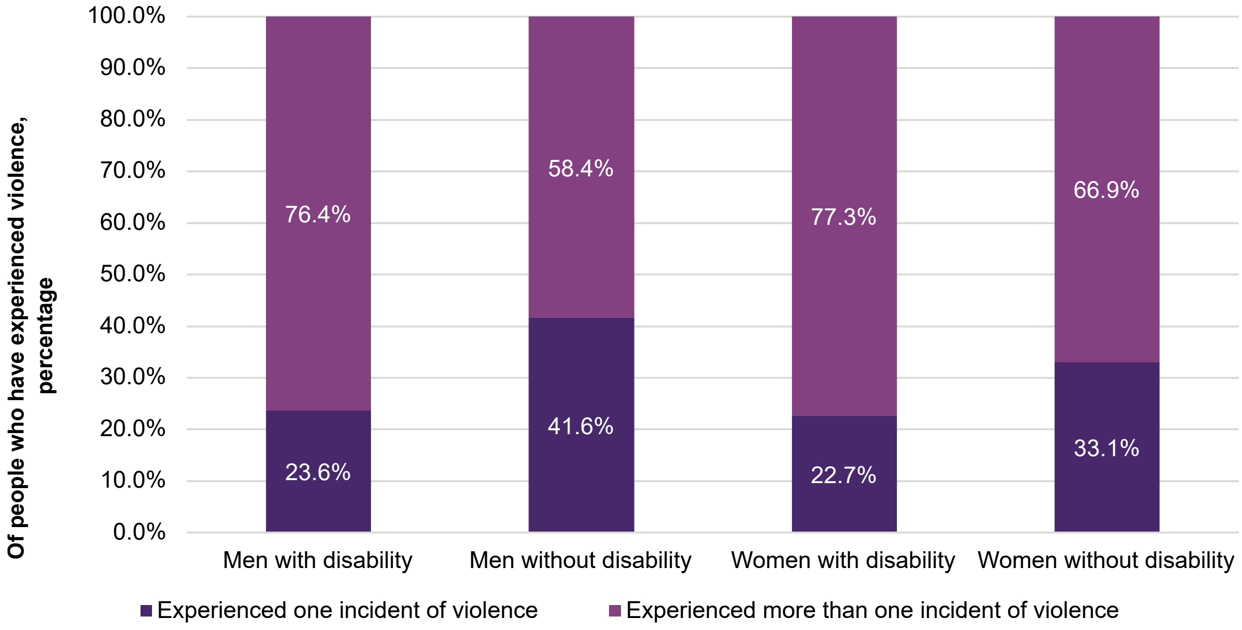

Figure 3.4.4: Of those people aged 18 to 64 who have experienced of violence since age 15, the number of experiences, by disability status and gender, 2016

Source: Australian Bureau of Statistics (2016).

Mei*

Mei is in her 30s and lives with her husband, Donny. Mei has an intellectual disability. Throughout her life, she told the Royal Commission, she has experienced violence, abuse, neglect and exploitation at the hands of those who should have been protecting her – her family, foster family, her boyfriend and her husband's grandparents.

Mei first experienced abuse in her family home. She was often being 'pushed, hit, grabbed, and shaken' and called things like 'slut' and 'whore'. Mei remembers being locked in her room for hours on end.

Mei moved to a foster family in her late teens and for the first two years, her foster family was loving and kind and she felt wanted. However, things changed when Mei's foster father began to question her trust and started to ask Mei to do things to show she trusted him. Mei says he used to give her soft drink mixed with alcohol, and there were other times she believes he drugged her.

'To gain his trust', he asked to take photographs of Mei – firstly with clothes on, then nude. This escalated to him wanting to massage her with no clothes on, then wanting her to get in the spa with him. Eventually he started to force himself on her in a sexual manner.

When this abuse started, Mei became increasingly unwell. One day she told her foster mother what had been going on and the police were bought in to investigate. No charges were ever laid, but not long after that Mei was moved out of that home and into a supported residential facility.

Mei lived in this facility for the next two years and met a new boyfriend. They moved in together, but shortly after the boyfriend became extremely violent – verbally, physically and psychologically. A social worker found crisis accommodation for Mei. She was in a hotel for a short period of time, then she was moved into an aged care facility. Mei felt safe there, but for a young woman in her early 20s, it was definitely not age appropriate. Mei called it 'the old folks home'.

Eventually they found Mei a unit to move into. She felt safe and secure and loved living on her own. She met a new boyfriend, Donny, who moved in with her. They lived together in Mei's unit for a few years before moving to be closer to Donny's family – his grandparents – who helped them purchase a house.

But Donny's grandparents were 'manipulative, violent and controlling'. They entered the home whenever they chose, never respecting Donny and Mei's privacy. They were verbally and physically abusive to Mei. They often hit her, pushed her around and threatened to stab or shoot her. Mei said, 'While they tried hard to split us up, it made our relationship stronger.'

After three years of constant abuse, Mei went to the police and an intervention order was placed on the grandparents. But the abuse and threats escalated. Things became so bad that one day, unable to deal with any more abuse, Mei climbed out the window and jumped off the roof. She spent three months in hospital.

Before returning home from hospital, Mei sought support from a local family and domestic violence service which organised security cameras around the home and new security doors to keep Mei safe. This worked for a while, but then the grandparents started to demand rent and soon Donny was served with legal papers to sell the house, so they moved out.

Mei still does not feel safe in her current home. The intervention order is still in place, but the grandparents continue to phone and drive past the new house, making life uncomfortable and threatening.

Mei and Donny married a few years ago and look forward to one day having a peaceful life, free from fear, and a family of their own. Mei knows that they would need a lot of assistance in their home for this to occur, but she has always wanted her own family.

Mei is now supported by an NDIS plan, an advocate and carers who come daily to support her everyday needs. Life is better, but she still has constant fear and worry about the future.

* This is a de-identified summary of an experience shared with us in a submission or private session. The person who shared their experience was not a witness. They did not give evidence, take an oath or give an affirmation. Nothing in this narrative represents a finding of the Royal Commission and any views expressed are those of the person, not of the Royal Commission.

4.4. Sexual violence, abuse and harassment

Women with disability experience sexual violence and abuse at higher rates than women without disability and men with disability. For instance, 29 per cent of women aged 18 to 64 with disability have experienced sexual assault since the age of 15. They are:[27]

- nearly twice as likely as women without disability (15 per cent) to have been sexually assaulted
- more than three times more likely as men with disability (7.7 per cent) to have been sexually assaulted.

Available data indicates that women with psychological or intellectual disability, in particular, experience high rates of sexual violence. Since the age of 15, 45 per cent of women with psychological or intellectual disability have experienced sexual assault, compared with 29 per cent of all women with disability.[28]

Experiences of sexual violence

Women with disability gave evidence at hearings of the nature of sexual violence and abuse perpetrated against them. Women described being groomed and sexually assaulted by people they knew, both as adults and as children,[29] in many different settings, and in some cases, repeatedly.[30] Submissions received by the Royal Commission provided similar accounts.[31]

Some young women and girls were subjected to sexual violence and abuse at school or on school transport, by their peers, teachers or a driver.[32] We also heard in submissions and private sessions about experiences women had of sexual violence and abuse in the workplace, which was perpetrated by co-workers and managers.[33] Witnesses at public hearings told us of sexual abuse or improper acts where perpetrators exploited the woman's disability and support needs.[34]

Evidence also showed that women with disability have been sexually assaulted by support workers in supported accommodation and their own homes,[35] or by support workers or fellow participants at day programs.[36] They have also experienced sexual abuse or harassment in supported accommodation.[37] Women with disability outlined the tactics used by perpetrators in contexts where support was being provided. These included deception and control, taking advantage of positions of trust[38] and taking advantage of women's isolation and lack of independence in these settings.[39]

Women with disability also gave evidence at our public hearings about experiencing sexual assault by acquaintances or dates.[40]

Violence and abuse by a support worker: 'Chloe'

In Public hearing 17, 'Chloe' gave evidence on the violence and abuse perpetrated by her support worker.[41] Chloe lives with cerebral palsy and uses a wheelchair. She lives alone in her own house but needs support with personal care and daily living activities.[42]

Chloe described how one male support worker groomed her:

> He tricked me into thinking I was special, he used to tell me I was a princess. He promised me lots of things. He told me he loved me.[43]

Over time, the support worker exerted coercive control over Chloe[44] that extended to financial exploitation.[45] He also sexually and physically abused her, with one of the assaults resulting in pregnancy and another in a miscarriage.[46] Chloe's support worker was charged with multiple counts of rape, grievous bodily harm, torture and assault.

However, he was not convicted. Chloe described a negative experience of being a witness in the criminal proceeding,[47] stating '[the jury] saw me as disabled and a liar, and he got off'.[48]

Chapter 8, 'Abuse and neglect in mainstream settings and services', discuses access to justice by people with disability who are victims of crime.

Sexual harassment

Sexual harassment is unwelcome sexual advances, requests for sexual favours or other unwelcome sexual conduct.[49]

The *Sex Discrimination Act 1984* (Cth) makes sexual harassment unlawful in the areas of work, education, the provision of goods, services and facilities, accommodation, land, membership of clubs and the administration of Commonwealth laws and programs.[50] The Act applies to disability service settings and women with disability have a right not to be sexually harassed by support workers or any person providing services or facilities, such as Chloe's circumstances. However, the Act does not extend to sexual harassment in domestic relationships or by members of a person's family.[51]

Although people with disability are under-represented in the Australian workforce, they are over-represented among people who have experienced workplace sexual harassment. Women with disability were more likely than men with disability to have experienced workplace sexual harassment in the five years before 2022 (54 per cent and 38 per cent, respectively).[52] This is discussed further in Chapter 8.

We heard from 'Alexa' at Public hearing 24, 'The experience of children and young people in different education settings', about her daughter 'Bridget' being regularly subjected to violent sexual language and imagery at school. Alexa was concerned that exposure to this form of sexual harassment 'can form toxic ideas of friendship and relationships and have life-long effects'.[53]

4.5. Intimate partner violence, abuse, neglect and exploitation

Women with disability are much more likely to experience violence and abuse from domestic partners over the course of their lives than women without disability. Violence and abuse by a domestic partner can include physical and sexual violence, threat of violence, coercive control, emotional abuse and exploitation. Women with disability can be subjected to specific forms of violence that target their disability,[54] such as interfering with mobility aids or medication.

Women aged 18 to 64 with psychological[55] or intellectual disability experience particularly high rates of violence and abuse since age 15, from their domestic partners:[56]

- Half of all women with psychological or intellectual disability experience domestic partner emotional abuse (50 per cent), compared with 37 per cent of women with disability overall.
- Forty-one per cent of all women with psychological or intellectual disability experience domestic partner violence, compared with 29 per cent with women with disability overall.
- For two thirds (67 per cent) of women with psychological or intellectual disability who experience violence from a current or previous domestic partner, the violence occurred during pregnancy.[57]

Younger women with disability are at greater risk of domestic partner violence than older women with disability. Women with disability aged 18 to 35 experienced violence by a domestic partner at three times the rate of women with disability aged 36 to 64 in the previous 12 months (5.7 per cent compared with 2.2 per cent).[58]

Intimate partner violence during the COVID-19 pandemic

In May 2020, the Australian Institute of Criminology (AIC) conducted an online survey of 15,000 women aged 18 and over about their experiences of domestic violence in the three months from February 2020, when COVID-19 first started impacting Australia.

The study shows that rates of intimate partner violence during the COVID-19 pandemic increased for all women. However, for women with restrictive long-term health conditions, the rates were even higher.[59] During the three-month period, women with restrictive long-term health conditions:

- were almost three times more likely to experience physical or sexual violence by a current partner than women without restrictive long-term health conditions (17 per cent compared with 6.2 per cent respectively)[60]
- were 2.5 times more likely to experience coercive control (20 per cent of women with restrictive long-term health conditions compared with 7.8 per cent of women without restrictive long-term health conditions)[61]

- were more likely than women without restrictive long-term health conditions to experience the onset of physical or sexual violence by a current partner (4.6 per cent compared with 2.7 per cent)[62]
- were more likely to experience escalation of physical or sexual violence in relationships with a prior history of violence (60 per cent of women with restrictive long-term health conditions compared with 41 per cent of women without restrictive long-term health conditions).[63]

The intimate partner violence data collected by the AIC during the pandemic is one of the few sources that enables comparison of rates and experiences of violence against women with restrictive long-term health conditions who identify as First Nations or culturally and linguistically diverse. The research showed:

- First Nations women with restrictive long-term health conditions were more than twice as likely to experience physical or sexual violence by a current partner (42 per cent), and more than three times as likely to experience the onset of coercive control (17 per cent) as non-First Nations women with restrictive long-term health conditions (16 per cent and 4.5 per cent respectively).[64]
- Culturally and linguistically diverse[65] women with restrictive long-term health conditions were also more likely to experience physical and sexual violence (21 per cent) and coercive control (26 per cent) than women from English-speaking backgrounds with restrictive long-term health conditions (16 per cent and 18 per cent respectively).[66]

This is discussed in more detail in Chapter 5.

Experiences of intimate partner violence

Women with disability provided the Royal Commission with evidence about the nature of intimate partner violence they had been subjected to. Submissions and private sessions provided further accounts:

- Some violent partners targeted women based on their disability and support requirements.[67]
- Many women with disability described intimate partner violence as being one of many experiences of violence in their lives. The relationships of these women were characterised by recurring incidents, and overall environments, of abuse or coercive control.[68]
- Women with disability experienced deliberate neglect and exploitation by intimate partners, including financial exploitation.[69]
- Women with disability from migrant and culturally and linguistically diverse backgrounds described abuse by intimate partners,[70] including by those who targeted their isolation from family or visa status.[71]
- First Nations women with disability described intergenerational trauma[72] and child protection involvement[73] alongside and connected to intimate partner violence and abuse.

Intimate partner violence: Ms Lee

At Public hearings 5 and 17, Ms Nicole Lee detailed extensive verbal, emotional, physical, financial and sexual abuse by her now ex-husband for over a decade.[74] Ms Lee stated that mainstream services overlooked behaviour that would ordinarily be a red flag for family and domestic violence because her husband was her primary carer.[75] She explained that carers are viewed as 'self-sacrificing, loving, caring people that … take on [people with disability] as these horrible burdens'.[76] Ms Lee's ex-husband was ultimately arrested and pleaded guilty to nine incidents of rape, one charge of assault, and persistent breach of a family violence intervention order.[77] He was sentenced to two-and-a-half years in prison and four years of community corrections on release.[78]

4.6. Violence, abuse, neglect and exploitation by other family members

Family and domestic violence includes violence by family members, including parents, siblings and other relatives. Twenty-eight per cent of women with disability experience violence by family members since age 15. This is higher than men with disability (17 per cent) and women without disability (18 per cent).[79]

Women with disability gave evidence at public hearings of physical and sexual violence, emotional abuse, neglect and exploitation by family members and foster carers.[80] They also shared accounts in submissions and private sessions.[81] This is consistent with the data, outlined earlier in the chapter, showing women with disability are more likely to experience violence in all kinds of relationships.[82] Some women described a repeated pattern of violence from those with important roles in their lives that began with violence perpetrated by caregivers in childhood.

We were also told of exploitation as part of family and domestic violence and abuse of people with disability. As noted earlier, Chloe experienced financial exploitation as part of an overall experience of coercive control and domestic and sexual violence and abuse by a support worker.[83] In private sessions, submissions and responses to the Royal Commission's issues papers, individuals and organisations described how some family members financially exploit people with disability and how this is likely to co-occur with other forms of abuse.[84]

Accounts given by First Nations women with disability showed the impact that experiencing or witnessing violence or abuse from family members in childhood had on them in later life, including difficulty in finding help.[85] In Public hearing 17, Associate Professor Patsie Frawley, Associate Professor Disability and Inclusion Studies at the University of Waikato, referred to 'an invisibility' that arises for women with disability who experience intersecting oppressions in all parts of their lives.[86]

Ms Thelma Schwartz, Principal Legal Officer at the Queensland Indigenous Family Violence Legal Service, explained that for First Nations women and girls with disability, the experience is ‘even more heightened. They are at the intersection between race, gender and disability’.[87] She described the intersectionality of First Nations women and girls who experience gender-based violence as being ‘compressed and compacted’.[88] For example, one First Nations witness with disability described the ongoing effects of her family’s experiences. Her grandparents were taken as part of the Stolen Generations, as were her ex-partner’s grandparents.[89] This resulted in intergenerational trauma, including impacting her mother’s mental health and capacity to care for her. Her mother was sometimes violent toward her.[90]

The adverse consequences of witnessing violence or abuse early in life, and the difficulty in finding support, is corroborated by research into the experiences of family and domestic violence of First Nations women and children with disability.[91] This is explored in Volume 9, *First Nations people with disability.*

Children’s experience of family and domestic violence

Children’s exposure to family and domestic violence has a significant impact on their development.[92] It is recognised as one of the five main forms of child abuse and is defined as abuse under the *Family Law Act 1975* (Cth).[93]

Research conducted by Australia’s National Research Organisation for Women’s Safety (ANROWS) considered children’s exposure to family and domestic violence through data on mothers hospitalised for domestic violence-related assault in Western Australia. It considered children born between 1990 and 2009, living in urban, inner and outer regional, remote and very remote areas.[94] This research shows that children with disability were more than twice as likely to have a mother hospitalised due to domestic violence-related assault (7.8 per cent) compared with children without disability (3.6 per cent).[95] The study also showed that, according to police data relating to charges laid against a violent male perpetrator, children with disability made up about 30 per cent of children exposed to family and domestic violence.[96]

Evidence provided to the Royal Commission in Public hearing 17 also detailed the experiences of women with disability of physical, emotional, and sexual abuse perpetrated by family members and foster carers as children.[97]

Family and sexual violence: Ms Hill

Ms Kristy Hill, a woman with intellectual disability, gave evidence of her experience of family and sexual violence in Public hearing 17.[98] Ms Hill's mother put her and her siblings in care when she was six years old.[99] Her father took them out around one year later.[100] Ms Hill said he subjected her to violent physical abuse throughout her childhood.[101] Ms Hill said she tried to tell her aunties she was being abused, but no-one would believe her. She said, 'I thought there's no point telling anyone else 'cause they won't believe me so, so I just got myself out of there.'[102] To escape the abuse, when she was 17 or 18, Ms Hill ran away and started living on the streets.[103]

4.7. Deprivation of reproductive rights

Reproductive rights abuses of women and girls with disability include forced or non-consensual terminations of pregnancy, sterilisation procedures, menstrual suppression and contraception. While data is very limited, the Royal Commission heard evidence in relation to reproductive rights at Public hearing 17[104] and Public hearing 26, 'Homelessness, including experience in boarding houses, hostels and other arrangements',[105] and received information in submissions from organisations.[106]

Sterilisation

Involuntary sterilisation has been a focus of disability rights campaigners in Australia since the early 1990s.[107] The non-consensual sterilisation of women and girls with disability is regulated rather than prohibited in Australia. It has been the subject of a number of inquiries, including by the Committee on the Rights of Persons with Disabilities (CRPD Committee),[108] the Senate Community Affairs References Committee,[109] and the Australian Human Rights Commission.[110]

Quantitative data as to the number of sterilisation procedures on children authorised by courts is not available. This is due to the fact that such decisions can be made in closed court in order to protect the privacy of the participants. This is an exception to the principle of open justice that applies generally across courts. Dr Linda Steele, senior lecturer in the faculty of law at the University of Technology, Sydney, said it was important we have more transparency around court decisions.[111]

The Australian Guardianship and Administration Council (AGAC) produces an annual report on tribunal and board-approved medical procedures that resulted in the sterilisation of adults with cognitive disability. The most recent AGAC report reveals that 14 adult sterilisation procedures were approved between 1 July 2021 and 30 June 2022.[112] Of those, five were in New South Wales, five were in Queensland, and two were in Western Australia and Victoria respectively. The remaining states and territories did not approve any sterilisation procedures in this period.

Dr Steele told the Royal Commission that quantitative data of the kind collected by AGAC does not give any insight as to the reasons for decisions made by courts and tribunals:

> [T]o simply have those numbers is not giving us that depth of detail about what kinds of assumptions and ideas and knowledge around women and girls with disability are held by individual judges or enabled by psychological expertise or legal principles. We're not getting that level of information and that's really important to have.[113]

Menstrual suppression and forced contraception

The non-consensual use of long-acting contraception to control menstruation rather than for contraceptive purposes is considered chemical restraint, also known as menstrual suppression.[114] Ms Carolyn Frohmader, Executive Director of WWDA, told the Royal Commission that while research is limited, anecdotally, she is aware that menstrual suppression and forced contraception is widely used in group homes and segregated settings.[115]

> We have women with disability who have been on long-acting injectable contraceptives like Depo-Provera injections. They were put on it when they were 15 or 14, are still on it now at nearly 50, with no clinical indication whatsoever. They have been told things like it's the flu injection.[116]

Ms Frohmader added that regulatory authorities do not always monitor the use of these drugs in disability service settings because they are not always seen as a chemical restraint.[117]

A recent report by the Victorian Senior Practitioner showed the number of women receiving NDIS services in Victoria who were prescribed medication to suppress menstruation increased from 1.7 per cent of 1,998 people subject to chemical restraint in 2014–15 to 3.7 per cent of 1,770 people in 2020–21. This is an increase from 34 to 65 women over five years.[118]

In a report by the Victorian Senior Practitioner specifically examining menstrual suppression used on 82 women in 2018–19, reasons for its use included hygiene, and behaviours of concern related to menstruation, as well as addressing pain or for contraception.[119]

A woman with long term psychosocial disability described her experiences of involuntary, long-acting contraception in a forensic mental health facility. She said:

> Although they didn't physically force me, I don't feel like I had a choice…I didn't think anyone could force me to take a certain type of contraception that wasn't the one I wanted to take, or even force me to take it in the first place. I was given no information about the Implanon. I don't even know how long it has been in there or when I needed to get it taken out.[120]

Miscarriage resulting from violence and forced termination

Chloe gave evidence in Public hearing 17 of her pregnancy as a result of rape and subsequent miscarriage after ongoing physical abuse.[121]

In a submission, a woman told us about being pressured to have an abortion, and described having severe depression and a breakdown afterwards. She said she suffered long term health complications and resultant stigma.[122]

In a private session, a First Nations woman described being forced by her abuser to become pregnant, and being subject to daily physical abuse. She said she had a number of miscarriages. When describing the impacts, she talked about fear for herself and her family, being blamed for things her abuser did, and losing her identity and connection to her Aboriginal culture.[123]

Forced termination and sterilisation: 'Charlotte'

At Public hearing 26, 'Charlotte' described her time in a boarding house in the 1980s and 1990s. After experiencing and witnessing neglect, violence and abuse at the boarding house, Charlotte told the ex-boyfriend of a manager that she did not like living there. He told her she could live with him, but, in Charlotte's words 'he just wanted a slave'.[124]

Charlotte found out she was pregnant. The doctor 'had the letter all written out for me to go to hospital … saying that I was to have a termination.'[125]

At hospital, she was forced to terminate her pregnancy and to be sterilised.[126] Charlotte said she was threatened with a *Mental Health Act* order if she did agree to have the termination. She told us:

> I might not have wanted to have a child in that way, but I regret not being given the option. I did not have a normal life after that termination.[127]

Charlotte said that not long after the termination, she overdosed because she wanted to die. She was sent to a hospital under a Mental Health Order, and then back to the boarding house to live.[128]

Endnotes

1 *Letters Patent (Cth)*, 4 April 2019, as amended, (g).

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 3, 6.

3 See for example, *Family Law Act 1975* (Cth) s 4AB; *Family Violence Protection Act 2008* (Vic) ss 5, 8; *Family Violence Act 2016* (ACT), ss 8–11; *Domestic and Family Violence Protection Act 2012* (Qld) pt 2 divs 2 and 3; *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s 8; *Family Violence Act 2004* (Tas) s 7; *Crimes (Domestic and Personal Violence) Act 2007* (NSW) ss 5 and 11; *Restraining Orders Act 1997* (WA) ss 4, 5A.

4 The relationship between a person with disability and their carer could over time become a relationship akin to that between family members. See for example, *Family Violence Act 2016* (ACT), s 11; *Family Violence Protection Act 2008* (Vic), s 8(3).

5 Women with Disabilities Australia, Submission, 21 April 2021; Women with Disabilities Victoria, Submission, 26 February 2021; Australian Cross Disability Alliance, 2015, p 59 [222–223].

6 Transcript, Patricia Frawley, Public hearing 3, 4 December 2019, P-180 [11–35]; Exhibit 17-7.001, ‘Statement of Dr Jacoba Brasch QC’, 30 September 2021, at [11].

7 Transcript, Vanamali Hermans, Public hearing 17 (Part 2), 31 March 2022, P-273 [33–38, 40–45]; Transcript, Tess Moodie, Public hearing 17 (Part 2), 31 March 2022, P-282 [20–23].

8 Australian Bureau of Statistics, *Personal Safety, Australia methodology,* 8 November 2017, Glossary; Australian Bureau of Statistics, *Personal Safety, Australia: User Guide, 2016,* 4906.0.55.003*,* 8 November 2017, at Partner violence & Partner emotional abuse.

9 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016,* Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any physical assault since age 15, Whether experienced any physical threat since age 15, Whether experienced any sexual assault since age 15, Whether experienced any sexual threat since age 15, Whether experienced any current / previous partner violence since age 15, Whether experienced emotional abuse by current and /or previous partner since age 15, Whether experienced stalking since age 15; by Whether has a disability; by Sex; by Age (18–64).

10 Australian Bureau of Statistics, ‘Violence’, *Personal Safety Australia 2021–2022*, 2023.

11 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Relationship to all perpetrators ever experienced violence by since age 15 per violence type; by Whether has a disability; by Sex; by Age (18–64).

12 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced any physical assault since age 15, Whether experienced any physical threat since age 15, Whether experienced any sexual assault since age 15, Whether experienced any sexual threat since age 15, Whether experienced any current / previous partner violence since age 15, Whether experienced emotional abuse by current and /or previous partner since age 15, Whether experienced stalking since age 15; by Whether has a disability; by Sex; by Age (18–64).

13 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced violence since age 15; by Whether has a disability; by Disability type; by Sex; by Age (18–64).

14 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab, Whether experienced violence in the last 12 months; by Whether has a disability; by Sex; by Age (18–35, 36–64).

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5. Intersectional experiences of interpersonal violence and abuse

Key points

- People with disability can experience specific or heightened forms of interpersonal violence and abuse as a result of multi-layered or ‘intersecting’ forms of disadvantage and marginalisation.
- Data about First Nations people with disability shows:
    - One in five (22 per cent) of First Nations people with disability experienced physical harm or were threatened with physical harm in the previous 12 months compared with 12 per cent of First Nations people without disability.
    - First Nations women with disability were more than twice as likely (42 per cent) to experience intimate partner violence during the first wave of the COVID-19 pandemic than non-Indigenous women with disability (16 per cent).
- While there is limited data on people with disability from culturally and linguistically diverse backgrounds, what is available suggests:
    - they experience more violence and abuse than culturally and linguistically diverse people without disability
    - women with disability from culturally and linguistically diverse backgrounds experience higher rates of violence than those without disability.
- LGBTQA+ people with disability experience higher rates of violence and abuse than the rest of the LGBTQA+ community, including on the basis of sexual orientation and gender identity.
- LGBTQA+ people with disability also experience very high rates of suicidal ideation and attempts, and rates are higher among those who have experienced violence, abuse, neglect or exploitation.

5.1. Introduction

The Royal Commission's approach to understanding intersectional and multi-layered experiences of violence, abuse, neglect and exploitation is set out in Chapter 2, 'Violence, abuse, neglect and exploitation across the life course'. This chapter looks at what this means in the lives of specific groups of people with disability. It illustrates how experiences of violence, abuse, neglect and exploitation can be heightened when negative responses to disability intersect with responses to other characteristics, such as race, culture, sexuality or gender identity. In particular, we heard about First Nations people, people from culturally and linguistically diverse backgrounds, and LGBTIQA+ people who have disability and have also experienced interpersonal violence and abuse.

For many First Nations people, interpersonal violence and abuse are inextricably related to the ongoing impacts of colonisation, intergenerational trauma and structural racism.[1] These impacts are multiplied for First Nations people with disability, who face additional disadvantage.[2] It should be noted, however, that First Nations people with disability are diverse, and their experiences vary substantially. This is not always clear from data alone.

References to people with disability from culturally and linguistically diverse backgrounds relates to many different people, communities and experiences. This means relevant data and evidence needs to be interpreted carefully. There is limited available data on interpersonal violence against and abuse of people with disability from culturally and linguistically diverse communities. What is available can demonstrate trends but not differences between different cultural or linguistic groups.

We use the term LGBTIQA+ to discuss the experiences of those who are lesbian, gay, bisexual, transgender, gender-diverse, intersex, queer, questioning and asexual. Experiences of violence and abuse can vary based on sexuality, gender, and for people with intersex variations. We draw on sources that use different iterations of the acronym when referring to the communities included in their research or analysis.

The multi-layered experiences of women with disability are examined in Chapter 4, 'Women and girls'.

5.2. First Nations people with disability

Our mob with disability still feel vulnerable, because I'm Aboriginal and I have a disability. Aboriginality comes first.[3]

We received a substantial amount of evidence about the unique experience of First Nations people with disability. It shows how the continued marginalisation of First Nations people generally in Australian society is amplified for those with disability.[4] At Public hearing 4, 'Health care and services for people with cognitive disability', Dr Scott Avery, Research and Policy Director at the First Peoples Disability Network (Australia), gave evidence on the intersections of disability and racism for First Nations people with disability:

> The cumulative effects of racism are such that Aboriginal and Torres Strait Islander people are structurally disempowered compared to people who are not Indigenous. The cumulative effects of ableism are such that people with disability are structurally disempowered compared to people who do not have disability. Aboriginal and Torres Strait Islander people with disability must contend with racism, ableism, and an intersectional interaction of these forms of discrimination, structurally disempowering them further again.[5]

This section draws on the 2018–19 *National Aboriginal and Torres Strait Islander Health Survey (NATSIHS)*, which reports on experiences of physical and threatened harm in the previous 12 months. The survey is of all age groups but questions relevant to harm and threats of harm are only asked of participants aged 15 and above. As we are focusing on people with disability under 65, the following discussion refers to survey respondents aged 15 to 64.

Interpreting the 2018–19 *NATSIHS* involves some further caveats. The survey uses the term 'physical harm' rather than 'violence' or 'abuse'. Physical harm refers to 'any incident where a person was physically hurt or harmed by someone on purpose'. Sexual violence and emotional abuse are not included in this definition.[6] Experiences of physical harm are likely to be under-reported, as people may not disclose their experiences for a variety of reasons. One reason is that the 2018–19 *NATSIHS* used face-to-face interviews that did not have to be private. People may be less likely to disclose experiences of harm if the offender is at the interview.[7]

The *NATSIHS* also does not allow us to compare rates of violence and abuse between First Nations people with disability and the general population, due to differences in how the data is gathered and presented.

Finally, the *NATSIHS* survey results are considered representative of First Nations people aged 15 to 64 living in both remote and non-remote areas, but as noted it is important to remember that First Nations people are diverse and can have vastly different experiences.

According to data drawn from *NATSIHS*, First Nations people with disability experience higher rates of physical harm than those without disability.[8] Table 3.5.1 presents results on physical and threatened harm against First Nations men and women aged 15 to 64, with and without disability.[9] It shows that First Nations people with disability are more likely to have experienced physical harm or threats of physical harm in the previous 12 months (22 per cent) than First Nations people without disability (12 per cent).[10]

Table 3.5.1: Percentage who experienced physical harm or threatened physical harm in the past 12 months for First Nations people aged 15 to 64, by disability status and gender, 2018–19

First Nations people who experienced physical harm or threat of harm in past 12 months	Men	Women	Total
With disability	22.3%	21.5%	21.9%
Without disability	14.7%	10.1%	12.3%

Source: Australian Bureau of Statistics (2019).

First Nations people with disability are also more likely to have experienced multiple incidents of physical harm in the previous 12 months than First Nations people without disability (Table 3.5.2).[11] Of those who experienced physical harm, 70 per cent of people with disability experienced more than one incident, compared with 48 per cent of people without disability.[12]

Table 3.5.2: Of those who experienced physical harm, percentage by number of incidents of physical harm in last 12 months for First Nations people aged 15 to 64 with and without disability, 2018–19

Number of incidents of physical harm in the last 12 months	First Nations people with disability	First Nations people without disability
One incident of physical harm	29.9%	52.0%
More than one incident of physical harm	70.1%	48.0%

Source: Australian Bureau of Statistics (2019).

In our public hearings, First Nations people with disability gave firsthand accounts of interpersonal violence and abuse. Mr Geoffrey Thomas is a First Nations man with multiple disabilities. In Public hearing 11, ‘The experiences of people with cognitive disability in the criminal justice system’, he described the substantial violence he has witnessed and experienced throughout his life, starting in childhood.[13] He gave evidence about being beaten up frequently at school[14] and being physically assaulted by army colleagues in a pub as a teenager.[15] Similar experiences of violence and abuse were described in private sessions and submissions from First Nations people with disability and their families.[16]

As noted, the ongoing impacts of colonisation, racism and intergenerational trauma are linked with interpersonal violence and abuse in First Nations communities, in addition to other adverse outcomes.[17] These impacts include cycles of family and domestic violence[18] and the significant over-representation of First Nations children in child protection and out-of-home care.[19] For example, 'Etana' described how the removal of her grandparents as part of the Stolen Generations contributed to intergenerational cycles of family violence, as they were not shown love and were unable to be nurturing parents to her mother.[20]

First Nations people with disability gave evidence about how being removed as a child exposed them to violence, particularly family and domestic violence, as adults.[21] Ms Kobie Hicks, a First Nations woman who lives with an intellectual disability, described being removed as a child and experiencing abuse within multiple foster care settings.[22] Her experience as a child limited her ability to recognise unsafe and abusive relationships as an adult.[23]

First Nations women

> I just need people to understand that I'm speaking up because, you know, it's not right. It's not right to do what happened – you know, what he did to me.[24]

A study by the New South Wales Bureau of Crime Statistics and Research shows First Nations people with disability, especially women, are subjected to high rates of violent crime.[25] The study linked state and national data to examine experiences of people with disability in the criminal justice system in New South Wales. It analysed records from the New South Wales Police Force of people with disability aged 15 and over who were victims of crime between 2014 and 2018. Disability was based only on people who accessed core disability supports, rather than all people with disability. As New South Wales is the only jurisdiction where this data was analysed, the findings may not be representative of those in other states and territories. The study also only considers crimes that were reported to police, which means that the estimates presented are likely to underestimate actual rates.[26]

The study shows that in New South Wales, First Nations people with disability accessing disability supports were at least twice as likely as non-Indigenous people with disability accessing disability supports to be victims of violent crime.[27] The rates for experiencing any crime were highest for First Nations women with disability (34 per cent) followed by 29 per cent for First Nations men with disability and 16 per cent each for non-Indigenous women and men with disability.[28]

The study also showed that in New South Wales, First Nations women with disability experience high rates of domestic violence-related crime.[29] Of First Nations and non-Indigenous men and women with disability, First Nations women were the group most likely to experience domestic violence-related crime (19 per cent).[30] First Nations men had the next highest rate (8.6 per cent), followed by non-Indigenous women (5 per cent).[31]

Data from the National Hospital Morbidity Database shows that First Nations women aged 15 and over are 34 times more likely than non-Indigenous women to be hospitalised due to family violence, and First Nations men were 27 times as likely to be hospitalised as non-Indigenous men.[32] This data does not distinguish between those with and those without disability. However, it provides context for rates of harm described above and shows the disparate levels of physical harm between First Nations and non-First Nations people as a result of family violence. For First Nations women, a spouse or domestic partner was the perpetrator in 62 per cent of cases where the woman was hospitalised for assault, whereas for men, the perpetrator was most likely to be another family member.[33]

In the *NATSIHS*, the Australian Bureau of Statistics defines physical harm as being harmed by someone else on purpose, as discussed above. Data on First Nations people aged 15 to 64 from the 2018–19 *NATSIHS* shows that 78 per cent of First Nations women with disability were injured in the most recent incident of physical harm they experienced. In comparison, 68 per cent of First Nations men with disability and 63 per cent of First Nations women without disability were physically injured. Types of physical injury can include scratches, bruises, fractures or broken bones, miscarriage and broken teeth.[34]

As noted in the previous chapter, early in the COVID-19 pandemic (from February to April 2020), the Australian Institute of Criminology prepared a report for the Royal Commission on the experiences of women with long-term restrictive health conditions.[35] This showed that First Nations women with disability were more than twice as likely as non-Indigenous women with disability to have experienced physical or sexual violence during the first wave of the pandemic (42 per cent compared with 16 per cent).[36] They were also significantly more likely than non-Indigenous women with disability to have experienced coercive control during this time (52 per cent compared with 18 per cent, respectively).[37]

In public hearings we received a substantial amount of evidence from First Nations women with disability who have been subjected to interpersonal violence.[38]

First Nations women and child protection: 'Shontaya'

In Public hearing 8, 'The experiences of First Nations people with disability and their families in contact with child protection systems', we heard from 'Shontaya', a First Nations woman with intellectual disability. Shontaya was the victim of significant and prolonged domestic violence perpetrated by her former partner.[39] She described how he verbally, psychologically and physically abused her. When she tried to leave the relationship, he would threaten to kill himself, and would send her photos of self-harming. Shontaya would then feel guilty and would go back to the relationship.[40] This violence had an immense impact on Shontaya's life, including physical injuries requiring hospitalisation,[41] and the involvement of child protective services.[42]

First Nations children

First Nations children with disability witness family and domestic violence at heightened rates. Research from Australia's National Research Organisation for Women's Safety (ANROWS) analysed data from Western Australia to examine the extent of family and domestic violence against children with disability. It considered children born between 1990 and 2009, living in urban, inner and outer regional, remote and very remote areas. It found that First Nations children were much more likely than non-Indigenous children to have a mother hospitalised as a result of family and domestic violence (26 per cent compared with 3 per cent), and rates were particularly high for First Nations children with disability (36 per cent).[43]

Rates of physical harm by disability type

> Throughout my life, my mum has been very violent to me at different times ... She has on occasion, thrown me through a window. Mum pulled a knife on me when I was pregnant and has tried to stab me before.[44]

Data on physical harm or threatened physical harm against First Nations people aged 15 to 64 with different disability types is reported in the 2018–19 *NATSIHS*. This data shows that rates of physical or threatened harm among First Nations people with disability are substantially higher than for First Nations people without disability (22 per cent compared to 12 per cent). This is true for both men and women (see Figure 3.5.1).

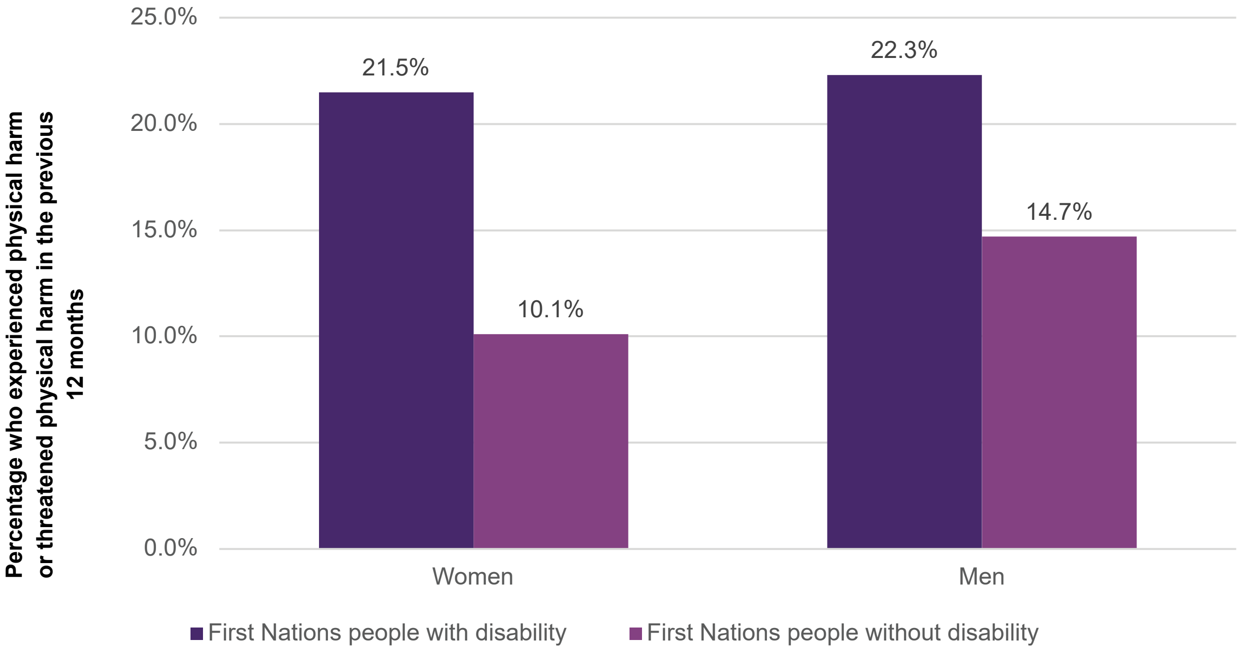

Figure 3.5.1: Percentage of First Nations men and women aged 15 to 64 with and without disability who reported experience of physical harm or threatened physical harm in the previous 12 months, 2018–19

Source: Australian Bureau of Statistics (2019)

First Nations people with head injury, stroke or brain damage experience the highest rates of physical harm or threatened physical harm. As shown in Table 3.5.3:[45]

- More than one-quarter of First Nations men with psychological disability (29 per cent) and First Nations men with intellectual disability (26 per cent) experienced physical harm or threat in the previous 12 months.
- Over one-third of First Nations women with head injury, stroke or brain damage, 27 per cent with intellectual disability and 26 per cent with psychological disability experienced physical harm or threat in the previous 12 months.
- Among First Nations people, rates of physical harm or threat were slightly lower for people with physical disability (25 per cent) or a sight, hearing or speech disability (23 per cent).

Table 3.5.3: Percentage of First Nations men and women aged 15 to 64 who reported an experience of physical harm or threatened physical harm in the previous 12 months by disability type, 2018–19

Disability type	Men	Women	All
Head injury, stroke or brain damage	22.7%	34.9%	28.2%
Psychological[a]	28.8%	25.6%	26.9%
Intellectual	25.6%	26.7%	26.1%
Physical	25.3%	24.6%	24.9%
Sight, hearing and speech	23.3%	23.5%	23.4%
Other	25.7%	22.0%	23.4%

[a] 'Psychological disability' is the term used in the *NATSIHS* to describe disability relating to a mental health condition.

Note: The overall rates for First Nations people with disability are lower than for each disability type. This is because some people with disability have multiple disability types, but are only counted once in the 'overall' figure.

Source: Australian Bureau of Statistics (2019).

In addition, the *NATSIHS* data shows 8 per cent of First Nations people with disability experienced actual physical harm in the previous 12 months, compared with 5.7 per cent of First Nations people without disability. Again, rates were highest among people with head injury, stroke or brain damage (15 per cent).[46]

The Royal Commission received evidence from First Nations people with cognitive disability who have been subjected to physical violence. For example, at Public hearing 11, Mr Justen Thomas told us about becoming a target for physical violence while in prison.[47] In Public hearing 27, 'Conditions in detention in the criminal justice system', we heard about 'Nathan', a Noongar man with attention deficit/hyperactivity disorder (ADHD), who suffered physical abuse at the hands of staff while in youth detention.[48] It is important to note the connection between interpersonal violence and abuse, and systemic violence or disadvantage. First Nations people with disability are exposed to increased risk of physical violence and abuse in detention settings because they are over-represented in these settings.[49]

Perpetrators of violence against First Nations people with disability

Compared to First Nations people without disability, First Nations people with disability are more likely to experience violence perpetrated by current or intimate partners, family members, friends, work colleagues, fellow school students, neighbours or strangers (see Table 3.5.4).[50]

Table 3.5.4: Relationship to all perpetrators of physical harm within the last 12 months for First Nations men and women aged 15 to 64 who have experienced physical harm

Relationship to perpetrator	First Nations people with disability	First Nations people without disability
Current or previous intimate partner	40.9%	30.2%
Other family member	34.8%	34.2%
Friend, work colleague, fellow school student or neighbour	17.3%	11.5%
Other known person	21.9%	30.5%
Did not know offender	14.2%	3.8%

Note: 'Current or previous intimate partner' includes current partner (de facto/husband/wife), previous partner (de facto/husband/wife), boyfriend, girlfriend, date, ex-boyfriend and ex-girlfriend. 'Other family member' includes parent, child, sibling and other family member. 'Other known person' includes a person known by sight only, as well as other known persons.

Source: Australian Bureau of Statistics (2019).

Of First Nations men and women with disability aged 15 to 64, women were more than twice as likely to report that their current or previous intimate partner was the perpetrator of physical harm against them in the last 12 months (53 per cent and 25 per cent, respectively).[51] As shown in Figure 3.5.2, this was the most commonly reported perpetrator for First Nations women with disability and was higher than for First Nations women without disability (49 per cent).[52]

For First Nations men with disability, the most commonly reported perpetrator of harm in the previous 12 months was a parent, child, sibling or other family member (excluding partners; 39 per cent).[53] Men were also more likely than women to report harm from a friend, colleague, fellow student or neighbour (29 per cent compared with 8.1 per cent), and other known persons (28 per cent compared with 17 per cent).

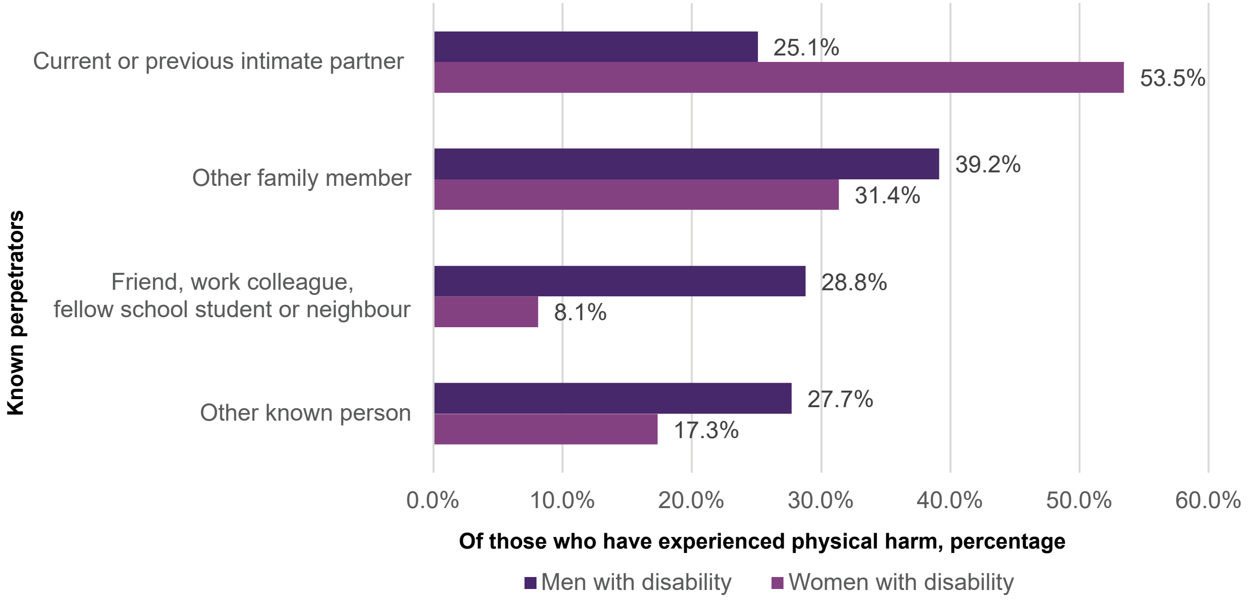

Figure 3.5.2: Relationship to all known perpetrators of physical harm within the previous 12 months for First Nations men and women aged 15 to 64 who have experienced physical harm, 2018–19

Note: 'Current or previous intimate partner' includes current partner (de facto/husband/wife), previous partner (de facto/husband/wife), boyfriend, girlfriend, date, ex-boyfriend and ex-girlfriend. 'Other family member' includes parent, child, sibling and other family member. 'Other known person' includes a person known by sight only, as well as other known persons.

Source: Australian Bureau of Statistics (2019).

In Public hearing 17, 'The experience of women and girls with disability with a particular focus on family, domestic and sexual violence', First Nations people with disability gave evidence about being subjected to violence, abuse and neglect from various perpetrators, including family members and friends. 'Etana', mentioned earlier, described violence and abuse she experienced from multiple perpetrators, including her mother[54] and ex-partner.[55]

Ms Thelma Schwartz of the Queensland Indigenous Family Violence Legal Service spoke about the misconception that First Nations women only experience violence perpetrated by First Nations men; that is, of it being 'an Aboriginal and Torres Strait Islander problem'.[56] Ms Schwartz said the misconception was driven by ideas and stereotypes around race.[57]

The experiences of First Nations people with disability of violence, abuse, neglect and exploitation within systems are explored further in Volume 9*, First Nations people with disability.*

5.3. People with disability from culturally and linguistically diverse backgrounds

> I just want to live a life without harassment and to be treated with respect and dignity.[58]

As discussed in Chapter 1, ‘People with disability in Australia’, the Royal Commission broadly defines ‘culturally and linguistically diverse’ to include:

- people with a different heritage or linguistic background than dominant Australian culture and language
- people with dual heritage and people who are migrants or refugees
- some Deaf people and Auslan users who identify with this term.

The Australian Bureau of Statistics uses a different definition for the *Personal Safety Survey* (*PSS*), where it identifies culturally and linguistically diverse people depending on country of birth, language spoken at home and English proficiency.[59] Some people from culturally or linguistically diverse communities do not fall within these groupings. Other groups, including people with low English proficiency, are also under-represented in the survey.[60] As such, Australian Bureau of Statistics figures may underestimate violence against people with disability from culturally and linguistically diverse backgrounds.

As noted, there are logistical challenges in presenting data about people with disability from culturally and linguistically diverse backgrounds. This is an inherently broad and diverse group, which is reflected in their varied experiences of violence, abuse, neglect and exploitation. We present the data and evidence as it available to this Royal Commission. However, these sources alone cannot capture the breadth of the experiences of people with disability from culturally and linguistically diverse backgrounds.

Drawing on the *PSS*, people with disability aged 18 to 64 from culturally and linguistically diverse backgrounds are *less* likely to have experienced violence since age 15 (33 per cent) than other people with disability (60 per cent). However, among people from culturally and linguistically diverse backgrounds, people with disability are almost 1.5 times more likely than those without disability to experience violence (33 per cent compared with 23 per cent, respectively).[61]

Our public hearings provided some insight into the experiences of people with disability from culturally and linguistically diverse backgrounds. The Race Discrimination Commissioner, Mr Chin Tan, gave evidence in Public hearing 29, ‘The experiences of violence against, and abuse, neglect and exploitation of, people with disability from culturally and linguistically diverse communities’. He stated that living with disability can exacerbate experiences of racism for people who are also from culturally and linguistically diverse backgrounds.[62]

This is consistent with submissions received by the Royal Commission.[63] Responses to our *Experiences of culturally and linguistically diverse people with disability issues paper* highlighted that stigma associated with disability intersected with racism or xenophobia.[64] Examples include an asylum seeker with acquired disability being mocked and called a 'burden to the system',[65] and a wheelchair user on a bridging visa who chose to endure their partner's verbal abuse because they relied on that partner's help to navigate the migration system.[66] The Royal Commission also received evidence about experiences of violence and trauma resulting in mental health issues for people with disability from migrant and refugee backgrounds.[67]

Racial abuse in a group home: 'Carl' and 'Chen'

Evidence from Public hearing 13, 'Preventing and responding to violence, abuse, neglect and exploitation in disability services (a case study)', included examples of racial abuse of group home residents from culturally and linguistically diverse backgrounds.[68] One resident, 'Carl', was born in Lebanon and came to Australia with his family as a child.[69] While living in a group home as a young man, Carl's mother, 'Sophia', was informed of comments a support worker made regarding the mosque shootings in Christchurch, New Zealand, in 2019.[70] The support worker had said words to the effect, 'If it was up to me, I would have shot them all', and made a comment about the victims being Middle Eastern.[71]

This resulted in Sophia losing trust in the service and feeling helpless, as she could not care for Carl at home.[72] The evidence suggested this was not an isolated incident but occurred as part of a pattern of physical violence and verbal abuse that Carl and his fellow resident 'Chen' were exposed to in their home.[73] The Commissioners' report for Public hearing 13 found Carl and Chen were likely to have been exposed to multiple acts of violence and abuse by support workers at the house.[74]

We also heard in submissions about violence against and abuse of people with disability from culturally and linguistically diverse communities by disability support workers and other staff, including race-based violence and abuse.[75]

A number of witnesses in Public hearing 29 spoke about how, in their experience, cultural attitudes influenced their community's understanding of disability. In some cases, this led to quite negative perceptions of disability and treatment of people with disability.[76] Stigma about disability in some cultural communities was a theme among submissions received by the Royal Commission.[77] In other cases, however, family and community provided an important sense of acceptance and inclusion for people with disability.[78]

Women with disability from culturally and linguistically diverse backgrounds

> ...women need to break glass ceiling but when you add other diverse layers such as refugee migrant, person of colour and disability the glass gets thicker.[79]

Data from the *PSS* about women with disability from culturally and linguistically diverse backgrounds shows a similar pattern to people with disability from culturally and linguistically diverse backgrounds generally. Although rates of violence are generally higher for women with disability from non-diverse cultural and linguistic backgrounds (61 per cent), women from culturally and linguistically diverse communities with disability are more likely than those without disability to experience violence (27 per cent, compared with 20 per cent).[80] As previously mentioned, it is likely that violence against people from culturally and linguistically backgrounds is underestimated.

As outlined in the previous chapter, a survey conducted by the Australian Institute of Criminology shows that women with disability whose first language was not English were more likely to have experienced physical or sexual domestic violence (21 per cent) or coercive control (26 per cent) during the first wave of the COVID-19 pandemic between February and April 2020 than women with disability whose first language was English (16 per cent and 18 per cent respectively).[81] The difference in results between this survey and the *PSS* is likely due to factors including differences in statistical modelling, a different definition of 'culturally or linguistically diverse', and the Australian Institute of Criminology's focus on intimate partner violence. The results may also have been affected by the COVID-19 pandemic.

We heard from witnesses Ms Taya Ketelaar-Jones of the Tasmanian Refugee Legal Service and Migrant Family Violence Service and Ms Esther Simbi (see the following text box) about the connections between migration, disability, and family and domestic violence. Ms Ketelaar-Jones described the situation of a client who had psychosocial disability and ongoing physical injuries from partner violence. The client had no access to government health care or income support after the breakdown of her relationship due to the violence. While the *Migration Regulations 1994* (Cth) have some provisions for visa-holders experiencing family violence, the client was a secondary visa holder on her husband's visa so had no access to the provisions despite experiencing 'significant and horrific violence'.[82]

Women from refugee backgrounds: Ms Simbi

Ms Esther Simbi is a woman with disability who was born in South Sudan and grew up in various refugee camps in Uganda. In Public hearing 17, she described how cultural understandings of disability intersects with violence and abuse.[83] She explained that, in her culture, women 'don't have a voice'; instead they 'talk through men'.[84] Ms Simbi also identified some women with disability's financial dependence on male partners, and fear of losing their children, as potential barriers to reporting abuse.[85]

Similar themes were present in the submissions and private sessions of women with disability from culturally and linguistically diverse backgrounds and their supporters.[86]

LGBTQA+ people with disability from culturally and linguistically diverse backgrounds

People with disability who are members of both culturally and linguistically diverse and LGBTQA+ communities may face additional risk of violence and abuse compared with other LGBTQA+ people with disability.[87] Research prepared for the Royal Commission analysed national survey data on the experiences of LGBTQA+ people with disability from a 'multicultural background' (defined as neither Anglo-Celtic or First Nations).[88] This research does not include intersex people, and therefore does not use the letter 'I' in its version of the acronym.[89] There were insufficient participants with disability with an intersex variation to disaggregate data to reflect their experiences.

The study shows that, among young LGBTQA+ people with disability aged 14 to 21, those from multicultural backgrounds reported higher rates of maltreatment based on their sexuality or gender identity in the previous 12 months than did their peers from Anglo-Celtic backgrounds. This included:[90]

- verbal harassment or assault (52 per cent compared with 45 per cent)
- physical harassment or assault (14 per cent compared with 10 per cent)
- sexual harassment or assault (32 per cent compared with 27 per cent).

LGBTQA+ adults (those aged 18 and over) with disability from multicultural backgrounds were slightly more likely than those from Anglo-Celtic backgrounds to report violence from an intimate partner (72 per cent compared with 69 per cent) or family member (81 per cent compared with 76 per cent) in their lifetime.[91]

The study also shows that LGBTQA+ adults (aged 18 and over) with disability from multicultural backgrounds reported feeling less accepted by family members and at LGBTIQ venues compared to their peers from Anglo-Celtic backgrounds.[92] They were also three times more likely to report having been treated unfairly on the basis of their ethnicity or cultural identity at least once in the previous 12 months than people from Anglo-Celtic backgrounds (30 compared with 8.1 per cent).[93] The findings echo previous research indicating that LGBTIQA+ people with disability from multicultural backgrounds can face discriminatory and exclusionary attitudes from within their cultural group and from others in the LGBTIQA+ community.[94]

Several witnesses gave evidence to the Royal Commission about the unique experience of being a person with disability who is a member of both culturally and linguistically diverse and LGBTIQA+ communities.[95] In Public hearing 29, 'Trevor' recounted the mental health impacts of family violence and abuse he witnessed and experienced from his parents throughout childhood, and of being 'outed' at school.[96] Ms Ketelaar-Jones of the Tasmanian Refugee Legal Service also described the situation of a client with disability in a same-sex relationship who experienced partner violence.[97] When attempting to access police support and family violence visa provisions, she faced disbelief and prejudice on the basis of her same-sex relationship.[98]

LGBTIQA+ people with disability from culturally and linguistically diverse backgrounds also shared experiences of interpersonal violence and abuse through submissions and private sessions.[99]

Deaf, Deafblind and hard of hearing communities

The Royal Commission recognises that people who are d/Deaf, Deafblind and hard of hearing and use Auslan as their first or primary language share a distinct, rich culture and language.[100] Some members of the d/Deaf, Deafblind and hard of hearing community identify as being culturally and linguistically diverse. The *PSS* collects data on interpersonal violence and abuse against people whose main language spoken at home is a sign language, including Auslan and Key Word Sign Australia, although the number of respondents is too small to report.

We received evidence from d/Deaf, Deafblind and hard of hearing people about the specific nature of their experiences of violence and abuse at public hearings. At Public hearing 29, Ms Jen Blyth described the unique forms of discriminatory treatment that Deaf people experience, including isolation from their peers at school.[101] One witness outlined how at school, she sat on her own and could not communicate with anybody.[102] At Public hearing 17, Ms Catherine Dunn gave evidence that the isolation of Deaf people can drive other forms of violence and abuse.[103]

Issa*

Issa is a young man from a culturally and linguistically diverse background who is currently in custody in a youth detention centre. Since being in custody he has been diagnosed with post-traumatic stress disorder (PTSD).

When Issa was diagnosed, his 'triggers' were explained to him. He told the Royal Commission he now understands his triggers are the result of the life-long violence he experienced from his family members. He can react violently when he is triggered.

Because his PTSD was undiagnosed and he didn't understand anything about triggers, school was difficult for Issa. He was twice kept from moving into the next year group, not because of poor academic achievement but because of his behaviour.

Issa says his triggers together with the prejudice he experienced because of his cultural background meant he never really made friends, had opportunities, or the chance to succeed. He was heavily medicated with psychotropics to address his behaviour issues. But he never received treatment for trauma.

If PTSD was treated as a disability, Issa says, he may have had treatment before his behaviour and violence escalated.

Issa worries his brain is so damaged from trauma he will never change, will always have outbursts and will be in and out of the justice system.

Issa wants early intervention for childhood trauma to be mandatory and free. He believes it will reduce crime rates and improve lives.

*This is a de-identified narrative of an experience shared with us in a submission or private session. The person who shared their experience was not a witness. They did not give evidence, take an oath or give an affirmation. Nothing in this narrative represents a finding of the Royal Commission and any views expressed are those of the person, not of the Royal Commission.

5.4. LGBTIQA+ people with disability

> And maybe if I just stayed presenting as a cis-gendered gay male, maybe people wouldn't have laughed at me or ridiculed me. Perhaps if I didn't have my walking aids, maybe that might have – I might have blended in more.[104]

The Australian Bureau of Statistics 2014 *General Social Survey* included people with disability who identified as gay, lesbian, bisexual, or who had another sexual orientation other than heterosexual. The survey shows that people aged 18 to 64 with disability in these categories were almost twice as likely to experience physical or threatened violence in 2014–15 than people with disability who identified as heterosexual (20 per cent compared with 12 per cent). This is reflected in the general population aged 18 to 64: those who identified as gay, lesbian, bisexual, or 'other' sexual orientation were almost twice as likely as those who identified as heterosexual to experience physical or threatened violence (16 per cent compared with 9 per cent).[105]

Beyond this, there is limited national data available to compare experiences of LGBTIQA+ people with disability with other people with disability or the general population. However, analysis of national survey data provides information on the experience of violence and abuse of LGBTQA+ people with disability compared with LGBTQA+ people without disability.[106] The Australian Research Centre in Sex, Health and Society at La Trobe University analysed data from two large national online surveys conducted in 2019 focusing on young LGBTQA+ people aged 14 to 21 years and LGBTQA+ adults aged 18 years and older. The analysis shows LGBTQA+ people with disability experienced higher rates of violence, abuse and neglect than those without disability.[107] Rates of violence and abuse varied on the basis of gender, sexuality and disability. Respondents with 'severe' disability experienced higher rates of some forms of violence and abuse (Table 3.5.5), as did transgender people with disability (Table 3.5.7).

Violence and abuse differ based on disability

The La Trobe research shows violence and harassment of LGBTQA+ adults increase with participants' level of disability, from 'mild' to 'severe'.[108] Table 3.5.5 sets out the survey participants' experiences of violence and harassment due to sexual orientation or gender identity, in the previous 12 months.[109] Of adults with severe disability, almost half experienced verbal abuse (49 per cent), more than one-quarter experienced threats of physical violence, attack or assault (27 per cent) and 22 per cent experienced sexual assault.

Table 3.5.5: Experiences of violence and harassment due to sexual orientation or gender identity in the past 12 months among LGBTQA+ adults aged 18 and over by level of disability

Type of violence or harassment	No disability	Mild disability	Moderate disability	Severe disability
Social exclusion	31.7%	40.6%	48.9%	58.1%
Verbal abuse (including hateful or obscene phone calls)	29.2%	34.8%	41.6%	48.5%
Harassment such as being spat at and offensive gestures	18.7%	26.2%	29.0%	36.1%
Threats of physical violence, physical attack or assault without a weapon	10.5%	13.8%	18.9%	27.3%
Sexual assault	7.8%	14.0%	15.8%	22.2%

Source: Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons (2022).

Medical intervention without consent: Public hearing 17

Although the data does not include intersex people, in our Public hearing 17 closed L(G)BTIQA+[110] session we heard from a person with disability who identified as intersex and non-binary. They said that as a young person, they were not provided with options around their health care; rather their doctor set out a hormonal treatment that would feminise their body. They described having to do their own research about their condition and why that treatment was a 'medical necessity'. They described their attempts to push back against the recommended treatment as 'seen as being stubborn, argumentative'.

A Human Rights Commission report also discussed how intersex people can be subject to medical interventions on their bodies without their consent.[111]

Violence and abuse based on sexual orientation

Within the LGBTQA+ community, rates of violence and abuse vary based on sexual orientation. The La Trobe research indicates that pansexual, queer and lesbian adults with disability were most likely to experience verbal abuse or harassment. Pansexual and bisexual people with disability were most likely to experience sexual assault.[112]

Table 3.5.6 shows the proportion of survey participants who experienced violence and harassment by sexual orientation.[113] It is noteworthy that:

- More than 50 per cent of participants who identified as pansexual or queer experienced verbal abuse, including hateful or obscene phone calls, in the previous 12 months (52 per cent and 51 per cent respectively).
- About one-third of participants who identified as pansexual, queer or lesbian experienced harassment such as being spat at and being subjected to offensive gestures in the previous 12 months (35 per cent, 39 per cent and 32 per cent respectively).
- About one in five participants who identified as pansexual, bisexual or queer were sexually assaulted in the previous 12 months (23 per cent, 21 per cent, and 19 per cent respectively).

Table 3.5.6: LGBTQA+ adults aged 18 and over with disability who experienced violence and harassment due to sexual orientation or gender identity in the previous 12 months by sexual orientation

Sexual orientation	Verbal abuse[a]	Harassment[b]	Sexual assault
Lesbian	45.3%	31.7%	13.4%
Gay	39.1%	27.4%	12.7%
Bisexual	33.7%	24.2%	21.2%
Pansexual	51.7%	35.3%	22.5%
Queer	50.5%	38.7%	18.8%
Asexual	35.0%	23.8%	10.8%

[a] Includes hateful or obscene phone calls.

[b] Includes being spat at and subjected to offensive gestures.

Source: Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons (2022).

The Royal Commission received evidence about violence and abuse against LGBTIQA+ people with disability on the basis of their sexual orientation. In a closed session of Public hearing 17, L(G)BTIQA+ people gave evidence about others' disregard for their romantic and sexual lives.[114] Participants said the idea of people with disability having a relationship, let alone having a queer relationship or being gender diverse, was often discredited or not accepted.[115] In Public hearing 26, ‘Homelessness, including experience in boarding houses, hostels and other arrangements’, ‘Claudia’ described becoming homeless at 16, due in part to violence and a lack of acceptance from her parents.[116] In Public hearing 29, we heard evidence of the effect of being publicly ‘outed’ on the mental health of ‘Trevor’.[117]

Violence and harassment differ by gender identity

> ...when you are both trans and autistic, these impacts are felt tenfold.[118]

Violence against and abuse and harassment of LGBTIQA+ people with disability also differs according to gender, as shown in Table 3.5.7. The La Trobe research indicates that trans women, trans men and non-binary participants experienced higher rates of verbal abuse and harassment than cisgender women and men. For example, two-thirds (66 per cent) of trans women experienced verbal abuse, followed by more than half of non-binary people (55 per cent) and trans men (53 per cent). In comparison, 39 per cent of cisgender men and 34 per cent of cisgender women experienced verbal abuse.[119] Non-binary people with disability experienced higher rates of sexual assault in the previous 12 months compared with other genders, and just over one-fifth (21 per cent) experienced sexual assault.[120]

Table 3.5.7: LGBTQA+ adults aged 18 and over with disability who experienced violence and harassment due to sexual orientation or gender identity in the previous 12 months by gender identity

Gender	Verbal abuse[a]	Harassment[b]	Sexual assault
Cisgender woman	33.5%	24.4%	16.8%
Cisgender man	38.9%	27.6%	14.0%
Trans woman	66.4%	44.5%	17.9%
Trans man	53.1%	36.2%	17.6%
Non-binary	55.4%	40.6%	21.1%

[a] Includes hateful or obscene phone calls.

[b] Includes being spat at and being subjected to offensive gestures.

Source: Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons (2022).

While all gender diverse people with disability may be at higher risk of violence, abuse, or neglect, for intersex people, abuse or neglect in relation to gender identity is further amplified. One participant in the L(G)BTIQA+ closed session said that intersex people in their community, particularly those with psychosocial disabilities, neurodivergence or intellectual disabilities, have been:

> refused gender affirming care, hormones or even just referrals on to get their letters for surgery … because they have a mental illness or they are waiting on a diagnosis regarding a mental illness, or even ADHD or autism. There is not really evidence or clinical guidance to say this is necessary, and doctors … don't seem to realise that trans-affirming health care is life saving, it is life-preserving.[121]

Family, domestic and sexual violence

> [if] there is a generalised assumption that disabled bodies are not desirable ... how can a disabled person understand that they are at risk of abuse?[122]

LGBTQA+ people aged 18 and over with disability report high rates of violence and abuse from family members compared with LGBTQA+ people without disability.[123] These risks are even higher for LGBTQA+ people with 'severe' disability (81 per cent reported violence inflicted by family members compared with 55 per cent of LGBTQA+ people without disability).[124]

Among LGBTQA+ adults with disability, gender diverse people and cisgender women with disability experienced the highest rates of family violence. Non-binary people had the highest rate of experiencing violence inflicted by a family member in their lifetime (85 per cent), followed by trans men (84 per cent), trans women (78 per cent) and cisgender women (77 per cent). Although the rate for cisgender men with disability was slightly lower, they still experienced high rates of violence inflicted by a family member (70 per cent).[125]

In line with the above conclusions from the data, L(G)BTIQA+ women and gender diverse people with disability told us about experiencing abuse, homophobia and transphobia from family members.[126] LGBTIQA+ people with disability described the particular risk of family violence and abuse for LGBTIQA+ children and young people.[127] They described the family violence and abuse they experienced as children[128] including bullying, restricting access to LGBTIQA+ support, restricting access to medication, and being targeted for their gender expression or disability.[129] Ms Ally Robins described her experience of abuse related to her gender dysphoria as disabling, and stated 'being punished for having gender dysphoria is abuse'.[130] We also heard about experiences of family and domestic violence against LGBTIQA+ people with disability in submissions and private sessions.[131]

LGBTIQA+ people with disability gave evidence about repeated experiences of violence across their lives, as well as intergenerational cycles of violence, consistent with what we have heard about domestic, family and sexual violence generally.[132] For LGBTIQA+ people with disability, however, violence and abuse toward them may be based on being LGBTIQA+, their disability, or the intersection of these experiences.[133]

Witnesses also described how the lack of inclusive education, information and peer-to-peer learning about relationships, gender and sexuality impacted them.[134] Discounting the sexual and intimate lives and gender identity of LGBTIQA+ people with disability can have ongoing effects, heightening their vulnerability to sexual abuse and self-harm.[135]

Violence, abuse and suicidality

> … you are worth every breath, you are listened to, and you matter.
> It may get dark at times, but life is better with you in it.[136]

The La Trobe research also shows that suicide attempts and ideation are extremely high among LGBTQA+ people with disability. Almost nine in 10 LGBTQA+ adults with disability had experienced suicidal ideation at some point in their lives, compared with around one in 10 in the general population (88 per cent compared with 13 per cent).[137] More than two-fifths (43 per cent) of LGBTQA+ adults with disability had attempted suicide in their lifetime, compared with 3.2 per cent of the general population.[138]

Risk of suicide is also high among young people with disability. Seventy per cent of surveyed young people aged 16 to 17 with disability[139] had experienced suicidal ideation in the previous 12 months, compared with 11 per cent in the general population of the same age.[140] Around 40 per cent of LGBTQA+ young people aged 16 to 17 with disability had attempted suicide at some point in their lives, compared with 5.3 per cent of the general population of young people aged 16 to 17.[141]

Data suggests that LGBTQA+ young people with disability who have experienced violence and abuse are at greater risk again of experiencing suicidal ideation and behaviours. Among LGBTQA+ people with disability aged 14 to 21, those who had experienced verbal, physical or sexual harassment or assault were more likely to experience suicidal ideation and more than twice as likely to have attempted suicide.[142] Similarly, LGBTQA+ adults with disability aged 18 and over who had experienced verbal abuse, harassment or social exclusion in the previous 12 months were more likely to experience suicidal ideation, and more than twice as likely to attempt suicide than those who had not experienced those behaviours.[143]

This was reflected in evidence at Public hearing 17. Participants in the closed L(G)BTIQA+ session spoke about high rates of self-harm and suicide in their communities and the burden of compounded discrimination and abuse for those who are queer and live with disability.[144] Ms Robins also gave evidence that she had made four suicide attempts by the age of 21,[145] and engaged in drug and alcohol abuse,[146] as a result of the abuse she had been subjected to.[147]

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106 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability,* Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022.

107 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 3–4, 223.

108 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 83–84.

109 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 83–84.

110 When we refer to evidence from L(G)BTIQA+ communities given in the closed session of Public hearing 17, we have placed the 'G' in parenthesis. This is to acknowledge that the focus was on the voices of women and feminine-identifying, transgender, intersex and non-binary people. This is the approach adopted by organisations such as ILGA World, which is the international LGBTI peak body.

111 Australian Human Rights Commission, *Ensuring health and bodily integrity: towards a human rights approach for people born with variations in sex characteristics*, Final report, October 2021, p 19.

112 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability

Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 210–213.

113 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 210–213.

114 Ten people participated in a closed session held during Public hearing 17 (Part 1). The preparation of the public hearing and the closed session involved extensive consultation and engagement with women and L(G)BTIQA+ people with disability, their supporters and experienced advocates.

115 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, p 215 [651].

116 Exhibit 26-012, ‘Statement of Claudia’, 5 August 2022, at [21–28].

117 Exhibit 29-014, ‘Statement of Trevor’, 6 October 2022, at [28–40].

118 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, pp 216–17 [658].

119 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 187–188.

120 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 188.

121 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, p 215 [653].

122 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, p 215 [651].

123 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 90–91.

124 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 90–91; William Leonard and Rosemary Mann, *The everyday experiences of lesbian, gay, bisexual, transgender and intersex (LGBTI) people living with disability*, La Trobe University, July 2018, p 4.

125 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability,* Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 189–190.

126 Exhibit 26-12, ‘Statement of Claudia’, 5 August 2022, at [23–24]; Transcript, Belle Stevens, Public hearing 17 (Part 2), 30 March 2022, P-179-180, P-184 [25-45]; Transcript, Ally Robins, Public hearing 17 (Part 2), 30 March 2022, P-203 [20–25], P-207 [40–46]; ‘Statement of Aleana Robins’, 31 March 2022 at [95].

127 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, p 215 [650].

128 Transcript, Belle Stevens, Public hearing 17 (Part 2), 30 March 2022, P-177–85; Transcript, Ally Robins, Public hearing 17 (Part 2), 30 March 2022, P-199–213; Private session participant; Submissions of Counsel Assisting the Royal Commission following Public hearing 17, 25 January 2023, pp 178 [553], 214 [650].

129 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, 25 January 2023, pp 178 [553], 214 [650].

130 Exhibit 17-025.01, ‘Statement of Aleana Robins’, 9 March 2022, at [65].

131 Name withheld, Submission, 26 February 2021; Private sessions participants.

132 Transcript, Belle Stevens, Public hearing 17 (Part 2), 30 March 2022, P-177–P-185; Exhibit 17-25.1, ‘Statement of Aleana Robins’, 9 March 2022, at [10–12], [97]; Transcript, Ally Robins, Public hearing 17 (Part 2), 30 March 2022, P-201 [24–43].

133 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, pp 216–17 [658]; Exhibit 17-25.1, ‘Statement of Aleana Robins’, 31 March 2022 at [91-104]; Transcript, Ally Robins, Public hearing 17 (Part 2), 30 March 2022, P-203 [27] – P-207 [41].

134 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, p 169 [526–627], 170 [529].

135 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, p 215 [651–653].

136 Exhibit 17-025.01, ‘Statement of Aleana Robins’, 9 March 2022, at [125].

137 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability,* Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 113.

138 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability,* Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 113.

139 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 111.

140 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 112; David Lawrence, Sarah Johnson, Jennifer Hafekost, Katrina Boterhoven de Haan, Michael Sawyer, John Ainley & Stephen Zubrick, *The mental health of children and adolescents: report on the second Australian Child and Adolescent Survey of Mental Health and Wellbeing,* Department of Health, 2015; Amy Johnston, Jane Pirkis & Philip Burgess, ‘Suicidal thoughts and behaviours among Australian adults: findings from the 2007 National Survey of Mental Health and Wellbeing’, (2009), vol 43 (7), *Australian & New Zealand Journal of Psychiatry,* pp 635–43.

141 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 112. David Lawrence, Sarah Johnson, Jennifer Hafekost, Katrina Boterhoven de Haan, Michael Sawyer, John Ainley & Stephen Zubrick, *The mental health of children and adolescents: report on the second Australian Child and Adolescent Survey of Mental Health and Wellbeing,* Department of Health, 2015; Amy Johnston, Jane Pirkis & Philip Burgess, ‘Suicidal thoughts and behaviours among Australian adults: findings from the 2007 National Survey of Mental Health and Wellbeing’, (2009), vol 43 (7), *Australian & New Zealand Journal of Psychiatry,* pp 635–43.

142 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability,* Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 120–123.

143 Adam Hill, Natalie Amos, Adam Bourne, Christine Bigby, Marina Carman, Matthew Parsons & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability

Research Centre, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability,* Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 121–125.

144 Submissions of Counsel Assisting the Royal Commission following Public hearing 17, p 217 [659]; Transcript, Belle Stevens, Public hearing 17, 1 December 2021, P-38 [15–19].

145 Exhibit 17-25.1, ‘Statement of Ally Robins’, 9 March 2022, at [66].

146 Exhibit 17-25.1, ‘Statement of Ally Robins’, 9 March 2022, at [82].

147 Exhibit 17-25.1, ‘Statement of Ally Robins’, 9 March 2022, at [66, 82]; Transcript, Aleana Robins, Public hearing 17, 30 March 2022, P-203–07.

6. Violence and abuse in public places

Key points

- Violence and abuse can be everyday, persistent experiences for people with disability when they are in public places. These include shopping centres, parks, public transport, the street, social and cultural places and online platforms.
- People with disability are targeted for violent and abusive treatment in public places because of features of their disability and intersecting aspects of their identity, including their gender, LGBTIQA+ status, race and cultural background.
- People with disability are subjected to multiple forms of violence and abuse in public places, including: verbal abuse and harassment; micro-aggressions; threats and intimidation; physical attacks; sexual violence, harassment and stalking.
- People with disability who have visible differences are subjected to non-consensual filming and photography by strangers in public places.
- Women with disability are subjected to sexual violence and harassment by male strangers in public places.
- Some cohorts of people with disability experience verbal and sexual abuse and harassment in online forums at higher rates than the general population.
- Violent and abusive treatment in public places has a material impact on the health and wellbeing of people with disability.
- People with disability modify their behaviours to try to avoid violence and abuse in public places. As a result, their participation in social, cultural and economic activities is denied or restricted. People they try to avoid include strangers of teenage or young adult age, those in groups, males, or drinking alcohol. Places they try to avoid include public transport, shopping centres, and places where people drink alcohol or young people congregate.

6.1. Introduction

Public places are the spaces in the community, both real and virtual, where everyone has a right to be. They are places where people conduct their everyday lives, individually or in the company of others. Examples are destinations (such as parks, playgrounds, shops and entertainment venues) and pathways (streets, shopping centres, public transport and transport hubs). We consider public places to also include websites and other online platforms (blogs, dating sites and video-sharing platforms), social media and messaging services.

The Royal Commission held Public hearing 28, ‘Violence against and abuse of people with disability in public places’, in October 2022. Thirteen witnesses with disability gave evidence about the forms of violence and abuse they experience and its impacts. Researchers and disability advocates gave evidence about the need for cultural and attitudinal change towards people with disability. We also received many personal accounts of violence and abuse towards people with disability in public places in submissions and private sessions.[1] This chapter focuses on forms of physical, sexual and verbal violence and abuse in public places. Discrimination against and vilification of people with disability in public places are covered in detail in Volume 4, *Realising the human rights of people with disability.*

It is important for people with disability to access public places to get to work, pursue education, enjoy recreation and social participation, and maintain their health. Exclusion from public places as a result of violence and abuse, generally by people unknown to them, clearly adversely impacts people’s lives.

6.2. Frequency of violence and abuse in public places

> I feel like I’m an ‘other’. I’m ‘other’ than … people without disabilities. They don’t see me as – as just a person – as a person like everyone else.[2]

There is no nationally representative data on the prevalence of violence against and abuse of people with disability in public places. The data that is available helps us understand some aspects of public violence and abuse but has limitations. Therefore, we rely heavily on the evidence from Public hearing 28 to set out what we know about both the nature and extent of violence and abuse in public places.

Data on violence and abuse in public places

As discussed in Chapter 3, ‘Interpersonal violence, abuse, neglect and exploitation’, the Australian Bureau of Statistics *Personal Safety Survey* (*PSS*) provides data on the rates of physical and sexual violence against people with disability. Over half of adults with disability aged between 18 and 64 (55 per cent) have experienced physical or sexual violence since the age of 15.[3] Forty-six per cent of adults with disability who had experienced violence said that at least one of those instances was perpetrated by a stranger.[4] Although the *PSS* does not record the setting in which violence by strangers occurred, it is likely some of it was perpetrated in public places.

The Australian Bureau of Statistics' 2018 *Survey of Disability, Ageing and Carers* asked people with disability aged 18 to 64 about their experiences of unfair treatment or discrimination due to disability. Of the respondents who had experienced 'discrimination' or been 'treated unfairly' in the last 12 months because of their disability, 17 per cent said this was from 'strangers in the street'.[5] In Public hearing 28, experts and witnesses with lived experience used concepts of 'discrimination' and 'unfair treatment' in a broad sense to include harassment and abuse. This is broader than the legal definition of 'discrimination' in Commonwealth, state and territory anti-discrimination legislation. Professor Emerita Gwynnyth Llewellyn, the Co-Director of the Centre of Research Excellence in Disability and Health and an academic at the University of Sydney, stated that 'interpersonal discrimination can take many forms'. These include, but are not limited to, 'infantilising, insulting, bullying, harassment, and physical violence'.[6]

As discussed in the previous chapter, the Royal Commission commissioned La Trobe University to undertake further analysis of two online surveys of LGBTQA+ people conducted in 2019, focusing on people with disability. The surveys included questions on harassment and assault in public places and the results do not include intersex people due to limited sample size.
The research revealed:

- Twenty-five per cent of surveyed LGBTQA+ young people with disability aged 14 to 21 years indicated that they experienced verbal harassment (based on their sexual orientation or gender identity) in public places (such as on transport or on the street) in the previous 12 months.[7]
- Five per cent of surveyed LGBTQA+ young people with disability aged 14 to 21 years indicated that they experienced physical harassment or assault (based on their sexual orientation or gender identity) in public places in the previous 12 months.[8]
- LGBTQA+ people with disability aged 18 and over are more likely to report being spat at and targeted by offensive gestures than LGBTQA+ people without disability.[9] Trans women and non-binary people are the most at risk.[10]

Other surveys give some insights into violence and abuse in public places. A Mission Australia survey showed young people with disability (aged 15 to 19) who reported bullying over the past year reported experiencing that bullying in their neighbourhood at higher rates (15 per cent) than young people without disability (5 per cent).[11]

Online abuse

Research by the eSafety Commissioner conducted in 2019 revealed that people with disability aged 18 to 65 experienced online hate speech in the last 12 months at higher rates (19 per cent) than the national average (14 per cent).[12] The most common reasons that respondents with disability cite for being subject to online hate speech were their disability, political views and physical appearance.[13]

The eSafety Commissioner, Ms Julie Inman Grant, said in her evidence at Public hearing 28 that research indicates children with disability are:

> significantly more likely than the national average to be subjected to a range of negative online experiences including receiving nasty, hurtful or threatening messages, name-calling, harassment and receiving hate messages.[14]

Young people with disability (aged 14 to 17) are also more likely to receive sexual messages than the national average. This includes people pressuring them for photos and for sexual information about themselves.[15]

Other research by the eSafety Commissioner on women's experiences of online abuse revealed 57 per cent of women with disability experienced professional or work-related online abuse, compared with 35 per cent of women surveyed overall.[16] Women with disability who were abused online experienced higher rates of some forms of online abuse, compared with women without disability. This included: negative comments; bullying, trolling or harassment; offensive names or remarks about their disability and physical appearance; stalking; and threats of real-life harm or abuse.[17]

Public hearing evidence

> Some days I just won't leave the house because I don't want to deal with the crap that I encounter when in the community. Despite these impacts, I am committed to not letting abuse and violence get in the way of me living a rich life.[18]

Witnesses with disability and representatives of advocacy organisations gave evidence at Public hearing 28 that violence and abuse are regular features in the lives of people with disability when they are in public places. This evidence was supported by expert witnesses, including Professor Emerita Llewellyn.[19] She confirmed that interpersonal violence and discrimination were 'endemic in the lives of people with disability as they go out and about in their local communities', and is detrimental to their health.[20]

Many witnesses with disability at Public hearing 28 explained they have come to expect some form of abuse whenever they leave their homes.[21] Women of short stature described being subjected to violence and abuse in public places in both Australia and overseas.[22] Ms Peta Stamell said people stare, laugh, film and yell at her on a daily basis.[23] Ms Fiona Strahan said it would be too destructive for her if she were to keep a score card of all the incidents of violence and abuse she had experienced.[24] 'Jenni' spoke of 'an ongoing wave of everyday abuse'.[25] She said:

> the frequency and types of abuse I have been subject to has stayed relatively consistent throughout my life. It has primarily been in the form of abusive comments, taunts, harassment, intimidation and threats of violence. Incidents of these kinds have happened to me more times than I would be able to count.[26]

Ms Maree Jenner is a woman of short stature who gave evidence representing members of Short Statured People of Australia. She said people of short stature are commonly subjected to name-calling, jeering and jokes about their height.[27] Ms Jenner noted that while this applies to both men and women of short stature, men are more likely to report experiences of physical abuse and women incidents of non-consensual sexual touching.[28]

People with other disabilities are frequently subjected to abusive comments and behaviour from strangers, as well as threats and violent attacks. Ms Carly Findlay OAM has a rare skin condition called Ichthyosis. She said, ‘I cannot think of a single time when I have left my house and not been subject to stares, intruded upon, or abused because of my appearance.’[29] A witness from western Sydney, Mr David Gearin, spoke of his experience since becoming visually impaired and reliant on mobility aids. He said:

> It is unusual for a week to pass without me encountering some form of abuse when I am simply out going about my business … it has become part of my day to day existence.[30]

Ms Julie Butler, Advocacy Practice Leader of Speak Out Advocacy Tasmania (Speak Out), gave evidence that violence against, and abuse of, people with disability in public places is a ‘significant issue’.[31] In March 2022, Speak Out organised consultations through self-advocacy groups and peer support networks connected with its organisation. The consultations involved 110 people with intellectual and/or cognitive disability.[32] About 74 of the participants recorded having experienced some form of violence, abuse, exploitation or bullying in the community by someone they did not know.[33] Ms Butler said the information also showed that name-calling is common.[34]

‘Marie’ is autistic and co-founded a peer support network for autistic adults in New South Wales in 2003. Through her work, Marie said she has received countless accounts of autistic people facing violence and abuse in the community from strangers. This abuse often starts with name-calling and threats, and can escalate to spitting, throwing stones and violent attacks.[35]

6.3. Experiences of violence and abuse in public places

Intersectional aspects of violence and abuse

> I believe that I experience violence and abuse when I am out in the community because of my gender identity, Aboriginality, age and disability. Sometimes it may be due to one of these attributes and other times it may be a combination of them.[36]

As is clear from preceding chapters, negative responses to social characteristics including gender, LGBTIQA+ status, race and cultural background intersect with negative attitudes towards disability.

Ms Tracey Barrell OAM is a First Nations woman, who was born with no legs and one arm. She spoke of the 'impact and burden' of being a First Nations woman with disability in the way strangers treat her.[37] Ms Barrell stated:

> in society a lot of people turn their nose up like, oh, you are a single mum and … a disability. Oh, and Aboriginal. So, it's that sort of three for one deal, and one of them is not the best but having all three is a very big disadvantage.[38]

'Elissa' is originally from the Philippines and now lives in South Australia. She has musculoskeletal disability, which significantly affects her mobility. Elissa described an incident in 2019, when she was approached by a woman in a car park. The woman berated her about using a designated disability parking space. Among other things, the woman said 'you should go back to where you came from, you do not belong here!'[39] Elissa said she felt the woman targeted her because of her ethnicity as well as her disability.[40]

Ricki Spencer is a First Nations transgender woman living with a variety of physical and psychosocial disabilities. She uses mobility aids. Ricki (her preferred way of being addressed) said the abuse and violence she experiences regularly target different aspects of her identity. She is often referred to as a 'fucking freak' and a 'fat tranny', as well as a 'black bastard'.[41] Since starting to use mobility aids and her disability becoming more visible, she has noticed 'a clear and dramatic increase' in these attacks.[42] Ricki said, 'It seems to me that my mobility aids act as a signal to would-be abusers that I might be an easy target, who cannot run or fight back.'[43]

Forms of violence and abuse

> Some say things like ‘what are you doing here? You make me sick.’ Some call me ugly. Others straight up tell me they think I should die.[44]

People with disability experience serious incidents of harassment, stalking, threats and physical or sexual assault in public places, which may constitute criminal offences. They are also subjected to verbal abuse, taunting, ridicule, derogatory or sexualised comments, non-consensual photography and filming, intimidation and staring. In isolation, some of these incidents of abuse may seem minor, but repeated abuse can have significant impacts on the people concerned, as discussed below.

Some witnesses described how they felt targeted in public places by strangers because of their disability. Features of their disability – such as their physical, behavioural or social differences – may be noticeable to others as they go about their everyday lives. For example, women of short stature face sexualised and objectifying comments relating to their height, such as being the right height to perform oral sex[45] and being infantilised.[46] Marie said ‘Autistic people often are targeted for violence and abuse in the community.’[47]

Some witnesses gave evidence about the onset of violence and abuse in public places after acquiring their disability.[48] Mr Timothy Marks has reflex sympathetic dystrophy and is an amputee. He uses mobility aids and lives in the Hobart area of Tasmania. Mr Marks said, ‘Prior to being an amputee, and using a wheelchair, I very rarely experienced any form of violence, harassment or abuse in public.’[49] In contrast, now, ‘These types of occurrences are commonplace and part of my day-to-day life.’[50]

Witnesses described receiving support from bystanders when abused in public places,[51] as well as being unsupported when incidents occur.[52] Professor Emerita Llewellyn said ‘interpersonal discrimination and violence often goes unrecognised, unnoticed or is purposely ignored by bystanders’.[53]

Verbal abuse and harassment

People with disability encounter abusive and offensive remarks,[54] taunting and teasing,[55] and yelling and screaming,[56] which for some people is a regular occurrence.[57] Strangers use particular insults and derogatory language targeting people’s disability. For example, people with disability gave evidence of name-calling such as ‘retard’, ‘freak’, ‘spastic’ and ‘midget’.[58] One member of Speak Out said that she is called a retard every time she goes into the town near where she lives.[59]

Threats and intimidation

People with disability experience threatening or intimidating behaviour from strangers in public places,[60] including being physically blocked[61] and followed.[62] Ms Barrell said strangers often come into her personal space when she is in her wheelchair and stand over her in an intimidating way.[63] This has happened in the wheelchair accessible seating area at sports venues, particularly by patrons who are drunk.[64] On another occasion, she parked in a disability parking space at a service station when a man started yelling 'get out of the car spot or I'll smash you with this bottle'.[65]

'Ashleigh' has an acquired brain injury that caused hemiplegia and vision impairment on her left side, and affects her motor skills and balance. She uses a wheelchair and an identification cane. Ashleigh recounted a frightening incident at a concert when she had become separated from her friends. After accidentally bumping into a man in the crowd, she apologised and explained that she could not see out of her left eye. The man responded loudly and aggressively, 'Do you want me to make you blind on your right as well?'[66]

Physical attacks

> I have to be content with the fact of being inside my own home is my world, because I know no one's going to come at me or hit me. That is my reality for the last couple of years now.[67]

Evidence to the Royal Commission described people with disability being physically attacked,[68] pushed,[69] hit,[70] spat on,[71] and having objects thrown at them.[72] Often, these attacks were preceded or accompanied by other types of abuse, particularly verbal abuse. In some cases, physical violence escalates in severity and frequency. For example, Marie said abuse towards autistic people can escalate from actions like spitting on and throwing stones or objects at the person, to stalking, physical assaults and home break-ins. Some of these appear to be planned.[73]

Ms Butler described the experiences of a young man with intellectual disability who lived in a rural community in Tasmania. He was repeatedly subjected to name-calling and verbal abuse by a group of teenagers when he returned home from the shops.[74] The conduct escalated to throwing rocks at him and threatening him with a knife. He and his mother ended up moving to another town to escape the abuse.[75]

The witnesses of short stature spoke of physical attacks on them and others that included being picked up, swung around and/or jumped over.[76] For example, Ms Jenner told of a woman in her sixties who was lifted up by a stranger in a shopping centre car park and raised above his head.[77] Jenni also described how she was picked up and swung around by a stranger in a bar, and pushed into a food rack by two boys in a supermarket.[78]

Sexual violence, harassment and stalking

> The fetishisation of women of short stature has meant that we receive a lot of comments that are sexualised in nature. A common experience is receiving jibes or comments about our height being perfect to perform oral sex.[79]

Women of short stature frequently experience sexualised comments and harassment from strangers.[80] Sometimes this extends to stalking and sexual assault.[81] Frequently, these comments are infantilising[82] and refer to them being the right height to perform oral sex.[83] Dr Debra Keenahan is a woman of short stature and an academic and artist from New South Wales. She said, 'Over the course of my life I have been subject to more sexualised and suggestive comments from men than I can count.' She recalled two occasions on trains when she was sexually assaulted by strangers. A man rubbed his groin on her head and another person groped her breast.[84]

Jenni said people yell sexualised comments at her from cars and as she is walking down the street.[85] This leaves her feeling disgusted and powerless.[86] She outlined two occasions when she was subjected to stalking over extended periods. One of the stalkers would comment on how 'cute' she was and told her that he wanted her to be his girlfriend. Another man Jenni met on a train began phoning and texting her incessantly. This continued for two years, during which the man infantilised Jenni, calling her his 'little girl' and describing her as special because she is a 'midget'. He ended up sending her a text message with graphic sexual comments, which terrified Jenni and she immediately changed her phone number.[87]

Micro-aggressions and 'othering'

> I characterise the antisocial behaviour that my sisters and I are forced to endure as a campaign of harassment, which is effective because it is so decentralised.[88]

We also heard evidence about micro-aggressions in public places,[89] which are:

> everyday interactions that perpetuate inequalities and stereotypes against people who belong to marginalised communities. Experiencing multiple micro-aggressions has been referred to as 'death by a thousand paper cuts', indicating the severity of the sum total of these casual types of prejudice and oppression.[90]

The impact of these seemingly brief and minor episodes of abuse or harassment accumulates over time. Each micro-aggression or instance of 'othering' may not in itself constitute harassment or abuse, but can culminate in a person feeling overwhelmed, unsafe and exhausted.[91] They also correlate with poor mental health.[92]

People with disability described three general types of micro-aggressions and othering in public places at Public hearing 28:

- humiliating behaviours, such as strangers staring, mocking, pointing and laughing at them, or whispering and talking about them within earshot[93]
- non-consensual photography and filming[94]
- being treated like an 'inconvenience',[95] including comments implying they are 'in the way'[96] or are not welcome in a public place.[97]

Dr Keenahan described the dirty looks, chuckling, shoving, and other behavioural cues that people of short stature quickly notice when entering a new environment.[98] People with disability become adept at gauging the atmosphere and level of safety of venues and events upon arrival.[99] Ms Stamell said it quickly becomes obvious from people's behaviour whether they are going to treat her as entertainment.[100] She said she has learned to screen her environment all the time. She observed, 'That means my life outside my home is one of constant mitigation strategies to avoid being abused. I am very practised at recognising potential threats.'[101]

Mr Gearin described the cumulative effect of this abuse over years:

> I am not able to recall every time a stranger has sworn at me, accused me of faking my condition or being abusive towards me in another way since I have been vision impaired. This is because there have been too many occasions when this has happened over the years. While some of this abuse may not have been that serious or might, by itself, not seem to amount to much, the cumulative effect has been significant. It is unusual for a week to pass without me encountering some form of abuse when I'm simply going about my business.[102]

Online abuse

> For me, the online world is an extension of the real world, and is simply another space in which I live. It is an important part of both my workplace as well as my social life. Unfortunately, it is also a setting in which I have been the subject of very real hate.[103]

Community participation, including for social, educational, economic and recreational purposes, is increasingly facilitated by online platforms and services. While witnesses emphasised the benefits of being able to connect online, they also cited the online abuse they experience.[104] This was echoed in experiences shared in private sessions and submissions.[105]

Ms Findlay described the kinds of online abuse she has faced for a number of years including threats and insults targeting her appearance and graphic sexual abuse.[106] Abusive comments are posted on articles, images and videos featuring Ms Findlay on news outlets' social media platforms and other websites.[107] She has also been insulted and threatened via online forums and through her social media accounts.[108]

Ms Barrell was subjected to insulting and abusive comments about her appearance and disability when she used online dating sites in the past.[109] Women of short stature experience fetishisation and verbal and sexual harassment on online dating platforms.[110]

6.4. Impacts of violence and abuse in public places

Health and wellbeing

> There are some days when I am not mentally prepared for the onslaught and just do not have it in me to go to battle with the world. On these days, I simply won't leave the house.[111]

Expert evidence in Public hearing 28 spoke to the impact of violence and abuse on people with disability. Professor Emerita Llewellyn noted 'overt acts of interpersonal discrimination have a significant and negative impact on the health and wellbeing of people with disability'.[112] She went on to say research reveals disability-based discrimination has been associated with higher levels of psychological distress and poorer self-rated health.[113]

Several witnesses highlighted the psychological harm from the abuse they receive from strangers.[114] Ms Stamell said, 'Being constantly subjected to ridicule when I am out in the public is hurtful and detrimental to my mental health.' She described herself as 'psychologically scarred' as a result and said she has professional help from a psychologist.[115]

Ms Jenner said constant harassment and abuse affects the sense of self-worth of people of short stature, and substance misuse is a big problem in that community.[116] Ms Strahan described how violence and abuse can lead to addiction, alcoholism and suicide. She said a friend of hers with a facial difference took her own life after being frequently mocked, made fun of and abused.[117]

Mr Gearin and his guide dog were physically attacked on a train in May 2020. It took him six months to feel comfortable using the train system again.[118] Even then, he described being more fearful about interacting with strangers on the train and suffering from panic attacks.[119]

> My sense of vulnerability and the fear that accompanies it have led to a narrowing of my life in some respects. For example, I no longer take the train or walk down the street alone after dark. This has resulted in me missing out on opportunities which I would have liked to pursue. For instance I recently had to forgo participation in a course on technology that I was interested in because it would have involved train travel at night.[120]

Changing behaviours to avoid violence and abuse

> There comes a point at which all you want to do is get to a point of being safe. You just want to be safe. You want to get through your day.[121]

People with disability change their day-to-day behaviours and activities to avoid or minimise the risk of violence and abuse in public places. This can involve avoiding particular groups of people and places, being hypervigilant, conducting risk assessments, and even relocating to another part of the country.[122] The overall effect is of limiting their lives and reducing their participation in the community.[123]

Professor Emerita Llewellyn highlighted these kinds of avoidance strategies in her research. A study into discriminatory acts towards young Australians with disability reported that interpersonal discrimination affected some young adults' capacity to move about freely, as they sought to avoid exposure to prejudicial attitudes and abuse.[124]

Ms Butler said many members of Speak Out were reluctant to access the community alone for fear of violence and abuse.[125] She said:

> People are modifying their own lives to avoid incidents of abuse in the community, and so they are not participating in many of the activity they did. You know, the social experiences … public events or the things that they used to do, they are actually avoiding them because they don't feel safe … it's not just the occasional thing. It is lots of members are saying this.[126]

Mr Gearin said he does 'a mental cost-benefit analysis when deciding whether to attend social events or entertainment'.[127] Ashleigh similarly noted, 'The way people respond to me, or treat me, when I am out and about in public has led me to consider whether or not it is worth it to go out.'[128] Ms Jenner feels she is regularly on display and exposed to disrespect, which is extremely challenging and wears her down.

> So, that can have an impact on mental health. As we heard, people avoid when they go out so that can reduce, you know, what their peers will be doing at that age, compared to what they're – or feel safe to do.[129]

Several witnesses said they no longer go out alone, or at certain times of day.[130] If they are of short stature, they may only go out if they are accompanied by a 'tall person'.[131] Ashleigh said that she tries to go out in public only if she has someone she knows and trusts with her.[132] Ms Barrell described her reliance on a particular support worker, who has become a friend. She experiences less harassment and feels safer when she goes to football matches with him.[133] Mr Marks employs a similar strategy, noting he will normally only leave the house if accompanied by a friend or support worker.[134] He was nervous about attending the Royal Commission public hearing in Brisbane:

> Coming here to Brisbane is being a very big deal for me because I have post-traumatic stress disorder and I – even now I'm looking around to see if somebody is going to come behind me and attack me when I know nobody is in the room. But I'm very, very aware of my situation and where I am.[135]

Mr Marks said he avoids being out of his house after dark, because he considers it to be a particularly dangerous time. He said, 'I rarely leave my house after 6pm. In fact, I generally try and make sure I am home by 4pm.'[136] Ricki has a similar view. She tries to go out during the mornings to do essential tasks like grocery shopping.[137]

People and places of concern

People with disability gave evidence that they avoid particular places and people for fear of violence and abuse. This includes:

- teenage or young adult strangers, in groups, male, or drinking alcohol
- places where people drink alcohol or young people congregate, public transport and shopping centres.

Group harassment and abuse

Many witnesses described incidents involving groups perpetrating violence and abuse, particularly groups of teenagers and young adults. This leads people with disability to avoid places where young people congregate,[138] such as schools[139] and skate parks.[140]

People of short stature emphasised the particular risk of abuse when they encounter groups of strangers in public[141] and school-aged children.[142] Dr Keenahan avoids walking past places where teenagers congregate, observing that 'teenagers are some of the worst perpetrators of abuse, both in terms of frequency and severity'.[143] Ms Strahan recalled an incident when a group of people in cars began yelling at and mocking her as she walked along the street.[144] She said:

> when a number of boys and men are together they can have a group mentality, which makes their behaviour towards me more humiliating and potentially more dangerous than when it is from a person who is on their own.[145]

Jenni spoke about a time in Melbourne when she walked past a group of men, one of whom said, 'I am going to take her home and make her my bitch.'[146] Jenni said if she sees a group of people these days she walks fast as she has 'an instinct that something bad will happen, based on all of my past experiences'.[147]

People with other disabilities also spoke about group harassment. Marie said groups of young people are commonly involved in the abuse of autistic adults in public places.[148] Ms Butler also reported that abuse by groups of young people was an issue of particular concern for members of Speak Out with intellectual and/or cognitive disability.[149] Ricki said abusive behaviour towards her tended to be worse when in groups, especially groups of young men.[150] Ashleigh recounted two incidents on public transport involving groups of school students.[151]

Mr Marks said he is regularly intimidated and threatened by groups of young people.[152] Ms Barrell explained how she avoids going past the local primary school on her way to the local coffee shop:

> When you are at the traffic lights, if it's a certain time, there is kids will be out on the playground, and they are the worst offenders for yelling out disgusting stuff. And I brought it to the attention of the principal. I offered my services as a public speaker that I do, and I offered my services to go to the school and educate the children, and he didn't act on that. And so now I have to go a completely different way if it's that time and I forget and then I will go another … way or I just won't go past the school at that time.[153]

Patrons at venues serving alcohol

Another factor several witnesses said increased the chances of them experiencing violence or abuse from strangers is alcohol.[154] Ms Barrell said, 'Intoxicated people can be awful. I often get verbal abuse in bars and restaurants where people yell things like "why do people like you come out?"'[155] She also spoke of experiencing abuse in sports stadiums and venues where people are drinking and can be 'emotionally elevated'.[156] Ms Findlay said, 'People who have been drinking are often difficult to be around, as they do not seem able to hold back their comments or questions.'[157]

Jenni said she has often been physically abused in pubs and other places where alcohol is served. Strangers have groped and touched her, picked her up and swung her around.[158] She has been approached by men who have thrust their crotch at her head.[159] Ms Stamell said she is most frequently abused at night in venues where alcohol is served.[160]

Mr Gearin said alcohol was a factor that increases the risk of him being abused:

> If I am in a venue where alcohol is served, I am more likely to experience violence and abuse from someone I do not know. Equally, I am more likely to be abused if I attend a restaurant with Odin [his guide dog] than without him. However, I can never entirely predict when and how I will be targeted or take measures to avoid it completely.[161]

Places of concern

> Since that point, I've been too scared to catch the train without somebody with me, or even sometimes I'm too scared to catch the train at all.[162]

As well as venues where young people congregate and alcohol is served, witnesses nominated public transport networks,[163] shopping centres and carparks,[164] and online platforms[165] as places they avoid.

Professor Emerita Llewelyn referred to a study that showed how young adults with disability experience 'insults, harassment and intimidation' when using public transport.[166] Mr Marks described how in April 2020, he was attacked by five youths near the bus mall in Glenorchy, Hobart. They threw several bottles at him, one of which cut his head and caused it to bleed.[167] Ms Butler said Speak Out members also reported being physically assaulted, pushed over and having rubbish thrown at them at the Glenorchy bus mall.[168] She said:

> while bus malls and bus interchange points are generally problematic areas for people with disability in relation to abuse, harassment and violence, what was remarkable

> was that *all* of our Glenorchy-based members who have passed through the bus mall, reported incidents of abuse, violence, and harassment in that area.[169]

Ashleigh described an incident when some older secondary school boys pushed her as she was trying to get onto the train, causing her to slip between the train and platform.[170] Ms Jenner told of one man of short stature who had become reluctant to use public transport after instances of violence and abuse. He now uses Ubers and taxis instead.[171] Jenni referred to the risks of sitting on the train by herself and said she has learnt:

> never to sit at the window if you feel that you're going to be harassed … from now on I always sit on the aisle seat to prevent people from blocking me in that position.[172]

Shopping centres are also a place of concern for people with disability. Ms Butler said that her network members avoid going to the supermarket by themselves as they have come to expect abuse at shopping centres.[173] Elissa said since she was physically assaulted at a shopping centre car park, she has never gone back to that place and probably never will.[174]

Endnotes

1 Name withheld, Submission, 3 February 2020; Sarah Butler, Submission, 4 February, 2020; Benjamin Zygorodimos, Submission, 19 February 2020; Sean Hennigan, Submission, 15 July 2020; Yelena Kim, Submission, 15 March 2021; Name withheld, Submission, 28 January 2020; Tara Collyer, Submission, 5 February 2020; Name withheld, Submission, 27 February 2020; Name withheld, Submission, 22 July 2022; Heike Fabig, Submission, 20 September 2019; Name withheld, Submission, 8 February 2022; Heather Smith, Submission, 6 October 2020; Name withheld, Submission, 4 April 2022; Name withheld, Submission, 19 April 2022; Stephen McPherson, Submission, 21 March 2022; Private sessions participants.

2 Transcript, 'Ashleigh', Public hearing 28, 12 October 2022, P-203.

3 Australian Bureau of Statistics, *Microdata: Personal Safety Survey, 2016*, Results accessed using Australian Bureau of Statistics DataLab Aged 18-64; by Whether experienced any violence since age 15; by Disability status.

4 Australian Bureau of Statistics, Microdata: *Personal Safety Survey, 2016,* Results accessed using Australian Bureau of Statistics DataLab Age group 18-64; by Whether experienced any violence since age 15; Of those that have experienced violence, what proportion knew the perpetrator; Of those that have experienced violence, what proportion experienced violence perpetrated by a stranger; by Disability status.

5 Australian Bureau of Statistics, *Survey of Disability, Ageing and Carers, Australia*, 2018, Results accessed using Australian Bureau of Statistics Tablebuilder Age 18-64; by Whether has experienced discrimination due to disability in the last 12 months; Whether has a disability; Source of unfair treatment or discrimination due to disability in the last 12 months.

6 Exhibit 28-8, 'Statement of Gwynnyth Llewellyn', 22 September 2022, at [12].

7 Adam Hill, Natalie Amos, Adam Bourne, Matthew Parsons, Christine Bigby, Marina Carman & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability: a secondary analysis of data from two national surveys*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 74.

8 Adam Hill, Natalie Amos, Adam Bourne, Matthew Parsons, Christine Bigby, Marina Carman & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability: a secondary analysis of data from two national surveys*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022 p 74.

9 Adam Hill, Natalie Amos, Adam Bourne, Matthew Parsons, Christine Bigby, Marina Carman & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability: a secondary analysis of data from two national surveys*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 82–84 Table 47.

10 Adam Hill, Natalie Amos, Adam Bourne, Matthew Parsons, Christine Bigby, Marina Carman & Anthony Lyons, Australian Research Centre in Sex, Health and Society & Living with Disability Research Centre, La Trobe University, La Trobe University, *Violence, abuse, neglect and exploitation of LGBTQA+ people with disability: a secondary analysis of data from two national surveys*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, p 188 Tables 116.3–116.5.

11 Sabine Hall, Joann Fildes, Dini Liyanarachchi, Jacquelin Plummer, Miranda Reynolds, Mission Australia, *Young, willing, and able: Youth Survey Disability Report 2019*, December 2019, pp 26–27.

12 eSafety Commissioner, *Online hate speech – Findings from Australia New Zealand and Europe,* Report, January 2020, p 8.

13 eSafety Commissioner, *Online hate speech – Findings from Australia New Zealand and Europe,* Report, January 2020, pp 8–9.

14 Exhibit 28-38, ‘Statement of Julie Inman Grant’, 16 September 2022, at [38]; Finding from eSafety’s *Aussie Kids Online* research series – *Online lives of children with disability.* Proposed completion date is Quarter 1 of 2023. Data gathered from 3,590 Australian children aged 8-17, including 1,037 with disability.
15 Exhibit 28-38, ‘Statement of Julie Inman Grant’, 16 September 2022, at [38]. Finding from eSafety’s *Aussie Kids Online* research series – *Online lives of children with disability.* Proposed completion date is Quarter 1 of 2023. Data gathered from 3,590 Australian children aged 8–17, including 1,037 with disability.
16 eSafety Commissioner, *Women in the Spotlight: How online abuse impacts women in their working lives*, Research report, March 2022, p 18.
17 eSafety Commissioner, *Women in the Spotlight: How online abuse impacts women in their working lives*, Research report, March 2022, p 23.
18 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [60–61].
19 Exhibit 28-8, ‘Statement of Gwynnyth Llewellyn’, 22 September 2022, at [2–10].
20 Exhibit 28-8, ‘Statement of Gwynnyth Llewellyn’, 22 September 2022, at [69].
21 Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-88; Exhibit 28-1, ‘Statement of Dr Debra Keenahan’, 12 September 2022, at [16–17]; Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [22]; Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [21].
22 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [6]; Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [13]; Exhibit 28-1, ‘Statement of Dr Debra Keenahan’, 12 September 2022, at [16–17].
23 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [6].
24 Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [13].
25 Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-88.
26 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [8].
27 Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [39].
28 Transcript, Maree Jenner, Public hearing 28, 11 October 2022, P-117.
29 Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [22].
30 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [21].
31 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [23].
32 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [25–26].
33 Transcript, Julie Butler, Public hearing 28, P-209–210.
34 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [28].
35 Exhibit 28-12, ‘Statement of [Marie]’, 20 September 2022, at [17], [22–24].
36 Exhibit 28-15, ‘Statement of Ricki Spencer’, 30 August 2022, at [12].
37 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [69].
38 Transcript, Tracey Barrell, Public hearing 28, 10 October 2022, P-46.
39 Exhibit 28-17, ‘Statement of [Elissa]’, 16 September 2022, at [28–31].
40 Exhibit 28-17, ‘Statement of [Elissa]’, 16 September 2022, at [33].
41 Exhibit 28-15, ‘Statement of Ricki Spencer’, 30 August 2022, at [13].
42 Exhibit 28-15, ‘Statement of Ricki Spencer’, 30 August 2022, at [15].
43 Exhibit 28-15, ‘Statement of Ricki Spencer’, 30 August 2022, at [15].
44 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [43].
45 Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [56].
46 Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-91–92.
47 Transcript, ‘Marie’, Public hearing 28, 12 October 2022, P-181.
48 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [20].
49 Exhibit 28-9, ‘Statement of Tim Marks’, 28 August 2022, at [21].
50 Exhibit 28-9, ‘Statement of Tim Marks’, 28 August 2022, at [24].
51 Exhibit 28-3, ‘Statement of David Gearin’, 26 August 2022, at [29], [50]; Exhibit 28-11, ‘Statement of [Ashleigh]’, 7 September 2022, at [23–24].
52 Transcript, Tracey Barrell, Public hearing 28, 10 October 2022, P-43, P-48–49; Transcript, Carly Findlay, Public hearing 28, 14 October 2022, P-321.
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54 Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-25; Transcript, Fiona Strahan, Public hearing 28, 11 October 2022, P-73; Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [20]; Transcript, Tracey Barrell, Public hearing 28, 10 October 2022, P-44.

55 Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-88; Transcript, Peta Stamell, Public hearing 28, 11 October 2022, P-103.

56 Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-25; Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-88.

57 Exhibit 28-1, ‘Statement of Dr Debra Keenahan’, 12 September 2022, at [17]; Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [27]; Exhibit 28-3, ‘Statement of David Gearin’, 26 August 2022, at [20].

58 Exhibit 28-12, ‘Statement of [Marie]’, 30 September 2022, at [23]; Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [28]; Exhibit 28-1, ‘Statement of Debra Keenahan’, 12 September 2022, at [17], [19], [25–26]; Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-25; Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [15], [24]; Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [9–11]; Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [6], [16], [18], [32–35]; Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [39–42].

59 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [28].

60 Transcript, ‘Ashleigh’, Public hearing 28, 12 October 2022, P-201; Transcript, ‘Marie’, Public hearing 28, 12 October 2022, P-180; Transcript, Timothy Marks, Public hearing 28, 12 October 2022, P-188; Transcript, Carly Findlay, Public hearing 28, 14 October 2022, P-321; Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [38].

61 Transcript, Fiona Strahan, Public hearing 28, 11 October 2022, P-73; Transcript, Timothy Marks, Public hearing 28, 12 October 2022, P-188; Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-90.

62 Transcript, Fiona Strahan, Public hearing 28, 11 October 2022, P-72; Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-89; Transcript, Peta Stamell, Public hearing 28, 11 October 2022, P-103.

63 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [46].

64 Transcript, Tracy Barrell, Public hearing 28, 10 October 2022, P-43–44.

65 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [67].

66 Exhibit 28-11, ‘Statement of [Ashleigh]’, 7 September 2022, at [32].

67 Transcript, Ricki Spencer, Public hearing 28, 12 October 2022, P-196.

68 Exhibit 28-3, ‘Statement of David Gearin’, 26 August 2022, at [25–32].

69 Transcript, ‘Elissa’, Public hearing 28, 10 October 2022, P-63.

70 Transcript, David Gearin, Public hearing 28, 10 October 2022, P-58.

71 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [40–43]; Exhibit 28-15, ‘Statement of Ricki Spencer’, 30 August 2022, at [37].

72 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [50]; Transcript, Timothy Marks, Public hearing 28, 12 October 2022, P-188.

73 Transcript, ‘Marie’, Public hearing 28, 12 October 2022, P-180.

74 Transcript, Julie Butler, Public hearing 28, 12 October 2022, P-210.

75 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [31–34].

76 Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [48–53]; Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [24], [30].

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78 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [30–33].

79 Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [56].

80 Exhibit 28-001, ‘Statement of Dr Debra Keenahan’, 12 September 2022, at [33–34]; Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-29; Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-88; Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [54]; Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [39], [41].

81 Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-29.

82 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [28–29]; Exhibit 28-1, ‘Statement of Debra Keenahan’, 12 September 2022, at [33].

83 Exhibit 28-1, ‘Statement of Debra Keenahan’, 12 September 2022, at [33]; Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [14].

84 Exhibit 28-1, ‘Statement of Debra Keenahan’, 12 September 2022, at [38–39].

85 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [14–15].

86 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [16].

87 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [18–28]; Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-90–92.

88 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [6].

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92 Transcript, Professor Gwynnyth Llewellyn, Public Hearing 28, 11 October 2022, P-131; Shanna K. Kattari, ‘Ableist Microaggressions and the Mental Health of Disabled Adults’, (2020), vol 56 (6), *Community mental health journal.*

93 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [44–46]; Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-30; Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [22]; Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [22].

94 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [46–48]; Exhibit 28-001, ‘Statement of Dr Debra Keenahan’, 12 September 2022, at [27]; Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [21–22]; Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [41–44]; Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, [6], [16–17], [28], [32–33], [37]; Exhibit 28–7, ‘Statement of Maree Jenner’, 17 September 2022, at [41–46].

95 Exhibit 28-11, ‘Statement of [Ashleigh]’, 7 September 2022, at [15–26].

96 Transcript, Tim Marks, Public hearing 28, 12 October 2022, P-187–88.

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98 Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-30.

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101 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [51].

102 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [20].

103 Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [23].

104 Transcript, Carly Findlay, Public hearing 28, 14 October 2022, P-327; Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-31–32; Transcript, Maree Jenner, Public hearing 28, 11 October 2022, P-119.

105 Issam Alameh, Submission, 29 March 2022; Name withheld, Submission, 2 September 2019; Liz Wilkinson, Submission, 29 June 2022; Australia’s eSafety Commissioner, Submission in response to *Promoting inclusion issues paper,* 1 April 2021, ISS.001.00608. Private sessions participants.

106 Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [23–51]; Transcript, Carly Findlay, Public hearing 28, 14 October 2022, P-322–26.

107 Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [24], [37], [42].

108 Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [24], [26–36], [41], [44–46], [49].

109 Transcript, Tracy Barrell, Public hearing 28, 10 October 2022, P-50, P-55; Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [38].

110 Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [57]; Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-32; Exhibit 28-1, ‘Statement of Debra Keenahan’, 12 September 2022, at [46].

111 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [73].

112 Exhibit 28-8, ‘Statement of Professor Emerita Gwynnyth Llewellyn’, 22 September 2022, at [9].

113 Exhibit 28-8, ‘Statement of Professor Emerita Gwynnyth Llewellyn’, 22 September 2022, at [34]; Exhibit 28-8.06, IND.0192.0002.0079; Exhibit 28-8.04, IND.0192.0002.0072.

114 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [55]; Exhibit 28-17, ‘Statement of [Elissa]’, 16 September 2022, at [39]; Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [58].

115 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [55].

116 Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [64–65].

117 Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [40].

118 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [25–33].

119 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [33], [58].

120 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [56].

121 Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-30.

122 Transcript, Julie Butler, Public hearing 28, 12 October 2022, P-210–11; Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [60].

123 Transcript, Maree Jenner, Public hearing 28, 11 October 2022, P-119.

124 Exhibit 28-8.2, IND.0192.0002.0001, p 2.

125 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [77].

126 Transcript, Julie Butler, Public hearing 28, 12 October 2022, P-217.

127 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [60].

128 Exhibit 28-11, ‘Statement of [Ashleigh]’, 7 September 2022, at [35].

129 Transcript, Maree Jenner, Public hearing 28, 11 October 2022, P-117.

130 For example see: Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [59]

131 Transcript, Peta Stamell, Public hearing 28, 11 October 2022, P-105–08.

132 Exhibit 28-11, ‘Statement of [Ashleigh]’, 7 September 2022, at [36].

133 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [75].

134 Exhibit 28-9, ‘Statement of Tim Marks’, 28 August 2022, at [44].

135 Transcript, Timothy Marks, Public hearing 28, 12 October 2022, P-187.

136 Exhibit 28-9, ‘Statement of Tim Marks’, 28 August 2022, at [43].

137 Exhibit 28-15, ‘Statement of Ricki Spencer’, 30 August 2022, at [51].

138 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [74]; Exhibit 28-1, ‘Statement of Dr Debra Keenahan’, 12 September 2022, at [54].

139 Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-31; Transcript, Tracey Barrell, Public hearing 28, 10 October 2022, P-46–47.

140 Transcript, Debra Keenahan, Public hearing 28, 10 October 2022, P-31.

141 Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [45]; Exhibit 28-1, ‘Statement of Debra Keenahan’, 12 September 2022, at [19–22]; Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [32–34], [36].

142 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [10]; Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [15].

143 Exhibit 28-1, ‘Statement of Debra Keenahan’, 12 September 2022, at [54].

144 Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [15–16].

145 Exhibit 28-4, ‘Statement of Fiona Strahan’, 12 September 2022, at [14].

146 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [36].

147 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [53].

148 Exhibit 28-12, ‘Statement of [Marie]’, 28 September 2022, at [22].

149 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [30–42]

150 Exhibit 28-15, ‘Statement of Ricki Spencer’, 30 August 2022, at [17].

151 Exhibit 28-11, ‘Statement of [Ashleigh]’, 7 September 2022, at [22–26].

152 Transcript, Timothy Marks, Public hearing 28, 12 October 2022, P-188.

153 Transcript, Tracey Barrell, Public hearing 28, 10 October 2022, P-46–47.

154 Exhibit 28-1, ‘Statement of Dr Debra Keenahan’, 12 September 2022, at [55]; Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [34]; Transcript, Dr Debra Keenahan, Public hearing 28, 10 October 2022, P-30; Exhibit 28-3, ‘Statement of David Gearin’, 26 August 2022, at [22]; Exhibit 28-7, ‘Statement of Maree Jenner’, 17 September 2022, at [40].

155 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [49].

156 Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [58].

157 Exhibit 28-36, ‘Statement of Carly Findlay’, 28 September 2022, at [96].

158 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [32].

159 Exhibit 28-5, ‘Statement of [Jenni]’, 12 September 2022, at [32].

160 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [10].

161 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [22].

162 Transcript, ‘Ashleigh’, Public hearing 28, 12 October 2022, P-202.

163 Exhibit 28-3, ‘Statement of David Gearin’, 16 August 2022, at [59].
164 Exhibit 28-11, ‘Statement of [Ashleigh]’, 7 September 2022, at [39]; Exhibit 28-2, ‘Statement of Tracy Barrell’, 13 September 2022, at [68].
165 Exhibit 28-6, ‘Statement of Peta Stamell’, 16 September 2022, at [38].
166 Exhibit 28-8, ‘Statement of Gwynnyth Llewellyn’, 22 September 2022, at [23]; Exhibit 28-8.2, IND.0192.0002.0001.
167 Exhibit 28-9, ‘Statement of Tim Marks’, 28 August 2022, at [26–27].
168 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [50].
169 Exhibit 28-10, ‘Statement of Julie Butler’, 26 September 2022, at [51].
170 Transcript, ‘Ashleigh’, Public hearing 28, 12 October 2022, P-202.
171 Transcript, Maree Jenner, Public hearing 28, 11 October 2022, P-117.
172 Transcript, ‘Jenni’, Public hearing 28, 11 October 2022, P-90.
173 Transcript, Julie Butler, Public hearing 28, 12 October 2022, P-217.
174 Transcript, ‘Elissa’, Public hearing 28, 10 October 2022, P-63.

7. Practices disproportionately affecting people with disability

Key points

- People with disability are solely or disproportionately affected by practices that deny them their autonomy and can affect their health, safety and wellbeing. These include:
  - restrictive practices, such as physical and chemical restraint
  - substitute decision-making regimes, such as guardianship and administration
  - being found unfit to stand trial.
- There were 5.58 million recorded authorised uses of restrictive practices in NDIS settings in 2021–22 and 1.42 million notified unauthorised uses.
- Psychotropic medication is overprescribed to people with cognitive disability, often to manage so-called ‘behaviours of concern’.
- Guardianship and administration orders can be misused and overused, particularly for NDIS participants.
- People with cognitive or intellectual disability found unfit to stand trial may be detained for longer periods than had they been found guilty and sentenced accordingly, and are at risk of being detained indefinitely.

7.1. Introduction

This chapter discusses practices that are solely or disproportionately used against people with disability. It illustrates how they can be misused and overused, which can impact on people’s autonomy, health, safety, wellbeing.

The chapter focuses on:

- the use of restrictive practices, especially chemical restraint, on people with disability, particularly people with cognitive impairment
- substitute decision-making through guardianship and administration orders that remove people’s legal rights, sometimes without their knowledge
- the risk of indefinite detention for people who are found unfit to stand trial.

7.2. Restrictive practices

> One thing I think really does need to be looked at is the way that trauma for people, particularly people with intellectual disabilities, is really poorly understood, and the impacts of trauma often wind up being called challenging behaviours; and they often wind up then being the grounds for restrictive practices, which are in turn highly traumatising and that compounds trauma and makes the whole situation worse.[1]

People with disability are subjected to restrictive practices in a range of settings and contexts, including by service providers, in schools, in health care settings and in correctional facilities.

Regulating restrictive practices

The *National Disability Insurance Scheme Act 2013* (Cth) defines a restrictive practice as 'any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability'.[2] Regulated restrictive practices include:[3]

- physical restraints, such as holding down a patient's arm when they are having blood taken to stop them moving their arm away
- chemical restraints, such as prescribing a particular medication to reduce aggressive or self-harming behaviours including headbanging, biting or scratching
- mechanical restraints, such as splints, gloves or a helmet to prevent a person from self-harming
- environmental restraints, such as locking a door, cupboard or fridge to prevent a person's access to their possessions, such as a mobile phone or cigarettes
- seclusion, such as time out in a room or area where the person is unable to leave. Solitary confinement occurs when a person is placed in seclusion for more than 22 hours per day.

These definitions are broadly applicable to a range of settings and adequately describe the types of restrictive practices that were the subject of evidence at our public hearings and other material before us.

The regulation of restrictive practices is inconsistent across states and territories and settings. For example, there is no national legislation or general agreement about when restrictive practices may be used in school settings. The Australian Capital Territory is the only Australian jurisdiction with legislation authorising the use of restrictive practices in government schools.[4]

The use of restrictive practices in mental health settings is regulated via legislation in all states and territories apart from New South Wales.[5] Only New South Wales, South Australia and the Northern Territory regulate the use of restrictive practices in regular health settings through mandatory policies for public health staff.[6]

Each state and territory has legislation or subordinate legislation governing seclusion and the use of force in mainstream correctional settings, for both young people and adults.[7] Use of force includes some forms of what would be considered restrictive practices, such as the use of restraints, including handcuffs.

The legislative and regulatory frameworks for restrictive practices in the states and territories are further discussed in Volume 6, *Enabling autonomy and access.*

For NDIS registered providers, the use of restrictive practices is regulated through the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018*.[8] To comply, a provider must be registered with the NDIS Quality and Safeguards Commission (NDIS Commission) and the restrictive practices must be authorised by the relevant state or territory, and administered in conjunction with a behaviour support plan. A behaviour support plan is developed by a specialist behaviour support provider and must include person-centred strategies to address the person's needs and behaviour. Restrictive practices must be used only as a last resort, in the least restrictive manner and for the shortest possible time to ensure the safety of the person with disability or others.[9]

The authorisation process is different across jurisdictions. We heard evidence that the NDIS Commission is working with states and territories to achieve national consistency in authorisation processes.[10]

Data on the use and extent of restrictive practices

There is a lack of publicly available data on the extent to which restrictive practices are used across different settings.[11] The data is particularly poor in health, education and justice settings. The available data is largely limited to the use of restrictive practices in the services provided to NDIS participants.

Use by registered NDIS providers

The NDIS Commission collects data on the use of restrictive practices on NDIS participants by registered NDIS providers.[12] It collates data in two categories:[13]

- *authorised* restrictive practices, where use has been approved by the relevant state or territory authority and the practices are used in accordance with a behaviour support plan
- *unauthorised* restrictive practices, where use has not been approved by state and territory regulatory frameworks and use is not in accordance with a behaviour support plan. The use of an unauthorised restrictive practice is a reportable incident.

While the NDIS Commission only publishes data in relation to unauthorised restrictive practices, it provided data on the use of authorised restrictive practices at the Royal Commission's request.[14]

Authorised restrictive practices

The data shows there has been an increase in the number of recorded authorised uses of restrictive practices. Between 2020–21 to 2021–22:[15]

- the number of recorded authorised uses of restrictive practices increased by 52 per cent, from 3.68 million in 2020–21 to 5.58 million in 2021–22
- the number of recorded NDIS participants subjected to authorised restrictive practices increased by 19 per cent, from 7,284 to 8,685 participants
- the number of recorded uses of restrictive practices per participant increased by 27 per cent, from 505 per participant to 642 per participant.

At Public hearing 32, 'Service providers revisited', NDIS Commissioner Ms Tracey Mackey explained the increase in the recorded use of authorised restrictive practices was not necessarily related to an increase in use; rather, an increase in the number of participants and an increase in the reporting of use.[16] She gave the following reasons for the increase during this period:[17]

- All states and territories transitioned to the NDIS, which meant there was a growth in participant numbers in real terms, and therefore, the number of people who will be subject to restrictive practices as part of a behaviour support plan.
- There was an increase in the number of behaviour support plans being lodged, meaning greater visibility of authorised uses of restrictive practices.
- There was a higher level of compliance from providers in reporting restrictive practices.

She went on to say:

> I don't at all want to down-play the significant issue that we have across this country around the use of restrictive practices, whether authorised or unauthorised. We are doing a range of things to try and reduce that number. And certainly in all of my conversations with other government agencies and state and territory governments is around how we work together to reduce these restrictive practices.[18]

Unauthorised restrictive practices

The number of unauthorised restrictive practices notified by NDIS providers to the NDIS Commission also increased between 2020–21 and 2021–22:

- the number of notified unauthorised uses of restrictive practices increased from 0.9 million reportable incidents in 2020–21 to 1.42 million reportable incidents in 2021–22, an increase of 58 per cent[19]
- the number of participants subjected to unauthorised restrictive practices also increased, from 7,532 participants to 8,830, an increase of 17 per cent[20]
- the number of uses of unauthorised restrictive practices per participant increased by 34 per cent, from 120 unauthorised uses of a restrictive practice per participant in 2020–21 to 161 per participant in 2021–22.[21]

As with recorded authorised restrictive practices, the reported increase in the use of unauthorised restrictive practices over the last two years may have been driven by improved understanding of reporting requirements and the full-scheme rollout of the NDIS, including the expansion of the NDIS into Western Australia on 1 December 2020.[22]

Use outside the NDIS

The extent of the use of restrictive practices in other settings is very difficult to ascertain. For example, we found that no state or territory accurately reported the use of restrictive practices against students in public schools.[23]

The Royal Commission requested data from states and territories' education departments about the number of reported incidents of the use of restrictive practices and the number of complaints. However, most jurisdictions do not keep records of these incidents and were unable to provide this data.[24] For the jurisdictions that did provide data, we found that the number of incidents was too small for analysis.

There are similar gaps in data on the use of restrictive practices on people with disability in justice settings. We have reviewed all available data sources and concluded that data on the use of restraints, including seclusion and solitary confinement, in places of detention is not routinely collected.[25]

Volume 6 sets out our recommendations about improving data collection on the use of restrictive practices in justice, health and education settings.

Experiences of restrictive practices

Chemical restraint used in response to behaviours of concern

Chemical restraint was the most frequently used restrictive practice in NDIS settings in 2021–22, accounting for 52 per cent of authorised restrictive practices and 47 per cent of unauthorised restrictive practices.[26] In that period:

- authorised chemical restraint was used 2.9 million times against 5,430 participants[27]
- unauthorised chemical restraint was used 0.7 million times against 4,367 participants[28]
- antipsychotics were the most frequently used medications in unauthorised restrictive practices, both in terms of the number of times used and the number of participants on whom they were used.[29]

Psychotropic medication is any drug capable of affecting the mind, emotions or behaviour, and includes antipsychotics, antidepressants and mood stabilisers. When prescribed appropriately, psychotropic medication can improve the health of patients with mental illness.[30] Psychotropic medication is considered to be a form of chemical restraint where it is prescribed for the primary purpose of modifying someone's behaviour rather than to treat a mental illness.[31]

Data is not collected on the purpose for which psychotropic medication is prescribed, such as whether the prescription is for the treatment of a diagnosed medical illness or in response to behaviours of concern.[32] This is a serious gap in the information available to regulators and policy makers.

The NDIS Quality and Safeguarding Framework defines behaviours of concern as 'of such intensity, frequency or duration that the physical safety of the person or others is likely to be placed in serious jeopardy'.[33]

In Public hearing 6, 'Psychotropic medication, behaviour support and behaviours of concern', we heard that chemical restraint is often a first response rather than a last resort.[34] Evidence was given that in health settings, prescribing medication to address 'challenging' behaviours displayed by people with disability is often the easiest form of intervention for a medical practitioner. One witness told us that as it is a common practice by doctors, and because it can lead to improved behaviour in some individuals, it is a difficult practice to address.[35]

We heard evidence about how the types of behaviour labelled as 'concerning' may be used to communicate physical or mental illness, or a variety of environmental or psychological issues such as pain, unhappiness, sensory difficulties or abuse underlying health issues.[36] Rather than trying to understand what is being communicated, disability support workers and health professionals can use restrictive practices to respond to and 'manage' the behaviour of people with disability.[37]

Psychotropic medication is overprescribed

It can sometimes be difficult to distinguish medication that is prescribed for the purpose of alleviating the symptoms of mental illness from medication that is prescribed to control behaviour.[38] However, head of the Department of Developmental Disability Neuropsychiatry at the University of New South Wales, Professor Julian Trollor, gave evidence that:

> Even after accounting for elevated prevalence of mental illness among populations with intellectual disability, psychotropic prescription rates and polypharmacy appear disproportionally high and not in keeping with evidenced based prescribing practices.[39]

Previous reports and reviews have also concluded that psychotropic medications are often administered to people with disability who do not have a mental illness.[40]

We have concluded that the distinction drawn in Commonwealth and Queensland law between psychotropic medication prescribed for treatment for people with cognitive disability and psychotropic medication used as a chemical restraint to control behaviours of concern is problematic in practice.[41]

The Commissioners' report for Public hearing 6 found that psychotropic medication is over-prescribed to people with cognitive disability. In particular such medication is over-prescribed and over-used as a response to behaviours of concern by people with cognitive disability.[42] In some cases the number and dosage levels of antipsychotic medications administered to people with cognitive disability are so significant they constitute abuse.[43]

The report also found that adverse effects of psychotropic medication can lead people with cognitive disability to display more behaviours of concern.[44] This was illustrated through the evidence of 'ABF', who described the chemical restraint used in response to the behaviour of her brother 'ABG'. ABG, who has intellectual disability and high support needs, demonstrates challenging behaviours including loud vocalisations and hitting, grabbing or tapping other people for attention.[45] His family moved him into supported accommodation when his behaviours escalated and his parents could no longer care for him. ABF told the Royal Commission that living in supported accommodation had a detrimental effect on her brother's behaviour. She said doctors prescribed psychotropic medication to restrain him. As a consequence, ABF noticed a regression in ABG's social, household and other skills.[46]

Volume 6 discusses behaviours of concern in further detail, including the controversial nature of the term and the fact that behaviour can be an important form of communication for some people with disability.

Over-medication: 'Client 1'

We were told about a man with intellectual disability and autism, known as 'Client 1', who displayed challenging behaviours resulting in property damage and injury to others. Despite not having a diagnosed mental illness, Client 1 was over-medicated for many years with sedative, psychotropic and antidepressant medications. The medication caused him to slur his speech, drool and frequently lose his balance while side effects included weight gain, liver damage and diabetes. It was not until Client 1's mother was appointed his guardian for health and restrictive practices that the medication was reduced and his behaviour improved.[47]

Lack of oversight and regulation in education settings

We received evidence of physical restraints being used in schools and education settings and parents being asked to medicate their children with disability.[48] For example, in Public hearing 7, 'Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts', we heard evidence of students with disability being physically restrained.[49] However, given the limitations of the data, it is difficult to say how frequently the practice is used.

As noted, there is no national legislation or general agreement about when restrictive practices may be used in school settings.[50] Public hearing 7 identified a lack of oversight and regulation around the use of restrictive practices against students with disability. This issue has been raised in previous reports, including a 2015 Senate Community Affairs References Committee report that recommended restrictive practices against children be eliminated as a national priority.[51] A 2017 report by the NSW Ombudsman found the use of restrictive practices in schools was occurring in a highly unregulated manner. The Ombudsman said there was a need for more guidance on the use of restrictive practices, and the circumstances in which they were used, given their potential to have a 'significant and traumatic impact on the student involved'.[52]

The Commissioners' *Report of Public hearing 7* concluded that there has been insufficient progress towards addressing the lack of regulation of restrictive practices in education settings in Australia. Coupled with the lack of a clear, agreed definition of what constitutes a 'restrictive practice', this places children with disability at significant risk of harm.[53]

Solitary confinement in justice settings

The extent of the use of restrictive practices in justice settings is similarly difficult to determine. However, several witnesses gave evidence about their experiences of seclusion and solitary confinement in prisons.[54] At Public hearing 11, ‘The experiences of people with cognitive disability in the criminal justice system’, the Royal Commission heard evidence of the solitary confinement of two First Nations detainees with disability, ‘Melanie’ and ‘Winmartie’. While she was in custody, Melanie spent up to 23 hours a day confined to her cell.[55] After she was moved to a forensic hospital, she spent seven years in solitary confinement.[56] Winmartie was subjected to chemical, physical and mechanical restraints as well as solitary confinement.[57]

Long-term seclusion can become an entrenched form of treatment for people with complex support needs in prisons and forensic facilities.[58] Dr David Manchester, a clinical psychologist, told us that restrictive practices are a ‘reactive management strategy’.[59] They are typically implemented as a short-term risk management response to behaviour such as aggression, rather than as a therapeutic response to address and improve a patient’s capability to better respond in future.[60] Because such practices are effective in the short-term they can become increasingly difficult to stop once in place and lead to prolonged seclusion.[61]

Restrictive practices in supported accommodation

NDIS providers are not required to report the setting in which they use restrictive practices, so there is no available data on the use of restrictive practices in supported accommodation.[62] However, the evidence suggests restrictive practices are regularly used in group homes and other forms of supported accommodation to control behaviour.[63] This is supported by information provided in responses to our issues papers and in submissions.[64] In Public hearing 3, ‘The experience of living in a group home for people with disability’, we heard that living in a group home environment can lead to conflict between residents who are incompatible. A witness told us that often conflict between residents will be met with a ‘clinical response’ including the use of restrictive practices.[65]

The nature of group homes can create the conditions for people to start displaying challenging behaviours. There is a link between lack of choice and control, unmet needs and the emergence or escalation of behaviours of concern.[66] Witnesses said that behaviours of concern often diminished or stopped when people were given the opportunity to live on their own or with people of their own choosing.[67]

Matilda, Yaneke and Brea*

Matilda is a young autistic woman who is non-verbal and has cognitive disability. She spent more than 10 years living in a group home before returning to live with her family a few years ago.

Her mother, Yaneke, told the Royal Commission that staff at the home created a 'culture' of sedating the residents – without the residents' or their families' knowledge or consent.

Yaneke said that when Matilda first moved into the group home, she was 'doing well'. The family's doctor would visit Matilda on a regular basis and supervise her medical regime.

When the family doctor retired, Matilda's family began to notice a change in Matilda's behaviour. Her sister Brea said that, all of a sudden, she would come home on the weekend and spend her days flopped out on the couch like she was 'comatose'.

The family later discovered Matilda had been put under the supervision of a new doctor without their authority. 'At no time were we ever consulted,' said Brea.

In addition to her regular medication, staff were giving Matilda 'a lot' of additional medication. Yaneke said these included psychotic sedatives – drugs routinely prescribed as a chemical restraint for disruptive behaviours.

Without warning, Matilda's behaviour changed again. She became 'very aggressive' and angry. She'd wake up the family in the early hours of morning, pulling them from bed and dragging them around the house.

'[It was] really, really terrible,' said Yaneke. Her daughter was in this aggressive state but didn't seem to know what she wanted. 'Nothing was helping.'

The family lodged a complaint with the home's management. 'They did a little investigating at the start internally, and then nothing went anywhere,' said Brea.

Yaneke did her own investigating. One day she noticed Matilda being loaded into the residents' minibus in 'a sedated state'. When it returned hours later, Matilda 'could hardly walk'. She stumbled into the house and went 'off to bed until morning'.

The family decided to seek independent medical advice on the use of chemical restraints. The psychiatrist said Matilda was being overmedicated and it could take years to wean her off the drug.

Brea says the family doesn't believe staff ever followed the policies and procedures around the use of restrictive practices. 'At no time were we ever consulted,' she said.

Finally, once the independent psychiatrist became involved, staff stopped dispensing the psychotic sedative to Matilda. 'They had no other choice. They had to stop,' said Yaneke.

In the end, the family decided to remove Matilda from the group accommodation. Yaneke said she would rather her daughter live with her ageing parents than a place where the staff and management 'are nothing but bullies'.

* This is a de-identified narrative of an experience shared with us in a submission or private session. The person who shared their experience was not a witness. They did not give evidence, take an oath or give an affirmation. Nothing in this narrative represents a finding of the Royal Commission and any views expressed are those of the person, not of the Royal Commission.

7.3. Guardianship and administration

> I wish I was given reasons for the orders so I could understand a bit more about what happened, especially when I felt like I lost so much when the orders were made.[68]

Guardianship and administration orders are the primary means through which substitute decision-making occurs. They are formal orders made by tribunals or courts that allow a person to make decisions for another person, and act for and give consent on that person's behalf, for example to medical treatment or financial transactions. The formal appointment of guardians and administrators occurs under state and territory laws.[69] Australia does not have national or uniform guardianship and administration laws.

The extent of a guardian's authority to make decisions on behalf of another person depends on the terms of the order made by a court or tribunal appointing the guardian. Subject to the terms of the order, a guardian may have authority to make decisions on behalf of a person with disability concerning:[70]

- accommodation
- support services
- health care
- the use of restrictive practices
- who a person can have contact with
- everyday issues, such as diet and dress.[71]

An administrator or financial manager is authorised to manage the financial affairs of another person, including legal decisions about financial matters and property.

A guardian or financial administrator may be a partner, family member or friend of a person with disability, or someone else who has a connection with the person.[72] State or territory public guardians or advocates, or the public trustee, can be appointed, but only as a last resort if no other suitable person is available.[73]

A tribunal or court will make a guardianship or administration order when it has determined that a person does not have the 'capacity' to make a particular decision, or decisions, and therefore a substitute decision-maker needs to be appointed to make that decision on their behalf. The term 'capacity' has been acknowledged to be problematic as it can lead to decision-making ability being conflated with mental or legal capacity.[74]

For further discussion of the legislative framework for guardianship and administration in the states and territories, see Volume 6.

Data on guardianship and administration

There is a lack of consistent data on guardianship and administration across Australia. The type and extent of data publicly reported on by state and territory civil and administration tribunals that hear guardianship cases varies, mainly due to different reporting requirements in the legislation.[75] In Volume 6 we make a recommendation for a national approach to data collection and publication.

The Australian Guardianship and Administration Council (AGAC) collates data on the number of guardianship or administration applications and orders made in every jurisdiction. However, it is difficult to make meaningful comparisons due to the different reporting requirements. Public guardians and public trustees also report on data in their annual reports.

The available data shows applications and orders for guardianship and administration are increasing. Between the periods 2017–18 and 2021–22, the total number of guardianship and administration orders rose from:[76]

- 22,273 applications in 2017–18 to 25,252 in 2021–22, a 13 per cent increase over four years
- 16,537 orders made in 2017–18 to 19,879 in 2021–22, a 20 per cent increase over four years.

Tables 3.7.1 to 3.7.4 show the breakdown of applications and orders for guardianship and administration orders by state and territory, where available.[77]

Table 3.7.1: Guardianship and administration/financial management applications made between 1 July 2021 and 30 June 2022

State	Guardianship	Administration/ financial management	Total applications
ACT	190	180	370
NSW	4590	3,394	7,984
NT[a]	NA	NA	236
QLD	2,495	2,535	5,030
SA[a]	NA	NA	2,625
TAS	282	242	524
VIC[b]	2,910	2,857	5,767
WA[a]	NA	NA	2,716

[a] Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2020–21*, Annual report, June 2021, p 1 states 'SA, WA and NT case management systems do not enable separate totals of different application types to be provided'.

[b] Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2020–21*, Annual report, June 2021, p 1 states 'the Victorian data draws on information provided by the Office of the Public Advocate and State Trustees Limited'.

Source: Australian Guardianship and Administration Council (2021).

Table 3.7.2: Guardianship and administration/financial management orders made between 1 July 2021 and 30 June 2022

State	Guardianship	Administration/ financial management	Total orders
ACT	194	184	378
NSW	3,021	2,446	5,467
NT[a]	178	178	356
QLD	1,369	1,830	3,199
SA[a]	1,598	1,068	2,666
TAS	155	184	339
VIC[b]	1,525	2,160	3,685
WA[a]	2,004	1,785	3,789
Total	**10,044**	**9,835**	**19,879**

[a] Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2021–22,* Annual report, June 2022, p 2 states that in SA, WA and NT, ‘the total number of new orders made may exceed the number of applications listed, as one combined application may result in two orders’.

[b] Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2021–22,* Annual report, June 2022, p 2 states ‘the Victorian data draws on information provided by the Office of the Public Advocate and State Trustees Limited’.

Where appropriate data is available, orders are categorised as ‘public orders’ where the public guardian or public trustee is appointed; other appointments are categorised as private orders.

Source: Australian Guardianship and Administration Council (2021).

Table 3.7.3: Public and private guardianship orders made between 1 July 2021 and 30 June 2022

State	Public orders	Private orders
ACT	31	163
NSW	1,310	1,711
NT	78	100
QLD	673	696
SA	480	1,118
TAS	88	67
VIC[a]	653	872
WA	710	1,294
Total	**4,023**	**6,021**

[a] Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2021–22*, Annual report, June 2022, p 2 states 'the Victorian data draws on information provided by the Office of the Public Advocate and State Trustees Limited'.

Where appropriate data is available, orders are categorised as 'public orders' where the public guardian or public trustee is appointed; other appointments are categorised as private orders.

Source: Australian Guardianship and Administration Council (2021).

Table 3.7.4: Public and private administration/financial management orders made between 1 July 2021 and 30 June 2022

State	Public orders	Private orders
ACT	36	148
NSW	1,095	1,351
NT	87	91
QLD	720	1,110
SA	376	692
TAS	78	106
VIC[a]	530	1,630
WA	712	1,073
Total	**3,634**	**6,201**

[a] Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2021–22,* Annual report, June 2022, p 2 states 'the Victorian data draws on information provided by the Office of the Public Advocate and State Trustees Limited'.

Where appropriate data is available, orders are categorised as 'public orders' where the public guardian or public trustee is appointed; other appointments are categorised as private orders.

Source: Australian Guardianship and Administration Council (2021).

Overuse and misuse of guardianship and administration

The Royal Commission does not consider substitute decision-making, in itself, to be violence, abuse, neglect or exploitation. However, we heard evidence that guardianship and administration orders are overused. We also heard evidence of the misuse of guardianship and administration orders and what we consider to be the inappropriate use of such orders, including for administrative purposes relating to the NDIS.

Not used as a last resort or in the least restrictive manner

A principle embodied in the legislation of all states and territories is that guardianship and administration orders should only be made as a last resort and in the least restrictive manner.[78] An alternative to substitute decision-making is supported decision-making. Supported decision-making is based on the assumption that people with disability are able to make decisions if they are given the support to do so. The term 'supported decision-making' includes a wide range of practices that assist people to make decisions while acknowledging their rights, will and preferences.[79]

As discussed in detail in Volume 6, we heard evidence that informal supports for decision-making can ensure people with disability are not subjected to formal substitute decision-making arrangements.[80] Only Victoria and Queensland provide recognition of supported decision-making in guardianship and administration legislation.[81] However, a number of reports and reviews have recommended jurisdictions amend their legislation to move away from substitute decision-making towards supported decision-making.[82]

While there is an absence of data on the effectiveness of supported decision-making, pilots and programs in Australia and internationally have shown that supported decision-making brings overall benefits, including improved decision-making skills.[83] This is supported by evidence we heard at Public hearing 30, 'Guardianship, substituted and supported decision-making'.

Supported decision-making options may not always be fully explored before an application or order for a guardian or administrator is made.[84] For example, in Public hearing 30, we heard that the family of Mr Simeon ('Boyzie') Namok was not given the option to act as informal supporters as an alternative to guardianship. Boyzie's mother, Ms Bakoi Namok, had tried to explain to medical practitioners and social workers that, culturally, guardianship was not necessary, because she was able to speak for her family. However, she was pressured into signing guardianship paperwork.[85]

People with disability told us they were not given the opportunity to learn and develop financial literacy skills before being placed under administration. Mr Uli Cartwright, a young person with intellectual disability, told us the support worker who applied for his administration order did not encourage him to meet with a financial counsellor first.[86] Likewise, Mr John O'Donnell, a 32-year-old man with cerebral palsy and an intellectual disability, said that had he been given financial counselling support earlier in his life, he would have been able to manage his own financial affairs rather than coming under administration orders.[87]

Orders made without the person's knowledge

Witnesses told the Royal Commission that applications for guardianship and administration over a person with disability can be made by people they do not know well without proper consultation. Evidence was given about applications being made by hospital social workers and employees of disability service providers without the person's knowledge.[88]

Ms Julie Bury, who lived with Parkinson's disease, told Public hearing 30 about how she unknowingly came under an administration order.[89] During a hospital stay, Ms Bury and her family met with a large number of medical staff and a social worker.[90] Ms Bury was taking morphine for her condition and didn't feel well.[91] She said everyone in the meeting started making decisions for her, including her son, who wanted her to go to a nursing home.[92] It wasn't until about three months later when she tried to withdraw money from her bank account that she learned the social worker had applied for an administration order appointing the Queensland Public Trustee to manage her finances.[93]

Ms Bury contacted the Public Trustee, who told her she had been found incapable of managing her affairs. She was eventually able to demonstrate to the Queensland Civil and Administrative Tribunal that she was financially competent, and her estate was returned to her.[94]

Mr Cartwright had a similar experience of coming under an administration order without his knowledge:

> To this day, I don't know why [the support worker] made the application [for my administration order]. There were no problems with my finances, my rent and bills were paid. I recall staff frequently disagreed with my spending decisions, but I don't think that's a good enough reason to take away my rights. I don't remember being told about the application being made.[95]

Guardianship increasingly linked to the NDIS

The rollout of the NDIS appears to have led to an increased reliance on guardianship orders. In Public hearing 30 we heard evidence that:

- guardianship applications indicating the NDIS as the primary reason for the application have increased 'staggeringly' in New South Wales in recent years[96]

- the NDIS has had a 'huge impact' on the Queensland Office of the Public Guardian, with the number of people coming under public guardianship increasing and the nature of the work changing[97]
- orders concerning services decision-making now make up the highest number of orders appointing the Public Advocate in Western Australia, which appears directly related to the NDIS[98]
- data collected by the Office of the Public Advocate in Victoria supports the office's perception that there is an association between the NDIS and an increase in guardianship orders.[99]

Witnesses have identified the complexity of the NDIS as driving reliance on guardianship, particularly to fill gaps in advocacy and support coordination services.[100] Evidence indicated that guardianship orders are increasingly being applied for so that a person with disability can fulfil the administrative requirements of NDIS application and planning.[101] Service providers may rely on guardians to enter contracts that consent to services on a participant's behalf.[102] The need for continuing consent for supports may present a barrier to having guardianship orders revoked.[103]

At Public hearing 26, 'Homelessness, including experience in boarding houses, hostels and other arrangements', Victorian Public Advocate, Dr Colleen Pearce, questioned whether guardianship is the most appropriate mechanism for ensuring people access the services they need.[104] She described these applications for guardianship as 'instrumental'.[105] Dr Pearce said:

> if we take a human rights view of the disability landscape and people with disability, then we [the Public Advocate] should not be appointed as guardians for these instrumental reasons.[106]

The NDIA's Scott McNaughten said guardianship was not necessary to navigate the NDIS. In his view, other ways are available to fulfil the scheme's administrative requirements, including applying to the NDIA verbally or online and using an electronic signature on forms.[107] However, he acknowledged there were practical steps that could be taken to simplify the experience for participants.[108]

Impacts on health, safety, wellbeing and relationships

The available data can shed light on the nature and extent of guardianship and administration applications and orders, but cannot tell us what people with disability experience under guardianship, including any maltreatment. However, witnesses at public hearings described negative experiences under guardianship and administration. We heard about limits on autonomy, denial of dignity of risk, experiences of abuse and neglect, and harms associated with a lack of cultural safety. Volume 6 examines the experiences of people with disability under guardianship and administration in greater detail.

Consequences for health and safety

At Public hearing 30, we heard about the experiences of 'Killara', a First Nations woman from Western Australia and a member of the Stolen Generations. The Public Advocate was appointed to make certain decisions on behalf of Killara, including accommodation decisions.

Killara's son 'Anthony' gave evidence about the Public Advocate's decision to move Killara into a residential facility. Anthony told us he had no say, and was not consulted on, where Killara was going to live and where he thought she would like to live.[109]

Anthony described the deterioration in Killara's health and physical wellbeing while she was living in the facility. He said, 'every time I would see my mother at that facility, that's when I noticed there was massive signs of neglect'.[110] He told us about an untreated hepatitis C infection that led to cirrhosis of Killara's liver; issues related to untreated diabetes; eyesight issues; a lack of support with personal hygiene; and dental issues, all of which he said occurred while she was living in the facility.[111]

Anthony told us that when he complained about Killara's care, the Public Advocate told him that the day-to-day medical care of his mother was the responsibility of the facility and her health care providers.[112]

Lack of cultural safety and connection to community

Witnesses at Public hearing 30 shared experiences of a lack of cultural safety under guardianship and administration. For First Nations people with disability, these include removal from the person's support network, Country and cultural support,[113] and shortcomings in medical treatment.[114] Other witnesses told us about disconnection from community or not being able to explore their identity while under guardianship.

Anthony had to intervene to secure culturally appropriate medical care for his mother when she was in supported accommodation.[115] He spoke of some of the challenges Killara experienced:

> There was no Aboriginal workers or staff members at all when my mother was under guardianship until I became her medical guardian, and that's when I linked her into a culturally safe health service. There was no [Aboriginal liaison officer] at the Public Advocate talking to myself or my mother. My mother – there was no cultural practices at all as well. It's so important, cultural yarning. She goes to cultural yarning groups now, weekly, fortnightly sometimes.[116]

Mr O'Donnell told us that his parents, who were his guardians, prevented him from seeing other gay men or moving to Melbourne to connect with the LGBTIQA+ community. This also denied him the dignity of taking risks for himself:[117]

> I wanted to go to things like Midsumma Festival in Melbourne but they wouldn't let me go. I remember they would say things to me like, 'You can't go. You'll get lost, and gay people will rape you and you'll get raped every single night'. One time I actually did

> escape the town and stayed at a friend's place. I didn't get raped and bashed like my parents said I would. I was fine. Still these comments made me feel terrible, afraid and angry.[118]

Impact of guardianship and administration on wellbeing and relationships

> The decisions that are being made by the State Trustees affect me every day and in so many ways. It impacts my wellbeing, my access to day-to-day needs and my relationships too.[119]

We also heard evidence on the impact of guardianship on people's wellbeing, sense of self and relationships. For example, at Public hearing 30, Mr O'Donnell described how the appointment of his parents as limited guardians and administrators changed their relationship:

> I didn't see them as my parents anymore, they were just my guardians. It was really bad for us and changed our relationship. It caused a lot of fights. Sometimes I would be so upset, I would run out of the house screaming. I was living independently in the group home but was not allowed to make decisions for myself.[120]

Mr O'Donnell said financial decisions made by Victorian State Trustees, who were appointed his administrator after a review, also affected his wellbeing and relationships.[121] He also spoke about the stigma he experienced because he is subject to administration orders. He believes that he cannot get a rental property because people have a negative opinion of him for being subject to administration.[122]

Ms Bury told us she constantly wondered how she was perceived by others and whether an assessment of her capacity was being made without her knowledge.[123]

Mr Cartwright described being under administration as like 'having your identity stripped':

> I don't know the exact words but all I know is your life stops. It's just – you may as well be – you may as well have your identity stripped really. Like you can't do anything. Like I can't even go to the bank and, like, ask to withdraw money because if it's over the limit, (a), there is no money there; (b), you get given a card that State Trustee transfers money on a day that is predetermined, and if it's a dollar or two out of your agreed spending range you have to get an invoice and it takes two weeks. You just – you can't do anything. It's – yeah. You just stop existing in an odd way because you can still live, you still have freedoms, but you don't have freedoms.[124]

Volume 6 provides further discussion of the impact of financial management and administration orders on people with disability.

7.4. Indefinite detention and being found unfit to stand trial

> I felt pretty low of myself, I felt like I couldn't do it, because I suffer from depression, anxiety, a lot, so [solitary confinement] just made me feel inhuman, like I was treated like an animal.[125]

People with cognitive disability are over-represented in the criminal justice system, as discussed in the following chapter. When some people with disability come into contact with the criminal system they often encounter a lack of supports and services.[126] If a person who has been charged with a serious offence does not understand the proceedings or charges against them because of their cognitive disability or mental illness, a court may determine them to be unfit to stand trial.

At common law, to be fit to stand trial an accused must have sufficient mental or intellectual capacity to understand the proceedings and to make an adequate defence. Otherwise it could lead to an inaccurate verdict, or to unfairness to the accused because they cannot participate in the trial process.[127]

While this procedure is intended to protect people with disability, it can lead to prolonged or even indefinite detention. In most jurisdictions, a person deemed unfit will take part in a special hearing before a judge to determine on the available evidence whether they committed the offence.[128] If the court finds that the person committed the offence and it would have imposed a sentence of imprisonment, it must impose a 'limiting term'.[129] The accused usually serves the limiting term in correctional or forensic mental health facilities. Unlike a sentence, which requires a person to be released when it expires, in most jurisdictions, a limiting term can be extended for as long as the person is considered to be a risk to themselves or others.

Lack of data about indefinite detention

There is no publicly available national data on the number of people with disability subject to indefinite detention. The lack of data collection and inadequate screening for disability to provide supports has been raised in previous inquiries.[130]

In 2015, the Law, Crime and Community Safety Council, now known as the Council of Attorneys-General, agreed to establish a working group to collate existing data across jurisdictions. Its stated aim was to develop resources for the treatment of people with cognitive disability or mental impairment found unfit to plead, or found not guilty by reason of mental impairment.[131] The National Statement of Principles Relating to Persons Unfit to Plead or Not Guilty by Reason of Cognitive or Mental Health Impairment (National Principles)[132] was developed in response to concerns raised in law reform reviews and reports.[133] Despite this agreement and the development of the National Principles, there has been no update about the data collection component.

State and territory corrections departments do not maintain a public register of the numbers of people being held on a forensic or criminal mental health order.[134]

Evidence of people with disability being indefinitely detained

In Public hearing 11, the experiences of two people with disability in indefinite detention were described to the Royal Commission. Melanie and Winmartie, mentioned earlier in this chapter, were detained in prison and forensic mental health facilities as a result of being found unfit to stand trial. Both were detained for longer than they would have been had they been found guilty of the acts after a criminal trial.[135]

Melanie was given two limiting terms of three years and 10 years to be served consecutively. While her limiting term expired in 2012, Melanie was still being detained in Long Bay forensic hospital in New South Wales at the time of Public hearing 11 in February 2021.[136]

Winmartie was detained in a maximum security prison for seven years before being transferred to the Alice Springs Forensic Disability Unit. The fixed term order was reviewed in 2019 and it was determined Winmartie could not be safely released into the community. He was still in the Forensic Disability Unit at the time of the hearing.[137]

At the conclusion of the hearing the Chair of the Royal Commission said:

> What is incontrovertible is that both Melanie and Winmartie have endured conditions to which no person in Australia should ever be subjected, let alone people who are not actually serving a sentence for a criminal offence of which they have been convicted.[138]

Past inquiries and reports have identified the risks associated with indefinite detention, such as heightened risk of violence and abuse, including being improperly subjected to restrictive practices and seclusion.[139] Evidence was presented to the Royal Commission that people with disability in detention often do not have their basic needs met, including access to medical or psychological care, access to education and vocational training, or connection to culture and country.[140]

We make recommendations in relation to unfitness to stand trial in Volume 8, *Criminal justice and people with disability.*

Endnotes

1 Claire Spivakovsky, Submission in response to Rights and attitudes *Issues paper*, 14 July 2020.

2 *National Disability Insurance Scheme Act 2013* (Cth), s 9.

3 *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* (Cth), r 6; NDIS Quality and Safeguards Commission, Regulated Restrictive Practices Guide, October 2020.

4 *Senior Practitioner Act 2018* (ACT).

5 *Mental Health Act 2015* (ACT); *Mental Health and Related Services Act 1998* (NT); *Mental Health Act 2016* (Qld); *Mental Health Act 2009* (SA); *Mental Health Act 2013* (Tas); *Mental Health and Wellbeing Act 2022* (Vic); *Mental Health Act 2014* (WA).

6 NSW Government, Seclusion and Restraint in NSW Health Settings, March 2020, p 1; SA Health, Minimising Restrictive Practices in Health Care Policy Directive, May 2015, p 3; Northern Territory Government Department of Health, NT Health Seclusion and Restraint Policy, [date unknown].

7 *Crimes (Administration of Sentences) Regulation 2014* (NSW); *Correctional Services Act* 2014 (NT); *Corrections Management Act 2007* (ACT); *Corrections Act 1997* (Tas); *Corrections Regulations 2019* (Vic); *Prisons Act* 1981 (WA); *Correctional Services Act 1982* (SA); *Children and Young People Act 2009* (ACT); *Children (Detention Centres) Regulation 2015* (NSW); *Children, Youth and Families Act 2005* (Vic); *Youth Justice Administration Act 2016* (SA); *Youth Justice Act* 2005 (NT); *Youth Justice Regulation 2016* (Qld); *Young Offenders Act* 1994 (WA).

8 *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* (Cth).

9 Australian Government Department of Social Services, National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector, November 2014, p 6; *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018* (Cth), Reg 21(3).

10 Transcript, Graeme Head, Public Hearing 6, 25 September 2020, P-350 [31–33]; Exhibit 6-25, ‘Statement of Graeme Head AO’, 4 September 2020, at [53–55].

11 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 7: Barriers experienced by students with disability in accessing a safe, quality and inclusive school education and consequent life course impacts*, November 2021, [270–271]; Transcript, Chris Lassig, Public hearing 7, 16 October 2020, P-449 [32–35], P-463 [5], P-450 [5–9]; Exhibit 7-114, ‘Statement of Shiralee Poed’, 25 September 2020, at [179]; Exhibit 7-167, ‘Transcript, Professor Linda Graham, Public hearing 7, 15 October 2020, P-373 [5–9].

12 Not all disability support service providers are required to be registered with the Quality and Safeguards Commission. Such providers usually deliver lower risk supports to NDIS participants who manage their own plans. ‘Unregistered provider obligations’, NDIS Quality and Safeguards Commission, web page. <www.ndiscommission.gov.au/providers/registered-ndis-providers/provider-obligations-and-requirements/unregistered-provider>.

13 NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, January 2022, p 4.

14 Exhibit 32-008, ‘Statement of Tracy Mackey’, 3 February 2023, at [135–137].

15 Exhibit 32-008, ‘Statement of Tracy Mackey’, 3 February 2023, at [135].

16 Transcript, Tracy Mackey, Public hearing 32, 17 February 2023, P-458 [8–10].

17 Transcript, Tracy Mackey, Public hearing 32, 17 February 2023, P-458 [44]– P-459 [1–4].

18 Transcript, Tracy Mackey, Public hearing 32, 17 February 2023, P-459 [10–15].

19 NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, February 2023, p 6.

20 NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, February 2023, p 7.

21 NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, February 2023, pp 6–7.

22 NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, January 2022, pp 6–7.

23 Material received by the Royal Commission from state or territory education departments in response to notice, 2022, ACT.9999.0003.0001, NSW.0064.0002.0001, NTT.0001.0002.0001, QLD.9999.0040.00001-8, SAG.0006.0178.0001, TAS.9999.0011.0010-11, VIC.0003.0508.0001, WA.0016.0001.0001.

24 Material obtained by the Royal Commission from state and territory education departments in response to notice, 2022. ACT.9999.0003.0001, NSW.0064.0001.0001, NTT.0001.0002.0001, QLD.9999.0040.00001-8, SAG.0006.0168.0001, TAS.9999.0011.0010-11, VIC.0003.0508.0001, WA.0016.0001.0001. Of the jurisdictions that did return data, the numbers provided are likely under-reporting the true number of incidents of restrictive practices and complaints in regard to restrictive practices.

25 KPMG, *Restrictive practices and places of detention*, 2021, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, unpublished, p 3.

26 Exhibit 32-008, 'Statement of Tracy Mackey', 3 February 2023, [136]; NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, February 2023, p 15.

27 Exhibit 32-008, 'Statement of Tracy Mackey', 3 February 2023, [136].

28 NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, February 2023, pp 15, 18.

29 NDIS Quality and Safeguards Commission, Unauthorised uses of restrictive practices in the National Disability Insurance Scheme, February 2023, p 19.

30 Exhibit 6-3 'Statement of Dr Manya Angley', 5 September 2020, [37].

31 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern*, June 2021, [232].

32 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern*, June 2021, Findings, p 67.

33 NDIS Quality and Safeguarding Framework (2016), 4.2.1.

34 Exhibit 6-3 'Statement of Dr Manya Angley', 5 September 2020, at [37]. Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern*, June 2021, [232]. Exhibit 6-12, 'Statement of Dariane McLean', 9 September 2020, [50]; Transcript, Public hearing 6: *Psychotropic medication, behaviour support and behaviours of concern*, 23 September 2020, P-147 [26–27], [30–36].

35 Exhibit 6-2, 'Statement of Dr Catherine Franklin', 10 September 2020, [81].

36 Exhibit 6-2, 'Statement of Dr Catherine Franklin', 10 September 2020, [28]; Exhibit 6-21, 'Statement of Dr Maya Luks', 7 September 2020, [13].

37 Claire Spivakovsky, Linda Steele & Dinesh Wadiwel, University of Melbourne, University of Technology Sydney & University of Sydney, *Restrictive practices; a pathway to elimination*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, July 2023, p 74.

38 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern*, June 2021, [233].

39 Exhibit 4-9, 'Statement of Professor Julian Trollor', 11 February 2020, at [158].

40 Queensland Office of the Public Advocate, Deaths in Care of People with Disability in Queensland 2016, Report, February 2016, pp 47–49; Exhibit 6-14, 'Statement of Professor Leanne Dowse', 7 September 2020, [28].

41 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern,* June 2021, Finding, p 65.

42 Royal Commission in Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern*, June 2021, Finding, [231].

43 Transcript, Dr Manya Angley, Public hearing 6, 22 September 2020, P-58, [7–30], P-59, [20].

44 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern,* June 2021, Findings, p 75.
45 Exhibit 6-5, ‘Statement of ABF’, 9 September 2020, at [6], [8–9], [13].
46 Exhibit 6-5, ‘Statement of ABF’, 9 September 2020, at [21–23], [89–94].
47 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 6: Psychotropic medication, behaviour support and behaviours of concern*, September 2020, [94–97].
48 Exhibit 7-06, ‘Joint Statement of Michelle O’Flynn and Nikki Parker’, 23 September 2020, at [48–52]; Exhibit 7-08, ‘Statement of Cecile Elder’, 28 September 2020, at [64]; Exhibit 7-114, ‘Statement of Associate Professor Shiralee Poed’, 25 September 2020, at [158–159], [185].
49 Exhibit 7-168, ‘Statement of Maria Rachel Scharnke’, 21 April 2020, at [26–27]; Exhibit 7-199, ‘Statement of ‘Leif’’, 13 March 2020, at [73].
50 Senate Community Affairs References Committee, Parliament of Australia, *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability*, Report, 25 November 2015, p 93; NSW Ombudsman, *Inquiry into behaviour management in schools*, Final Report, August 2017, p 26.
51 Senate Community Affairs References Committee, Parliament of Australia, *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age-related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability*, Report, 25 November 2015, p 279, [10.59].
52 NSW Ombudsman, *Inquiry into behaviour management in schools*, Final Report, August 2017, pp 26–27; p ix, recommendation 28.
53 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 7,* General finding 2, p 57.
54 Exhibit 11.21.1, ‘Written Statement of Dorothy Armstrong’, 29 April 2020, at [23], [25]; Transcript, Geoffrey Thomas, Public hearing 11, 24 February 2021, P-504 [5–23]; Exhibit 11.33.1, ‘Written Statement of Justen Thomas’, 22 September 2021, [15].
55 Exhibit 11.1.14, NSW.0022.0373.0001, 3.
56 Counsel Assisting the Royal Commission, Submissions on Public hearing 11, 4 August 2021, p 35 [84].
57 Transcript, Patrick McGee, Public hearing 11, 19 February 2021, P-302 [1011]; PP-302 [31]–303 [14].
58 The term ‘complex support needs’ describes people who have multiple impairments and a range of needs arising from significant circumstantial disadvantage, including childhood abuse and neglect: evidence of Professor Leanne Dowse, Public hearing 6, transcript, 24 September 2020, P-214 [44] – P-215 [18].
59 Transcript, Dr David Manchester, Public hearing 11, 17 February 2021, pp 111–12.
60 Transcript, Dr David Manchester, Public hearing 11, 17 February 2021, P-112 [2–3]; Transcript, Professor James Ogloff, Public hearing 11, 17 February 2021, P-130 [14–17].
61 Transcript, Dr David Manchester, Public hearing 11, 17 February 2021, P-112 [8–15].
62 Exhibit 32-008, ‘Statement of Tracy Mackey’, 3 February 2023, at [134].
63 Exhibit 3-22, ‘Statement of Dr Claire Spivakovsky’, 26 November 2019, [58–59].
64 Kathy Kendall, Submission in response to *Group homes issues paper,* 3 March 2020; Luceille Outhred, Submission, 26 February 2020; Bill Kinnaird, Submission, 15 November 2019; Bill Kinnaird, Submission, 15 November 2019; Luceille Outhred, Submission, 26 February 2020.
65 Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-358 [10–13].
66 Exhibit 3-22, ‘Statement of Dr Claire Spivakovsky’, 26 November 2019, at [35–39].
67 Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-354 [37–41]–P-355 [1–3]; Transcript, Hayley Dean, Public hearing 32, 15 February 2023, P-271 [7–10].
68 Exhibit 30-062, ‘Statement of Uli Cartwright’, 27 October 2022, at [17].

69 See: *Guardianship and Administration Act 2019* (Vic); *Guardianship and Administration Act 2000* (Qld); *Guardianship Act 1987* (NSW); *NSW Trustee and Guardian Act 2009* (NSW); *Guardianship of Adults Act 2016* (NT); *Public Trustee Act 1979* (NT); *Guardianship and Administration Act 1993* (SA); *Guardianship and Administration Act 1995* (Tas); *Guardianship and Management of Property Act 1991* (ACT); *Public Trustee and Guardian Act 1985* (ACT); *Guardianship and Administration Act 1990* (WA).

70 See, for example, *Guardianship and Administration Act 2000* (Qld) ss 33(1), 35, 36, sch 2; *Guardianship and Administration Act 2019* (Vic) s 38; *Guardianship and Administration Act 1990* (WA) ss 45(2), 46; *Guardianship and Management of Property Act 1991* (ACT) s 7.

71 See, for example, *Guardianship and Administration Act 2000* (Qld), s 2.

72 *Guardianship and Management of Property Act 1991* (ACT) s 10; *Mental Health Act 2015* (ACT) s 19; *Guardianship and Administration Act 2000* (Qld) s 15(2); *Guardianship of Adults Act 2016* (NT) s 15(2)(d); *Guardianship Act 1987* (NSW), ss 3E, 6B; *Guardianship and Administration Act 1993* (SA) s 29; *Guardianship and Administration Act 1995* (Tas) s 21(2)(b); *Guardianship and Administration Act 2019* (Vic) s 32; *Guardianship and Administration Act 1990* (WA) s 44.

73 In Victoria, South Australia and Western Australia the last-resort guardian is the public advocate, in New South Wales, Queensland, Tasmania and the Northern Territory the position is known as the public guardian. The administrator of last resort is referred to in most jurisdictions as the public trustee, but in Victoria this position is called the State Trustees and in New South Wales it is the NSW Trustee and Guardian.

74 Australian Law Reform Commission, Equality, *Capacity and Disability in Commonwealth Laws,* Final Report, August 2014, at 2.50. The ALRC proposed changing the terminology in relevant legislation to “decision-making ability” to avoid this problem.

75 See, for example, *Guardianship and Administration Act 2000* (Qld) which requires the Queensland Civil and Administrative Tribunal to report the number of approvals and orders made under chapter 5B of the Act during the year: s 83(b).

76 See Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2017/18*, Annual report; Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2018/19,* Annual report; Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2019/20*, Annual report; Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2020/21,* Annual report.

77 Australian Guardianship and Administration Council, *Australian Adult Guardianship Orders 2021/22*, 2021, p 1.

78 *Guardianship and Administration Act 2019* (Vic) s 8(1)(c); *Guardianship and Administration Act 2000* (Qld) ss 5(d), 11B Principle 9(b); *Guardianship and Administration Act 1990* (WA) s 4(4); *Guardianship and Administration Act 1993* (SA) s 5(d); *Guardianship and Administration Act 1995* (Tas) s 6(a); *Guardianship and Management of Property Act 1991* (ACT) ss 4(2)(d), 11; *Guardianship of Adults Act 2016* (NT) s 4(4)(a); Guardianship Act 1987 (NSW) s 4(b), (f).

79 Shih-Ning Then, Terry Carney, Christine Bigby, Ilan Wiesel, Elizabeth Smith & Jacinta Douglas, ‘Moving from support for decision-making to Substitute decision-making: legal frameworks and perspectives of Supporters of adults with intellectual disabilities’, (2022), vol 37(3), *Law in Context* pp 139–140.

80 Transcript, Dr Colleen Pearce, Public hearing 30, 24 November, P-344 [16–20]; Exhibit 30-119, ‘CID Position Statement on Support for Decision Making’, 31 January 2023.

81 *Guardianship and Administration Act 2019* (Vic); *Guardianship and Administration Act 2000* (Qld). Tasmania has introduced the Guardianship and Administration Amendment Bill (Tas) into parliament. The bill responds to the recommendations of the Tasmanian Law Reform Institute in its 2018 report.

82 Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws,* Final Report, ALRC Report 124, August 2014; Senate Community Affairs References Committee, *Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability*, November 2015, recommendation 10; NSW Law Reform Commission, *Review of the Guardianship Act 1987*, Report 145, May 2018; Tasmanian Law Reform Institute, *Review of the Guardianship and Administration Act 1995 (Tas)*, December 2018; ACT Law Reform Advisory Council, *Guardianship report*, July 2016; South Australia Law Reform Institute, *'Autonomy and Safeguarding are not Mutually Inconsistent': A Review of the Operation of the Ageing and Adult Safeguarding Act 1995 (SA)*, Report 17, September 2022.

83 Christine Bigby, Terry Carney, Shih-Ning Then, Ilan Wiesel, Craig Sinclair, Jacinta Douglas & Julia Duffy, *The Living with Disability Research Centre, Diversity, dignity, equity and best practice: a framework for supported decision-making,* Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, January 2023, p 30.

84 Transcript, Alice Barter, Public hearing 30, 21 November 2022, P-56 [33-37]; Transcript, Anthony, Public hearing 30, 21 November 2022, P-21 [31–34]; Transcript, Naomi Anderson, Public hearing 30, 23 November 2022, P-298 [6-8]; Exhibit 30-029, 'Statement of Christine Grace', 17 November 2022, at [21].

85 Exhibit 30-033, TRA.3000.0016.0043, p 4 [33-41]; Exhibit 30-032, IND.0224.0001.0001.

86 Exhibit 30-062, 'Statement of Uli Cartwright', 27 October 2022, at [12].

87 Transcript, John O'Donnell, Public hearing 30, 23 November 2022, P-286, [21–25], P-28, [1–5].

88 Exhibit 30-033, TRA.3000.0016.0043, pp 4 [9-41], 5 [20–22]; Exhibit 30-032, IND.0224.0001.0001; Exhibit 30-029, 'Statement of Christine Grace', 17 November 2022, [46]; Exhibit 30-045, TRA.3000.0016.0011, pp 11 [42]-12 [25], 13 [21-32]; Exhibit 30-062, 'Statement of Uli Cartwright', 27 October 2022, [12]; Transcript, Uli Cartwright, Public hearing 30, 23 November 2022, P-232 [43] – P-233 [24]; Transcript, Austyn, Public hearing 30, 24 November 2022, P-364 [27]–P-365 [8]; Exhibit 30-114, 'Statement of Austyn', 8 November 2022, [16], [18–19]; Exhibit 30-115, NCAT.0001.0041.0001, pp 1-2.

89 Exhibit 30-045, TRA.3000.0016.0011, p 2, [46–47]; Exhibit 30-044, IND.00219.0003.0001.

90 Exhibit 30-045, TRA.3000.0016.0011, p 11, [14–28]; Exhibit 30-044, IND.00219.0003.0001.

91 Exhibit 30-045, TRA.3000.0016.0011, p 11, [1–5].

92 Exhibit 30-045, TRA.3000.0016.0011, p 11, [30–34], pp 12 [23]–13 [32]; Exhibit 30-044, IND.00219.0003.0001.

93 Exhibit 30-045, TRA.3000.0016.0011, p 13 at [32]; Exhibit 30-044, IND.00219.0003.0001.

94 Exhibit 30-045, TRA.3000.0016.0011, p 12 [10–21]; Exhibit 30-044, IND.00219.0003.0001; Transcript, Julie Bury, Public Hearing 30, 22 November 2022, P-162, [32–46].

95 Exhibit 30-062, 'Statement of Uli Cartwright', 27 October 2022, at [12].

96 Exhibit 30-136, 'Statement of Megan Osborne', 14 November 2022, at [148].

97 Transcript, Shayna Smith, Public hearing 30, 22 November 2022, 206 [1–10]; Exhibit 30-053, 'Statement of Shayna Smith', 11 November 2022, [87–89].

98 Transcript, Pauline Bagdonavicius, Public hearing 30, 21 November 2022, P-101 [7–21]; STAT.0663.0001.0030, Statement in response to the notice to give a statement in writing to Pauline Bagdonavicius, Public Advocate, WA, pp 31-32, [169–75].

99 Exhibit 30-099, 'Statement of Colleen Pearce', 5 November 2022, [161].

100 Submissions of Counsel Assisting following Public hearing 30, 25 January 2023, p 165 [463]; Exhibit 30-053, 'Statement of Shayna Smith', 11 November 2022, [87–89]; Transcript, Shayna Smith, Public hearing 30, 22 November 2022, P-206, [1–10].

101 Office of the Public Advocate, Submission to the NDIA on the development of an NDIS Supported Decision Making Policy, September 2021, pp 9–10.

102 Exhibit 30-099, 'Statement of Colleen Pearce', 5 November 2022, [163–164]; Transcript, Colleen Pearce, Public hearing 30, 24 November 2022, P-344, [5–10]. See also Transcript, Megan Osborne, Public hearing 30, 24 November 2022, P-437, [8–26].

103 Exhibit 30-008, 'Statement of Pauline Bagdonavicius', 4 November 2022, [176]; Exhibit 30-053, 'Statement of Shayna Smith', 11 November 2022, at [87–89].

104 Transcript, Colleen Pearce, Public hearing 26, 1 September 2022, P-326, [43–45].

105 Transcript, Colleen Pearce, Public hearing 26, 1 September 2022, P-326, [45–47].

106 Transcript, Colleen Pearce, Public hearing 26, 1 September 2022, P-326, [47–49].

107 Transcript, Scott McNaughten, Public hearing 30, 25 November 2022, P-477, [29–32]; Exhibit 30-191, ‘Statement of Scott McNaughton and Sam Bennett’, 11 November 2022, at [136–138].

108 Transcript, Scott McNaughten, Public hearing 30, 25 November 2022, P-477, [29–32], P-477, [1–5].

109 Transcript, Anthony, Public hearing 30, 21 November, P-23, [37-40].

110 Transcript, Anthony, Public hearing 30, 21 November, P-26, [17–18].

111 Exhibit 30-001, ‘Statement of Anthony’, 3 November 2022, [44–47.].

112 Exhibit 30-003, IND.0213.0001.0005, Letter from Manager, Guardianship Team, Office of the Public Advocate.

113 Exhibit 30-029, ‘Statement of Christine Grace’, 17 November 2022, [23–24], [30–31], [37].

114 Exhibit 30-001, ‘Statement of Anthony’, 3 November 2022, [39–46]; Exhibit 30-114, ‘Statement of Austyn’, 8 November 2022, [32].

115 Exhibit 30-001, ‘Statement of Anthony’, 3 November 2022, [39–46].

116 Transcript, Anthony, Public hearing 30, 21 November 2022, P-35 [20–27].

117 Exhibit 30-073, ‘Statement of John O’Donnell’, 9 November 2022, at [22], [26]; Transcript, John O’Donnell, Public hearing 30, 23 November, P-269, [30–45].

118 Exhibit 30-073, ‘Statement of John O’Donnell’, 9 November 2022, at [26].

119 Exhibit 30-073, ‘Statement of John O’Donnell’, 9 November 2022, at [64].

120 Exhibit 30-073, ‘Statement of John O’Donnell’, 9 November 2022, at [25].

121 Exhibit 30-073, ‘Statement of John O’Donnell’, 9 November 2022, at [64].

122 Exhibit 30-073, ‘Statement of John O’Donnell’, 9 November 2022, at [49].

123 Exhibit 30-045, TRA.3000.0016.0011, at pp 18 [28] - 19 [11]; Exhibit 30-044, IND.00219.0003.0001.

124 Transcript, Uli Cartwright, Public hearing 30, 23 November 2022, P-233 [37–44].

125 Private session participant.

126 Counsel Assisting the Royal Commission, Submissions on Public Hearing 11, F2.3.

127 Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws (DP81)*, August 2014, 7.9–7.13.

128 All states and territories apart from Queensland and Western Australia have provisions for special hearings in a court which are modified criminal trials. Special hearings can be held in the Australian Capital Territory, New South Wales, the Northern Territory, South Australia, Tasmania and Victoria: see *Criminal Code Act 1983* (NT) pt IIA div 4; *Mental Health and Cognitive Impairment Forensic Provisions Act No 12 2020* (NSW) div 3; *Criminal Law Consolidation Act 1935* (SA) ss 269M–N; *Crimes Act 1900* (ACT) ss 315C–319A; *Criminal Justice (Mental Impairment) Act 1999* (Tas) s 15; *Crimes (Mental Impairment and Unfitness to Be Tried) Act 1997* (Vic) pt 3. In Queensland and Western Australia, a tribunal makes the determination.

129 A limiting term is the period beyond which a person cannot be detained for the offence which was the subject of the special hearing: *R v Mitchell* [1999] NSWCCA 120 at [30].

130 See McGrath et al, *Review into forensic mental health and disability services in the NT*, 2019; Northern Territory Ombudsman, *Women in prison, Report of the investigation into complaints from women prisoners at Darwin Correctional Centre*, April 2008 which found that data and screening practices are insufficient or absent.; Northern Territory Ombudsman, *Women in prison II – Alice Springs Women’s Correctional Facility, Investigation report*, May 2017 which found that neglect results from lack of screening and unmet need; Human Rights Law Centre & Change the Record Coalition, *Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women’s growing over-imprisonment*, 2017, p 18; Australian Human Rights Commission, *Equal Before the Law; Towards Disability Justice Strategies*, Final Report, February 2014, p.16.

131 Council of Australian Governments, Law, Crime and Community Safety Council, Draft Communiqué, 5 November 2015, p 3.

132 The National Principles were published in 2019 and have been endorsed by all states and territories except South Australia. The Australian Government committed to reviewing the National Principles five years after publication in consultation with states and territories.

133 See for example, Senate Community Affairs References Committee, Parliament of Australia, *Indefinite detention of people with cognitive and psychiatric impairment in Australia*, November 2016; Australian Law Reform Commission, *Equality, Capacity and Disability in Commonwealth Laws (DP81),* August 2014, Victorian Law Reform Commission, *Review of the Crimes (Mental Impairment and Unfitness to Be Tried) Act 1997*, Consultation Paper (2013).

134 Senate Community Affairs References Committee, Parliament of Australia, *Indefinite detention of people with cognitive and psychiatric impairment in Australia*, November 2016, p 20, [2.29].

135 Counsel Assisting the Royal Commission, Submissions on Public Hearing 11, [147], [274].

136 After Public Hearing 15 in August 2021, the Royal Commission was advised that Melanie had been moved out of the forensic hospital and into community housing. This was due to the efforts of Melanie's guardian, the NSW Public Guardian, and a governance group established in 2020 to help transition Melanie into the community.

137 Counsel Assisting the Royal Commission, Submissions on Public Hearing 11, [122]; Exhibit 11.15.28, NT Department of Health, Transition Plan (Plan, 17 July 2020), 17 July 2020.

138 Transcript, Ronald Sackville (Chair), Public hearing 11, 25 February 2021, P-655, [40–43].

139 Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings, 2015; Senate Community Affairs References Committee, Parliament of Australia, *Indefinite detention of people with cognitive and psychiatric impairment in Australia, 2016;* Australian Law Reform Commission, *Equality, Capacity and Disability and Commonwealth Laws*, 2014.

140 Exhibit 11.2.1, 'Statement of Megan Osborne', 8 December 2020, at [50–53].

8. Abuse and neglect in mainstream settings and services

Key points

- People with disability:
    - have worse health outcomes and lower life expectancy than people without disability
    - have lower rates of school engagement and educational attainment than people without disability
    - are employed at lower rates than people without disability and have higher rates of under-employment
    - come into contact with the justice system at high rates as victims of crime and alleged offenders, and are incarcerated at disproportionate rates.
- As examples:
    - an estimated 400 deaths each year of people with intellectual disability aged 20 and above are considered potentially avoidable
    - close to half (47 per cent) of working-age people with disability are not in the labour force, a rate that has not substantially changed in 25 years.
- These disparities in life outcomes reflect many factors, including the violence, abuse, neglect and exploitation people with disability experience across settings and contexts and over the course of their lives. This includes neglect arising from being excluded from accessing or fully participating in settings and services such as health care, mainstream education, open employment and criminal justice.

8.1. Introduction

This is the first of two chapters of this volume that examine violence against, and abuse, neglect and exploitation of, people with disability at the system or structural levels. It looks at key ‘mainstream’ settings and services, focusing on health care, education, employment and criminal justice. Disability-specific settings and services are discussed in the following chapter.

This chapter provides data on the life outcomes and levels of engagement of people with disability in health care, education, employment and criminal justice. It then illustrates the nature of people’s experiences in these settings and services. It focuses on a common theme, which was exclusion. That is, we illustrate how people with disability can be denied the access or participation they are entitled to as members of the general population. We consider this to be a form of neglect. Discrimination and other forms of maltreatment also form part of this overall story of exclusion.

Public hearing evidence, supported by research, submissions and private sessions, illustrated the many ways in which policies, practices, failures and omissions in mainstream settings and services exclude people with disability. A failure to provide adjustments, adaptations or supports was a persistent experience. An absence of data means the extent to which particular forms of exclusion occur is difficult to assess.

In setting out people's experiences, this chapter does not attempt to be exhaustive. Later volumes of the *Final report* look into the settings and services examined in this chapter in more detail.

Life course approach and available data

As discussed in Chapter 2, 'Violence, abuse, neglect and exploitation across the life course', there are multiple influences on the life outcomes of people with disability, including violence, abuse, neglect and exploitation. The nature of people's impairment can also be an influence. The exclusion from settings and services outlined in this chapter should be considered as one factor contributing to disparities in life outcomes between people with and without disability. That is, the data on life outcomes should be understood from a life course perspective.

8.2. Outcomes and experiences in health care

Data on health outcomes, access and participation

Data on health care illustrates the stark gaps between the health outcomes of people with disability and the general population. As noted, the health outcomes of people with disability may be influenced by the nature of their impairment. However, this does not account for the entirety of the gaps.

Lower life expectancy and higher rates of premature death

Analysis of National Disability Insurance Scheme (NDIS) data indicates that participants experience higher annual rates of mortality than the general population. A study of a Victorian cohort of NDIS participants with psychosocial disability found their mortality rate was five times higher than the general population with the same age profile.[1] Studies suggests that the overall mortality rate for people on the autism spectrum over a set period is roughly twice that of the general population.[2]

'Potentially avoidable deaths' are deaths from accidents and injuries, as well as deaths that could have been prevented through effective and individualised care and treatment of people with disability.[3] Analysis by the Australian Institute of Health and Welfare (AIHW) suggests the rate of potentially avoidable deaths for people with disability under age 75 is 3.6 times higher than for the general population.[4] Drawing on this analysis, modelling prepared for the Royal Commission estimates that every year 550 people with disability experience a potentially avoidable death as a result of violence, abuse, neglect and exploitation.[5]

One research report provided to the Royal Commission shows that in a cohort of 19,362 people with intellectual disability registered with disability providers in New South Wales, the average age of death was 27 years lower than for the general population (54 years, compared with 81 years).[6] Professor Julian Trollor, Chair in Intellectual Disability Mental Health and Head of the Department of Developmental Disability Neuropsychiatry at the University of New South Wales, estimates that about 400 deaths each year of Australians with intellectual disability aged 20 and above are potentially avoidable.[7]

Higher rates of preventable disease and risk factors for poor health

People with disability face higher rates of preventable disease as well as increased risk factors for poor health. Analysis by the AIHW of the Australian Bureau of Statistics *National Health Survey 2017–18* shows people with disability:[8]

- are more likely to be overweight or obese than people without disability (68 per cent compared with 53 per cent, for people aged two to 64)
- are more likely to be daily smokers than people without disability (25 per cent compared with 13 per cent, for people aged 15 to 64)
- are less likely to meet guidelines for physical activity (in the last week) than people without disability (35 per cent compared with 50 per cent, for people aged 15 to 64)
- are more likely to have hypertension than people without disability (38 per cent compared with 21 per cent, for people aged 18 to 64).

There are well-established links between these risk factors and disease leading to mortality and morbidity.[9]

People with disability aged 18 to 64 experience higher rates of diabetes than people without disability (7 per cent compared with 4 per cent) and asthma (18 per cent compared with 9 per cent). The prevalence of both conditions is even higher among people with ‘severe’ disability (12 per cent and 26 per cent respectively).[10]

The relevant data shows that around two-fifths of people (1.2 million) aged under 65 with coronary heart disease, stroke, diabetes, arthritis, back pain, osteoporosis, asthma or emphysema are people with disability.[11]

Modelling prepared for the Royal Commission estimates that people with disability experience 79,000 potentially avoidable hospitalisations per year due to inadequate primary health care.[12]

Barriers to accessing services

People with disability, especially people with severe disability, are more likely to encounter barriers to accessing health care than people without disability. For example, 85 per cent of people with disability aged 18 to 64 and 76 per cent of people with severe disability report experiencing no barriers to accessing health care when needed in the last 12 months, compared with 97 per cent of people without disability.[13]

Australian Bureau of Statistics data for 2018 shows that around 84,000 people with disability aged 15 to 64 had difficulty accessing medical facilities (a GP, dentist, or hospital) in the previous 12 months.[14]

Analysis of the 2018 Australian Bureau of Statistics *Survey of Disability, Ageing and Carers* by the AIHW shows almost one in five people with disability aged five to 64 who need help with health care activities (18 per cent) have their need for assistance only partly met or not met at all.[15]

In the previous 12 months, 3.5 per cent (or 59,100) of people with disability aged 15 to 64 reported experiencing unfair treatment or discrimination by health staff (a GP, nurse, or hospital staff). Of these people, 83 per cent had a 'physical restriction', and 58 per cent had a psychosocial disability.[16]

Experiences of exclusion from health care

Evidence and other information provided to the Royal Commission show people with cognitive disability in particular are denied access to quality health care. Following Public hearing 4, 'Health care and services for people with cognitive disability', we concluded that 'people with cognitive disability have been and continue to be subject to systemic neglect in the Australian health system'.[17]

This section provides a brief overview of some of the forms of exclusion people with disability experience when seeking health care. It focuses on experiences of devaluing and unconscious bias, diagnostic overshadowing, failures to listen to parents and advocates, and failures to provide reasonable adjustments. Volume 6, *Enabling autonomy and access,* examines access to health care in more detail.

Devaluing lives and unconscious bias

Professor Nicholas Lennox from the Queensland Centre for Intellectual and Developmental Disabilities gave evidence in Public hearing 4 on the devaluing of the lives of people with intellectual disability. He said devaluing occurs 'across the Australian community and is reflected in our health care system and those who work in this system'.[18]

Personal accounts shared with the Royal Commission show the lives of people with disability being devalued from birth,[19] across life stages and into death.[20] For example:

- Ms Rachel Browne described how a doctor told her she was young and could have other children after informing her that her newborn son Finlay, who had Down syndrome, would need chromosomal testing.[21] Ms Browne said the doctor's comment set the tone for future experiences with the health system. She said Finlay was treated as a 'second-class citizen'[22] and was subject to an internal bias that ultimately led to his death.[23]
- Ms Christine Regan described how a doctor recommended against an operation to fix a heart defect for her baby daughter, Erin, even though without it 'there would be a slow, painful decline for five years until Erin's passing'.[24] When Erin had a stroke at age 25, she was not offered a nine-month 'stroke protocol' for care, with the treating doctor saying words to the effect of, 'she has Down syndrome, how hard are you gonna try'.[25]
- Ms Kim Creevey told us she believed unconscious bias compromised the care medical staff gave her son Harri, who had an acquired brain injury.[26] She and her husband feel strongly that when Harri went into hospital for the final time before his death, his care was influenced by his disability, and that they were asked if they wanted to 'let Harri go' because of assumptions about the value and quality of his life.[27]
- Medical practitioner Dr AAJ, who specialises in palliative care, gave detailed evidence about several cases she is aware of where people with intellectual disability were referred by doctors for palliative care rather than being provided with other available medical treatment.[28] Dr AAJ told us that doctors and other clinicians can find it hard to understand that a person with a severe disability can still have a good quality of life.[29]

Other witnesses and accounts in submissions and private sessions provided further examples of the devaluing of people's lives and unconscious bias directly affecting access to and quality of health care.[30]

Diagnostic overshadowing

Diagnostic overshadowing occurs when symptoms or behaviours are attributed to a person's disability rather than considered as signs of particular health problems or conditions unrelated to disability.[31] This can result in delayed diagnosis or a failure to diagnose a treatable condition for a patient with disability, which can clearly have profound consequences.[32] In Public hearing 4, Professor Trollor described diagnostic overshadowing as a 'major problem for people accessing services'. He said:

> when frontline health services hear from a person with disability, often they may see or hear about the disability first and may prioritise that issue, rather than listening carefully to the range of symptoms someone may present with.[33]

Discussing people with intellectual disability, Dr Jacqueline Small said diagnostic overshadowing was 'common within both paediatric and adult health care settings'.[34]

Examples of diagnostic overshadowing provided to the Royal Commission include from Ms Toni Mitchell, who gave evidence that she believed her son Joshy had been 'in constant excruciating pain every single day and the doctors we saw had just dismissed it as "Down syndrome"'.[35]

In a submission, a mother described how the seriousness of the condition of her daughter with intellectual disability was repeatedly denied by nursing staff and treating doctors, leading to her death. The coroner found her daughter was treated differently from the way other patients may have been assessed and treated and staff made assumptions that her inability to communicate was due to behavioural issues associated with her disability, without further symptom investigation.[36]

Failures to listen to parents and other advocates

> I should not have to fight for AAL's right to equal access to health care in our first world country.[37]

Fighting for quality health care was a common experience shared with the Royal Commission. We heard of people with disability:

- accessing health care, including life-sustaining treatment, only because their family members or support people fought for it, often at considerable cost to themselves and their families[38]
- not accessing health care, including dental care, because health professionals dismissed or ignored the concerns of families, carers and supporters.[39]

For example, in Public hearing 4, we heard from Ms Narelle Reynolds, who has two sons with disability, Luke and Justin. Ms Reynolds previously worked as an enrolled nurse. She described how both sons have significant fear and anxiety in medical settings. She said when blood tests indicated Luke had developed cancer, doctors abandoned their attempts to perform a necessary biopsy after Luke lashed out at them and other medical staff. Ms Reynolds said that after 'two years fighting with doctors to get support', Luke had surgery.[40] Ms Reynolds is a Wiradjuri woman. She said:

> For me, being Aboriginal on top of being a mother of children with intellectual disability is a double whammy. Being black and fighting through the health system is one thing, but fighting for sons with intellectual disability is another.[41]

Failures to provide supports or adaptations

Children and young people with disabilities often have many contacts with health services and health professionals during their life. If these are traumatic with, for instance, children being restrained while blood is taken or other painful procedures are performed, then that child will be more frightened next time.[42]

Many people with disability require supports or adaptations in order to access health care. However, experiences shared with the Royal Commission, which related mainly to people with cognitive disability, described failures to provide these and the consequences of this for people with disability. These included:

- experiences of trauma[43]
- use of restrictive practices[44]
- appointments or procedures not carried out or not carried out in full[45]
- further care not sought based on previous experiences.[46]

For example, Ms Reynolds described how when her son Luke was in hospital being prepared for surgery to remove his cancer, his sister lay down on the trolley with him to assist with his anxiety:

> Nursing staff at the hospital were all around us, saying words to the effect of, ‘You can’t do this.’ I felt that they never saw why we were doing what we were doing. Even though I had spoken to the surgeon previously and set out a plan of what we would need to do to help Luke, nursing staff at the hospital never got the plan.[47]

Submissions and private sessions provided many examples of people with disability not being provided with the supports or adaptations required to access health care, including:

- an orthodontist refusing to allow the mother of a child with autism, who had high anxiety around medical procedures, to be present in the examination room[48]
- the mother of a 12-year-old boy being prevented from accompanying him into the operating room for an anaesthetic, despite a prior arrangement that she would be able to do so[49]
- a Deaf woman not being provided with Auslan interpreters for multiple surgeries despite numerous requests.[50]

8.3. Outcomes and experiences in mainstream education

Data on education outcomes, access and participation

There is very limited publicly available data on educational outcomes, access and participation of students with disability.

In this section, ‘students with disability’ refers to students identified in the Nationally Consistent Collection of Data on School Students with Disability (NCCD). The NCCD identifies primary and secondary school students who have a disability as defined in the *Disability Discrimination Act 1992* (Cth) (*DDA*) and the type of adjustments they require to participate and learn in school.[51] This is explored in detail in Volume 7, *Inclusive education, employment and housing.*

Attending and completing school

Analysis of information provided to the Royal Commission by government schools shows that compared with students without disability, students with disability in mainstream schools have:[52]

- lower year 10 and year 12 retention rates[53]
- lower year 12 completion certificate rates
- lower rates of receiving an Australian Tertiary Admission Rank (ATAR).

For example, across all states and territories in 2021, students with disability in mainstream government schools were between two and 23 percentage points less likely than students without disability to obtain a year 12 completion certificate.[54]

These outcomes are likely worse for First Nations students with disability, as First Nations students have lower school attendance rates, literacy and numeracy levels and year 12 completion than non-Indigenous students.[55]

Higher education attainment

The AIHW’s *People with disability in Australia 2022* reports that the highest level of educational attainment for people with disability has improved in the last decade but is still generally lower than for people without disability.[56]

For people aged 20 to 64, those attaining a bachelor’s degree or higher included:[57]

- 21 per cent of people with disability, compared with 37 per cent of people without disability
- 14 per cent of people with severe or profound disability.

Students suspended at high rates

Information provided to the Royal Commission by government schools (mainstream and special/special assistance schools) shows that students with disability are suspended at higher rates and more frequently than students without disability.[58]

In 2019, more than one in 10 students with disability in government schools were suspended in all jurisdictions bar one. Students with disability were more than twice as likely to be suspended in every state and territory in Australia than students without disability.[59] Additionally, in every state and territory, students with disability in government schools were suspended more times on average than students without disability.[60]

Based on impairment type (cognitive, physical, sensory and social), students with social disability were most likely to be suspended.[61]

In almost every state and territory, First Nations students with disability were more than twice as likely to be suspended as non-Indigenous students with disability in 2019. First Nations students with disability in all states and territories were also more than five times as likely to be suspended as non-Indigenous students without disability.[62]

Limited data provided by the states and territories showed that students with and without disability were expelled at similar rates.[63] However, this may be due to under-reporting of expulsion rates.[64]

Examples of students' experiences of being suspended are provided in the following section.

Experiences of exclusion from mainstream education

> ... you know we were only asking for very basic things. We just wanted our daughter to stay at the school and have an inclusive education.[65]

Exclusion from mainstream education will begin for some students with disability before they arrive at the kindergarten school gate as four to six-year-olds. It will occur at academic and social levels. For some students, it will lead to enrolment in a special/segregated school or withdrawal from school altogether.

This section illustrates exclusion from mainstream education occurring through gatekeeping, low expectations, failures to provide supports and adjustments, and exclusionary discipline.

Exclusion from enrolment

> It took me 6 months … to resolve it and to clearly state that we are not going down this path and he has a right to go to his local school, he has a right to be heard and a right to make decisions in his own life.[66]

'Gatekeeping' is the practice of schools refusing to enrol students with disability or discouraging their enrolment. This practice occurs despite students with disability having the right to seek admission and enrol in schools on the same basis as students without disability.[67] (See Volume 7 for the legislative framework relevant to enrolment.)

Data on gatekeeping is lacking.[68] Following Public hearing 7, 'Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts', we made a general finding that the New South Wales and Queensland state school systems do not routinely record and use data and information about denying or discouraging enrolment of students with disability.[69] Responses from all jurisdictions to notices issued by the Royal Commission also indicated that data on this was poor.[70]

Examples of experiences of gatekeeping provided to the Royal Commission include:

- outright refusal of enrolment[71]
- parents being encouraged to seek other options, including enrolment in a special school or home-schooling[72]
- more subtle messaging, including schools permitting enrolment subject to resourcing restraints such as teachers' aide hours, or without physical modifications to improve accessibility[73]
- offers of part-time enrolment only, or encouragement to reduce hours.[74]

These experiences are consistent with evidence from advocates, who described 'macro' and 'micro', or more subtle, ways in which enrolment was denied.[75]

Low expectations

Students with disability can be excluded from both academic and social aspects of school life based on low expectations about their capacity to participate.

In Public hearing 7, senior lecturer on inclusive education at Monash University, Dr Kate de Bruin, said her research had identified:

> there remain teachers who hold outdated misconceptions about the ability of their students, such as that students' capacity to learn is pre-determined and that their ability to achieve is fixed ...[76]

In public hearings:

- Ms Pamela Darling described how while at school, 'they assumed I couldn't do anything'.[77] She said she did not get to do any work experience and no one spoke to her about what she might like to do after high school.[78]
- 'Leif' gave evidence of being treated as 'delusional' for aiming to go to university.[79]
- AAA described how her daughter was not treated as an 'authentic learner' at her first primary school.[80] She was removed from her classroom and placed in a special education unit, where she was assigned 'colouring in'.[81] AAA said despite her daughter performing to the same standard as her classmates, she had to dance away from them, with a teacher, when the class was dancing for the rest of the school.[82] She said, 'Even to this day, watching [footage of the dance concert] makes me very upset. It shows the stereotyping of Down syndrome: low expectations and limits.'[83]

Dr Lisa Bridle is a consultant at Brisbane-based advocacy organisation Community Resource Unit Ltd. She gave evidence that she worked with parents who fought against their children being withdrawn from standard curriculum classes and sent to participate in 'life skills' classes, such as cooking.[84] Submissions and private sessions provided similar accounts of low expectations excluding students with disability.[85]

Failures to provide supports and adjustments

> She is a happy child, a curious child who would love so much to be engaged in this world. She has unlimited potential we don't know where she is going to go ... but the way things are going she is going to end up living alone and taking government cheques ...[86]

The extent to which many children and young people with disability can access and participate in all aspects of education depends on them being provided with supports and adjustments.[87] In 2022 in Australia, there were 911,131 students requiring support or adjustments. This is around 22 per cent of the total student population of 4 million.[88] In 2021, students identified in the NCCD data as requiring supports or adjustments made up an estimated 21 per cent of students at mainstream schools.[89] More than half of the students requiring support or adjustments have a cognitive disability (55 per cent) and almost one-third a social/emotional disability (32 per cent).[90] This is examined in detail in Volume 7.

Schools have legal obligations under the *DDA* and the *Disability Education Standards* to make reasonable adjustments so students with disability can access and participate in education on the same basis as other students.[91] However, a strong message from public hearings, private sessions and submissions is that they do not consistently do so.[92] Following Public hearing 7, we made a general finding, based on evidence given by Queensland and New South Wales, that the provision of reasonable adjustments was largely left to the judgement and discretion of educators, with little departmental oversight.[93] Public hearing 24, 'The experience of children and young people in different education settings', examined inclusive education practices in government schools in South Australia and Western Australia. Commissioners agree with Counsel Assisting's submission following that hearing that the approaches used in those states appeared to be localised and dependent on teachers recognising an adjustment should be made.[94]

The Australian Human Rights Commission submitted that 'most complaints involving children with disability in a school setting allege a failure by the education provider to adequately provide supports for the child'.[95]

The Royal Commission received many examples of failures to provide supports and adjustments. In public hearings, evidence included:

- a student being denied the accommodations requested for exams in their final year of school and instead 'given ones that had nothing to do with my disability'[96]
- a classroom teacher telling a parent that the resources were not available to support her son in class and he would be better placed in a different class[97]
- a school declining to give a student with autism a break from attending five minute 'silent' morning meditations, despite a request from the student's psychologist. The student found the meditations difficult and used to hum during them and began wetting herself before them[98]
- additional support only being provided to a young student with disability 'once things came to a crisis and he was unsafe'.[99]

We also heard many examples of students with disability not receiving appropriate support for personal needs – in particular, not being toileted properly or supported to use bathroom facilities.[100] This is addressed in Volume 7.

In Public hearing 24, we heard how a failure to provide adjustments can steer students into special/segregated schools.[101] (As explained in Volume 7, the Chair and Commissioners Mason and Ryan prefer the expression 'non-mainstream schools'.) This is discussed further in the following chapter.

Exclusionary discipline

> I am sure that 'River' was suspended because of his disability and his lack of social skills and the lack of the support that he received.[102]

As illustrated earlier in this section, students with disability are suspended at higher rates than students without disability and rates of expulsion are likely under-reported. While exclusionary discipline is meant to be used as a last resort, evidence showed this was not always the case in practice.[103]

Suspended: 'Sam'

In our Report on Public hearing 7, we made a number of findings relating to the multiple suspensions of a student with disability in his first and second years of primary school.

The findings included that the student, 'Sam', was 'inappropriately subject to repeated suspensions from school, which prevented him from receiving a safe, quality and inclusive education'.[104] Sam was five years old and in his second term of kindergarten in New South Wales when he was first suspended for kicking his teacher in the knee while trying to abscond.[105] By term two the following year he was up to his seventh suspension, which was for 20 days. He did not return to the school after that – aged six and with more than 50 days of suspensions in his first 18 months at school, his parents decided to home-school him instead.[106]

The New South Wales Government gave evidence at Public hearing 7 that under the previous NSW Suspension and Expulsion Procedures (operating at the time of Sam's suspension), a student's intention was not a relevant factor. Any student who was physically violent resulting in injury or whose violent behaviour seriously interfered with the safety and wellbeing of others had to be suspended and a principal had no discretion in the matter.[107]

Expelled: 'Kobe'

At the same public hearing, we heard from 'Sarah' about how her son 'Kobe' was repeatedly suspended, moved to part-time enrolment and then finally expelled during his 13 months at a Queensland high school, which ended in early 2019.[108] Sarah said in deciding to expel Kobe, the school gave 'no consideration … to the fact that, because of his disability, Kobe's misbehaviour was driven by anxiety associated with inadequate support'.[109]

Students with disability can also be informally suspended through schools ‘encouraging’ or ‘requesting’ that they are kept at home, including on scheduled sports and excursion days, or collected early.[110] We heard evidence of high rates of formal and informal suspension putting pressure on parents and students with disability, which can escalate to the parents withdrawing their child from the school.[111] This is sometimes referred to as ‘soft expulsion’.[112]

8.4. Outcomes and experiences in open employment

> ... they deserve the choice like everybody else to get out there and find employment. And it can be a pretty brutal landscape sometimes for a lot of people to get out there and get those opportunities that they deserve to have the choice and control over their life if they *want to work.*[113]
>
> – 2022 Australian of the Year, Mr Dylan Alcott AO

Data on employment outcomes, access and participation

People with disability continue to be employed at much lower rates than people without disability and have higher rates of under-employment.

Labour force participation

Australian Bureau of Statistics data from 2018 shows the labour force participation rate[114] for people with disability aged 15 to 64 was 53 per cent compared with 84 per cent for people without disability.[115] In other words, close to half (47 per cent) of all working-age people with disability are not in the labour force. According to the data, the labour force participation rate of people with disability in Australia did not substantially change between 1993 and 2018.[116]

Labour force participation rates are even lower for some groups of people with disability:

- Women with disability are less likely to be participating in the labour force (51 per cent) than both men with disability (56 per cent) and women without disability (80 per cent).[117]
- Over half (56 per cent) of First Nations people with disability are not in the labour force compared with 24 per cent of First Nations people without disability.[118]

The data also shows the lower rates again for people with particular types of disability. These include people with:[119]

- psychosocial disability (34 per cent)
- intellectual disability (38 per cent)
- head injury, stroke or acquired brain injury (32 per cent).

Restrictions on everyday activities due to disability may mean that some people with disability are unable to work on a short-term or ongoing basis. However, modelling prepared for the Royal Commission estimates that around 31 per cent of the gap in labour force participation between people with and without disability is attributable to systemic neglect.[120]

Employment rates

People with disability are more likely to be unemployed, underemployed or working part-time compared with people without disability.

Looking at unemployment for people active in the labour force (that is, employed or actively looking for work):

- Unemployment among people with disability aged 15 to 64 was double the rate for people without disability in 2018 (10 per cent compared with 4.6 per cent).[121]
- People with disability are over 3.5 times more likely than people without disability to be unemployed for more than 12 months.[122]
- The unemployment rate for young people (aged 15 to 24) with disability was 24 per cent in 2018 – double the rate for young people without disability (12 per cent).[123]

Of those in the labour force, people with disability are also more likely to be in part-time employment (37 per cent) than people without disability (30 per cent).[124] Modelling prepared for the Royal Commission estimates that 40,000 people with disability work part-time and want to work additional hours but are unable to for reasons unrelated to their impairment.[125] Women with disability are more likely to be under-employed or working part-time than men with disability.[126]

In 2018, the unemployment rate for First Nations people with disability was more than twice as high as the comparable rate for non-Indigenous people with disability (21 per cent compared with 9.8 per cent).[127]

Data on experiences in open employment

Data from the Australian Bureau of Statistics shows that of the people with disability (aged 15 to 64) who are in the labour force, 12 per cent have experienced discrimination due to their disability in the previous 12 months.[128] Within this group, the most common sources of discrimination were their employer (40 per cent) and work colleagues (35 per cent).[129] According to the Australian Human Rights Commission complaints data, more than half (52 per cent) of the 3,736 complaints received in 2021–22 were lodged under the *DDA*, and employment made up 22 per cent of these.[130]

Material from the 2021 Australian Public Service employee census provided under notice to the Royal Commission shows that public service employees with disability were more likely than employees without disability to report experiencing discrimination in the course of their employment during the previous 12 months (26 per cent compared with 10 per cent.) Reports of discrimination were even higher for First Nations employees with disability (41 per cent) and LGBTQ employees with disability (32 per cent).[131]

The Australian Human Rights Commission's fifth national sexual harassment survey, conducted in 2022, shows people with disability were more likely to have experienced workplace sexual harassment in the previous five years than people without disability (48 per cent compared with 32 per cent). Rates were higher for women with disability than for men with disability (54 per cent compared with 38 per cent). The survey report notes the over-representation of people with disability among those who have experienced sexual harassment despite their under-representation in the Australian workforce.[132]

Discrimination was highlighted as a key barrier to employment in a project described to the Royal Commission in Public hearing 9, 'Pathways and barriers to open employment for people with disability'. Professor Anne Kavanagh, Academic Director of the Melbourne Disability Institute at the University of Melbourne and Ms Alexandra Devine, research fellow with the Melbourne School of Population and Global Health, gave evidence on the Improving Disability Employment Study (IDES project).[133] Ms Devine told the Royal Commission that close to 40 per cent of project participants reported experiencing discrimination, including while looking for a job and when in the workplace.[134]

Experiences of exclusion in open employment

> They think that people are choosing to not have these successful lives. I want to have a successful life. I want to work.[135]

Employment is about more than economic wellbeing.[136] Many public hearing witnesses spoke of the importance of employment to and the impact of meaningful employment on the lives of people with disability.[137]

This section outlines some of the ways in which people with disability are excluded from employment in the open labour market. It focuses on exclusion through discrimination and false assumptions, low expectations and failures to provide supports and adjustments.

Barriers to employment are further examined in Volume 7. That volume also discusses how discrimination in employment is unlawful under anti-discrimination legislation and the *Fair Work Act 2009* (Cth).[138]

Discrimination and false assumptions

> Most autistic people, even though they can be absolutely brilliant at what they do, don't get the opportunity to do it because they can't get through an interview.[139]

Experiences shared with the Royal Commission show discrimination affecting people's access to and participation in open employment across different stages of the employment cycle, beginning at recruitment.[140]

For example, Mr Michael Pini – a person with disability and senior executive in the Australian Taxation Office – described how after completing his Bachelor of Business (Accountancy), he was still given menial tasks that were not commensurate with his qualifications, which he found 'both disappointing and frustrating'.[141] He also continued to sit with people who performed more administrative roles and did not have qualifications rather than on the floor with people who had university qualifications in law and finance.[142] Mr Pini said he was told by a supervisor not to answer the phone because it would be 'a bad look for the public to hear [his] voice'.[143]

Mr Cody Skinner described how he applied for many jobs online:

> I did really well going up to the interview, but every time I disclosed my disability, they just rejected it, and it felt very frustrating and it felt like I was hopeless, people don't understand the education about us, the life we live.[144]

Representatives from the National LGBTI Health Alliance gave evidence about the experiences of people with disability who identify as LGBTI+.[145] Mr Daniel Comensoli explained that employees may conceal their identity, sexuality or disability to avoid discrimination.[146] He described how discriminatory attitudes can lead to social exclusion and isolation at work.[147]

Witnesses in Public hearing 9 also described how:

- false assumptions that hiring people with disability will be costly, burdensome, less productive and risky directly excludes them from employment[148]
- people with disability can also be excluded from informal contact and networks that can lead to employment.[149]

Low expectations, including about capacity to work

… there is a certain pressure that people with disability often grow up with in that we are not supposed to aim for the same things …[150]

Evidence showed people with disability experiencing negative attitudes about their capacity to work from employers, workmates, colleagues, customers and community members.[151]

Mr Pini gave evidence that:

> I have had people ask me if I work, and when I say that I do, they seem surprised. There is even more surprise when I say I work fulltime …[152]

Witnesses in Public hearing 9 described:

- being given the job of 'dusting the tops of the fruit tins' at the local supermarket, when their preferred option was to 'be productive and contribute' by working behind the checkout[153]
- not being offered the opportunity to progress or advance in a business enterprise, despite working there for five to six years[154]
- young people with disability facing 'a dynamic which can be challenging in which people might underestimate you and how much work you are willing to do'.[155]

Failures to provide adjustments

If I get JAWS, JAWS means a screen reader by the way, if we get the right opportunity, right resources, I can do everything.[156]

According to the Australian Bureau of Statistics, in 2018 almost half (48 per cent) of people with disability aged 15 to 64 working full-time and almost two-thirds (65 per cent) of those working part-time 'may experience employment restrictions'. This includes restrictions around the type of job or number of hours they can work or a need for special equipment.[157] However, the survey does not indicate whether any supports or adjustments needed were provided and there is otherwise limited recent information available on people with disability and access to workplace adjustments. As discussed in Volume 7, an employer's failure to provide a 'reasonable adjustment' may constitute discrimination on the ground of disability under the *DDA.*[158] A report from the Australian Safety and Compensation Council in 2007 showed that between a third and half of people with disability who require workplace adjustments are not receiving them.[159]

Public hearing evidence highlighted the tension between a person with disability securing workplace adjustments in the open labour market and having to share information about their disability to do so. This occurred at the recruitment stage and once employed. It was connected to the discrimination described earlier, which can make people with disability reluctant to share knowledge of their disability with a prospective or current employer, and to privacy.[160] These experiences were also reflected in submissions and private sessions.[161]

People with disability outlined the consequences of both seeking and not seeking supports and adjustments. Taylor told the Royal Commission they had applied for various positions within the Australian Public Service, asking for reasonable adjustments for some roles and not others. They were rated as 'not competitive' in the roles where they asked for reasonable adjustments,[162] which Taylor suspects, but cannot prove, is connected.[163] Taylor is now unlikely to request adjustments in the future because the 'risks of discrimination are not worth any benefits'.[164]

Mr Oliver Collins outlined how earlier in his career he did not ask for adjustments or accommodations because he 'wanted to be treated like everyone else'.[165] This resulted in him having to work through pain and discomfort.[166] Ms Devine from the Melbourne School of Population and Global Health highlighted how lack of ongoing support, or inadequate training, at the start of a job or during it can make it more difficult for a person to manage their condition, and may actually result in a compounding of that condition.[167] The common result was the person with disability having to leave employment.[168]

We also heard how employers often do not discuss reasonable adjustments and do not appear aware of their obligations under the *DDA* to provide them.[169] Australian of the Year for 2022, Mr Dylan Alcott AO, told us how he was turned away from a job interview when he was about 20 years old because the interview was scheduled to take place on the first floor of a building without a lift. In Public hearing 31, 'Vision for an inclusive Australia', Mr Alcott described how he arrived for the interview without having told the company he used a wheelchair ('because if I did, I wasn't getting an interview').[170] The company refused his suggestion to relocate the interview downstairs and instead abruptly cancelled it.[171]

Once at work, people with disability can struggle to have reasonable adjustments approved, implemented and maintained. This includes having to repeatedly negotiate for adjustments when their role, manager or work environment changes.[172] Mr John Baxter noted workplaces often do not properly manage information about reasonable adjustments, so individuals may have to have 'awkward or difficult discussions' on multiple occasions if their supervisory structure changes.[173] National Secretary of the Community and Public Sector Union, Ms Melissa Donnelly, gave evidence that in a survey of members, fewer than 20 per cent of respondents had a 'positive experience in getting their reasonable adjustments finalised' with their employer.[174]

Tyson and Pru*

Pru wrote to the Royal Commission to help her son tell his story. Tyson is a middle-aged man with dyslexia. He can read only a little and cannot write at all. He also has attention deficit hyperactivity disorder and, in recent years, post-traumatic stress disorder.

Tyson had worked all his adult life and reports constant bullying and discrimination. He had managed to cope with this until a few years ago, when, Pru wrote, 'the bullying from people who should have known better caused him to "snap" and he could not take it any more'.

Tyson was bullied by his co-workers, including his supervisors. Management did not take appropriate action when he complained, despite assuring him the problem would be 'fixed'. Tyson became aggressive at work 'with an "I will get them before they get me" attitude'. He lost his job and then began self-harming behaviour.

'He is now incapable of working, and has become a recluse,' Pru said. He 'will not socialise, does not trust people any longer, and will not go to places where there are many people'. She said, 'He is a "broken" man.'

The events have also smashed Tyson's family life. His marriage has ended and he is estranged from his children. He has suffered financially too and is homeless — 'all caused by intense bullying because he had a disability,' said Pru.

'People with a disability get treated differently,' Tyson says, 'even when they are good workers. They get called names, like "spastic", and "stupid"'.

'I just need to be able to buy another farm and retreat to the country with some animals where nobody is going to bully me ever again. I will never be able to work again.'

Tyson is grateful for Pru's love. 'My mother has been the main person who has supported me, and has listened to me every day when I really needed somebody to talk to who understood.'

* This is a de-identified narrative of an experience shared with us in a submission or private session. The person who shared their experience was not a witness. They did not give evidence, take an oath or give an affirmation. Nothing in this narrative represents a finding of the Royal Commission and any views expressed are those of the person, not of the Royal Commission.

8.5. Outcomes and experiences in the criminal justice system

> Eventually I was charged with trespassing and … ended up escalating a lot of fines and I couldn't deal with my fines, so they found a reason to lock me up, to lock me up for fines, unpaid fines and that, and that made me a lot worse. Inside me, … my trauma was getting worse.[175]

Data on justice outcomes, access and participation

Evidence before the Royal Commission suggests there is a lack of disaggregated, consistent and comparable data collected by the states and territories about people with disability in the criminal justice system.[176] However, the limited data that is available suggests people with disability are over-represented in the criminal justice system as victims, alleged offenders and those who are incarcerated.

This section draws on data from the National Disability Data Asset (NDDA) justice test case.[177] This pilot study linked several New South Wales datasets with relevant national data to determine the extent to which people with disability have contact with the state justice system. It included 2.8 million people and examined data from 1 January 2009 to 31 December 2018.

This section also draws on additional analysis from the NSW Bureau of Crime Statistics and Research (BOCSAR), which uses NDDA test case data.[178] The test case used two definitions of disability. The first defined a person with disability as someone receiving core disability supports and services. The second was a broader definition that used datasets from mainstream service systems to identify people with disability not captured in the first definition. When we refer to the first, narrower definition, we use the term 'people accessing core disability supports'.[179] When we refer to the second, broader cohort, we use the term 'people with disability'. This distinction only applies to this section of this chapter.

Over-represented among victims of crime

The NDDA pilot study indicates nearly one in three people in New South Wales accessing a core disability support were victims of a crime reported to police between 2009 and 2018.[180] The study also states that First Nations women with disability are particularly at risk of experiencing violent crime.[181] BOCSAR analysis of the NDDA data shows people with disability aged 10 to 64 were 2.4 to 2.7 times as likely to be victims of violent crime than the general population in this period.[182]

Less access to justice as victims of crime

Available data and evidence indicate a large proportion of crimes against people with disability are unreported.[183] Overall rates of reporting violence are low across all types of violence recorded in the Australian Bureau of Statistics *Personal Safety Survey* and even lower among victims with disability.[184] Among victims with disability, 71 per cent did not report the most recent incident of violence they experienced[185] compared with 65 per cent of people without disability.[186]

Persons of interest are less likely to be proceeded against for violent crimes when the victim is a person accessing core disability supports (38 per cent compared with 44 per cent for people without disability), according to BOCSAR analysis of NDDA pilot study data. This is particularly the case for people with cognitive disability (34 per cent).

Over-represented among alleged offenders

BOCSAR analysis also shows that between 2009 and 2018, rates of offending among people accessing core disability supports in New South Wales were 2.3 to 2.6 times those in the total population. This was consistent across both male and female cohorts.[187] It shows people accessing core disability supports were around three times as likely to have committed violent offences, domestic violence-related offences, property offences or offences against justice procedures over the 10-year period compared with the total population. Rates of drug-related offending in the disability cohort were around 2.5 times those in the total population.[188]

The NDDA data indicates around one in four young and adult offenders in New South Wales between 2009 and 2018 were people with disability. Moreover, First Nations offenders were more likely to be people with disability (43 per cent) than non-Indigenous offenders (25 per cent).[189]

Over-represented among adults who are incarcerated

In Public hearing 4, Professor Trollor referred to data indicating that up to 12 per cent of prison inmates have an IQ of less than 70 (indicating intellectual disability), with another 25 to 30 per cent estimated to have an IQ of 70 to 85 (indicating borderline intellectual disability).[190] Australian Institute of Health and Welfare data shows around 29 per cent of adults who entered prison over a two-week period in 2018 (236 of 803 prisoners included in the survey) indicated they have a disability or chronic condition affecting their participation in day-to-day activities, education or employment.[191] This is higher than the proportion of adults with disability (20 per cent).[192]

However, it is possible this is an underestimate of the actual figure because screening and identification of disability in the criminal justice system is inadequate and inconsistent in all states and territories.[193] The evidence at Public hearing 27, 'Conditions in detention in the criminal justice system', indicated that the data collection methods used by corrective service and youth justice agencies do not allow them to identify the proportion of prisoners with disability.[194]

BOCSAR analysis also sheds light on the scale of representation of people with disability in detention in New South Wales. It shows around half (47 per cent) of adults who had been in custody were people with disability.[195]

Data referred to by Professor Trollor suggests that once people with intellectual disability have left prison, they are more than twice as likely to re-enter prison than the general population of released prisoners.[196] This is consistent with NDDA data indicating 60 per cent of young people (aged 10 to 17) in New South Wales with disability re-offended within two years, compared with 42 per cent of young people without disability.[197] We heard evidence that in New South Wales ex-prisoners with intellectual disability who do not receive adequate transition and post-release support are far more likely to return to custody.[198]

Over-represented in the youth justice system

In New South Wales between 2009 and 2018, almost a quarter of young offenders (24 per cent) were people with disability.[199] Young offenders with disability most commonly had a psychosocial or cognitive disability.[200] Among young offenders who had been in custody, two in five young people (41 per cent) were people with disability.[201] Of these, more than half were not accessing a core disability support.[202]

This is consistent with a 2018 study showing a high prevalence of people with 'severe neurodevelopmental impairment' (89 per cent) among a representative sample of young people in detention in Western Australia.[203] The study also shows that 36 per cent of the 99 young people who completed an assessment were diagnosed with fetal alcohol spectrum disorder (FASD).[204] Of this group, only two people had received a prior diagnosis.[205]

Experiences in the criminal justice sector

> Just a disabled bloke who caused trouble
> and they couldn't care less ...[206]

We received evidence and other information about poor experiences when reporting crime, failures to provide supports and adjustments in the legal system, inadequate screening and identification procedures, and the unnecessary criminalisation of people with disability. These issues are explored further in Volume 8, *Criminal justice and people with disability*.

Exclusion from access to criminal justice contributes to the poor outcomes for people with disability described above. Long-term contact with the justice system in turn can have a number of adverse impacts on people's lives, including worse health, education, employment and housing outcomes.[207]

Victims not heard or believed

> … police were not a safe option for me. I was positioned as the crazy wife.[208]

As victims, people with disability report negative experiences when making reports to and seeking help from the police. They described not being believed, being misunderstood, and being told to ignore or avoid abuse.[209]

Research prepared for the Royal Commission shows that negative police attitudes lead people with disability to fear they will not be believed or protected by police, and make them reluctant to seek that help and protection.[210] This was also a theme in responses to our *Criminal justice system issues paper.*[211] Research conducted by the Victorian Equal Opportunity and Human Rights Commission shows stereotypical or discriminatory attitudes in the police force can prevent crimes from being reported.[212] Submissions, including in response to our *Criminal justice system issues paper,* also highlighted issues related to police considering people with disability to be 'unreliable' witnesses.[213]

In Public hearing 28, 'Violence against, and abuse, neglect and exploitation of, people with disability in public places', police representatives agreed there had been a historical deficit in trust between the disability community and police forces.[214] South Australia Assistant Commissioner Linda Fellows said police were aware of extensive under-reporting of violence and the perception among some victims that police would be unable to assist.[215]

In Public hearing 17, 'The experience of women and girls with disability with a particular focus on family, domestic and sexual violence', Ms Nicole Lee described how her ex-husband would call police and tell them she was hysterical and threatening self-harm. Police would side with him and not question the situation since he looked calm while she was upset. She described police forcibly taking her to hospital and assuring her ex-husband he had 'done the right thing' and they knew 'what these women were like'.[216] Her experiences led her to distrust police.[217]

In Public hearing 17, 'Chloe' described not being believed in court and instead being seen as 'disabled and a liar'.[218]

Failure to provide adequate supports

> There was a few times the police did have an interpreter, but all the time, no.[219]

People with disability may require supports or adaptations to participate meaningfully in the criminal justice system, including during interactions with police and in court. We heard evidence at Public hearing 11, ‘The experiences of people with cognitive disability in the criminal justice system’, that there are insufficient services and supports for people with cognitive disability who come into contact with the criminal justice system.[220]

At the same public hearing, Ms Janene Cootes said New South Wales law does not mandate that a support person is present when police interview a person with cognitive disability.[221] Many people with cognitive disability are therefore not provided with a support person following their arrest.[222]

Police failing to provide adjustments for people with disability was also a theme in submissions.[223]

In Public hearing 11, Mr Justen Thomas described not understanding what was required of him when he was being charged:

> [COUNSEL ASSISTING]: When you were charged and you were given paperwork, were you able to understand what the paperwork was and what was required of you?
>
> MR THOMAS: No. No. And that’s a --- that’s where they took advantage of me, because they needed to try and read me bail conditions, give me service orders, things like that, and other things, and I never understand it because it was never explained to me properly. And I just signed the paper and that was it.[224]

People with disability also described being excluded from the court process as a result of a failure to provide supports. These include necessary changes to the physical environment of the court or access to appropriate support people.[225] In particular, a lack of necessary supports can exclude people with speech, language and communication disabilities during investigative interviewing and when providing evidence during the trial process.[226] Ms Rebecca Adam, CEO of Access Plus, described D/deaf First Nations clients being arrested and spending multiple days in custody without access to a First Nations sign language interpreter and therefore being unable to understand the charges against them.[227] Ms Adam also referred to the added barriers to accessing interpreters in regional and remote areas of Australia, particularly those providing culturally appropriate services.[228]

In Public hearing 11, both Mr Geoffrey Thomas and Ms Taylor Budin described feeling unable to participate in court proceedings because they did not understand what was happening.[229] Some people with disability who are at risk of being found unfit to stand trial receive the supports required to participate in legal proceedings, but these are applied unevenly and inconsistently across various courts.[230]

Lack of access to services and supports in detention is examined further in Volume 8.

Criminalising behaviours expressed by people with disability

As discussed, people with disability have substantially higher rates of involvement with the criminal justice system than people without disability.[231] In Public hearing 11, we heard how behaviours related to disability are brought within the purview of the criminal justice system, largely by police.[232] For example, Professor Eileen Baldry explained how a person with cognitive disability who has poor impulse control may lash out or run away when confronted by someone. That behaviour ‘can easily be criminalised by the police because the police then arrest that person. That person hasn’t necessarily done anything wrong or they may not at that point have done anything wrong.’[233] This process was also identified in submissions to the Royal Commission.[234] This is discussed further in Volume 8.

Endnotes

1 National Disability Data Asset, *Services and supports used by people with disability and mental health issues*, December 2021, at p 4.

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3 Australian Institute of Health and Welfare, *Mortality patterns among people using disability support services: 1 July 2013 to 30 June 2018*, Summary, p 7.

4 James Vincent, Dennis McCarthy, Hugh Miller, Kirsten Armstrong, Sarina Lacey, Grant Lian, David Qi, Nansi Richards & Tomas Berry, (Taylor Fry), *The economic cost of violence, abuse, neglect and exploitation for people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, February 2023, p 112, Appendix Section C.2.1.1.

5 James Vincent, Dennis McCarthy, Hugh Miller, Kirsten Armstrong, Sarina Lacey, Grant Lian, David Qi, Nansi Richards & Tomas Berry, (Taylor Fry), *The economic cost of violence, abuse, neglect and exploitation for people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, February 2023, p 102.

6 Exhibit 4–9, 'Statement of Professor Julian Trollor', 11 February 2020 at [179]; Julian Trollor, Preeyaporn Srasuebkul, Han Xu & Sophie Howlett, 'Cause of death and potentially avoidable deaths in Australian adults with intellectual disability using retrospective linked data', (2017), vol 7 (2), *BMJ Open*, p 4.

7 Transcript, Julian Trollor, Public hearing 4, 20 February 2020, P-201 [34–35].

8 Australian Institute of Health and Welfare, *People with disability in Australia: health risk factors and behaviours supplementary data tables* (ABS National Health Survey 2017–18), July 2022; Table RISK32: People aged 2 and over living in households, Body Mass Index (BMI)(a), by disability status and age group, 2017–18; Table RISK53: People aged 15 and over living in households, current daily smoker status(a) by disability status and age group, 2017–18; Table RISK41: People aged 15 and over living in households, whether met guidelines for physical activity in the last week(a) by disability status and age group, 2017–18; Table RISK50: People aged 18 and over living in households, uncontrolled and controlled blood pressure(a) by disability status and age group, 2017–18.

9 James Vincent, Dennis McCarthy, Hugh Miller, Kirsten Armstrong, Sarina Lacey, Grant Lian, David Qi, Nansi Richards & Tomas Berry, (Taylor Fry), *The economic cost of violence, abuse, neglect and exploitation for people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, February 2023, p 108.

10 Centre of Research Excellence in Disability and Health, *Disability and wellbeing monitoring framework: Baseline indicator data for Australians aged 18–64 years*, April, 2022, p 14.; Australian Bureau of Statistics (2019) Microdata: *National Health Survey*, 2017–18 [DataLab], accessed July 2021.

11 Australian Bureau of Statistics, *Survey of Disability, Aging and Carers, 2018*, Results accessed using TableBuilder by Type of long term condition reported; by Whether has a disability; by Age in single years up to 100 years and over (5 year ranges and broad groupings).

12 James Vincent, Dennis McCarthy, Hugh Miller, Kirsten Armstrong, Sarina Lacey, Grant Lian, David Qi, Nansi Richards & Tomas Berry, (Taylor Fry), *The economic cost of violence, abuse, neglect and exploitation for people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, February 2023, p 102.

13 *General Social Survey 2014*, cited in Centre of Research Excellence in Disability and Health, *Disability and wellbeing monitoring framework: baseline indicator data for Australians aged 18–64 years*, 2022, p 51.

14 Australian Bureau of Statistics, *Disability, Ageing and Carers, 2018,* Results accessed using Australian Bureau of Statistics TableBuilder Whether has a disability and Types of facilities had difficulties accessing in the last 12 months; by Age in single years up to 100 years and over (5 year ranges and broad groupings).

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16 Australian Bureau of Statistics, *Disability, Ageing and Carers, 2018,* Results accessed using Australian Bureau of Statistics TableBuilder Whether has experienced discrimination due to disability in the last 12 months; by Source of unfair treatment or discrimination due to disability in the last 12 months and Disability groups; by Whether has a disability and Age in single years up to 100 years and over (5-year ranges and broad groupings). The 3.5 per cent excludes people the question did not apply to.

17 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 4: Health care and services for people with cognitive disability*, October 2020, [488].

18 Exhibit 4-21, 'Statement of Professor Nicholas Gordon Lennox', 11 February 2020, at [21].

19 Exhibit 4-6, 'Statement of Toni Mitchell', 10 February 2020, at [19].

20 Exhibit 4-4, 'Statement of Dr Rebecca Anne Kelly', 9 February 2020, at [210].

21 Exhibit 4-5, 'Statement of Rachel Browne', 2 February 2020 at [22].

22 Exhibit 4-5, 'Statement of Rachel Browne', 2 February 2020 at [64].

23 Exhibit 4-5, 'Statement of Rachel Browne', 2 February 2020 at [137].

24 Exhibit 4-11, 'Statement of Christine Regan', 13 February 2020, at [25].

25 Exhibit 4-11, 'Statement of Christine Regan', 13 February 2020, at [46].

26 Exhibit 4-13, 'Statement of Kim Letitia Creevey', 7 February 2020, at [10].

27 Exhibit 4-13, 'Statement of Kim Letitia Creevey', 7 February 2020, at [29–32].

28 Exhibit 4-24, 'Statement of AAJ', 8 February 2020, at [19–48].

29 Exhibit 4-24, 'Statement of AAJ', 8 February 2020, at [28], [66].

30 See, for example, Transcript, Evelyn Scott, Public hearing 4, 28 February 2020, P-851 [24–27]; Jaclyn Macedo, Submission, 23 February 2020; Private sessions participants; Linda Mathews, Submission, 15 February 2020.

31 Transcript, Julian Trollor, Public hearing 4, 20 February 2020, P-195 [3–5]; Exhibit 4-19, 'Statement of Jaqueline Terri Mills', 12 February 2020, at [43]; Exhibit 4-24, 'Statement of AAJ', 8 February 2020, at [49].

32 Exhibit 4-9, 'Statement of Professor Julian Trollor', 11 February 2020, at [109]; Transcript, Julian Trollor, Public Hearing 4, 20 February 2020, P-194 [33]–P-195 [28].

33 Transcript, Julian Trollor, Public hearing 4, 20 February 2020, P-195 [5–8].

34 Exhibit 4-10, 'Statement of Dr Jacqueline Small', 12 February 2020, at [35].

35 Exhibit 4-6, 'Statement of Toni Mitchell', 10 February 2020, at [82]. Further accounts provided in Name withheld, Submission, 10 February 2020; Private sessions participants.

36 Maureen McIlquham, Submission, 6 February, 2020.

37 Exhibit 4-15, 'Statement of Sabrina Monaghan', 12 February 2020, at [141].

38 Exhibit 4-6, 'Statement of Toni Mitchell', 10 February 2020, at [120]; Transcript, Toni Mitchell, Public hearing 4, 19 February 2020, P-113 [24–25], P-122 [3–13] ; Transcript, Margot Elliffe, Public hearing 4, 28 February 2020, P-863 [14–16]; Exhibit 4-17, 'Statement of Narelle Reynolds', 10 February 2020, at [61]; Transcript, Narelle Reynolds, Public hearing 4, 24 February 2020, P-437 [24–29]; Exhibit 4-5, 'Statement of Rachel Browne', 2 February 2020, at [61], [64]; Transcript, Rachel Browne, Public hearing 4, 19 February 2020, P-83 [12]–P-84 [6]; Exhibit 4-24, 'Statement of AAJ', 8 February 2020, at [77]; Transcript, Evelyn Scott, Public hearing 4, 28 February 2020, P-866 [5–6]; Exhibit 4-25, 'Statement of Jayne Ann Lehmann', 13 February 2020, at [65–67], [82–83], [101], [104–106], [153]; Exhibit 4-4, 'Statement of Dr Rebecca Kelly, 9 February 2020, at [124–137], [169], [174–175]; Exhibit 4-11, 'Statement of Christine Regan', 13 February 2020, at [44–48]; Transcript, Christine Regan, Public hearing 4, 21 February 2020, P-274 [9–11]; Transcript, Kim Creevey, Public hearing 4, 21 February 2020, P-322 [25] – P-324 [22]; Transcript, Sabrina Monaghan, Public hearing 4, 24 February 2020, P-372–373; Exhibit 4- 5, 'Statement of Sabrina Monaghan', 12 February 2020, at [140–143]; Exhibit 4-19, 'Statement of Jaqueline Terri Mills', 12 February 2020 at [28–29], [30–33], [58].

39 Exhibit 4-6, 'Statement of Toni Mitchell', 10 February 2020, at [112]; Exhibit 4-25, 'Statement of Jayne Ann Lehmann', 13 February 2020, at [65–68]; Exhibit 4-4, 'Statement of Dr Rebecca Anne Kelly', 9 February 2020, at [124–137]; Exhibit 4-5, 'Statement of Rachel Browne', 2 February 2020, at [28–29]; Name withheld, Submission, 8 September 2020.

40 Exhibit 4-17, 'Statement of Narelle Reynolds', 10 February 2020, at [48].

41 Exhibit 4-17, 'Statement of Narelle Reynolds', 10 February 2020, at [61].

42 Dr Jane Tracy, Submission, 26 February 2020.

43 Exhibit 4-15, ‘Statement of Sabrina Monaghan’, 12 February 2020, at [133].

44 Exhibit 4-6, ‘Statement of Toni Mitchell, 10 February 2020, at [110–112]; Name withheld, Submission, 21 February 2020.

45 Exhibit 4-6, ‘Statement of Toni Mitchell’, 10 February 2020, at [117]; Exhibit 4-25, ‘Statement of Jayne Ann Lehmann’, 13 February 2020, at [73].

46 Exhibit 4-19, ‘Statement of Jaqueline Terri Mills’, 12 February 2020, at [46].

47 Exhibit 4-17, ‘Statement of Narelle Reynolds’, 10 February 2020, at [52].

48 Name withheld, Submission, 15 November 2022.

49 Name withheld, Submission, 5 June 2021.

50 Name withheld, Submission, 19 August 2022.

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53 Retention rate analysis was based on real retention rates (reflect ongoing enrolment of the same students across school years) in NSW, Vic, SA, NT and the ACT and direct retention rates (number of students in the cohort in the calendar year divided by the same cohorts number in the base year) in QLD, WA and Tas.

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55 Australian Government, *Closing the gap report 2020*, 2020, p 33, 45, 57.

56 Australian Institute of Health and Welfare, *People with disability in Australia 2022*, Publication, July 2022, p 287.

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60 Material received by the Royal Commission from state or territory education departments in response to notice, 2022, ACT.9999.0003.0001, NSW.0064.0002.0001, NTT.0001.0002.0001, QLD.9999.0040.00001-8, SAG.0006.0178.0001, TAS.9999.0011.0010-11, VIC.0003.0508.0001, WA.0016.0001.0001.

61 Material received by the Royal Commission from state or territory education departments in response to notice, 2022, ACT.9999.0003.0001, NSW.0064.0002.0001, NTT.0001.0002.0001, QLD.9999.0040.00001-8, SAG.0006.0178.0001, TAS.9999.0011.0010-11, VIC.0003.0508.0001, WA.0016.0001.0001.

62 Material received by the Royal Commission from government state and territory education departments in response to notice, 2020, NSW.0064.0001.0001, NSW.0064.0002.0001, ACT.9999.0003.0001, NTT.0001.0002.0001, SAG.0006.0178.0012, TAS.9999.0011.0010, VIC.0003.0508.0001, VIC.0003.0509.0001, WA.0016.0001.0001.

63 Material received by the Royal Commission from state or territory education departments in response to notice, 2022, ACT.9999.0003.0001, NSW.0064.0002.0001, NTT.0001.0002.0001, QLD.9999.0040.00001-8, SAG.0006.0178.0001, TAS.9999.0011.0010-11, VIC.0003.0508.0001, WA.0016.0001.0001.

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65 Private session participant.

66 Private session participant.

67 See the *Discrimination Act 1991* (ACT) s 7(1)(e); *Anti-Discrimination Act 1977* (NSW) pt 4A; *Anti-Discrimination Act 1992* (NT) s 19(j); *Anti-Discrimination Act 1991* (Qld) s 7(h); *Equal Opportunity Act 1984* (SA) pt 5; *Anti-Discrimination Act 1998* (Tas) s 16(k); *Equal Opportunity Act 2010* (Vic) s 6(e); *Equal Opportunity Act 1984* (WA) pt IVA; *Human Rights Act 2004* (ACT); *Charter of Human Rights and Responsibilities Act 2006* (Vic); *Disability Standards for Education 2005* (Cth) s 4.2(1), 4.2(2), 5.2(1), 6.2(2).

68 Material obtained by the Royal Commission from State of NSW in response to NSW notice, 4 March 2022, NSW.0064.0002.0001, NSW.0064.0001.0001; Material obtained by the Royal Commission from State of Tasmania in response to Tas notice, 20 December 2021, TAS.9999.0011.0010; Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability, *Report of Public hearing 7: Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts*, November 2021, p 61, General finding 3.

69 Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability, *Report of Public hearing 7: Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts,* November 2021, General finding 3, [328].

70 Material received by the Royal Commission from state or territory education departments in response to notice, STAT.0684.0001.0001; TAS.9999.0022.0001; ACT.9999.0012.0254; STAT.0661.0001.0001; SAG.0006.0259.0002; VIC.0003.0517.0501; NSW.0078.0003.0001; QLD-NTG-00050.

71 Exhibit 7-168, 'Statement of Maria Rachel Scharnke', 21 April 2020, at [43]; Exhibit 7-117, 'Statement of 'Sharon', 25 February 2020, at [60]; Australian Centre for Disability Law, Submission in response to Education and learning issues paper, 19 December 2019, p 4; Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability, *Report of Public hearing 7: Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts*, November 2021, p 45 [214].

72 For example, Name withheld, Submission, 29 August 2019; Name withheld, Submission, 13 March 2020; Name withheld, Submission, 3 August 2021; Name withheld Submission, 6 June 2022; Name withheld, Submission, 8 June 2022; Private sessions participants.

73 Exhibit 2-11, 'Statement of Lisa Bridle', p 2; Private sessions participants.

74 Exhibit 7-89, 'Statement of 'Sarah'', 23 July 2020, at [86]; Transcript, Ann Howlett, Public hearing 7, 15 October 2020, P-346 [45]; Transcript, Lisa Bridle, Public hearing 2, 4 November 2019, P-43 [22]; Jason Ross, Submission, 3 March 2021; Australian Centre for Disability Law, Submission in response to *Education and learning issues paper*, 19 December 2019, p 7; Private session participant.

75 Transcript of Mary Sayers, Public hearing 24, 8 June 2022, P-210 [11-16]; Transcript of Katie Koullas, Public hearing 24, 10 June 2022, P-362 [45] – P-363 [2].

76 Exhibit 7-113, 'Statement of Kate de Bruin', 28 September 2020, at [131]; Kate de Bruin, *Differentiation in the Classroom: Engaging Diverse Learners through Universal Design for Learning*, Report, July 2018, p 9.

77 Transcript of Pamela Darling, Public hearing 9, 11 December 2020, P-436 [30].

78 Transcript of Pamela Darling, Public hearing 9, 11 December 2020, P-436 [35–42].

79 Exhibit 7-199, ‘Statement of ‘Leif’, 13 March 2020, at [89].

80 Exhibit 2-9, ‘Statement of Witness AAA’, 31 October 2019, at [18].

81 Exhibit 2-9, ‘Statement of Witness AAA’, 31 October 2019, at [17–18].

82 Exhibit 2-9, ‘Statement of Witness AAA’, 31 October 2019, at [21].

83 Exhibit 2-9, ‘Statement of Witness AAA’, 31 October 2019, at [21].

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85 For example, Sarah Raymond, Submission in response to the *Education and learning issues paper,* 27 December 2019; Dr Rosemary Crossley, Submission, 5 November 2019; Family Advocacy, Submission, 9 December 2019; Down Syndrome Australia, Submission in response to *Education and learning issues paper*, 20 December 2019; Children and Young People with Disability Australia, Submission, 28 October 2019; Name withheld, Submission, 19 December 2019; Name withheld, Submission, 25 October 2019; Virginia Lonsdale, Submission, 25 October 2019; True Relationships & Reproductive Health, Submission, 28 November 2019; Lisa Spreadborough, Submission in response to *Education and learning issues paper*, 2 December 2019; Family Advocacy, Submission, 9 December 2019; Stephen Heydt, Submission, 23 December 2019; Name withheld, Submission, 12 February 2020; Submission, 21 February 2020; Lojic Institute, Submission in response to *Education and learning issues paper,* 31 August 2020; Name withheld, Submission, 19 February 2020; Tracy Lowis, Submission, 31 March 202; Private session participant.

86 Name changed, private session, ‘Gabrielle’.

87 Counsel Assisting the Royal Commission, Submission in response to Public hearing 24, p 146 [395].

88 Australian Curriculum, Assessment and Reporting Authority, ‘National Report on Schooling Data Portal’, 2022, web page. <www.acara.edu.au/reporting/national-report-on-schooling-in-australia/national-report-on-schooling-in-australia-data-portal/school-students-with-disability>

89 Material obtained by the Royal Commission from the Australian Government Department of Education in response to Cth notice, 26 April 2023, CTD.7600.0002.0001, CTD.7600.0002.0002, CTD.7600.0002.0003; Material obtained by the Royal Commission from ACARA in response to Cth notice, 26 April 2023, CTD.9600.0002.0001; ‘National Report on Schooling Data Portal Student Numbers’, Assessment and Reporting Authority Australian Curriculum, web page, 2020. <www.acara.edu.au/reporting/national-report-on-schooling-in-australia/national-report-on-schooling-in-australia-data-portal/student-numbers>

90 Australian Curriculum, Assessment and Reporting Authority, ‘National Report on Schooling Data Portal’, 2022, web page. <www.acara.edu.au/reporting/national-report-on-schooling-in-australia/national-report-on-schooling-in-australia-data-portal/school-students-with-disability>

91 The *Disability Discrimination Act 1992* (Cth) and the *Disability Standards for Education 2005* (Cth) require education providers to make reasonable adjustments to assist students with disability to participate in education on the same basis as other students. In addition to legally-required reasonable adjustments, students with disability may need other individualised supports to fully and effectively participate in learning.

92 Exhibit 2-11, ‘Statement of Lisa Bridle’, 31 October 2019, at pp 3, 6; Transcript, AAA, Public hearing 2, 4 November 2019, P-24 [30]–25 [15], P-26 [23]; Exhibit 7-168, ‘Statement of Maria Rachel Scharnke’, 21 April 2020, at [65–66]; Exhibit 7-100, ‘Statement of ‘Leif’’, 13 March 2020, at [33]; Exhibit 7–89, ‘Statement of ‘Sarah’’, 23 July 2020, at [45–49]; Exhibit 7–89, ‘Statement of ‘Sarah’’, 23 July 2020, at [44–62]; Transcript of Katie Koullas, Public hearing 24, 10 June 2022, P-363 [24-25], P-365 [4-9]; Lojic Institute, Submission in response to *Education and learning issues paper,* 31 August 2020; Louise Brown, Submission, 15 October 2020; Name withheld, Submission, 29 January 2021; Lisa McBride, Submission, 23 October 2019; Private session participant.

93 Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability, *Report of Public hearing 7: Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts,* November 2021, general finding 1 [328].

94 Submissions of Counsel Assisting the Royal Commission following Public hearing 24, 21 October 2022, [340].

95 Australian Human Rights Commission, *Inclusive education for people with disability*, Submission,19 December 2019, p 33 [126]. Transcript of Gi Brown, Public hearing 24, 7 June 2022, P-82 [16–17].

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97 Exhibit 24-015, 'Statement of Isabella', 21 May 2022, at [22].

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102 Name changed, private session, 'Brooklyn'.

103 Exhibit 7-167, 'Statement of Linda Jayne Graham', 24 September 2020, at [47].

104 Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability, *Report of Public hearing 7: Barriers experienced by students with disability in accessing and obtaining a safe, quality and inclusive school education and consequent life course impacts*, November 2021, [155], Sam's case finding 5.

105 Exhibit 7-12, 'Statement of Amy', 25 September 2020, at [53–54].

106 Exhibit 7-12, 'Statement of Amy', 25 September 2020, at [53–121].

107 Transcript, Frank Potter, Public hearing 7, 13 October 2020, P-155 [24]–P-158 [40].

108 Exhibit 789, 'Statement of 'Sarah'', 23 July 2020, at [81–96].

109 Exhibit 789, 'Statement of 'Sarah'', 23 July 2020, at [96].

110 Exhibit 2-11, 'Statement of Lisa Bridle', 31 October 2019, p 5; Transcript, Deborah Wilson, Public hearing 2, 4 November 2019, P-57, [24–30].

111 Exhibit 2-11, 'Statement of Lisa Bridle', 31 October 2019, p 10.

112 Victorian Ombudsman*, Investigation into Victorian Government school expulsions,* Final report, August 2017, p 67.

113 Transcript of Dylan Alcott, Public hearing 31, 13 December 2022, P-64 [9–10].

114 The labour force participation rate is calculated as the proportion of the working-age population who are either employed or looking for work.

115 Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of Findings, 2018*, Catalogue number 4430, 24 October 2019.

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117 Australian Institute of Health and Welfare, *People with disability in Australia 2022*, Publication, July 2022, p 313.

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119 Australian Institute of Health and Welfare, *People with disability in Australia 2022,* 5 July 2022, Employment supplementary data tables, Table EMPL5.

120 James Vincent, Dennis McCarthy, Hugh Miller, Kirsten Armstrong, Sarina Lacey, Grant Lian, David Qi, Nansi Richards & Tomas Berry, (Taylor Fry), *The economic cost of violence, abuse, neglect and exploitation for people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, February 2023, p 130.

121 Australian Institute of Health and Welfare, *People with disability in Australia 2022*, Catalogue Number Dis 72, 2022, p 338; Australian Bureau of Statistics, *Disability, Ageing and Carers, Australia: Summary of findings, 2018*, 44300do010, October 2019.

122 Centre of Research Excellence in Disability and Health, *Disability and wellbeing monitoring framework: Baseline indicator data for Australians aged 18–64 years*, April, 2022, p 33.

123 Australian Institute of Health and Welfare, Data tables: *People with disability in Australia 2022 – Unemployment,* July 2022, Table UNET1: People aged 15–64 living in households who are in the labour force, by whether employed(a), disability status and sex, 2018.

124 Australian Institute of Health and Welfare, Data tables: People with disability in Australia 2022 – Unemployment, July 2022, Table UNET1: People aged 15–64 living in households who are in the labour force, by whether employed(a), disability status and sex, 2018.

125 James Vincent, Dennis McCarthy, Hugh Miller, Kirsten Armstrong, Sarina Lacey, Grant Lian, David Qi, Nansi Richards & Tomas Berry, (Taylor Fry), *The economic cost of violence, abuse, neglect and exploitation for people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, February 2023, pp 128, 132.

126 Australian Institute of Health and Welfare, Data tables*: People with disability in Australia 2022 – Unemployment, July 2022*, Table UNET1: People aged 15–64 living in households who are in the labour force, by whether employed(a), disability status and sex, 2018.

127 Australian Bureau of Statistics*, Survey of Disability, Ageing and Carers: Aboriginal and Torres Strait Islander People with Disability*, June 11, 2021, Data downloads at TABLE 5.3: Persons aged 15–64 years living in households, Whether has disability by Indigenous status and Labour force status – 2018, Proportions.

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9. Segregated, separate or non-mainstream settings and services

Key points

- Commissioners have different views as to the precise meaning and significance of 'segregation' and its derivatives.[1] Some Commissioners consider using 'segregation' is appropriate in certain contexts but generally prefer to use more neutral expressions such as 'separate' or 'non-mainstream'.
- People with disability can be forced into segregated settings and services, with no meaningful option but to live, work, socialise or study with other people with disability.
- Segregated or separate settings can limit the ability for people with disability to connect with the broader community, reducing their social, economic and cultural participation. The structure, operation and service delivery of some segregated settings further limit participation.
- People with disability can experience segregation or separation across multiple life areas and life stages.
- Forced segregation and limiting people's access to the community can be considered forms of abuse and neglect.
- Institutional practices can expose people with disability in segregated, separate or non-mainstream settings to forms of violence, abuse, neglect and exploitation, including:
    - denial of choice and control of services, supports and everyday decisions
    - domestic violence and abuse
    - neglect of development
    - financial exploitation.

9.1. Introduction

This chapter examines the experiences of people with disability in what we describe as segregated, separate or non-mainstream settings and services. As discussed in Chapter 8, 'Abuse and neglect in mainstream settings and services', violence, abuse, neglect and exploitation occur at the system and structural levels, as well as at an interpersonal level.

There is minimal data available about the violence, abuse, neglect or exploitation occurring within segregated settings and services. We therefore rely on evidence and information provided to the Royal Commission to set out the nature of people with disability's experiences in these settings.

This chapter begins by explaining how we define segregation. It then illustrates how people with disability can be:

- denied choice and control about where they live, work, socialise and study
- separated from the broader community in segregated settings and services and can become entrenched in them
- exposed to forms of maltreatment in segregated and institutionalised settings, including denial of choice and control, domestic violence and abuse, neglect of development and financial exploitation.

It should be noted that experiences in these segregated settings vary. In addition to accounts of violence, abuse, neglect and exploitation, we received accounts of positive experiences.[2] It should also be noted that some of the experiences described in this chapter also occur in private homes and in mainstream environments.

9.2. What is segregation?

Segregation describes the circumstances where people with disability live, learn, work or socialise in environments designed specifically to cater for people with disability and separate from people without disability. Segregation occurs when people with disability are separated and excluded from the places where the community lives, works, socialises, or learns because of the person's disability.

Segregation does not occur in spaces where people with disability choose to come together, share culture and values, seek support for their individual needs, or are encouraged and supported to engage with the broader community. These are the same choices available to people without disability.

It is important to appreciate Commissioners have different views as to the precise meaning and significance of the term 'segregation' and its derivatives. Some Commissioners use the term 'segregation' or its derivatives in certain situations (such as where people are forced against their will into closed settings), but consider its use problematic in others. They generally prefer more neutral terms such as 'separate' or 'non-mainstream'. Not all Commissioners give the same meaning to 'segregation' and its derivatives when used in this chapter. The differences in approach are discussed in Volume 7, *Inclusive education, employment and housing*. Nothing in this volume detracts from the explanation in Volume 7 of the respective views held by the Chair and Commissioners.

9.3. Denial of choice about where to live, work, socialise and study

The Royal Commission received evidence and information about how some people with disability can be denied their will and preference, and forced into segregated settings. This often occurs because there are no other options available to them. Denial of choice and control can include people's 'will' about their larger life goals, as well as their 'preferences' about everyday decisions.[3] People with disability are denied the opportunity to make meaningful choices about where they live, work, socialise and study when:

- their choice to use mainstream settings and services is not respected because these environments exclude them
- segregated services are considered the most appropriate or suitable setting for people with disability
- there are no alternatives, or limited alternatives, to a segregated setting
- services required for a person with disability are only provided in a segregated setting.

People with disability have described being further denied the opportunity to make choices about their lives while in these settings, as discussed later in this chapter. Segregated, separate and non-mainstream education, employment and housing are considered further in Volume 7.

Where people live

> There was no consideration at all given to compatibility between people. You went in there [a group home] and you stayed ...[4]

As discussed in Chapter 8, people with disability can be excluded from accessing or fully participating in mainstream settings and services. This includes health care, education, employment and criminal justice. There is also limited availability of accessible, affordable housing for people with disability.[5] This can result in limited options for accommodation, funnelling some people with disability into segregated settings. Volume 7 discusses the lack of accessible housing available for people with disability in Australia.

There are different types of segregated or separate accommodation for people with disability. Most of the evidence and information the Royal Commission received about segregated or separate living concerned 'group homes'. Group homes generally accommodate between four and six long-term residents with disability as their residential home. The term 'group home' may also be used to refer collectively to both the physical accommodation and provision of specialist disability supports to residents in the home. As of September 2022, there were around 21,000 people with Specialist Disability Accommodation (SDA) supports in their NDIS plan.[6] Of those, we estimate there are at least around 7,000 people residing in group homes[7] (notwithstanding limitations of the dataset).[8]

People may be compelled to move into group homes as a last resort when their family can no longer provide the supports they need. Dr Ilan Wiesel, senior lecturer at University of Melbourne, gave evidence at Public hearing 3, 'The experience of living in a group home for people with disability'. He said to be offered a place in a group home, 'a person was required to demonstrate extreme urgency and high levels of need'.[9]

People with disability also shared their experiences of being forced into other forms of housing, such as boarding houses.[10] This is discussed further in Volume 7.

Where people work

Australian Disability Enterprises (ADEs) are typically not-for-profit organisations providing lower paid employment to people with disability. They provide a range of work experiences, including packaging, gardening, landscaping, cleaning, laundry services and food services. Some were previously known as 'sheltered workshops'. In 2022, there were 161 ADEs registered as NDIS providers in Australia, which have a dual status as an NDIS service provider and employer.[11] In the 2020–21 financial year, 17,232 NDIS participants worked at an ADE, representing 7 per cent of all NDIS participants.[12]

For some people with disability, opportunities to work are limited to ADEs. We heard that people with intellectual disability or higher support needs are frequently told that working in an ADE is their only option.[13] Some people are in turn limited or referred to certain ADEs, such as the one closest to their home, without considering their NDIS goals or career aspirations.[14] They are also given work that does not match their skills, experience or goals.[15]

Where people socialise

NDIS service providers operate 'day programs' or 'day options', where people with disability congregate to engage in social, community, recreational and life skill activities. People with disability may attend a program once or multiple times a week. These programs are often operated during school or office hours. We heard about limited options for some people with disability in selecting a day program.[16]

Where people study

> We're getting more support in segregated learning but we're not giving the children support to reach their mainstream goals … segregated learning isn't a choice anymore. Mainstream education has become so inaccessible and wrought with bullying it isn't a choice anymore.[17]

Schools enrolling exclusively children and young people with disability with high support needs are commonly known as special schools, special assistance schools and schools for specific purposes. We have referred to these schools in previous publications as special/segregated schools but some Commissioners prefer the description 'non-mainstream schools'. Such schools are regulated by state and territory education authorities. Although they have different oversight mechanisms from disability service settings (such as group homes, day programs and ADEs), some of the experiences people with disability have described in special/segregated schools are very similar to other segregated settings. There were 53,669 students[18] at 520 special/segregated schools in Australia in 2022, which accounted for 5.4 per cent of the total number of schools.[19]

As discussed in the preceding chapter, exclusion from mainstream education, or exclusion from an equitable standard of education at a mainstream school, is one of the reasons students with disability attend special/segregated schools. Students with disability and their parents and carers have described how they do not have meaningful choice about where students with disability go to school, because the special/segregated setting is the only option with adequate resources and supports.[20]

In Public hearing 24, 'The experience of children and young people with disability in different education settings', Gi Brown described their family's decisions to send both them and their brother to a special school as 'choices of necessity'.[21] Another witness, Ms Brittney Wilson, said her friends opted for home schooling because it was the only 'accessible and safe learning experience for them to be able to pursue their career goals'.[22]

9.4. Separation from the broader community

> [It's] like a little island … 'Heidi's' lived in the same [group] house for 20 years, where she is now and there is absolutely no contact with the residents in the street, it is like they don't belong in society.[23]

People with disability described their experiences of being separated from the rest of the community, including their peers and colleagues without disability.[24] Segregated settings and services operate in isolation from people without disability. The way some segregated services operate can further limit the ability of people with disability to participate in the broader community. Separation from the community can be a form of developmental and emotional neglect, as people with disability are excluded from the relationships and the social, economic and cultural participation their peers enjoy.

Some segregated institutions are physically or structurally separate from the broader community. For example, group homes were developed during the deinstitutionalisation era of the 1960s to 1980s. Many people with disability who had historically lived in larger institutions were transferred to group home arrangements to live with other people with disability.[25] We heard that as well as being physically separated from people without disability, people in some group homes are isolated from – or prevented from seeing – family, friends, cultural groups or NDIS supports.[26] Relationships for residents in group homes may be limited to support workers and other residents.[27]

Professor Christine Bigby, Director of the Living with Disability Research Centre, School of Allied Health, Human Services and Sport at La Trobe University, gave evidence at Public hearing 3. Professor Bigby said some residents of group homes were 'present but not participating in the community or in their own homes'. She said there were:

> support practices that verged on abuse as people were for example, locked out of kitchens, unsupported to participate and left disengaged – doing nothing for long periods of time while staff acted as house-keepers rather than support workers.[28]

Similarly, we heard in private sessions that day programs can fail to offer access and connection with the broader community, leaving participants to socialise only with each other.[29]

Separation from the broader community is more acute when people with disability are attending the same day programs as the people they live with. Expert witness Ms Jodi Rodgers gave evidence at Public hearing 20, 'Preventing and responding to violence, abuse, neglect and exploitation in disability services (two case studies)'. She said many of the people in day programs she saw in the course of her work did not have an option to shift to another program to meet new people. She said that some people she worked with ‘have been attending the same group in the same day program in the same routine for 10 years, so they are not actually getting out and meeting new people’.[30]

Ms Karen Rogers explained in Public hearing 14, ‘Preventing and responding to violence, abuse, neglect and exploitation in disability services (South Australia)’, how her son Daniel was provided day programs during the week, organised through his group home. Ms Rogers arranged for her son to attend a different day program to the other three residents in the group home. She did this because she ‘felt they lived together through circumstance, not by choice, and [she] didn’t think they should be together 24 hours a day’.[31]

Evidence given by parents at Public hearing 23, ‘Preventing and responding to violence, abuse, neglect and exploitation in disability services (a case study)’, described the isolation their children experienced in day programs, with minimal opportunities to socialise with people outside the program.[32] ‘Lilly’ stated that the day program her son ‘Simon’ attended failed to provide him skill development, and was just providing ‘glorified babysitting’.[33] In response to the Royal Commission’s *Group homes issues paper*, Independent Advocacy SA Inc submitted:

> day options are, in reality not appropriately social or participative with the community; as they are often attended by the same group of people who are already living together. Where local community participation is possible, there is little to no effective support for an individual to actively participate and naturally develop relationships outside of their group home.[34]

Specialist disability units connected to mainstream schools may nonetheless be isolated from the schools. Parent Ms Kimberly Langcake described in Public hearing 24 how her son was in a disability unit that was fenced off from the mainstream school.[35] She recalled how the students from the disability unit were not involved with the daily activities of the mainstream school, and friendships across the schools were not encouraged.[36]

9.5. Segregation across multiple settings and life stages

People with disability can become entrenched in segregated settings when they have limited opportunities to leave and access mainstream services and the broader community. This can occur when people are segregated or separated in multiple aspects of life, such as when people with disability who live in group homes attend the same day programs as their co-residents. This limits the chance to develop meaningful relationships in the broader community.[37] It can also occur across life stages, such as when a person with disability goes from special/segregated schools to ADEs or day programs. When people with disability are denied any meaningful opportunity to choose where they live, study, work or socialise, this can be a form of neglect.

People with disability shared with the Royal Commission how difficult it is for them to leave group homes. People with disability face barriers finding accessible and affordable housing. Dr George Taleporos, policy manager at the Summer Foundation, gave evidence at Public hearing 3 that many people who are abused in group homes or residential aged care facilities are stuck in abusive or neglectful situations because they have no other options.[38]

First Nations woman Ms Jane Rosengrave provided evidence about her long-term experience of living in segregated housing.[39] She lived for a number of years in Pleasant Creek Training Centre, an institution for people with intellectual disabilities.[40] She later moved to a hostel with about 16 other residents where she was trained to live in a community residential unit.[41] She said that she was not given a choice about moving into community residential units, or with whom she lived. These decisions were made by staff without consulting her.[42]

The Royal Commission analysed NDIS Outcomes Framework data to understand the association between special/segregated schools and employment outcomes after leaving school. The analysis compared the outcomes for NDIS participants who had attended special/segregated education with the outcomes for NDIS participants who had attended mainstream classes in mainstream schools. It took account of differences in the cohort of participants, such as disability type and required levels of adjustment.[43]

The analysis suggests young adult NDIS participants who studied in special/segregated education were far more likely to continue into segregated or separated employment in ADEs than young adult NDIS participants who studied in mainstream schools.[44] For example, young adult NDIS participants were twice as likely to work in an ADE if they previously studied in a special/segregated school, compared with participants who attended mainstream classes. This analysis is set out in Volume 7.

These results draw on data from the NDIS Outcomes Framework survey, which is a part of participants' regular NDIS reviews.[45] There are limitations in the analysis, including that parents or carers may respond to the NDIS Outcomes Framework questions on behalf of an NDIS participant, meaning that responses may not be considered representative of the answers that a participant would provide themselves.[46]

People who worked in ADEs described the difficulties they faced improving their skills, getting more experience within ADEs, and entering open employment. Evidence at Public hearing 22, 'The experience of people with disability working in Australian Disability Enterprises', revealed that ADEs have not traditionally been established, structured or funded with the primary or formal focus of transition to open employment,[47] and people can find it difficult to move on to open employment.[48]

9.6. Exposure to violence, abuse, neglect and exploitation

People with disability can be exposed to forms of violence, abuse, neglect and exploitation linked to segregated settings and institutional practices.[49] Some disability services continue to be designed and delivered in ways that maintain a power imbalance between providers and participants,[50] with institutional cultures and practices that limit choice and control.[51]

Forms of violence, abuse, neglect and exploitation linked with segregated and institutional practices discussed in this chapter are:

- denial of choice and control of services, supports and everyday decisions
- domestic violence and abuse
- neglect of development
- financial exploitation.

Institutionalisation is also discussed in Volume 7.

Segregated institutionalised settings can expose people with disability to the use of restrictive practices, discussed in Chapter 7, ‘Practices disproportionately affecting people with disability’. These environments can also prevent people from making complaints about maltreatment, which is explored further in Volume 11, *Independent oversight and complaint mechanisms.*[52]

Denial of choice and control within segregated environments

In addition to being denied meaningful choice about where to live, work, socialise or study, people with disability can have limited choice and control over other aspects of their lives within some segregated settings. Using the NDIS Outcomes Framework, we analysed data to better understand choice and control for NDIS participants.

As explained in section 9.5, the Royal Commission analysed NDIS Outcomes Framework data to understand the association between special/segregated settings and outcomes for NDIS participants. We explored autonomy in decision-making as measured using the NDIS Outcomes Framework question ‘whether NDIS participants are making most decisions in their life’.[53]

Our analysis shows that, while accounting for differences in the cohort of participants such as disability type or required levels of adjustment:

- young adult NDIS participants who attended special/segregated schools during adolescence were 70 per cent less likely to report making most decisions in their life compared with participants who attended mainstream classes[54]
- young adult NDIS participants who worked in ADEs were half as likely to report making most decisions in their life compared with NDIS participants working in open employment.[55]

As noted at section 9.5, there are limitations in the analysis, including that parents or carers may respond to the NDIS Outcomes Framework questions on behalf of a participant, meaning that responses may not represent the answers a participant would provide themselves.[56]

Denial of choice and control in segregated and institutional settings can pervade all aspects of life.[57] People with disability living in supported living arrangements may have their decisions restricted or denied across a range of domains, including: where they live;[58] the services and supports they receive;[59] everyday decisions such as when they can come and go from home;[60] and choices about romantic and sexual relationships.[61]

At Public hearing 3, AAI described the many ways that choices were made on behalf of AAH, her daughter who lived in a group home. This included when to go to bed or whether she would prefer to have tea or coffee.[62] AAI also said she was ‘struck by the strict application of institutional rules’ which limit AAH from doing ‘ordinary things as an ordinary person’.[63] Her view was that people with disability should be ‘allowed to take risks’ and make decisions about their life.[64]

Lane and Laylah*

Lane is in his 40s and has Down syndrome. For many years he resided at a supported independent living home.

Laylah, a psychologist, met Lane and his parents a couple of years ago, on her first day in her 'dream job' working at the home.

'They were highly distressed about the care that he was receiving,' Laylah told the Royal Commission. 'He had lost 10 kilos and he was on a complete liquid diet. Sometimes he had scrapes or cuts on him.'

Lane's mother 'was crying through the whole session' with Laylah. She told Laylah staff were locking the door when they came to visit so they couldn't get in. The house manager was 'disrespectful' to them – 'Swearing … Sometimes she'd call her a "bitch" or something.'

Laylah's job was to write a behaviour support plan for Lane. A previous psychiatrist had authorised 'chemical restraint' for him – 'He was on a very, very high dose of antipsychotics.'

'But then he had lots of other restrictive practices that were not authorised.'

Laylah asked the psychiatrist about that. 'Why he was on such a high dose of medication? Why he's not able to eat? … Because there was nothing in place to actually show there was a reason why he should be on a liquid diet.'

Laylah said the psychiatrist was 'sneaky' and 'wasn't helping'. When she visited Lane, she found him 'highly sedated'.

'He could hardly open his eyes. It seemed like he was really hungry and thirsty as well. He asked for water a few times and was told that he needed to get it himself … They were pushing him to do all of these things himself that he wasn't capable of, like pour boiling water into a cup.'

Laylah noticed 'quite a few issues' – including incidents of physical restraint – in Lane's records.

One support worker 'physically removed him from the toilet because he was taking too long'. Another wouldn't let him have a bath.

'And he sat there crying for an hour on the toilet, you know, in his own house.'

Laylah started putting together a report. She had to ‘go digging’ as staff didn’t provide information she asked for and were watching her and taking photos.

Laylah spoke with the agency of her ‘really big concerns’ about Lane’s care. The home was blocking Lane’s phone communication with his parents, which a compliance officer described as ‘a restrictive practice’.

Laylah talked to the house manager about Lane’s diet. She told her, ‘He’s starving. He’s asking for food. He’s only having milkshakes … Most of his behaviours of concern are around wanting food.’

One of his meals was ‘like a fish milkshake’. ‘That’s something you would joke about giving someone as a punishment,’ Laylah said.

At a team meeting, she tried to teach staff ‘the basics about restrictive practices, what the legislation was’. She said, ‘I thought, maybe they just don’t understand neglect. In the end, I think they did understand, but they were just doing their own thing.’

She warned them of the ‘serious consequences for engaging in unauthorised restrictive practices’. ‘But they were just cutting me off. They wouldn’t even let me talk.’

Three days later, the agency fired Laylah for breaching its code of conduct.

She helped Lane’s parents make a complaint to the NDIS Quality and Safeguards Commission.

‘They were elderly, they didn’t know what to do … They said, “We didn’t know about our rights until we met you.”’

Laylah described Lane’s treatment as ‘horrific’. ‘It’s nothing short of domestic violence, really. He was their cash cow, and they were restricting him from his own family who cared about him.’

* This is a de-identified narrative of an experience shared with us in a submission or private session. The person who shared their experience was not a witness. They did not give evidence, take an oath or give an affirmation. Nothing in this narrative represents a finding of the Royal Commission and any views expressed are those of the person, not of the Royal Commission.

Domestic violence and abuse

People with disability described experiences of domestic violence and abuse in segregated or separate accommodation. As discussed in Chapter 4, 'Women and girls', family and domestic violence and abuse is an overarching term that includes violence, abuse, neglect and exploitation that occurs where a person lives. This may be perpetrated by support workers, co-residents or other visitors in the home. Violence and abuse in supported accommodation are not identified in the Australian Bureau of Statistics *Personal Safety Survey* (*PSS*) or other key data sources. This means we do not know rates of violence disaggregated by setting.

As set out in Chapter 3, 'Interpersonal violence, abuse, neglect and exploitation', some information is available from the NDIS Commission's reportable incidents and complaints data in the *Own Motion Inquiry into aspects of supported accommodation in the NDIS* (*Inquiry report*).[65] Many reports included in the *Inquiry report* are of incidents of violence, abuse or neglect. The *Inquiry report* looked at seven large providers delivering Supported Independent Living (SIL) in group homes and who support 18 per cent of NDIS participants receiving SIL.[66] As shown in Table 3.9.1, the *Inquiry report* sets out the number of reportable incidents of violence, abuse and neglect in group homes for the seven providers.[67]

Table 3.9.1: Categories of reportable incidents in group homes for seven providers featured, from 1 July 2018 to 30 September 2022

Reportable incident type	Number of incidents	Proportion of incidents
Abuse of a person	1,716	27.4%
Death of a person	324	5.2%
Neglect of a person	1,293	20.6%
Serious injury of a person	1,742	27.8%
Sexual misconduct	122	1.9%
Unlawful physical contact	960	15.3%
Unlawful sexual contact	112	1.8%
Total	**6,269**	**100%**

Source: NDIS Quality and Safeguards Commission (2023).

The Royal Commission analysed reportable incident data for the 2020–21 reporting period for NDIS participants who receive SIL or SDA and compared them with participants who do not receive those supports. In 2020–21, more SIL and SDA recipients than those without these supports were subject to serious injury, unauthorised use of restrictive practices, allegations of unlawful physical/sexual contact, and alleged abuse and neglect.[68] Many of these recipients are group home residents.[69] The setting for these incidents could be in their group home or outside the home.

Denial of choice and control, and domestic violence and abuse

Placing people together in a group home without choice about their support workers, services, co-residents or location can increase the risk of unsafe environments and potential violence and abuse between co-residents.[70] Dr Colleen Pearce, the Victorian Public Advocate, told us at Public hearing 3 that a 'one-size-fits-all model, where people have restricted choices, is a contributing factor to violence and abuse in group homes'.[71]

This view is supported by evidence we heard about systems and practices that deny people with disability choice about where and with whom they live.[72] Resident-to-resident violence may result from a resident expressing trauma, frustration, lack of choice and control over everyday decisions or denial of autonomy within the environment.[73] Lack of choice and control, and limited availability of alternative accommodation, can result in perpetrators and victims of violence continuing to live together.[74]

At Public hearing 20, we heard evidence that 'Rebecca' was physically and verbally abused by co-residents 'Stevie' and 'Katie' in a group home. Rebecca and her family were not consulted about compatibility between prospective residents.[75]

We also heard from 'Jennifer', mother of 'Natalie', at Public hearing 20. Jennifer requested that Natalie's personal care be provided only by female support workers before she moved into a group home.[76] However, during her time at the group home, Natalie was given personal care from a male support worker, who inappropriately touched her.[77] After the complaints of indecent and sexual assault of Natalie arose in 2015, the group home developed 'PC Safety Guidelines' regarding her personal care.[78] Male staff continued to provide personal care to Natalie on occasions over the following years, contrary to the guidelines.[79] This exacerbated the trauma suffered by Natalie and Jennifer from the sexual misconduct Natalie was subjected to.[80]

Neglect of development

People with disability can be exposed to 'neglect of development' in segregated and institutionalised settings.[81] Neglect of development occurs when a person with disability is not given meaningful opportunities for development and nurturing. It can arise when the environment people with disability are in:

- reduces their opportunities for personal growth and development, across physical, emotional, relational and intellectual aspects of their life
- denies them choice and control, support to make decisions, and dignity of risk
- limits their relationships and participation in the broader community, across social, economic and cultural domains.

This form of neglect includes deliberately withholding opportunities for development, as well as passively neglecting a person.

Opportunities for personal growth and development include being able to develop mental and physical abilities, as well as developing personality, talents and creativity. It also means people have dignity of risk, where they are able to make choices through taking some risks in life, which is a natural part of trial and error. This is explored in Volume 6, *Enabling autonomy and access.*

The Royal Commission received evidence and information about how some people with disability have reduced opportunities for personal growth and development in some segregated and institutionalised settings.[82] In addition to being denied choice and control over much of their lives, people are not given the same opportunities to develop as their peers without disability.

Public hearing 23 exposed several forms of maltreatment, including neglect of development, at a day program run by disability service provider Afford. Adolescents and young adults who transitioned from special schools to the program were not provided opportunities to learn life skills, socialise with people outside the program, or use their communication aids.[83]

As discussed throughout this chapter, people with disability can be restricted in their contacts outside segregated settings. This can occur through restrictions in their personal relationships, limited access to the broader community, and reduced participation in social, economic and cultural activities. For example, people with disability described being treated as children in adult life and denied choice about their romantic and sexual relationships.

In Public hearing 20, we heard from ‘Sophie’, who wanted to pursue an intimate romantic relationship. Despite being aware of Sophie’s goal of having safe intimate relationships, the group home service provider took inadequate steps to assist her. They did not allow her fiancé to stay overnight.[84] The group home service provider could and should have done more to provide and facilitate appropriate sex and relationship education to Sophie.[85]

We were told about support workers ‘blocking’ intimate relationships between people with disability, and the lack of freedom people with disability have to pursue sexual relationships.[86] Ms Sarah Forbes recounted in Public hearing 3 how a couple was prevented from being in a same-sex relationship on the basis of a belief that the two people involved lacked capacity to consent to that relationship.[87]

Neglect of development can also occur in ADEs when people with disability are not provided opportunities to develop and progress in the workplace.

Exploitation

Payment below award rates or at unconscionably low rates

> I worry that I'm not good enough to work in open employment, but sometimes I feel like there are no other options. My goal is to get a job in open employment. I believe that it would have to be the right type of employment with the right type of support.[88]

People with disability can be legally paid wages below relevant award rates or at unconscionably low rates. The modern industrial award for ADEs – the *Supported Employment Services Award 2020* – permits the use of wage assessment tools to determine the productivity of employees with disability. Employees are then paid a percentage of the full award wage based on their assessed productivity level. As a result, it is likely that most employees with disability working in ADEs are paid below award rates or at unconscionably low rates.[89] There are some NDIS participants who are in the open employment market that are also paid below award rates. In 2020, of NDIS participants aged 25 and over in paid jobs, 7.7 per cent were in open employment at below award rates and 36 per cent were working in an ADE.[90] Around 96 per cent of NDIS participants who work in ADEs receive the Disability Support Pension to supplement their ADE wage.[91] ADEs are discussed in Volume 7. As that discussion shows, the payment of wages below award rates or at unconscionably low rates to people with disability can be a form of exploitation.

Financial exploitation in disability service provision

People with disability who receive more than one type of support from an NDIS service provider can be at risk of financial exploitation through 'provider capture'. This is the improper capturing of a person's need for multiple services by a single service provider. It may occur when one NDIS service provides several supports, such as support coordination, accommodation and independent living. Potential conflicts of interest are discussed in Volume 10, *Disability services.*

We heard about people with disability and their families, carers and supporters feeling trapped, restricted, commodified, exploited and undervalued in their interactions with their service providers.[92] People shared experiences about a lack of information and support they needed to understand their rights and choices, make their will and preference known, and negotiate better services and outcomes from a provider.[93]

Endnotes

1 See section 9.2 for a definition of 'segregation'.

2 For example, Transcript of 'Alexa', Public hearing 24, 10 June 2022, P-372 [20-24]; Transcript of 'Isabella', Public hearing 24, 8 June 2022, P-183 [20–24].

3 Julian Laurens, Shona Bates, Rosemary Kayess & Karen R Fisher, Australian Government, Department of Social Services, *Good Practice in Supported Decision-making for People with Disability*, Final report, June 2021, p iii.

4 Private session participant.

5 Transcript, Shane Jakupec, Public hearing 26, 30 August 2022, P-123 [33–38].

6 National Disability Insurance Scheme, *Quarter 1 2022-2023, Quarterly Report to the COAG Disability Reform Council,* 30 September 2022, p 802.

7 Material obtained by the Royal Commission from the National Disability Insurance Agency in response to notice, 20 January 2023, CTD.9999.0102.0001.

8 Note, for number of people residing in group homes, the NDIA has advised us that estimates of residence size relies heavily on the quality and recency of information about Participant addresses and responses to key surveys. Challenges exist in current processes and systems, that impact the ability to assess the recency and quality of this information, and therefore it may not be reliable. These figures only reflect participants who could be matched to an address.

9 Exhibit 3-026, 'Statement of Dr Ilan Wiesel', 28 November 2019, at [38].

10 Transcript, Colleen Pearce, Public hearing 26, 1 September 2022, P-340 [33]; Department of Health and Human Services, *2018 Supported Residential Services Census,* September 2019, p 73.

11 Transcript, Kate Eastman (Counsel Assisting), Public hearing 22, 11 April 2022, P-7 [9–11].

12 Exhibit 22-010, 'Statement of Gerrie Mitra', 6 April 2022, at [19]. This figure represented seven per cent of the number of NDIS participants who had an approved plan in the 2020–2021 financial year, aged 15 years and over, and who responded to the short-form employment questions.

13 Transcript, Catherine McAlpine, Public hearing 9, 7 December 2020, P-76 [35–39]; Exhibit 9-4, 'Statement of Catherine McAlpine', 27 November 2020, at [63].

14 Transcript, Catherine McAlpine, Public hearing 22, 11 April 2022, P-51 [12–28].

15 Transcript, Catherine McAlpine, Public hearing 22, 11 April 2022, P-43 [48–50]–44 [1–3].

16 Transcript, Jodi Rodgers, Public hearing 20, 8 December 2021, P-138 [10–11].

17 Transcript, Brittney Wilson, Public hearing 24, 6 June 2022, P-28 [41–44].

18 Assessment and Reporting Authority Australian Curriculum, 'ACARA Data Access Program', 2022, School Profile 2022 (xlsx, 2 MB) List of all Australian schools, enrolments, ICSEA, LBOTE, SEA. <www.acara.edu.au/contact-us/acara-data-access>

19 Assessment and Reporting Authority Australian Curriculum, 'National Report on Schooling Data Portal, School numbers', web page, 2022. <www.acara.edu.au/reporting/national-report-on-schooling-in-australia/national-report-on-schooling-in-australia-data-portal/school-numbers>.

20 Transcript, Brittney Wilson, Public hearing 24, 6 June 2022, P-28.

21 Transcript, Gi Brown, Public hearing 24, 7 June 2022 P-85 [18–20].

22 Transcript, Brittney Wilson, Public hearing 24, 6 June 2022, P-28 [43–46].

23 Private session participant.

24 Private session participant.

25 Exhibit 3-026, 'Statement of Dr Ilan Wiesel', 28 November 2019 at [32–35]; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experience of living in a group home for people with disability*, September 2020, [267–274].

26 Exhibit 6-12, 'Statement of Dariane McLean', 9 September 2020, [56]; Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability, *Overview of responses to the Group homes issues paper*, August 2020, p 3.; Private session participants.

27 Exhibit 3-33, 'Statement of Rosemary Kayess', 3 December 2019, at [58]; Exhibit 30-114, 'Statement of Austyn', 8 November 2022, at [36].

28 Exhibit 3-024, 'Statement of Professor Christine Bigby', 1 December 2019 at [16].

29 Private session participant.

30 Transcript, Jodi Rodgers, Public hearing 20, 8 December 2021, P-138 [10–11].

31 Transcript, Karen Rogers, Public hearing 14, 8 June 2021, P-91 [2–5]; Exhibit 14-5, ‘Statement of Karen Rogers’, 5 May 2021, at [30].
32 Transcript, ‘Sally’, Public hearing 23, 16 May 2022, P-60–61; Exhibit 23-015, ‘Statement of Lilly’, 28 April 2022, at [36].
33 Exhibit 23-015, ‘Statement of Lilly’, 28 April 2022, at [38].
34 Independent Advocacy SA Inc, Submission in response to *Group homes issues paper,* 26 May 2020.
35 Transcript, Kimberly Langcake, Public hearing 24, 6 June 2022, P-54.
36 Transcript, Kimberly Langcake, Public hearing 24, 6 June 2022, P-54.
37 Exhibit 3-33, ‘Statement of Rosemary Kayess’, 3 December 2019, at [57–58]; Exhibit 3-026, ‘Statement of Dr Ilan Wiesel’, 28 November 2019 at [41–42].
38 Transcript, George Taleporos, Public hearing 3, 5 December 2019, P-369 [14–19]; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experience of living in a group home for people with disability*, September 2020, [120].
39 Exhibit 3-20, ‘Statement of Jane Rosengrave’, 28 November 2019, at [6–30].
40 Exhibit 3-20, ‘Statement of Jane Rosengrave’, 28 November 2019, at [6].
41 Exhibit 3-20, ‘Statement of Jane Rosengrave’, 28 November 2019, at [7].
42 Exhibit 3-20, ‘Statement of Jane Rosengrave’, 28 November 2019, at [10]; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experience of living in a group home for people with disability*, September 2020, [70–71].
43 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘The association between segregated education and employment on the outcomes of NDIS participants’, May 2023.
44 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘The association between segregated education and employment on the outcomes of NDIS participants’, May 2023, p 29.
45 Material obtained by the Royal Commission from NDIA in response to Cth notice, 15 June 2022, CTD.9999.0058.0006, CTD.9999.0058.0007, CTD.9999.0058.0008.
46 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘The association between segregated education and employment on the outcomes of NDIS participants’, May 2023, pp 23–26.
47 Exhibit 22-006, ‘Statement of Myron Mann’, 4 April 2022, at [86].
48 Transcript, Catherine McAlpine, Public hearing 22, 11 April 2022, P-41 [23–27], P-44–45.
49 University of Sydney, University of Melbourne and University of Technology Sydney, *Complaint mechanisms: Reporting pathways for violence, abuse, neglect and exploitation*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2022, pp 18–20; Gwyneth Llewellyn, Gabrielle Wayland and Sarah Hindmarsh, *Disability and child sexual abuse in institutional contexts,* Royal Commission into Institutional Responses to Child Sexual Abuse, 2016, p 1.
50 Shane Clifton, *Hierarchies of power: disability theories and models and their implications for violence against, and abuse, neglect and exploitation of, people with disability*, Report prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, October 2020, p 6.
51 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experiences of people living in a group home for people with disability,* September 2020, p 67 [284]; Exhibit 3-28, ‘Statement of Sally Antoinette Robinson’, 29 November 2019, at [57–58]; Exhibit 20-001, ‘Statement of Sophie’, 7 December 2021, at [76]; Exhibit 20-001, ‘Statement of Sophie’, 7 December 2021, at [77].
52 Royal Commission into Institutional Responses to Child Sexual Abuse, *Improving institutional responding and reporting,* Final report, vol 7, December 2017, p 142; see also Committee on the Rights of Persons with Disabilities, *General comment no. 5 (2017) on living independently and being included in the community,* UN CRPD/C/GC/5, (27 October 2017), 13[72], 15 [83].
53 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘The association between segregated education and employment on the outcomes of NDIS participants’, May 2023, p 39.

54 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘The association between segregated education and employment on the outcomes of NDIS participants’, May 2023, pp 39–40.

55 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, ‘The association between segregated education and employment on the outcomes of NDIS participants, May 2023, pp 40–41.

56 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, The association between segregated education and employment on the outcomes of NDIS participants’, May 2023, pp 23–24.

57 Exhibit 3-19, ‘Statement of Sam Petersen’, 27 November 2019, [9]; Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-345 [33]; Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-79 [20–24]; Transcript, Naomi Anderson, Public hearing 3, 5 December 2019, P-348 [32]; Transcript, Rosemary Kayess, Public hearing 3, 6 December 2019, P-395 [17–18].

58 Transcript, Peter Gibilisco, Public hearing 3, 2 December 2019, P-22 [7–10]; Transcript, ‘AAI’, Public hearing 3, 2 December 2019, P-30 [41–42], P-31 [10–15]; Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-125 [27–36]; Peter Buckland, Submission, 14 March 2020; Judy Bourke, Submission, 26 February 2020; Transcript, Ilan Wiesel, Public hearing 3, 3 December 2019, P-78 [34–38]; Transcript, Colleen Pearce, Public hearing 3, 3 December 2019, P-130 [13–14]; Transcript, Sarah Forbes, Public hearing 3, 5 December 2019, P-345 [33–34]; Exhibit 30-073, ‘Statement of John O’Donnell’, 9 November 2022, at [21]; Transcript, John O’Donnell, Public hearing 30, 23 November 2022, P-267 [3–27].

59 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experience of living in a group home for people with disability,* September 2020, [292]; NSW Ageing and Disability Commission, Submission in response to *Group homes issues paper*, 28 February 2020, ISS.001.00060, p 5; Name withheld, Submission in response to *Group homes issues paper*, 27 February 2020.

60 Exhibit 3-23, ‘Statement of Patricia Frawley’, 27 November 2019, at [25]; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experience of living in a group home for people with disability*, September 2020, [146].

61 Exhibit 20-1 ‘Statement of Sophie’, 9 November 2021, at [59].

62 Transcript, ‘AAI’, Public hearing 3, 2 December 2019, P-31 [25].

63 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experience of living in a group home for people with disability,* September 2020, [52]; Exhibit 3-12, ‘Statement of AAI’, 27 November 2019, at [23].

64 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 3: The experience of living in a group home for people with disability,* September 2020, [52]; Exhibit 3-12, ‘Statement of AAI’, 27 November 2019, at [17–18]; Transcript, ‘AAI’, Public hearing 3, 2 December 2019, P-31.

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73 Exhibit 3-022 ‘Statement of Dr Claire Spivakovsky’, 3 December 2019 at [38–39]; Office of the Public Advocate, *I’m too scared to come out of my room,* November 2019, pp 23–24.

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75 Exhibit 20-0065, ‘Statement of [Catherine]’, 16 November 2021, at [23–47].

76 Exhibit 20-4, ‘Statement of [Jennifer]’, 16 November 2021, at [19].

77 Exhibit 20-4, ‘Statement of [Jennifer], 16 November 2021, at [20–24].

78 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 20: Preventing and responding to violence, abuse, neglect and exploitation in disability services (two case studies),* February 2023, [173].

79 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 20: Preventing and responding to violence, abuse, neglect and exploitation in disability services (two case studies),* February 2023, [174–183].

80 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Report of Public hearing 20: Preventing and responding to violence, abuse, neglect and exploitation in disability services (two case studies),* February 2023, [Finding 13(i)], p 6.

81 For example, see: Exhibit 6-12, ‘Statement of Dariane McLean’, 9 September 2020, at [37]; Exhibit 6-5, ‘Statement of ABF’, 9 September 2020, at [146].

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90 NDIS, *Employment outcomes for NDIS participants,* December 2020, p 43.

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93 Submissions of Sunnyfield in response to Counsel Assisting’s submissions in Public hearing 13, 20 August 2021; Exhibit 25-19, ‘Joint Statement of Kunmanara (Margaret) Smith and Kim McRae’, 21 June 2022, at [151]; Exhibit 20-64, ‘Statement of Paul’, 17 November 2021, at [27], [31]; Exhibit 20-71, IND.0104.0008.0025; Transcript, ‘Tay’, Public hearing 22, 12 April 2022, P-107 [28–35].

10. Costs and impacts of violence, abuse, neglect and exploitation

Key points

- The Royal Commission commissioned research to estimate the economic costs of the violence, abuse, neglect and exploitation experienced by people with disability in Australia. The research estimates the measurable annual cost to people with disability and the economy to be at least $46 billion a year. Of this:
    - $27.7 billion relates to systemic failures and neglect
    - $18.3 billion relates to interpersonal violence, abuse, neglect and exploitation.
- The figure of $46 billion is likely to be an underestimate. A further $28.8 billion likely reflects, at least in part, 'hidden costs' not measured in public datasets which cannot directly be attributed to violence, abuse, neglect or exploitation.
- The economic costs are higher for some groups of people with disability, generally due to the higher rates of interpersonal maltreatment those groups experience. Economic costs are higher for First Nations people, people with severe or profound disability and people with psychosocial disability.
- The economic costs associated with interpersonal violence, abuse, neglect and exploitation of women with disability are higher than those for men with disability. This is primarily due to the higher rates of sexual abuse and intimate partner violence women experience. In contrast, the economic cost of systemic failures is higher for men with disability. This is chiefly because of the higher rates of health risk factors such as prevalence of smoking and poor diet in this cohort resulting from failures in the health care system.
- The annual and lifetime costs borne by people with disability, Australian society and the economy underscore the need for urgent action to address the violence, abuse, neglect and exploitation identified by the Royal Commission.

10.1. Introduction

The violence, abuse, neglect and exploitation experienced by people with disability have significant costs both to individuals and the community more broadly. To understand this better, we commissioned Taylor Fry and the Centre for International Economics (CIE) to determine the costs of this maltreatment. Their report, *Economic cost of violence, abuse, neglect and exploitation for people with disability* (*Economic cost* report), is based on economic and actuarial research and modelling. It estimates annual costs and 'lifetime costs' – that is, costs incurred over the lifetime of all people with disability in Australia alive today.[1]

Both annual and lifetime costs have a substantial economic impact that is borne by people with disability and the broader community. This underscores the need for urgent action to address the violence against, and abuse, neglect and exploitation of people with disability identified by the Royal Commission. It also highlights that substantial long-term savings could be made if governments and the community address this maltreatment.

This chapter summarises the *Economic cost* report by Taylor Fry and the CIE. (For brevity, this chapter refers to the joint authors as Taylor Fry.) It presents the report's estimates of the impacts and economic costs of violence against, and abuse, neglect and exploitation of, people with disability.

10.2. Estimating the economic costs

The estimated economic costs in this chapter reflect the poorer outcomes experienced by people with disability than those without disability across many areas because of the impacts of violence, abuse, neglect and exploitation.[2]

Estimating the prevalence of violence, abuse, neglect and exploitation

Chapter 1, 'People with disability in Australia', identifies that in 2018 there were 4.4 million people with disability living in Australia. To estimate the number of people with disability in Australia in the 2021–22 financial year, the *Economic cost* report adjusted for:[3]

- population growth since 2018
- unsurveyed populations, such as people living in very remote areas and prisons
- the under-representation of First Nations people with disability in Australia.

Based on this, the report estimates there were 4.8 million people with disability in Australia in 2021–22, or 19 per cent of the total population.[4] This figure was used to calculate the prevalence of violence, abuse, neglect and exploitation.

Interpersonal violence, abuse, neglect and exploitation

As discussed in Chapters 3 to 6 of this volume, interpersonal violence refers to violence, abuse, neglect and exploitation are perpetrated by individuals. This includes physical and sexual violence, and child abuse and neglect.

The modelling in the *Economic cost* report relies on data from the Australian Bureau of Statistics *Personal Safety Survey* (*PSS*) and other sources to estimate the extent of interpersonal maltreatment.[5] The report identified that:[6]

- 60 per cent of people with disability have experienced interpersonal violence, abuse neglect or exploitation perpetrated by an adult
- rates of violence, abuse and neglect in the previous 12 months were about 50 per cent higher among people with disability than for people without disability (accounting for age).

Some of the estimates of violence, abuse, neglect and exploitation provided by the *Economic cost* report are different to rates in Chapter 3, 'Interpersonal violence, abuse, neglect and exploitation'. There are two main reasons for this. First, Taylor Fry's estimates include the whole population of people with disability. In contrast, Chapter 3 focuses primarily on people with disability aged under 65. Second, where Chapter 3, relies mainly on data from the *PSS,* Taylor Fry's analysis draws on a wider range of sources.

Systemic failures and neglect

Systemic failures and neglect include failure by government, business and other systems to provide equal opportunity for people with disability to participate in the economy and have equal access to quality services. Systemic failures and neglect also encompass failure to prevent systemic discrimination.[7]

Taylor Fry notes that, given the endemic nature of systemic violence, abuse, neglect and exploitation and lack of suitable data, the impacts of systemic failure and neglect can be difficult to quantify. The *Economic cost* report examined gaps in outcomes between people with disability and people without disability. It then estimated the proportion of outcome gaps that can reasonably be attributed to systemic failure or neglect. This includes unequal service delivery, unequal access to economic opportunity and systemic discrimination.[8]

Identifying outcomes of violence, abuse, neglect and exploitation

The *Economic cost* report identified measurable outcomes of violence, abuse, neglect and exploitation that could be costed. The report categorised these outcomes using the following outcome areas drawn from Australia's Disability Strategy 2021–31:[9]

- Health and wellbeing
- Employment and financial security
- Inclusive homes and communities
- Safety, rights and justice
- Education and learning.

The *Economic cost* report includes two types of outcomes:[10]

- 'outcomes due to known maltreatment' – those that the data and research show are the direct result of violence, abuse, neglect or exploitation
- 'additional gaps in outcomes' – additional differences in outcomes identified between people with disability and people without disability. These outcome gaps are likely to partly result from maltreatment, but available data is insufficient to establish to what extent.

Table 3.10.1 provides an overview of outcomes resulting from violence, abuse, neglect and exploitation within each outcome area.[11]

Table 3.10.1: Estimated number of people with disability experiencing poor outcomes by outcome area

Outcome area	Outcomes due to known maltreatment	Additional gaps in outcomes[a]
Health and wellbeing	550 people with disability experience potentially avoidable deaths per year 79,000 people with disability experience potentially preventable hospitalisations per year 43,000 quality-adjusted years of life are lost each year due to deaths and ill-health resulting from interpersonal violence against, and abuse, neglect and exploitation of, people with disability 73,000 quality-adjusted years of life are lost due to deaths and ill-health resulting from higher rates of smoking and a poorer diet of people with disability	33,000 quality-adjusted years of life are lost due to mortality and ill-health associated with higher rates of obesity and sedentary lifestyle for people with disability
Employment and financial security	43,000 people with disability do not participate in the labour force due to maltreatment 40,000 people with disability work part-time and want to work, on average, 13.5 more hours per week for reasons unrelated to their health 60,000 additional people with disability receive income support (such as the Disability Support Pension) as a result of maltreatment	98,000 fewer people with disability participate in the labour force, and a further 43,000 people are unemployed 70,000 additional people with disability receive income support (such as the Disability Support Pension) due to outcomes gaps in employment
Safety, rights and justice	6,600 adults with disability are in detention in 2021–22 as a result of increased risk of detention for victims of child abuse 13,000 children with disability are in out-of-home care, and 34,000 were involved in child protection investigations	7,800 additional people with disability are in detention 640 additional mothers with intellectual disability had children removed into out-of-home care

Outcome area	Outcomes due to known maltreatment	Additional gaps in outcomes[a]
Inclusive homes and communities	554,000 people with disability are denied access to accessible housing 7,200 people with disability experience homelessness associated with domestic or family violence and unemployment	33,600 more people with disability experience homelessness than people without disability
Education and learning	29,000 fewer people with disability attain university education due to low expectations and bullying 23,000 fewer people with disability complete year 12 education due to low expectations and bullying	335,000 fewer people with disability attain university education 266,000 fewer people with disability attain secondary education

[a] Additional differences between disability and general population outcomes that cannot be directly attributed to violence, abuse, neglect and exploitation based on current data. It is likely that at least a portion of this additional gap also results from violence, abuse, neglect and exploitation, although the exact proportion is impossible to determine.

Source: Taylor Fry and the Centre for International Economics (2022).

10.3. Annual and lifetime costs

Taylor Fry calculated the economic cost of violence against, and abuse, neglect and exploitation of, people with disability for each outcome area per year (the annual cost). It also calculated the total economic cost over the lifetime of all people with disability alive today (lifetime cost).[12]

Annual cost

Taylor Fry estimates the annual cost of violence against, and abuse, neglect and exploitation of, people with disability is at least $46 billion. This is the total cost incurred during 2021–22 relating to maltreatment that occurred in that year or prior years.[13]

Of the $46 billion, $18.3 billion relates to the costs of interpersonal violence, abuse, neglect and exploitation experienced by people with disability. This figure includes costs related to reduced length and quality of life, health care, homelessness and child protection as a result of this maltreatment.[14]

The remaining $27.7 billion relates to systemic neglect impacting people with disability. Costs include those associated with the higher rate of avoidable deaths, preventable hospitalisations, people living in housing with accessibility issues, and lower employment rates that are attributable to violence, abuse, neglect or exploitation. It also includes costs associated with the failure of the public health system to reduce health risk factors such as smoking and poor diet among people with disability.[15]

The costs of violence, abuse, neglect and exploitation relating to each outcome area are:[16]

- Health and wellbeing: $28.4 billion
- Employment and financial security: $6.4 billion
- Safety, rights and justice: $6.4 billion
- Inclusive homes and communities: $4.7 billion
- Education and learning (short-term only): $0.1 billion.

The *Economic cost* report also analysed several outcomes relating to the personal and community supports outcome area. This relates to supports provided to people with disability, including through the National Disability Insurance Scheme (NDIS). However, these were excluded from the headline figures included in this chapter due to difficulties reliably quantifying these costs.[17] The report sets out the additional analysis of outcomes for this outcome area.[18]

Additional gaps in outcomes

In addition to the $46 billion figure, the *Economic cost* report identifies another $28.8 billion relating to the cost of additional gaps in outcomes between people with and without disability. These costs cover the poor outcomes of people with disability that are likely to be linked to violence, abuse, neglect or exploitation but for which sufficient research or data is unavailable to establish the extent of this relationship.[19] Many forms of maltreatment are not recorded in public datasets. Data on many forms of social exclusion, inaccessible government services and systemic discrimination is particularly lacking.[20]

The *Economic cost* report describes these costs as additional to the headline figure of $46 billion because some gaps in outcomes will be due to the nature of disability itself rather than the effects of violence, abuse, neglect or exploitation. However, the report considers it likely that these additional gaps in outcomes, at least in part, reflect ‘hidden costs’ of maltreatment that are not measured in public datasets.[21]

It is likely, therefore, that $46 billion is an underestimate of the true costs of maltreatment of people with disability.[22] As Taylor Fry notes, if more of the gaps in outcomes for people with disability were recognised, ‘the estimate is potentially as high as $74.7 billion’.[23]

Lifetime cost

In addition to estimating annual costs, the *Economic cost* report projected costs of maltreatment over the remaining lifetimes of all 4.8 million people with disability. When looking at this long-term trajectory, the cost of known violence, abuse, neglect and exploitation is over $474.1 billion. The cost of additional gaps in outcomes between people with disability and the general population, some of which is due to maltreatment, is $317.6 billion (measured in 2021 dollars).[24]

These numbers are very high, perhaps not unexpectedly, as costs have been projected over such a long period of time. However, they underscore that substantial long-term costs can be saved if governments, and society more broadly, address violence against, and abuse, neglect and exploitation of, people with disability. This includes addressing issues of systemic failure and neglect.[25]

Limitations of the estimates and data

Taylor Fry advises of limitations on the estimates the report makes and the data it draws on.

It says systemic forms of violence, abuse, neglect and exploitation are very likely to be underestimated:

> While we seek to mitigate this through including additional estimates of the outcomes gap between people with and without disability, there are many significant forms of systemic violence, abuse, neglect and exploitation not directly measured in our study. Usually this is due to data limitations and occasionally other considerations as well (e.g. the risk of double counting).[26]

Forms of systemic violence, abuse, neglect and exploitation not directly estimated include:[27]

- the cost of inappropriate restrictive practices
- inaccessibility of public spaces.

Additionally, forms of interpersonal violence, abuse, neglect and exploitation not directly estimated include:[28]

- non-intimate partner emotional abuse perpetrated against adults
- elevated rates of interpersonal violence for people with a profound communication disability beyond the rate of other people with disability.

Estimates for First Nations people are ‘very approximate’, given First Nations identification is not recorded in the *PSS*.[29]

Taylor Fry also advises of data limitations that impacted the analysis. In summary, reasons for data limitations include:[30]

- failures to adequately capture disability data when people interact with some key service systems
- lack of longitudinal and linked data to improve understanding of changes in outcomes across services over the life course
- many issues of systemic neglect are not surveyed in existing statistical and administrative datasets

- lack of routine reporting of disability-disaggregated data and intersectionality
- datasets related to maltreatment for certain cohorts of people, such as those in group homes, are scarce.

10.4. Costs by outcome areas

Tables 3.10.2 to 3.10.6 summarise the different categories of costs in each outcome area.[31] These are discussed in more detail in the sections following. Note that outcomes that fall within the personal and community supports outcome area are not shown in these tables. This is because poor outcomes resulting from maltreatment could not be measured precisely and are therefore not part of the headline estimate of economic cost.

Health and wellbeing

Costs to health and wellbeing outcomes represent the largest component of economic cost due to violence, abuse, neglect and exploitation of people with disability. This is because this outcome area includes costs related to premature death and lowered quality of life. It also includes health care costs generated in other settings, for example due to abuse in education settings.[32]

The range of violence, abuse, neglect and exploitation considered in this outcome area is broad, encompassing both interpersonal and systemic maltreatment.

Annual cost

The estimated annual cost of known violence, abuse, neglect and exploitation in the health and wellbeing outcome area is $28.4 billion. The cost of higher rates of smoking, poor diet and other health risk factors among people with disability is the largest component of costs, followed by the impact of mental health conditions acquired as a result of interpersonal maltreatment.[33]

An extra $10.8 billion was associated with additional gaps in health-related outcomes between people with disability and people without disability. The estimate of the additional outcomes gap is made up of two main components: higher rates of poor diet, obesity and blood pressure; and the estimated impact of loneliness on quality of life.[34]

Table 3.10.2: Detailed estimates of economic cost for the health and wellbeing outcome area

Outcome	Costs due to violence, abuse, neglect and exploitation ($ billion)	Additional gaps in outcomes ($ billion)	Total ($billion)
Higher rates of health risk factors: high rates of smoking, poor diet and low rates of vaccination, access to dental services	$15.1	N/A	$15.1
Higher rates of potentially avoidable deaths and potentially preventable hospitalisations	$3.3	N/A	$3.3
Higher rates of obesity and blood pressure, and lower rates of exercise	N/A	$6.9	$6.9
Higher rates of loneliness	N/A	$3.9	$3.9
Impacts of interpersonal maltreatment on quality of life, years of life lost and health expenditure	$10.0	N/A	$10.0
Total	**$28.4**	**$10.8**	**$39.2**

Source: Taylor Fry and the Centre for International Economics (2022).

Lifetime cost

The *Economic cost* report estimates that the lifetime costs in the health and wellbeing outcome area for people with disability are:[35]

- $296 billion for the cost of known violence, abuse, neglect and exploitation
- $113 billion for the cost of additional gaps in outcomes.

The distribution of lifetime cost across outcomes is similar to the annual cost estimates. However, the much larger numbers reflect the potential long-term benefits of addressing violence against, and abuse, neglect and exploitation of, people with disability.

Employment and financial security

The employment and financial security outcome area relates to the financial wellbeing of people with disability and their contribution to the broader economy.[36] Interpersonal violence and abuse can lead to a temporary and permanent exit from the labour force. Systemic failings may reduce the capacity of people with disability as well as inhibit their ability to find and sustain jobs.[37]

Annual cost

The estimated annual cost of known violence, abuse, neglect and exploitation on the employment and financial security of people with disability is $6.4 billion per year. The largest components of both the estimated economic cost and the outcomes gap are the reduced employment rate and the impact of reduced productivity and earnings.[38] Reduced hours worked and higher cost of living for people who are not cohabiting with a partner are also large components of the estimated cost.[39]

The estimated additional cost due to gaps in outcomes between people with disability and people without disability is $14 billion annually. This is the cost associated with the remainder outcome gaps in earnings, unemployment, labour force participation and hours worked.[40]

Table 3.10.3: Detailed estimates of economic cost for the employment and financial security outcome area

Outcome	Costs due to violence, abuse, neglect and exploitation ($ billion)	Additional gaps in outcomes ($ billion)	Total ($ billion)
Reduced employment, hours worked and productivity due to systemic failures and discrimination[a]	$4.7	$14.0	$18.7
Impacts of interpersonal maltreatment on short-term productivity, living costs and other areas	$1.7	N/A	$1.7
Total	**$6.4**	**$14.0**	**$20.4**

[a] Includes the cost of welfare.

Source: Taylor Fry and the Centre for International Economics (2022).

Lifetime cost

The lifetime cost estimates for the employment and financial security outcome area are:[41]

- $72 billion for the cost of known violence, abuse, neglect and exploitation
- $159 billion for the cost of the additional gaps in outcomes.

The distribution across outcome areas is similar to the annual cost estimates. However, the scale is much larger, reflecting the long-term benefits of addressing violence against, and abuse, neglect and exploitation of, people with disability.

Safety, rights and justice

For the outcome area of safety, rights and justice, the *Economic cost* report focuses on costs incurred in the child protection and justice systems due to violence against, and abuse, neglect and exploitation of people with disability.

Several other areas considered in the modelling did not have a sufficient research base to attribute costs accurately and were therefore excluded.[42]

Annual cost

The estimated total annual cost of known violence, abuse, neglect and exploitation in the safety, rights and justice outcome area is $6.4 billion per year. This includes costs associated with out-of-home care and child protection services, detention, police and courts.[43]

An estimated $3.3 billion of additional costs were also identified. These related to gaps in outcomes between people with disability and people without disability. Primarily they are related to the costs associated with rates of detention ($1.4 billion) and involvement of police and criminal courts ($1.8 billion).[44]

Table 3.10.4: Detailed estimates of economic cost for the safety, rights and justice outcome area

Outcome	Costs due to violence, abuse, neglect and exploitation ($ billion)	Additional gaps in outcomes ($ billion)	Total ($ billion)
Over-representation of people with disability in the justice system	$2.8	$3.2	$6.1
Out-of-home care and child protection	$2.8	N/A	$2.8
Cost to government to arrest, prosecute and detain perpetrators of maltreatment against people with disability	$0.6	N/A	$0.6
Other	$0.2	$0.002	$0.2
Total	**$6.4**	**$3.3**	**$9.6**

Source: Taylor Fry and the Centre for International Economics (2022).

Lifetime cost

The lifetime cost estimates for the safety, rights and justice outcome area are:[45]

- $58 billion for the cost of known violence, abuse, neglect and exploitation
- $39 billion for the cost of the additional gaps in outcomes.

The distribution across outcome areas is generally similar to that of the annual cost estimates. However, the scale is much larger for lifetimes costs, reflecting the potential long-term benefits of addressing violence against, and abuse, neglect and exploitation of, people with disability.

Inclusive homes and communities

For the inclusive homes and community outcome area, the *Economic cost* report primarily considers costs of violence, abuse, neglect and exploitation relating to inaccessible housing, inadequate transport and homelessness. A lack of sufficient data meant some other factors were excluded from the outcome area.[46]

Annual cost

The estimated annual cost of known violence, abuse, neglect and exploitation in the inclusive homes and communities outcome area is $4.7 billion per year. This includes costs associated with inaccessible housing, homelessness and inaccessible transport.[47]

Additional gaps in outcomes between people with disability and people without disability cost an estimated $0.7 billion per year. This relates to the costs associated with the comparatively high rate of people with disability experiencing homelessness compared with people without disability.[48]

Table 3.10.5: Detailed estimates of economic cost for the inclusive homes and communities outcome area

Outcome	Costs due to violence, abuse, neglect and exploitation ($ billion)	Additional gaps in outcomes ($ billion)	Total ($ billion)
Cost of inaccessible housing	$4.3	N/A	$4.3
Homelessness and other issues	$0.4	$0.7	$1.2
Total	**$4.7**	**$0.7**	**$5.4**

Source: Taylor Fry and the Centre for International Economics (2022).

Lifetime cost

The *Economic cost* report's estimates of lifetime costs of violence, abuse, neglect and exploitation for the inclusive homes and communities outcome area are:[49]

- $47 billion for the cost of known violence, abuse, neglect and exploitation
- $7 billion for the cost of the additional gaps in outcomes.

Again, the distribution of costs across outcomes is generally similar to the annual cost estimates, but the scale is much larger.[50]

Education and learning

The *Economic cost* report examines the costs of violence, abuse, neglect and exploitation related to the education and learning outcome area. The impact of negative educational experiences on people with disability has the potential to echo throughout the course of their lives. For this reason, many of the costs associated with this outcome area are estimated in other outcome areas. For example, lower rates of employment resulting from poor educational outcomes are taken into account in the employment and financial security outcome area.[51]

Annual cost

The *Economic cost* report estimates the annual cost of violence, abuse, neglect and exploitation in the education and learning outcome area is $70 million. This relates to additional childcare and schooling costs, and the cost of managing bullying incidents within schools.[52] However, costs relating to lower educational attainment are measured in other outcome areas, particularly employment and financial security.[53]

Table 3.10.6: Detailed estimates of economic cost for the education and learning outcome area (short-term costs only)

Outcome	Costs due to violence, abuse, neglect and exploitation ($ billion)	Additional gaps in outcomes ($ billion)	Total ($ billion)
Schooling and childcare costs	$0.1	N/A	$0.1
Subtotal	**$0.1**	**N/A**	**$0.1**

Source: Taylor Fry and the Centre for International Economics (2022).

Long-term costs

Several long-term costs associated with lower educational attainment are presented in other outcome areas. For example, the earnings gap that is directly attributable to reduced university-level qualifications and Year 12 completion is included in the employment and financial security outcome area.[54]

Lifetime cost

The *Economic cost* report estimates that the lifetime cost of known violence, abuse, neglect and exploitation in the education and learning outcome area is $0.58 billion. Again, these include only the short-term costs. Longer-term costs are captured by other outcome areas.[55]

Personal and community supports

The costs of violence against, and abuse, neglect and exploitation of, people with disability that relate to the personal and community supports outcome area are difficult to quantify. There are several reasons for this, including limited existing research into this topic and limited publicly available data. The *Economic cost* report excluded estimates within this outcome area from the headline figure included in the report.[56]

10.5. Costs by demographic and disability group

The *Economic cost* report estimates how the annual economic costs vary by demographic groups, including disability type (see Figure 3.10.1).[57] This was calculated by determining the proportion of people with disability that fall within each group, the rates of maltreatment each group experiences, and the differences in group outcomes.[58]

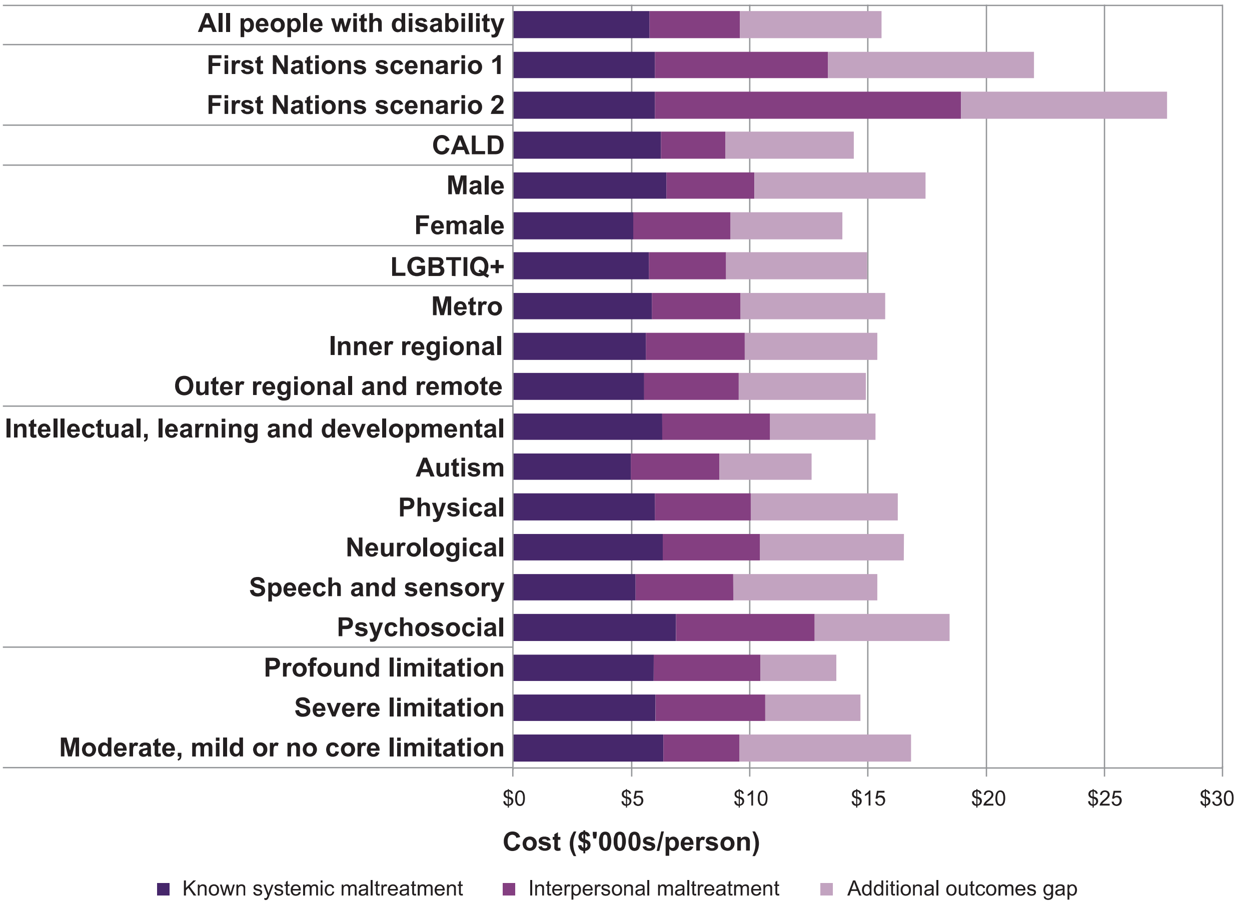

Figure 3.10.1: Estimated annual cost of violence, abuse, neglect and exploitation per person with disability

Source: Taylor Fry and the Centre for International Economics (2022).

The *Economic cost* report estimates the average annual cost of interpersonal and systemic violence, abuse, neglect and exploitation is $9,600 per person with disability.[59]

It also provides two estimates for First Nations people based on different sets of assumptions. In both scenarios, costs are higher for this group than any other. In the estimate described by the report as 'likely more realistic', costs are nearly twice as high ($19,000 per person) as those for the general population. This mainly reflects the higher rates of interpersonal violence, abuse, neglect and exploitation experienced by this group. The additional outcomes gap is also highest for this cohort, predominantly due to the elevated rates of detention of First Nations people.[60]

The report also estimates that costs of interpersonal maltreatment are 50 per cent higher per person for people with psychosocial disability than the average cost for all people with disability. Costs of systemic failures for this group are also somewhat higher (predominantly due to higher rates of smoking and poor diet in this population).[61]

In addition, Figure 3.10.1 shows the cost of interpersonal maltreatment to be higher for women with disability than men with disability, while the cost of systemic failures is estimated to be higher for men. This reflects greater rates of sexual abuse and intimate partner violence for women and the prevalence of health risk factors among men, including smoking and poor diet.[62]

The *Economic cost* report estimates that the cost of known maltreatment is higher for people with profound and severe disability compared with those with milder disability. This is mainly due to the estimated 20 per cent higher cost of interpersonal maltreatment for people in this cohort. However, costs associated with additional gaps in outcomes between people with disability and the general population are estimated to be higher for people with milder disability, mainly because more people in this group report that they can work but are not employed. People in this group would also receive higher wages on average compared with people with severe and profound disability.[63]

10.6. Who bears the cost?

The financial cost of known violence, abuse, neglect and exploitation is mostly split between people with disability experiencing this maltreatment and government. Costs borne by people experiencing maltreatment are primarily attributable to: lost productivity; injury or mental health conditions resulting from interpersonal maltreatment; premature mortality; and absenteeism. Governments bear a range of costs such as for health care, out-of-home care and prison stays.[64]

The financial cost of the outcomes gap is predominantly borne by the people with disability experiencing maltreatment, as shown in Figure 3.10.2.[65]

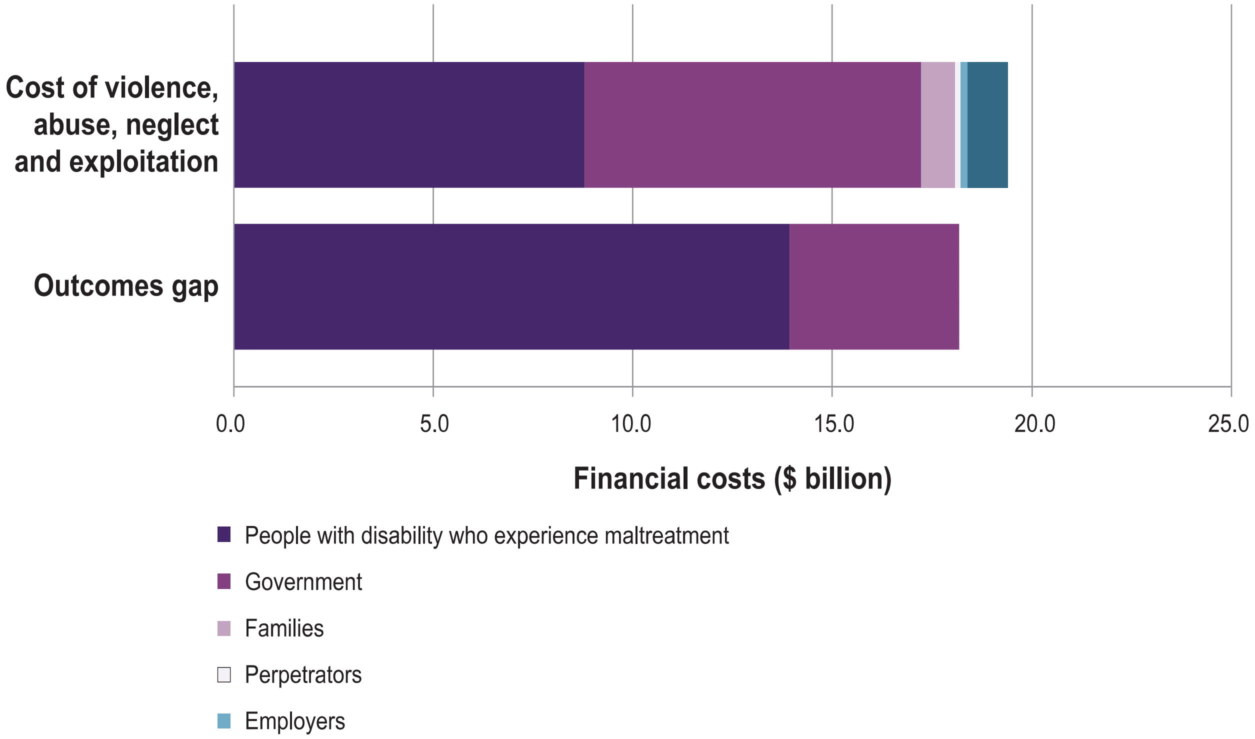

Figure 3.10.2: Annual financial costs of maltreatment by bearer of cost

Source: Taylor Fry and the Centre for International Economics (2022).

10.7. The economic case for reform

The research conducted by Taylor Fry shows that violence against, and abuse, neglect and exploitation of, people with disability leads to considerable human and economic costs. These costs constitute both a substantial burden for people with disability and a significant ongoing annual cost to government. The modelling demonstrates the scale of the savings possible if governments and the community addressed the maltreatment of people with disability.

This chapter summarises Taylor Fry's *Economic cost* report, which attempts to quantify the scale of the impact of violence against, and abuse, neglect and exploitation of, people with disability in economic terms. This is not to diminish or detract from the significant psychological and physical harm experienced by people with disability. Such harm cannot be reduced to a dollar figure. However, the scale of the costs involved underscores the need for urgent action to address the many instances of maltreatment examined throughout our inquiry. Action to address violence, abuse, neglect and exploitation has the potential to improve outcomes and reduce economic costs for people with disability and for the Australian community more broadly.

Endnotes

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Acronyms and abbreviations

ABS – Australian Bureau of Statistics

ACSQHC – Australian Commission on Safety and Quality in Health Care

ACCC – Australian Competition and Consumer Commission

ADHD – attention deficit/hyperactivity disorder

ADE – Australian Disability Enterprise

ADS – Australia’s Disability Strategy 2021–2031

AGAC – Australian Guardianship and Administration Council

AIC – Australian Institute of Criminology

AIHW – Australian Institute of Health and Welfare

ANDII – Australian National Data Integration Infrastructure

ANROWS – Australia’s National Research Organisation for Women’s Safety Limited

AO – Order of Australia

ATAR – Australian Tertiary Admission Rank

BOCSAR – NSW Bureau of Crime Statistics and Research

CEO – Chief Executive Officer

CID – Council for Intellectual Disability

CRPD – Convention on the Rights of Persons with Disabilities

DDA – Disability Discrimination Act 1992 (Cth)

DES – Disability Employment Service

DSS – Department of Social Services

EAP – Education Adjustment Program

ELT – early life trauma

FASD – fetal alcohol spectrum disorder

ICF – International Classification of Functioning, Disability and Health

IQ – intelligence quotient

LGBTIQA+ – lesbian, gay, bisexual, transsexual, intersex, queer/questioning, asexual

LWB – Life Without Barriers

MADIP – Multi-Agency Data Integration Project

NATSIHS – National Aboriginal and Torres Strait Islander Health Survey

NCCD – Nationally Consistent Collection of Data

NDA – National Disability Agreement

NDDA – National Disability Data Asset

NDIA – National Disability Insurance Agency

NDIS – National Disability Insurance Scheme

NDRP – National Disability Research Partnership

NDS – National Disability Strategy 2010–2020

PTSD – post-traumatic stress disorder

SDAC – Survey of Disability, Ageing and Carers

SDA – Specialist Disability Accommodation

SIL – Supported Independent Living

WWDA – Women With Disabilities Australia

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